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# Appeal Decision

**by Gareth Symons BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 January 2022**

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**Appeal Ref: APP/R3650/C/20/3253333**

**High Stovolds Farm, Stovolds Hill, Cranleigh GU6 8LE**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr T Frankham against an enforcement notice issued by Waverley Borough Council.
  - The enforcement notice was issued on 27 March 2020.
  - The breach of planning control as alleged in the notice is: Without planning permission the carrying out of an engineering operation of laying of hardstanding in the approximate position marked hatched on the attached plan.
  - The requirements of the notice are: 1. Remove the hardstanding marked hatched on the attached plan; 2. Remove from the land all materials resulting in compliance with the step above.
  - The period for compliance with the requirements is: Three months.
  - The appeal is proceeding on the grounds set out in section 174(2)(c) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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## Decision

1. The appeal is dismissed and the Enforcement Notice (EN) is upheld.

## Procedural Matters

2. I determined this appeal without visiting the site. That is because the appeal involves legal grounds only. Also, for the reasons I have dismissed the appeal, a site visit was not necessary to assess factors such as the amount of space available on the site. Neither side has been caused injustice as a result.
3. In legal grounds of appeal, such as that under s174(2)(c) of the 1990 Act, the burden to make out the case rests with the appellant.

## Ground (c)

4. The appellant relies on the hardstanding being development that was granted planning permission under Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) which allows *"The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land*

*adjoining that land*". The appellant advises that the agricultural barn next to the hardstanding has Prior Approval (PA) under Schedule 2, Part 3, Class Q of the GPDO for its conversion into two dwellinghouses (Class C3). The hardstanding it is said was created to be used in connection with and for the duration of the building/conversion operations to the barn.

5. However, the development under Schedule 2, Part 4, Class A is not permitted if (A.1(b)) planning permission is required for those operations but is not granted or deemed to be granted. Looking at the timeline here, the EN was issued on 27 March 2020 meaning that the hardstanding had been laid before then. The application for PA to convert the barn was not granted until 28 April 2020. Consequently, the hardstanding was laid before the planning permission for the barn. It was therefore not development permitted by the GPDO. Also, development granted by the GPDO must comply with the conditions of the GPDO at the time it is commenced. As such, the GPDO does not grant retrospective planning permission. Therefore, although the PA for the barn was granted afterwards, this does not matter.
6. An application for planning permission for the laying of the hardstanding made to the Council (Ref: WA/2020/0644) was refused on 25 September 2020 and so the development attacked in the EN does not have planning permission via this route either.
7. The hardstanding is development that required planning permission which, in view of the above, has not been granted. As such, there has been a breach of planning control. Therefore, the ground (c) appeal fails.

### **Ground (g)**

8. Three months is in my view a reasonable time to comply with the requirements of the EN. There is also no information to say when any construction works might commence or to show why such a seemingly long period of two years would be justified. Possible retention of the hardstanding for any longer period during any potential works, if appropriate, is a matter for discussion and/or agreement with the Council away from this appeal.

### **Conclusion**

9. The appeal is dismissed.

*Gareth Symons*

INSPECTOR