
Appeal Decision

Site visit made on 17 April 2018

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 April 2018

Appeal Ref: APP/H4315/C/17/3181816

Barrows Farm, Carr Mill Road, Billinge WN5 7TX

- 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 Adam Lowe against an enforcement notice issued by St. Helens Metropolitan Borough Council.
 - The enforcement notice was issued on 4 July 2017.
 - The breach of planning control as alleged in the notice is the material change of use of land to a use comprising the storage of agricultural vehicles, plant and machinery such vehicles, plant and machinery being used in connection with an agricultural contracting business, and the carrying out of unauthorised engineering operations which comprise the excavation of topsoil from the land to a depth of 1 metre and the backfilling of the void created with compacted crushed construction materials in order to enable the land to be used as a hardstanding area on which the agricultural vehicles, plant and machinery are now stored.
 - The requirements of the notice are 1. Permanently cease the use of the land for the storage of agricultural vehicles, plant and machinery; 2. Excavate and remove from the land all imported materials used in the backfilling of the void in order to create the hardstanding; and 3. Backfill the void created by carrying out the works specified in step 2 above with a multi-purpose soil conforming to BS 3882:2015.
 - The period for compliance with the requirement 1 is 2 weeks and with requirements 2 and 3 is 6 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is varied by the deletion of text in section 6 of the notice and the substitution instead of 'To carry out Step 1 above within 2 weeks of this notice taking effect and to carry out Steps 2 and 3 within 12 weeks of this notice taking effect'. Subject to this variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for costs

2. An application for costs was made by the Council against Mr Lowe. This application is the subject of a separate Decision.

Reasons

The ground (a) appeal

3. The Appellant has not submitted an appeal statement and the only matter mentioned in support of his ground (a) appeal is a claim, stated on the appeal

form, that the development "...falls within his permitted development rights". This is a matter for consideration under ground (c) but no such appeal has been made. The Appellant has not submitted any evidence to support his claim and, in these circumstances, a ground (c) appeal, if it had been made, would have failed. The Council has referred to a supporting statement submitted with a retrospective planning application made in 2017. However, this statement has not been included with the appeal documentation of either main party.

4. The main issues are; first whether the change of use of the land and the operational development carried out is inappropriate development in the Green Belt; second, whether the use of the land causes any other harm; and third, whether the harm caused is clearly outweighed by other considerations.

The first issue – inappropriate development

5. The judgement in *Fordent Holdings Ltd v Secretary of State for Communities and Local Government and Cheshire West and Chester City Council* [2013] EWHC 2844 (Admin) has clarified that development, which includes material changes in the use of land (see Section 55(1) of the Town and Country Planning Act 1990), is inappropriate unless it falls within any of the exceptions set out in paragraphs 89 and 90 of the National Planning Policy Framework (NPPF). The material change of use of the appeal land to a use comprising the storage of agricultural vehicles, plant and machinery used in connection with an agricultural contracting business does not fall within any of the exceptions. The material change of use of the land is therefore inappropriate development.

6. The hardstanding created, which constituted an engineering operation, does not undermine the openness of the Green Belt but it is used for the storage of agricultural vehicles, plant and machinery. This storage does not preserve the openness of the area and, given that it is not near to or associated with a farm, conflicts with a purpose of including land in the Green Belt; safeguarding the countryside from encroachment. The engineering operation also, given the provisions of paragraph 90 of the NPPF, is therefore inappropriate development.

7. The development of the appeal land is inappropriate development in the Green Belt and is in conflict with saved policies GB1 and GB2 of the St Helens Unitary Development Plan (UDP).

The second issue – other harm

8. Close by to the south is a public footpath that extends eastwards into the countryside. From the footpath there are clear views northwards of the hardstanding and, more particularly, of the vehicles, plant and machinery that are stored on it. The storage of such agricultural equipment in a countryside location remote from a farmstead causes harm to the character of the area. To the west of the hardstanding are dwellings on Carr Mill Road. The outlook from the rear elevations of these residential properties is over the appeal land. The storage of agricultural equipment on the land intrudes into the outlook from the dwellings and causes harm to the residential amenities of their occupants. The development of the land thus conflicts with policy CP1 of the St Helens Core Strategy and, in this regard also, with saved UDP policy GB2.

The third issue – other considerations

9. The unauthorised development that is the subject of the appeal is inappropriate development in the Green Belt and causes harm to the character of

the area and to the amenities of nearby residents. Paragraph 88 of the NPPF states that very special circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. The Appellants have not addressed this main issue in written evidence and nothing in the supporting statement referred to above clearly outweighs the harm caused. Very special circumstances do not exist in this case.

Conclusion

10. The storage of agricultural vehicles, plant and machinery used in connection with an agricultural contracting business and the engineering operations carried out causes harm by reason of inappropriateness and causes harm to the character of the Green Belt and to the amenities of nearby residents, and very special circumstances do not exist. Planning permission must therefore be withheld and the ground (a) appeal thus fails.

The ground (f) appeal

11. The Appellant has stated that "A portion of the hardstanding was already in place prior to its extension and resurfacing. As this had been in place for a minimum of four years, this element has now become lawful in planning terms". This is a matter for consideration under a ground (d) appeal, which has not been made. If a ground (d) appeal had been made it would have failed because the Appellant has submitted no evidence to support his claim. There is nothing to support the ground (f) appeal, which must therefore fail.

The ground (g) appeal

12. Taking into account the extent of the hardstanding created and the quantity of material that must be removed and brought onto the land to accomplish its restoration, six weeks is an inadequate period for compliance with steps 2 and 3. Twelve weeks strikes a balance between the operational practicalities of compliance with the steps 2 and 3 and the need to remedy the breach of planning control as soon as is reasonably possible. The ground (g) appeal thus succeeds and the enforcement notice has been varied accordingly.

John Braithwaite

Inspector