
Appeal Decisions

Site visit made on 4 November 2025

by **Paul Dignan MSc PhD**

an Inspector appointed by the Secretary of State

Decision date: 10th November 2025

Appeal A Ref: APP/Y3615/C/25/3367239

Appeal B Ref: APP/Y3615/C/25/3367240

Appeal C Ref: APP/Y3615/C/25/3367241

Land on the east side of Stoneleigh, Pirbright, Woking, Surrey, GU24 0PQ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Miles Cash (A), Michael Cash (B) and Christine Cash (C) against an enforcement notice issued by Guildford Borough Council.
 - The notice was issued on 28 May 2025.
 - The breach of planning control as alleged in the notice is Without planning permission, operational development consisting of the laying of material to create a hard surface.
 - The requirements of the notice are: i) Remove from the Land the material laid to create a hard surface; and ii) Remove all debris and materials resulting from compliance with the above step.
 - The period for compliance with the requirements is 2 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeals are dismissed and the enforcement notice is upheld.

Background

2. The appeal site is a roughly 0.4 ha block of land, part of a clearing in a relatively open landscape of woodland, open fields and scrubland. It lies within the designated Green Belt. The site, and indeed the wider clearing, has an extensive enforcement history, action having been taken against the use of the land for the storage and repair or dismantling of vehicles in 1988; against use for the deposit of waste materials in 1989; against use for the stationing of a mobile home in 1993; against the erection of a barn and a mixed use including B8 storage use (apparently involving window frames/panes, tyres, car spares, pallets, timber, building materials, insulation material, fence panels, fuel drums, agricultural machinery, skips, scaffolding, carpet tiles, scrap metal, vinyl sheeting, film props and vehicles, trailers, portacabins, sheds, storage containers and other materials and structures) and a caravan site in 2013; and against use involving the importation, deposit and storage of mixed inert waste materials including soils, brick, concrete and rubble and hardcore; the importation, deposit, storage partly in skip and containers and disposal (by the means of burning) of mixed non inert waste materials including plastic, metal, wood, timber, carpet, cut garden pruning's and general discarded household materials; and the importation, deposit and storage of used car tyres in 2015.

Grounds (b), (c) and (d)

3. Ground (b) is that the matters alleged have not occurred, ground (c) is that if they have occurred, they are not a breach of planning control, and ground (d) is that it is too late to take enforcement action.
4. The basis of the appeals on these grounds is that there has been hardstanding on the site for many years. The appellants refer to the enforcement history and claim that the site has been used as a commercial waste facility from the 1980's until 2020. Reference is made to direct action apparently carried out by the Council and/or Surrey County Council (SCC) in 2021 following failure to comply with the 2015 enforcement notice, which was issued by SCC. They claim that all that has occurred within the last 4 years has been the laying of road planings/scalpings over pre-existing hardstanding.
5. None of the enforcement notices referred to above alleged the laying of hardstanding, but I understand the appellants' case to be that the deposition of waste over the years left a deep layer of hard materials which was not removed in the direct action taken in 2021. Although supporting evidence has not been provided, they claim that a Geotech survey conducted in 2013 estimated that some 9135 tonnes of hard materials, about 1m deep, was present on a 0.65ha area, which included the appeal site. The appellants maintain that the direct action only removed some 225 tonnes of waste, so it is claimed that the remaining materials comprised hardstanding, and it was upon this hardstanding that the planings/scalpings were laid.
6. While I do not have direct evidence of the 2021 works, the Council has submitted photographs of the site taken in November 2022 which shows the land surface as mainly soil covered, muddy where tracked over and greening over off-track. There is no sign of any hard surface, notwithstanding that there may well be hard materials within the soil profile. Subsequent site visit photographs taken in January 2023 show parts of the wider clearing, including some of the appeal site, covered with what appears to be newly laid crushed hardcore, of construction and demolition waste appearance. Photographs taken in May 2025 shows a track laid in dark material, presumably road planings/scalpings. This corresponds with what I saw on my site visit. There were tracts of recently deposited and surface spread hard waste materials, both on the appeal site and on the other land within the clearing, along with a track surfaced with road planings leading to a large rectangular pad, also surfaced with road planings.
7. While there is no cogent evidence of the land ever having been hard-surfaced as such, taking the appellants' evidence at face value that considerable quantities of waste, including hard waste, remained on the site following the direct action of 2021, the Council's photographs of 2022 indicate that the resulting land surface was soil covered. The photographs taken in January 2023 clearly show newly laid hard surfacing, and it is not disputed that the track and pad surfaced with road planings/scalping is recently formed. For clarity, I will add that 2 discrete areas of concrete hardstanding, one just inside the entrance to the east and the other near the eastern boundary of the appeal site, appear to be historic and are not part of the allegation.
8. On the evidence before me I consider it more likely than not that whatever remained of the imported mixed inert waste materials enforced against in 2015 and

the subject of the direct action in 2021 had been subsumed into the soil profile by November 2022 and did not, on the balance of probabilities, comprise hardstanding. I consider, again on the balance of probabilities, that the hardstanding currently on the site, including the planings surfaced track and rectangular pad, was laid sometime after November 2022. It follows that the appeal on ground (b) cannot succeed.

9. Although not specifically raised under ground (c), it is suggested that planning permission for hardstanding on the site has been granted in the past through the action of section 173(11) of the 1990 Act. This provides that where an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so, and all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted for the relevant works. The proposition appears to relate to the 2013 notice. However, the allegation in the 2013 notice did not include the construction of hardstanding, nor is there any evidence that there was hardstanding present at that time. Furthermore, there is not evidence that all of the requirements of that notice were in fact complied with, a requirement of section 173(11). In my view there is no basis for the proposition that planning permission for hardstanding on the site arose through the action of section 173(11).
10. The laying of the hard surface is new development for which planning permission is required. For an appeal on ground (c) to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that the laying of materials on the site to create a hard surface is not a breach of planning control, but their evidence falls well short of discharging the burden of proof. It is also suggested that the Council has acknowledged or accepted previously that there is lawful hardstanding on the site, but the Council has no record of this and nothing has been provided to substantiate the assertion.
11. It is argued that the hardstanding could be used for agricultural purposes, but while the land could lawfully be used for agriculture, it is not being so used at present, hence a hardstanding on the site could not benefit from GDPO Part 6 permitted development rights, which requires that development be reasonably necessary for the purposes of agriculture within an agricultural unit.
12. The appeal on ground (c) fails accordingly.
13. So far as ground (d) is concerned, the evidence above is sufficient to show, on the balance of probabilities, that the hardstanding the subject of the notice has been laid since November 2022. If it had been substantially completed before 24 April 2024 the relevant immunity period would be 4 years, and after that 10 years. Since 4 years cannot have elapsed before the notice was issued the development cannot be considered to have achieved immunity from enforcement and hence the appeal on ground (d) must also fail.

Ground (f)

14. The purpose of the notice is clearly to remedy the breach of planning control by restoring the land to its condition before the breach took place. No lesser steps have been proposed, and I am satisfied that the requirements of the notice do not exceed what is necessary to achieve the purpose of the notice.

Ground (g)

15. This ground is that the compliance period specified in the notice falls short of what should reasonably be allowed. A period of 80 years, referred to as the perpetuity period, is requested, on the basis that the works might cause damage to protected species, presumably by reference to the nearby Thames Basin Heaths Special Protection Area (TBHSPA). However, there is no evidence that the requirements of the notice would cause any harm to the integrity of the TBHSPA. No other evidence is submitted to support an argument that the period specified, 2 months, falls short of what should reasonably be allowed, and the appeal on this ground must therefore fail.

Paul Dignan

INSPECTOR