



Appeal Decision

by **Elizabeth Jones BSc (Hons) MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2018

Appeal Ref: APP/L3245/C/17/3177623

Land at Edgebolton, Shawbury, Shropshire (Title No. SL235326)

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Thomas Shuker against an enforcement notice issued by Shropshire Council.
- The enforcement notice, numbered 16/05029/ENF, was issued on 11 May 2017.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a 2 storey structure on the Land identified on the attached photograph.
- The requirements of the notice are:
 - (i) Remove from the Land the 2 storey structure.
 - (ii) Remove from the Land all domestic paraphernalia and services installed in association with the structure.
 - (iii) Return the Land to its former use and condition.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (e) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary Decision: The appeal is dismissed and the enforcement notice upheld with correction.

The Enforcement Notice

1. Paragraph 6 of the notice 'Time for compliance' makes reference to a fourth requirement (i.e. 5(iv)). Paragraph 5 of the notice 'What you are required to do' includes requirements numbered (i), (ii) and (iii). These 3 requirements are referred to in the Council's statement of case. I therefore consider the reference to a fourth requirement to be a typographical error which I can correct by deleting the reference to a fourth requirement without causing injustice.

The appeal on ground (e)

2. Ground (e) is concerned with whether the enforcement notice was properly served as required by s172(2) of the 1990 Act. This provides that a copy of an enforcement notice shall be served (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

3. The appellant maintains that as the notice was served on a Mr Ian James Shuker, the notice is invalid. In a ground (e) appeal the burden of proof is firmly on the appellant and the test is the balance of probability.
4. The Council's unchallenged statement is that following a Land Registry search the notice was served on Mr Thomas James Shuker, 8 Castle Lane, Bayston Hill, Shrewsbury SY3 0NJ as the sole owner of the land by first class Recorded Delivery. A copy of the notice was also sent to the Owner/Occupier. Apart from the absence of a middle name, the appellant's details at section A on the appeal form are the same as those used by the Council in its service of the notice. These details are also the same as the addressee details contained in the covering letter served with the notice and on the first page of the notice. Thus, the requirements of s329 1(c) of the Act were satisfied.
5. Given the evidence, I do not consider that the reference to a Mr Ian James Shuker as an interested party at the end of the notice, which the Council states is an error, makes the notice invalid as suggested by the appellant. It is clear that the appellant has been able to make an appeal in the required timescale. Therefore, I can correct the notice without causing injustice by correcting this error by deleting the reference to Mr Ian James Shuker. Moreover, there is no evidence of any substantial prejudice. The appeal on ground (e) therefore fails.

Formal Decision

6. It is directed that the enforcement notice be corrected as follows:
 - 1) The deletion from paragraph 6 'Time for compliance' the words "and 5(iv)".
 - 2) The deletion of the words "Ian James Shuker, 8 Castle Lane, Bayston Hill, Shrewsbury, ST3 0NJ" from the last line of the section titled 'Guidance Notes' attached to the enforcement notice.
7. Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

Elizabeth Jones

INSPECTOR