



Appeal Decision

by **Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP**

an Inspector appointed by the Secretary of State

Decision date: 16th July 2024

Appeal Ref: APP/B1550/C/22/3301569

Land Opposite Flickan Lodge, Ulverston Road, Rochford, Essex (shown edged bold on the plan attached to the notice)

- 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 Mr Rob Chipper against an enforcement notice issued by Rochford District Council on 19 May 2022.
 - The breach of planning control as alleged in the notice is:
Without planning permission, the material change of use of land from a nil use to use for the stationing and storage of caravans (1 static and 2 touring caravans); 5 private vehicles; children's play equipment; 2 lorry backs and the open storage of rubble and timber and other material (approximate positions as per attached plan - caravans are shown marked A, B and C; private cars shown hatched; children's play equipment shown cross hatched marked X, Y; lorry backs shown stippled and marked F, G) and the engineering operation involving the laying of an area of hardstanding shown in the approximate position marked by XXXs on the attached plan.
 - The requirements of the notice are to:
 1. Cease the use of the site for stationing and storage of caravans (1 static and 2 touring caravans); 5 private vehicles; children's play equipment; 2 lorry backs and the open storage of rubble and timber and other material (approximate positions as per attached plan - caravans are shown marked A, B and C; private cars shown hatched; children's play equipment shown cross hatched marked X, Y; lorry backs shown stippled and marked F, G) and the engineering operation involving the laying of an area of hardstanding shown in the approximate position marked by XXXs on the attached plan.
 2. Remove from the site the caravans (1 static and 2 touring caravans); 5 private vehicles; children's play equipment; 2 lorry backs and the open storage of rubble and timber and other material (approximate positions as per attached plan - caravans are shown marked A, B and C; private cars shown hatched; children's play equipment shown cross hatched marked X, Y; lorry backs shown stippled and marked F, G) and the engineering operation involving the laying of an area of hardstanding shown in the approximate position marked by XXXs on the attached plan.
 3. Remove the area of hard standing shown in the approximate position marked by XXXs on the attached plan and subsequently level the land with appropriate topsoil.
 4. Remove from the site, all domestic paraphernalia used in connection with the use of the land not limited to benches and chairs.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (d) (f) of the Town and Country Planning Act 1990 as amended (the Act).
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Decision

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

Procedural Matter

2. Due to the nature of the grounds of appeal and the evidence provided, it was not necessary to make a site visit. Accordingly, a determination was made on the evidence before me with no prejudice caused to the parties.

Ground (d)

3. For an appeal to succeed on this ground, the burden of proof is upon the appellant to demonstrate on the balance of probabilities that the time for enforcement action had expired on the date the notice was issued.
4. The appellant has provided no substantive evidence at all into the appeal. Neither did he comment on evidence provided by the Council, including a number of photographs of the site going back several years, supporting its own case that enforcement action was within time¹.
5. Accordingly, ground (d) does not succeed.

Ground (f)

6. For success on this ground, I must be satisfied that the notice requirements are excessive in achieving its purpose.
7. It appears to me that the purpose of the notice is to remedy the breach of planning control, and it properly does that by requiring the cessation of the unauthorised use and works of removal to restore the land to its condition before the breach took place. That is not excessive.
8. While an appeal on this ground was indicated on the appeal form, no clear or substantive case has been made setting out why the notice requirements might be considered to be excessive.
9. Accordingly, ground (f) fails.

Conclusion

10. For the reasons given above, the appeal does not succeed. The enforcement notice is upheld.
11. Since the end of the appeal timetable, the Council has written to the Inspectorate to allege that further development has occurred on the site². However, the new development alleged – including a material change of use to residential – is not the development targeted by the notice which is the subject of this appeal. Accordingly, it is not a matter for me to consider in this Decision.

Andrew Walker

INSPECTOR

¹ Section 171B of the Act.

² Letter dated 31 January 2024.