Planning Inspectorate

Appeal Decision

Site visit made on 5 October 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2026

Appeal Ref: APP/D3640/C/24/3353946
Lavershot Barns, London Road, Windlesham, Surrey GU20 6LL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr Marcus Mainwaring against an enforcement notice issued by Surrey Heath Borough Council.
- The notice was issued on 11 September 2024.
- The breach of planning control as alleged in the notice is *without planning permission the undertaking of unauthorised building, engineering operations, formation of hardstanding and erection of outbuildings in the approximate positions as indicated at points A - K on the attached plans 1 & 2. Including;*
  - *A - Erection of canopies to the rear of the "White Stores" building*
  - *B - Erection of canopies and outbuilding used in connection with the car wash business*
  - *C - Erection of canopies and installation of a raised platform to facilitate outdoor eating area*
  - *D - Erection of sales building (Wellington Flooring)*
  - *E - Erection of sales building (Smart Homes)*
  - *F - Erection of sales building (KBO Fire & Security)*
  - *G - Erection of sales building (Lush Landscapes)*
  - *H- Erection of sales building (Chatterton Rees Estate Agents)*
  - *I - Erection of a sales building (Afters)*
  - *J - Oak framed pergola building*
  - *K - Formation of hardstanding areas to the North and West of the lawful commercial site.*
- The requirements of the notice are:
  - *a) Demolish and remove all canopies in association with the "White Stores" business as shown in the approximate position within the black hatched area, labelled A on the on the supporting plan (1).*
  - *b) Demolish and remove all canopies and outbuilding in association with the car wash business in the approximate position within the black hatched area, labelled B on the on the supporting plan (1).*
  - *c) Demolish and remove the raised platform, catering van(s) and canopies used in association with the outdoor dining area outdoor dining area as shown in the approximate position within the black hatched area, labelled C on the on the supporting plan (1).*
  - *d) Demolish the outbuilding in the approximate position as hatched in black on the supporting plan (1) attached, labelled D.*
  - *e) Demolish the outbuilding in the approximate position as hatched in black on the supporting plan (1) attached, labelled E.*
  - *f) Demolish the outbuilding in the approximate position as hatched in black on the supporting plan (1) attached, labelled F.*
  - *g) Demolish the outbuilding in the approximate position as hatched in black on the supporting plan (1) attached, labelled G. h) Demolish the outbuilding in the approximate position as hatched in black on the supporting plan (1) attached, labelled H.*
  - *i) Demolish the outbuilding in the approximate position as hatched in black on the supporting plan (1) attached, labelled I.*
  - *j) Demolish the outbuilding in the approximate position as hatched in black on the supporting plan (1) attached, labelled J.*
  - *k) Remove all materials from the demolition of the outbuildings from the site*
  - *l) Demolish and remove all materials used in the construction of the hardstanding shown in the approximate position, labelled K of the black hatched area on the supporting plan (2).*
  - *m) Remove all materials arising from the removal of the hardstanding from the site.*
- The period for compliance with the requirements is *six (6) months after this notice takes effect.*

- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (e), (f) and (g) of the 1990 Act (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Formal Decision

1. The appeal is allowed and the enforcement notice is quashed.

Preliminary Matters

2. At the site visit it became apparent that some of the structures and canopies subject to the enforcement notice have been removed from the site. Section 181(1) of the Act (as amended) makes it clear that compliance with a notice does not discharge it. This appeal still needs to be determined in the absence of either its withdrawal by the appellant or by the notice being withdrawn by the Council.

Appeal under ground (e)

3. An appeal on this ground relates to whether the notice was served as required by section 172 of the 1990 Act (as amended). Section 172(2) of the 1990 Act requires a copy of the notice to be served on the owner, occupier and any person having an interest in the land, being an interest which, in the opinion of the Council, is materially affected by the notice.

4. Section 174(6) of the Act defines “relevant occupier” as a person who (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence; and (b) continues so to occupy the land when the appeal is brought. A person may be an occupier because of a lease, a license or oral permission. An interest in the land highlights a legal or equitable interest, such as a mortgage or the benefit of a covenant.

5. The methods for serving an enforcement notice prescribed in section 329(1) of the 1990 Act include:

> *(a) by delivering it to the person on whom it is to be served or to whom it is to be given; or*
>
> *(b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address or*
>
> *(c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address or*
>
> *(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.*

6. While the powers are discretionary, Councils are advised to issue a requisition for information under section 330 of the 1990 Act prior to the service of an enforcement notice, to discover who the relevant owners, occupiers, and persons with an interest in the land are and thus are entitled to appeal. In my experience Councils will often use planning contravention notices (PCN), which can be used

to establish land use patterns or activity and require recipients to inform the Council who owns, occupies, or has an interest in the land and their address. From the evidence before me, I have been provided with little information to demonstrate such powers were exercised in this case.

7. The Council highlights that the enforcement notice was served on both the owner and the occupier of the land who were known to them, alongside other parties as highlighted in the list provided by the Council[1], by first class post. The enforcement notice was also affixed to a post outside the entrance to the site. However, the appeal site consists of various businesses operating within the red line boundary. This was apparent during my site visit as I observed two large signboards either side of the entrance displaying the names of the various companies and businesses located within the appeal site.

8. The appellant alleges that copies of the enforcement notice were not served on all persons having an interest in the land as required by section 172. The appellant has provided a list of the various occupiers and tenants at the site when the enforcement notice was issued, asterisking those that have not been served with a copy of the notice. This does not correspond with the list of occupants served with the notice as highlighted by the Council. Of the nineteen occupiers and tenants identified by the appellant only five of these were issued with a copy of the enforcement notice.

9. The notice is targeted at various operational development, including hardstanding, canopies, and structures within the appeal site. Whilst the notice is clear in respect to which operational developments[2] it relates, what is less clear, is who is responsible. Given that the notice targets development that would be required to be removed to comply with the notice, this would impact on the viability of those businesses affected.

10. The Council draw my attention to the copies of the notice that were affixed to a post outside the entrance to the site. Whilst I acknowledge that the notice was available within the public domain, the post is located behind one of the aforementioned signboards at the site, partially obscuring views of the notice. Moreover, the post to which the notice was fixed is outside the appeal site on public land. It is unlikely that occupiers and tenants of the structures affected would have been passing on foot to observe the notice. What may have been more beneficial, would be to fix the notice on the entrance gates to the appeal site, or for increased effectiveness, fixing an individual copy conspicuously to each of the alleged unauthorised structures identified by the Council in the notice.

11. I find that, in the individual circumstances of this case, having regard to the available evidence and on the balance of probability, the appellants have shown that copies of the notice were not served on all the occupiers and tenants of the affected structures at the premises in accordance with section 329(1) and (2) of the 1990 Act. Subsequently, I do not find that copies of the notice were properly served as required by section 172.

12. The question therefore is whether those occupiers and tenants not served have been substantially prejudiced by that failure. None of the listed occupiers and tenants have appealed the notice, with the sole appellant being the owner of the

[1] Paragraph 3.4 of the Councils Statement of Case and “List of people served” with the notice.
[2] Operational developments are clearly hatched and shown on Plans (1) and (2) as units A – K

land. Given that operators could potentially lose their premises as a consequence of not contesting the enforcement action, it is unclear why these parties have not appealed. As not all the occupiers have been issued with the enforcement notice, they have not been properly afforded the opportunity to take part in these proceedings.

13. Furthermore, from the information before me, the list of parties notified of the appeal by the Council, again does not correspond with the list of the occupiers and tenants at the site at the time of the notice. Given that not all parties have been notified of the appeal, this have denied the occupiers and tenants the opportunity to make representations as part of the appeal process. Whilst I note that the appellant has appealed under ground (a), the persons entitled to be served may have raised alternative issues in respect to this and other grounds had they had the chance to respond. Thus, they would have found themselves in a different position had they been correctly served with the notice. Therefore, proceeding with the appeal would in my view risk substantial prejudice to these parties.

14. For the above reasons, the ground (e) appeal succeeds, and the notice will be quashed. It is open to the Council to issue a fresh enforcement notice, if it is deemed expedient to do so, with copies being served as required by section 172.

Overall Conclusion

15. I conclude that the appellant and others have been substantially prejudiced by the non-service of the enforcement notice, and this is not a case when I can exercise the power to disregard that non-service in accordance with section 176(5) of the 1990 Act (as amended). The appeal on ground (e) succeed and the enforcement notice will be quashed.

16. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) to the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.

Robert Naylor

INSPECTOR