

Case Name: *Turner v Secretary of State for Housing, Communities and Local Government & Anor [2025] EWHC 2815 (Admin) (31 October 2025)*

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Commentary: This case concerned an unsuccessful appeal under s.289 of the Town and Country Planning Act 1990 (the "TCPA 1990") against the decision of an inspector, appointed by the Secretary of State for Housing, Communities and Local Government (the "Inspector"), to dismiss the Appellant's appeal against the decision of Buckinghamshire Council (the "Second Respondent") to issue an enforcement notice on 20 September 2021 in respect of land known as Gladwins Wood, Pinstone Way, Tatlin End, Denham (the "Land") (the "Enforcement Notice") (the "Inspector's Decision").

Background

The original appeal to the Inspector was made on statutory grounds (b), (e) and (g), and an appeal on ground (a) was made but withdrawn before the inquiry began. The Inspector dismissed the appeal and upheld the Enforcement Notice, save for allowing the appeal in respect of one of the 12 allegations concerning ground (b) and extending the period for compliance with some of the ground (g) requirements. The Inspector also made a partial costs award against the Appellant in favour of the Second Respondent, in respect of ground (a).

Gladwins Wood is a registered ancient woodland, protected by a Tree Preservation Order ("TPO"), with *"a considerable history of enforcement action"*.

Grounds of challenge

This appeal was concerned solely with ground (e), with the Appellant's assertion being that *"copies of the [E]nforcement [N]otice were not served as required by section 172"*.

Permission to appeal was granted by Lang J on two grounds:

1. That the Inspector erred in law in concluding that the occupiers were duly served with the Enforcement Notice by fixing it to the entrance gate ("Ground 1"); and
2. That the Inspector erred in law in concluding that the occupiers were not substantially prejudiced even if the Enforcement Notice was not duly served on them ("Ground 2").

The Appellant was also granted permission to appeal against the Inspector's decision to refuse to award him his costs.

Analysis and judgment

The Inspector's Decision identified that it was *"never clear how many persons or companies occupied the site"*, and as *"a lot of the occupiers do not have a tenancy agreement and [the Appellant], by his own admission, has as little to do with the occupiers as possible, I'm not sure that even [the Appellant and his family] know exactly who and where*

the occupiers are". The occupiers "are constantly changing" and so "it would have been very difficult to pin down exactly who was in occupation on the date the notice was issued".

There is no dispute as to whether the Appellant was duly served and knew about the Enforcement Notice. The Second Respondent also sought to effect service on the occupiers of the Land by *"(a) sending copies of the Enforcement Notice to 29 different companies who they believed occupied the site; and (b) attaching a copy of the Enforcement Notice to the entrance gates"*.

The Second Respondent also made several attempts to obtain a list of occupiers of the Land from the Appellant, however the Appellant only provided such a list in April 2024 after the Second Respondent issued a planning contravention notice.

One occupier, MJL Contracts Limited, stated that it had been in occupation of a yard on the Land since 1 September 2021 but only learned of the Enforcement Notice when officers from the Second Respondent made an unannounced visit to their yard.

Section 172(2) of the TCPA 1990 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."

Section 329(2) of the TCPA 1990 provides that:

"Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if –

(a) it is addressed to him either by name or by the description of 'the owner' or, as the case may be, 'the occupier' of the premises (describing them) and is delivered or sent in the manner specified in subsection (1)(a), (b) or (c); or

(b) it is so addressed and is marked in such a manner as may be prescribed for securing that it is plainly identifiable as a communication of importance and –

(i) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or

(ii) it is delivered to some person on those premises, or is affixed conspicuously to some object on those premises."

Ground 1

The Appellant's assertion under Ground 1 was that the Second Respondent did not duly serve each occupier of the Land with a copy of the Enforcement Notice as it did not affix the notice to *"an object on that part of the Land which is the "premises" of the occupier"*, i.e. on each individual plot which formed part of the Land.

The Inspector rejected this assertion as (a) he did not consider that the Appellant would have allowed access to the Land for the Second Respondent to affix copies of the Enforcement Notice to each individual plot, and (b) in any event the 'premises' *"are the appeal site which is a single planning unit"*.

In respect of Ground 1, Mrs Justice Steyn considered that affixing the Enforcement Notice to the entrance gate, which was the only means of access to the Land, was sufficient to effect service on occupiers of the Land.

Ground 2

As follows from the refusal of Ground 1, the question of whether any occupiers were substantially prejudiced by a failure to serve them does not arise.

In dealing with this ground shortly, Mrs Justice Steyn held that, even if the occupiers could be considered not to have been served with the Enforcement Notice, none of them could be considered to have been prejudiced in the specific circumstances. They were all aware of the inquiry, however none of them made any representations in support of the Appellant's appeal, nor did they make any indications of any basis on which they would have sought to appeal themselves if they had had the opportunity to.

Conclusion

For the reasons set out above, both grounds advanced by the Appellant were rejected and the appeal was dismissed.

Accordingly, the Appellant's appeal against the refusal to award him his costs was also unsuccessful.

Case summary prepared by Sophie Bell