The Planning Inspectorate

Appeal Decisions

Site visit made on 27 September 2022

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Appeal A Ref: APP/Z5060/C/22/3290340
Appeal B Ref: APP/Z5060/C/22/3290341
Appeal C Ref: APP/Z5060/C/22/3290342
Appeal D Ref: APP/Z5060/C/22/3290343
Land and Premises used by Bravo Skips on Mill Farm Estate, Whalebone Lane North, Romford RM6 5QT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Richard Scott (Appeal A), Mr Douglas Scott (Appeal B), Mr Peter James Scott (Appeal C), Mrs Thelma Alexander (Appeal D) against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
- The enforcement notice was issued on 14 December 2021.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use to a waste storage and transfer site (Use Class Sui Generis).
- The requirements of the notice are:
  - Cease the use of the land at the property as a waste processing site.
  - Remove all alterations and fixtures related to unauthorised use for a waste processing site.
  - Remove all subsequent waste material from the property.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2) (b) 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.

Decisions

1. It is directed that the enforcement notice is:

- corrected by deleting "RM6 5QT" under section 2 of the enforcement notice (the land to which the notice relates) and its replacement with "RM6 5QX".

2. Subject to this correction, the appeals are dismissed, and the enforcement notice is upheld.

Procedural Matters

3. I have a duty to ensure that the notice is in order. The appellants state that the post code stated on the Notice, RM6 5QT, is incorrect, and should be RM6 5QX. However, the site plan attached to the notice correctly identifies the appeal site, and therefore, despite the typographical error, the notice as a whole

identifies the site correctly. The appellants appear to have understood what the notice relates to, and in my opinion the minor error on the notice does not render the notice unclear. It is necessary however to correct the notice by correcting the post code on the notice. This would not cause injustice and I can therefore use my powers under the provisions of s176(1)(a) to make this correction.

The appeal on Ground (b)

4. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact. This has not been demonstrated. On the contrary, in a letter to the London Borough of Barking and Dagenham, the appellants state that the compound was rented to Bravo Skips and that there were some loaded skips stored on site at some point. Notwithstanding that the appellants confirm that the skips have since been emptied and that no loaded skips will be left on site in future, given the wording of the Act, 'that those matters have not occurred', not that the matters are not occurring, the appeal on ground (b) cannot succeed.

5. Furthermore, the Council states that an officer from the planning enforcement team visited the site on 7 April 2021 and confirmed the breach. They also state that following this a planning application was submitted to the Council on 20 May 2021 for the change of use of the land for sorting, tipping and waste management. Therefore, on the balance of probabilities I consider that the matters as alleged by the notice have occurred as a matter of fact.

6. Accordingly, the appeals on ground (b) must fail.

Conclusions

7. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction.

R Satheesan

INSPECTOR