



Appeal Decision

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal Ref: APP/Y3615/C/22/3311250

Plots 1a, 1b, 1c, 5b, 5c, 6a, 6b, 6c, 7a and 7b Burpham Court, Clay Lane, Burpham, Guildford

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Lord Andrew Campbell against an enforcement notice issued by Guildford Borough Council.
 - The enforcement notice was issued on 14 November 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission operational development consisting of the laying of hard core material to create a hard surface.
 - The requirements of the notice are: i. Remove from the land all material used to create a hard surface including but not limited to the membrane and hard core material. ii. Restore the land by reseeding with grass.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(e) 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.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matter

2. Given the determination only relates to a ground (e) appeal, which I shall describe below, a site visit would have no bearing on my assessment. The appellant also accepts in the appeal form that it is not essential for me to enter the site. Injustice to the parties therefore does not arise from determining the appeal on the basis of the written evidence before me.

The ground (e) appeal

3. This ground of appeal is that the notice was not properly served on everyone with an interest in the land, as required by Section 172 of the Act.
4. Section 172(2) of the Act provides that a copy of the notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land, including mortgagees, tenants and sub-tenants, being an interest which, in the opinion of the Council, is materially affected. It is for the Council to decide who is materially affected.
5. The appellant's position is however that he was not the owner of the land affected by the notice on the date it was issued, and when he was served with

a copy, and there was an application pending with HM Land Registry arising from the sale and transfer of the land. Other evidence pertaining to the sale of the land has also been provided.

6. However, the purported new owners of the land affected by the notice then claimed to have sold it within a matter of weeks and there is very little evidence that they were ever formally recorded as owners by HM Land Registry.
7. The appellant therefore considers that their only protection against the notice was to lodge this appeal, presumably to be absolved of the responsibility to comply with its requirements.
8. That however is not the scope of a ground (e) appeal, or any other against a notice. Indeed, should the notice not be subsequently complied with, it would first be a matter between the Council and any person/s it decides to pursue for non-compliance as at that date.
9. For completeness, the evidence then provided by the Council demonstrates on the balance of probabilities that it took all reasonable steps to identify those with an interest in the land at the date when the notice was issued, as well as attempts to correspond with the purported new owners.
10. Furthermore, there was service at the land affected by the notice, by hand, addressed to the owner/occupier to ensure any potential unknown persons would have been served. Accordingly, prejudice to a person having an interest in the land when the notice was issued cannot therefore be said to have otherwise arisen.
11. The appeal on ground (e) therefore fails.

Conclusion

12. For the reasons given above I conclude that the appeal should not succeed.

Formal Decision

13. The appeal is dismissed and the enforcement notice is upheld.

Paul T Hocking

INSPECTOR