



Appeal Decision

Site visit made on 14 March 2025

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 29th April 2025

Appeal Ref: APP/B5480/C/22/3305398

The Land known as Frog Island, Ferry Lane, Rainham, RM13 9YH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by the Environment Agency (EA) against an enforcement notice issued by the Council of the London Borough of Havering.
 - The notice was issued on 18 July 2022.
 - The breach of planning control as alleged in the notice is 1. Without the benefit of planning permission, the material change of use of the Land from use for storage to a waste management facility importing, processing and exporting waste materials; and 2. Without the benefit of planning permission, operational development through the siting of stacked shipping containers on the Land.
 - The period for compliance with the notice is 4 months.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed.

Reasons

2. The enforcement notice alleged a material change of use of approximately 2.78ha of land on the northern bank of the Thames. The land was being used by S Walsh & Son Limited, mainly for waste processing, but it had inadvertently encroached upon a narrow strip of land belonging to the EA. S Walsh & Son Limited appealed the notice. That appeal¹ was the subject of an Inquiry which opened on 11 March 2025. The notice was upheld but planning permission was granted for part of the matters alleged in the notice. However, the notice was also corrected by amending the Land subject to the notice so as to exclude the EA land. Hence although the EA had an interest in the Land when the appeal was made, its land is no longer affected.
3. Nonetheless, the appeal was validly made and must be determined. The appeal was originally made on grounds (b), (e) and (g), respectively that the matters alleged had not occurred, that the notice was not properly served, and that the time for compliance is too short. The appeals on grounds (b) and (e) were subsequently formally withdrawn. Since the EA land at Frog Island is no longer subject to the notice, it cannot be responsible for compliance with the requirements of the notice, hence the appeal on ground (g) cannot succeed and the appeal must be dismissed. If it has not already done so, the Local Planning Authority should consider reviewing the register kept under section 188 of the 1990 Act to reflect the exclusion of the EA land from the notice as corrected.

Paul Dignan

INSPECTOR

¹ Appeal Ref. APP/B5480/C/22/3305409