



Appeal Decisions

Site visit made on 24 April 2023

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Appeal Refs: APP/P0240/C/22/3310069 and 3310070

Land off Park Road, Toddington LU5 6AB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mrs Anneliese Shaw and Mr Thomas Dibb against an enforcement notice issued by Central Bedfordshire Council.
 - The notice was issued on 11 October 2022.
 - The breach of planning control as alleged in the notice is the carrying out of an engineering operation to change ground levels in order to create a level platform area, the erection of children's play equipment and the construction of a hardcore access track.
 - The requirements of the notice are (1) Restore the land to its former condition by making up the ground to its former level and profile (i.e. the level and profile of the land before the unauthorised ground levelling and excavation works commenced in September 2019) and re-seeding it with grass; (2) Remove the children's play equipment and all associated materials forming the base of the play equipment from the land and re-seed the area with grass; and (3) Remove all hardcore materials forming the access track from the land and re-seed the area with grass.
 - The period for compliance with the requirements is 6 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeals are dismissed.

Reasons

2. The Appellants accept, having not made ground (b), (c) or (d) appeals, that the breach of planning control alleged in the enforcement notice is a breach of planning control that has occurred, that is not permitted development, that does not benefit from planning permission and that is not immune from enforcement action. They have only made a ground (f) appeal, which relates to whether the requirements of the enforcement notice are excessive and to whether lesser requirements would remedy the breach of planning control.

3. The Appellants have not, in fact, suggested what lesser requirements would remedy the breach of planning control. The only suggestion of substance is their claim that the Council should "...provide detailed drawings of the 'reinstatement' that they require and evidence of the profile that the land had previously...". This cannot be required of the Council because they do not have any knowledge or evidence of the profile of the land prior to the breach of planning control taking place. In any event, it was noted at the site visit that the previous profile of the land can be judged, to a sufficient level of certainty, from the profile of land adjoining the area that has been excavated in breach of planning control.

4. The history of discussions with, and advice given by, Council Officers is not relevant to the appeals. The Council did not carry out the works that are in breach of planning control and are not therefore required to contribute financially to fulfilling the requirements of the notice. Neither these matters nor any others mentioned by the Appellants affect the conclusion to be reached.

5. The requirements of the enforcement notice are not excessive and lesser requirements would not remedy the breach of planning control. The ground (f) appeals therefore fail and the appeals have been dismissed.

John Braithwaite

Inspector

