
Appeal Decision

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th November 2025

Appeal Ref: APP/T0355/C/24/3340280

Land at Coppice Field, Coppice Drive, Wraysbury, Staines – Rear of 65 Ouseley Road

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Fang Qian against an enforcement notice issued by the Council of the Royal Borough of Windsor and Maidenhead.
 - The notice was issued on 20 February 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the importation of materials to raise the land.
 - The requirements of the notice are to:
 - a) Dig up and remove from the land all imported materials in the area of land hatched in blue.
 - b) Restore the land to its condition before the breach took place.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the ground set out in section 174(2)(e) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Preliminary Matters

2. Although the appellant has not pleaded ground (b), which is that the matters stated in the notice have not occurred, they indicate that no work has been carried out on the land. They have not provided evidence to support that assertion and elsewhere acknowledge that the ground level has been raised, which corresponds with the alleged breach of planning control. I have not considered this matter further.
3. No site visit was necessary as the appeal can be determined based on the written evidence. Neither party has been prejudiced by this approach.

The ground (e) appeal

4. An appeal on ground (e) is that copies of the enforcement notice were not served as required by s172 of the Town and Country Planning Act 1990 (the Act). In a ground (e) appeal the burden of proof is firmly on the appellant and the test is the balance of probability.
5. S172(2) of the Act requires the notice to be served on the owner and the occupier of the land to which it relates and on any other person having an interest in that land, being an interest which, in the opinion of the local planning authority, is materially affected by the notice. It is therefore for the local planning authority to decide who is materially affected, but they risk an appeal on ground (e) if they exercise their discretion wrongly.
6. An 'interest in the land' means a legal or equitable interest. It may be freehold or leasehold, or that held by a person with a mortgage, a periodic tenancy or legal

easement or right of way. It does not include a person with no such interest but some other link with the land such as a mere contractual right.

7. It was held in *Newham*¹ that a Land Registry address is proper service if a local planning authority has not been given another address. The notice was served on two addresses which are both overseas. The appellant is the freehold owner of the land and the Council's Land Registry search revealed that there is no known leaseholder, which the appellant does not dispute. As the appellant was served with the notice and made an appeal they have not been substantially prejudiced.
8. The appellant indicates that the owner of 65 Ouseley Road, a property adjoining the land, has illegally encroached on the land to raise the ground level. As part of its investigation of the breach, the Council served planning contravention notices on the owners of 63 and 65 Ouseley Road. My understanding is that, whilst there was no formal response, they informed a Council officer verbally that they were tidying the land but not using it for residential purposes.
9. Although the enforcement notice was not served on the owners of Nos 63 and 65, there is no substantive evidence before me to suggest that they are occupiers of the land or that have any other legal or equitable interest in the land, or a right of way over it. On the evidence that is before me, I have no reason to find that the notice should have been served on them.
10. For these reasons I conclude that the notice was served correctly in accordance with s172 of the Act. The appeal on ground (e) therefore fails.

Conclusion

11. For the reasons given I conclude that the appeal should not succeed, and I shall uphold the enforcement notice.

M Ollerenshaw

INSPECTOR

¹ *Newham LBC v Miah* [2016] EWHC 1043 (Admin)