



Appeal Decision

Site visit made on 10 October 2023

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2023

Appeal Ref: APP/W5780/C/23/3319243

Land at Sports Ground Rear of Brandville Gardens/Woodville Gardens, Barkingside, Ilford IG6 1LE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr J Singer against an enforcement notice issued by London Borough of Redbridge.
 - The notice, numbered E0483/22, was issued on 2 March 2023.
 - The breach of planning control as alleged in the notice is without planning permission: the 1. construction of open-air storage structures within 2 metres of a property boundary; and 2. part creation of a track across a sports ground; and 3. material change of use from domestic garage site to include open-air storage and distribution of building materials; and 4. material change of use of a sports ground to open-air storage and distribution of materials.
 - The requirements of the notice are to: (i) remove the open air-storage structures in their entirety; (i) cease the use of the domestic garage site for open air storage and distribution of building materials; and (ii) cease the use of the playing field for open air storage and distribution of building materials; and (iii) remove any and all building materials from site.
 - The period for compliance with the requirements is: in full no later than within 2 months of the date that the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) 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 and varied by:
 - the deletion of the words and the substitution of the words '(i) remove the open-air storage structures in their entirety; and (ii) cease the use of the domestic garage site for open air storage and distribution of building materials; and (iii) cease the use of the playing field for open air storage and distribution of building materials; and (iv) remove any and all building materials from site; and (v) return the land to its previous condition' in paragraph 5.
 - the deletion of '2 months' and the substitution of '6 months' as the time for compliance.
2. Subject to the correction and variation, the appeal is dismissed, and the enforcement notice is upheld.

The Enforcement Notice

3. Paragraph 5 of the notice contains two part (i)'s which then affect the subsequent numbering. I have corrected these drafting errors to put the notice on a proper footing as these matters do not cause injustice to the parties.
4. I sought the parties' comments on whether there should be an additional requirement to return the land to its previous condition, and whether as a

result this would cause injustice. No reply was forthcoming from the appellant, but I concur with the Council's comment that the notice should be corrected to include the additional requirement and that it would not cause an injustice. I have therefore set out a correction to the notice in my decision.

The appeal on ground (f)

5. The appeal on this ground is that the appellant considers that the notice's remedial steps go beyond what is reasonably necessary to remedy the identified harm. In this case, the notice seeks to remedy the breach.
6. The appellant considers that the open-air structures could be reduced to remedy the breach, but there is no scheme before me outlining how the open-air structures could be reduced. Furthermore, there is no ground (a) appeal before me, so I am not able to consider the planning merits of the open-air structures even in a reduced form.
7. It is the appellant's view that the requirement to cease the use of the land for storage is excessive. The notice sets out two distinct alleged material changes of use. The first relates to a domestic garage site to the rear of 2 Woodville gardens, the second the former sports ground, which is a larger parcel of land fenced/gated off from the first parcel of land.
8. It seems that building materials are now confined to the former sports ground parcel of land, not the domestic garage site. Therefore, the open-air storage of building materials detailed in the third part of the alleged breach of planning control has been adhered to, though there are, in any event, no lesser steps to remedy that part of the breach. Furthermore, there is no lesser step suggested by the appellant in respect of the distribution of building materials stored in the open-air from the domestic garage site, and I do not consider any exist.
9. According to the appellant, mowers, garden tools, materials and equipment were all once stored on the former sports ground land. I have no reason to dispute this, but their presence would likely have been in connection with the former sports ground use, and so, would likely have been incidental to that use. The appeal has not been made based on grounds (a), (c) or (d), but the alleged breach of planning control does not just relate to the storage of building materials; it also refers to the distribution of them. That is a different use, and there are no lesser steps to remedy that breach.
10. The appellant says that they have removed the materials laid across the access track which were put there to strengthen it, but I am unclear whether that is or is not the case as numerous bricks and rubble remain on the access track. While they may have also removed the structures erected around the building materials stored on the land, this is what the notice requires. Building materials are still stored across several areas of the former sports ground, so there are no lesser steps that would remedy these parts of the breach.
11. For the reasons set out, I conclude that the appeal on ground (f) fails.

The appeal on ground (g)

12. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The appellant says that the compliance period is too short and should be six months so that they can move the structures and their materials from the land.

13. The notice was issued at the start of March this year, but the appellant has a right to appeal and to await the outcome of that process before they carry out any of the requirements. So, while the appellant has carried out some of the requirements of the notice already, according to the Council, there are more steps to carry out.
14. I recognise that some of the notice's requirements could potentially be carried out relatively swiftly, but looking at the totality of the matters which the appellant would need to address, such as the structures and the access track, to comply with the notice's requirements, a two-month compliance period is shy of what should reasonably be allowed. I agree with the appellant that six months is a more reasonable period, bearing in mind the time of year whilst still providing a definitive point in time whereby the breach of planning control is remedied by. I therefore conclude that the appeal on ground (g) succeeds.

Other Matter

15. Although points are raised in relation to the appeal about the planning merits of the development, including the previous use of the land as a sports ground, I am not able to consider these as there is no ground (a) before me.

Conclusion

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

Andrew McGlone

INSPECTOR