



Appeal Decision

Site visit made on 9 October 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2023

Appeal Ref: APP/P1805/C/22/3310857

Land lying to the north west of Wassell Grove Road, Hagley, Stourbridge, Worcestershire DY9 9JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Augustus Quinn against an enforcement notice issued by Bromsgrove District Council.
 - The notice was issued on 3 October 2022.
 - The breach of planning control as alleged in the notice is the carrying out of operational development consisting of the erection of a building outlined in orange on the plan at appendix 1 (hereinafter known as "the building"), with gravel hardstanding and alterations to vehicular access (outlined in green on the plan at appendix 1).
 - The requirements of the notice are to:
 - a. Demolish the building
 - b. Restore the land to its original condition by removing the gravel hardstanding and restoring to agricultural land
 - c. Remove from the land all resultant materials resulting from compliance with points a) and b) above.
 - The period for compliance with the requirements is: 164 days.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - In section 6 the deletion of "In respect of the requirements above, by 24 April 2023" and substituting instead "164 days from the date this notice takes effect".
2. Subject to the above correction, the appeal is dismissed and the enforcement notice is upheld.

The Notice

3. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act), or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
4. The compliance period in section 6 of the notice is expressed as a specific date rather than a period of time. The date given is the 24 April 2023 which would have given a compliance period of 164 days from the date that the notice would have taken effect if an appeal had not been lodged (11 November 2022).

In the interests of precision and clarity I shall correct section 6 so that it refers to the period of time provided and not a specific date.

Ground (d)

5. An appeal on this ground is that, at the date the notice was issued, no enforcement action could be taken due to the passage of time. The matter alleged is operational development and the relevant period is 4 years. It is for the appellant to show, on the balance of probability, that the development was substantially completed over 4 years prior to the issue of the enforcement notice. As the notice was issued on 3 October 2022, the relevant date is therefore 3 October 2018.
6. The appellant contends that at the time he purchased the appeal site in April 2020 the development subject of the enforcement notice was already in situ, with the works having been carried out by the previous owner. In support of this the appellant has submitted a copy of an Auction Pack for the site which consists of a front page and an aerial photograph showing the building and gravel hardstanding area in existence. The image has a "capture date" of 6 May 2016.
7. The appellant's evidence does not have to be corroborated by independent evidence to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal. The appellant's evidence would however have to be sufficiently precise and unambiguous.
8. The Council has provided several aerial images from Google Earth. Those with imagery dates from September 2011, May 2012, April 2016, March 2017, and April 2018 clearly show that the building and gravel hardstanding area are not present on the site. The first Google Earth image showing the development on the land is dated May 2019. The Council has also provided two Google Street view images. The development is not present in the first image dated August 2018 but is clearly visible in the image dated May 2019. These images indicate that the development was carried out between August 2018 and May 2019.
9. The Auction Pack submitted by the appellant does not seem to be a complete document with there being little written detail or description of the site, and the aerial image appearing to be numbered as page 11 despite only two pages being provided. Whilst the aerial image has a "capture date" of 6 May 2016, a second date of 22 January 2020 is also provided towards the bottom of the page. The numerous images provided by the Council dating from September 2011 to August 2018 which do not show the development on the land also casts serious doubt on the accuracy of the images "capture date". I therefore find this evidence to be imprecise and ambiguous.
10. The appellant also states that a borehole has been installed at the site, and that the building was completed to house the borehole pump and electrical equipment. However, no information or evidence has been provided to demonstrate when the borehole was installed, or the building completed. Accordingly, this does not aid the appellant's case.
11. It is further stated by the appellant that the wife of the previous owner of the land would be prepared to confirm in a letter that her husband erected the building immediately after he purchased the land in November 2015. No such

letter has been provided, and in the absence of any sworn statement or solemnly made declaration, this statement is uncorroborated and contradicted by the various images provided by the Council.

12. The available evidence would suggest that the development was undertaken at some point between August 2018 and May 2019. Though conceivable that the works could have taken place between August 2018 and 3 October 2018, I find it highly improbable that the works were substantially completed within this relatively short window. It is also not the appellant's case that the works were undertaken within this period, instead claiming that they took place prior to 2018.
13. The appellant has therefore failed to show, on the balance of probability, that the development was substantially complete over 4 years prior to the issue of the enforcement notice. Accordingly, the ground (d) appeal fails.

Other Matters

14. The appellant has objected to the fact that he was not afforded an opportunity to submit an application for a certificate of lawful use or development prior to the issue of the enforcement notice. He also questions the Council's decision to issue the notice given that a full planning application¹ has been submitted to the Council in relation to the appeal site. Such matters however fall outside the scope of this appeal and have had no bearing on my determination of the appeal.

Conclusion

15. For the reasons given above, I conclude that the appeal fails. I have therefore upheld the enforcement notice as corrected.

David Jones

INSPECTOR

¹ Council Reference: 20/01032/FUL