



Appeal Decision

Site visit made on 24 February 2025

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2025

Appeal Ref: APP/B4215/C/24/3339366

Land at rear 14 to 38 Shaftesbury Road, Cheetham Hill, Manchester, M8 0N

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Abid Mohammed against an enforcement notice issued by Manchester City Council.
 - The notice was issued on 25 January 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land as an extension to residential curtilage, together with:
 - the formation of a garden area by the laying of concrete blocks and paving flags to form a hardstanding, together with a partial means of enclosure formed by wooden pallets;
 - a means of enclosure over 2 meters in height;
 - the erection of brick garage buildings on the land, in use for domestic storage;
 - the placement of other household and garden paraphernalia.
 - The requirements of the notice are to: cease the use of the land as an extension to residential curtilage and remove in their entirety:
 - the garden area formed by the hardstanding and the wooden pallets forming a partial means of enclosure;
 - the means of enclosure over 2 metres in height;
 - the brick garage building on the land, in use for domestic storage;
 - all other household and garden paraphernalia stored or placed on the land.
 - The period for compliance with the requirements is three months.
 - The appeal is made pursuant to the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is invalid and no further action will be taken.

Preliminary matters

2. This appeal has been considered alongside a separate appeal against the same enforcement notice. While the appeals raise similar issues, they have been determined separately and with regard to the evidence presented in each individual case.

The validity of the appeal

3. The Local Planning Authority (LPA) contends that the appellant did not have sufficient legal standing to pursue a valid appeal against the enforcement notice at the time at which they submitted the appeal. Section 174(1) of the Town and Country Planning Act 1990, as amended, (the Act) restricts the right of appeal against an enforcement notice to “a person having an interest in the land to which an enforcement notice relates or a relevant occupier”, regardless of whether they were served with a copy of the notice. Section 174(6) of the Act defines a relevant occupier as a person who occupied the land by virtue of a licence at the time the notice was issued and who continues to occupy it when the appeal is brought.

4. There is no scope or provision for the appellant's legal status to be gained retrospectively. The courts have held¹ that the critical date for establishing whether a person was a relevant occupier or had an interest in the land, for the purposes of section 174(1) of the Act, is the date on which an appeal is made. Therefore, a person's legal standing, and by extension their right of appeal, must be demonstrated at the point at which the appeal is submitted for it to be considered valid. In this case, the key question is whether the appellant was a relevant occupier or had an interest in the land at the time the appeal was made, that date being 23 February 2024.
5. The appellant has confirmed that they did not occupy the land under a written or oral licence on the date the notice was served or on the date the appeal was made². Nor is there any evidence of an explicit licence, either written or oral, from any owner conferring the appellant the right to occupy the land when the notice was issued or at the time the appeal was made. An implied licence to occupy might have existed if an owner had acquiesced to it but no evidence of that has been presented. Consequently, it has not been shown that the appellant had a legal right of appeal as a 'relevant occupier' of the land when the appeal was made. It remains to be considered whether they had a legal right of appeal by reason of an interest in the land at that time.
6. An interest in land, in the sense meant by section 174(1), may not amount to legal ownership of that land. The courts have indicated that it means a legal or equitable interest and that it cannot be achieved by trespass³. Nevertheless, a person without title may gain an interest in land through adverse possession, if they can be shown to have factual possession of that land and the requisite intention to possess it. Factual possession signifies a degree of physical control and cannot be exercised by an owner and an intruder at the same time.
7. At the time of making their appeal, the appellant states that the land to which the enforcement notice relates was unregistered. The appellant contends that they are in adverse possession of the land by reason of having occupied and controlled it to the exclusion of any owner for a period in excess of 12 years.
8. I have been provided with a letter⁴ from solicitors acting on behalf the appellant which states that an application for adverse possession has been submitted to the Land Registry. A copy of the appellant's application for adverse possession has also been provided and is dated 22 February 2024. The appellant suggests that the application to the Land Registry is only a process of formalising an existing interest and that the subsequent registration of the land, on 4 March 2024, has confirmed that the appellant was in adverse possession.
9. I have not been provided with any details of the outcome of the application for adverse possession to confirm this to be the case. Furthermore, it is not within my remit to certify whether the appellant has acquired ownership through adverse possession; that is for the Land Registry to determine.
10. Nevertheless, an official copy of register of title⁵ has been provided in relation to a small rectangular parcel of land to the rear of 36 Shaftesbury Road, and which

¹ R (on the application of Benham-Crosswell) v SSETR [2001] EWHC Admin 146

² Section D of the Appeal Form, dated 23 February 2024.

³ R v SSE & South Shropshire DC (ex parte Davies) [1991] JPL 540

⁴ Letter from Taylor Price Solicitors, dated 22 February 2024

⁵ Title No. MAN435640

forms part of the land that is subject to the enforcement notice. This shows that title possessory was registered for this land in the appellant's name with effect from 4 March 2024. I understand that possessory title is conferred by the Land Registry in cases where the legal ownership of the land is open to dispute, and it is the general approach to registering land that is claimed via adverse possession.

11. In confirming the appellant's status as title possessory, this demonstrates that the appellant had a legal interest in the land. However, this interest was only confirmed via the registration of title possessory from 4 March 2024. This was after the appeal was made, and there is nothing before me to confirm that the appellant's entitlement to possessory title arose before 4 March 2024.
12. Drawing these points together, in the absence of registration in favour of the appellant as of the date of their appeal, it has not been demonstrated that they had title to the land, or a legal or equitable interest in it, when the appeal was made.
13. For these reasons, I find that the appellant did not have a right of appeal when the appeal was made. Consequently, the appeal is not valid and does not fall to be determined. I shall therefore take no further action.

J M Tweddle

INSPECTOR