



Appeal Decision

Site visit made on 31 January 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/L3625/C/21/3282754

Land at and adjacent to 57 Meadowcroft Close, Horley, Surrey RH6 9EJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr Jake Morrison against an enforcement notice issued by Reigate and Banstead Borough Council.
- The notice was issued on 17 August 2021.
- The breach of planning control as alleged in the notice is: 1. Without planning permission, the formation of an access at the junction with the B2036 Balcombe Road and the D552 Meadowcroft Close in the approximate position shown as a black hatched area on the attached plan A. 2. Without planning permission, the creation of a hardstanding in the approximate position shown within the black dotted line on the attached plan B.
- The requirements of the notice are: 1) Cease the use of the of access created across the pavement to the Junction with B2036 Balcombe Road and Meadowcroft Close. 2) Remove the hardstanding created in the approximate position shown within the dotted black line on Plan B. 3) Remove from the Land to an authorised place of disposal all materials resulting from step 2. 4) Reinstate the land within the dotted black line on Plan B to its condition before that development was carried out. 5) Re-seed the grass verge in the black hatched area shown on Plan A.
- The period for compliance with the requirements is: 3 Months from the date the Notice takes effect – by 17th December 2021
- The appeal is proceeding on the grounds set out in sections 174(2)(b) and (c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with correction and variations in the terms set out below in the Formal Decision.

Preliminary Matter

1. The appellant failed to attend the pre-arranged accompanied site visit. I could see all of the relevant parts of the appeal site from public land, and I therefore considered it appropriate to proceed with an unaccompanied site visit. I informed the Council's representative of this, who had arrived at the appeal site for the pre-arranged accompanied site visit. The Council's representative left me to carry out the site visit without any discussions taking place.

The Enforcement Notice

2. There are minor errors in the requirements of the enforcement notice which can be varied without causing injustice to any parties. Specifically, there is superfluous text in the first requirement, and the second and third requirements can be combined to omit the specific need to remove materials from the land to an authorised place of disposal. It would not be unreasonable for those materials to be re-used at another site which is not an authorised place of disposal, and I shall therefore remove reference to an unidentified

location outside the appeal site. This has implications for the numbering of the enforcement notice's requirements, which are therefore also varied.

3. Section 6 of the enforcement notice specifies a period of 3 months for the enforcement notice to be complied with, from the date that it takes effect. It then states: 'by 17th December 2021'. As an appeal has been lodged against the enforcement notice, it will not come into effect until the date of this appeal decision. Section 173(9) of the Act only requires an enforcement notice to specify the period at the end of which its requirements are to be complied with. I shall therefore correct the enforcement notice by deleting the unnecessary text referring to an expired date at this part of the enforcement notice.

Ground (b)

4. Part of the appellant's case is that the hardstanding referred to in the breach of planning control alleged in the enforcement notice has not occurred. I have therefore assessed this claim under ground (b).
5. The Council has provided evidence in the form of photographs which appear to have been taken from a social media account. These show land at the appeal site being cleared and what appear to be aggregate material and shingle being laid. This has created a surface to park vehicles in an area which the appellant describes as a previously waterlogged garden area. The surface created can reasonably be described as a hardstanding, even if its purpose is only to stop vehicles from getting stuck in mud. A hardstanding has therefore been created.
6. It has not been demonstrated that the alleged breaches of planning control referred to in the notice have not taken place. The appeal under ground (b) must therefore fail.

Ground (c)

7. An appeal under ground (c) is made on the basis that the matters referred to in the enforcement notice as appearing to constitute a breach of planning control do not constitute a breach of planning control.
8. The appellant has explained that he cleared an overgrown area of his garden and erected a fence and gate. By clearing vegetation and laying an area of hardstanding, the appellant has created a clear opening in the boundary of the appeal site which leads onto the junction of Balcombe Road and Meadowcroft Close. This has formed a parking area and means of access to the highway, secured by a gate.
9. The operations carried out fall within the description of development defined at Section 55 of the Act. No planning permission from the Council exists for those works. As Balcombe Road is a classified road, the formation of the means of access to the highway would not have fallen within the provisions of Class B, Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The area of hardstanding comprises part of the means of access and facilitates its use by vehicles. The works do not therefore benefit from any form of planning permission and are in breach of planning control.
10. It has not been demonstrated that the matters referred to in the enforcement notice as appearing to constitute a breach of planning control do not constitute a breach of planning control. The appeal under ground (c) must therefore fail.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with correction and variations.

Formal Decision

12. It is directed that the enforcement notice is corrected and varied by:

- (a) Deletion of the text 'of the of' in the first requirement at Section 5 of the enforcement notice and their substitution with the text 'of the'; and
- (b) Deletion of the text '2) Remove the hardstanding created in the approximate position shown within the dotted black line on Plan B. 3) Remove from the Land to an authorised place of disposal all materials resulting from step 2' at Section 5 of the enforcement notice and their substitution with the text '2) Remove from the Land the hardstanding created in the approximate position shown within the dotted black line on Plan B'; and
- (c) Deletion of the text '4)' at Section 5 of the enforcement notice and its substitution with the text '3)'; and
- (d) Deletion of the text '5)' at Section 5 of the enforcement notice and its substitution with the text '4)'; and
- (e) Deletion of the text 'by 17th December 2021' at Section 6 of the enforcement notice.

13. Subject to this correction and variations, the appeal is dismissed and the enforcement notice is upheld.

L Douglas

INSPECTOR