



Appeal Decision

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2022

Appeal Ref: APP/B3600/C/20/3262645

Land at Brick Kiln Farm, Old Lane, COBHAM, Surrey, KT11 1NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Dennis Read against an enforcement notice issued by Surrey County Council.
- The notice was issued on 25 September 2020.
- The breach of planning control as alleged in the notice is Without planning permission, and within the Metropolitan Green Belt, a material change of use of land to a mixed use comprising a soil and aggregate treatment facility involving the importation, deposit, storage and processing (sorting, separation, screening, crushing) of inert waste and non-hazardous waste material for recovery and sale as soil, soil substitute, hardcore, and recycled aggregate; the parking of vehicles and storage of plant and machinery, and the siting of waste containers associated with the recovery and sale of soil, soil substitute, hardcore, and recycled aggregate; the siting of concrete blocks, a timber sentry post, a large green structure for office and welfare purposes with related green concrete base and protective rail and block barrier and associated operational development comprising the creation of soil bunds; and the erection of two metal gates all to facilitate the recovery and sale of soil, soil substitute, hardcore, and recycled aggregate, all within the area hatched black on the Plan.
- The requirements of the notice are to:
 - i. Stop the importation to and deposit of inert and non-hazardous waste material on the land edged red on the Plan.
 - ii. Demolish the soil bunds to the north, north-west and south-west of the land hatched black on the plan, and remove the resulting material, concrete blocks and timber sentry post from the land edged red on the Plan.
 - iii. Stop the processing (sorting, separation, screening, crushing) of inert and non-hazardous waste material on the land edged red on the Plan.
 - iv. Stop the storage of, and remove previously imported processed (sorted, separated, screened, crushed) and non-processed inert and non-hazardous waste material from the land edged red on the Plan.
 - v. Dismantle the metal gates to the south-west and north-west of the land hatched black on the plan and remove the resulting material from the land edged red on the Plan.
 - vi. Remove the green portable structure and related concrete base and protective rail and block-barrier from the land edged red on the Plan.
 - vii. Stop the parking of vehicles, the siting of waste containers, and the storage of plant and machinery associated with the recovery and sale of soil, soil substitute, hardcore and recycled aggregate from the land edged red on the Plan.
 - viii. Remove all vehicles, plant, machinery and waste containers associated with the recovery and sale of soil, soil substitute, hardcore and recycled aggregate from the land edged red on the Plan.
 - ix. Spread any remaining processed soil material and re-grade the land to achieve even natural falls that facilitates surface water drainage towards the series of ponds in the east.
 - x. Plough, harrow and seed the land hatched black on the Plan with an EW1 woodland mix.

- The periods for compliance with the requirements are: step (i) within 1 day, step (ii) within 1 month, step (iii) within 6 months, steps (iv) to (viii) within 9 months, step (ix) within 12 months and step (x) within 13 months from the date the Notice takes effect.
 - The appeal was made on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal was brought on ground (a), an application for planning permission was deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed.

Procedural Matters and the Appeal

2. The enforcement notice was issued on 25 September 2020. It appeared to Surrey County Council (SCC) that the matters constituting the alleged breach of planning control were likely to give rise to significant environmental impacts and comprised EIA development. Accordingly, SCC also issued a notice under regulation 37 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). The regulation 37 notice included a screening opinion.
3. No matters were raised by the appellant related to the validity of the enforcement notice. The appeal was made on ground (a) only, that planning permission should be granted for the development described as being the breach of planning control. The ground (a) appeal was supported by an Environmental Statement (ES).
4. Subsequently it was found that the submitted ES did not relate to the development described as the breach of planning control. The Secretary of State on 3 December 2021 issued a notification of a request for an ES under regulation 41 of the EIA Regulations. On 10 December 2021 the appellant confirmed he proposed to provide an ES with regard to the deemed planning application.
5. The ES was required to be submitted no later than 1 July 2022. On 30 June 2022 the appellant requested an extension of the time period. The Secretary of State decided not to allow a further extension to the period for the submission of an ES relating to the development in question. As a result of the appellant's failure to comply with the specified time period the ground (a) appeal lapsed (regulation 41(e)). On 27 July 2022 the Secretary of State gave formal notification under regulation 41(f) to the appellant and SCC that the ground (a) appeal has lapsed.

Conclusion

6. There are no grounds of appeal, or other matters, to be determined. The appeal falls away and I will take no further action on it. The enforcement notice takes effect in accordance with the provisions of section 175(4) of the Act.

Diane Lewis

INSPECTOR