



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: 10 February 2025

Appeal Ref: APP/M1595/C/23/3332969

Chestnut Farm Garden Centre, South Road, South Ockendon in the Borough of Thurrock shown edged red in 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 Jason Price against an enforcement notice issued by Thurrock Borough Council.
 - The enforcement notice was issued on 16 October 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the carrying out of the following operations on the Land:
 - i. the siting of twelve (12) mobile homes/caravans.
 - ii. the siting of a large building.
 - iii. the laying of areas of hard standing.
 - iv. the placing of a Cesspit in the ground.
 - The requirements (and compliance periods) of the notice are:
 - i. Remove the Twelve (12) mobile homes/caravans from the Land (3 months).
 - ii. Remove the unauthorised building from the Land (3 months).
 - iii. Remove all areas of hardstanding relating to the unauthorised development (9 months).
 - iv. Remove the unauthorised Cesspit which is in the ground, fill in the hole and level the ground and remove all resultant materials from the Land (3 months).
 - v. Reinstate the Land to its original condition prior to the unauthorised development (9 months).
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. The notice is found to be a nullity and no further action will be taken in connection with this appeal. In the light of this finding the Council should consider reviewing the register kept under section 188 of the Act.

The enforcement notice

2. Section 172(1) of the Act provides that the local planning authority may issue a notice where it appears to them: (a) that there has been a breach of planning control; and (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
3. Regulation 4 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 requires that an enforcement notice shall specify: (a) the reasons why the local planning authority consider it expedient to issue the notice; and (b) all policies and proposals in the development plan which are relevant to the decision to issue an enforcement notice. Section 173(10) of the Act further enshrines these requirements.

4. In the appeal before me, the notice gives no actual reasons why the Council considers it expedient to issue the notice. Nor is there any mention within that context of any relevant provisions of the development plan or any other material considerations. It simply explains why, in the Council's view, there is a breach of planning control. That is not sufficient.
5. As the notice fails to accord with the above legal requirements it is a nullity, without legal effect, and no further action can be taken in this appeal.

Conclusion

6. I have concluded that the notice is a nullity and in these circumstances the appeal under the ground set out in section 174(2)(a) to the 1990 Act as amended, and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended, do not fall to be considered.

Andrew Walker

INSPECTOR