



Appeal Decision

Site visit made on 9 December 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2020

Appeal Ref: APP/D0121/X/19/3230673

**Land at Broadlands, 24 Ridgeway Road, Long Ashton, North Somerset
BS41 9ET**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Lloyd Williams against the decision of North Somerset Council.
 - The application Ref 19/P/0740/LDP, dated 20 March 2019, was refused by notice dated 17 May 2019.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is described as: Construction of a rootbridge hardstanding/access.
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Summary of Decision

1. The appeal is dismissed.

Procedural Matter

2. The parties were notified in advance of my intended site visit however the appellant was not in attendance. I consequently proceeded to inspect the site unaccompanied. I do not consider that injustice arises from determining the appeal on this basis.

Main Issue

3. The main issue is whether the proposed development, namely a "RootBridge system" would be "permitted development" by virtue of either Class E or Class F of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO) to enable a certificate of lawfulness to be granted.

Reasons

4. In cases such as this the onus is on the appellant to demonstrate, on the balance of probabilities, that the development would be lawful at the time the application was made.
5. The Rootbridge system is intended to protect tree roots from compaction which can arise when vehicles are driven in close proximity and/or through root protection areas. In this case it is proposed so that vehicles or machinery can

access part of the garden that is enclosed by trees the subject of a tree preservation order.

6. Class F of the GPDO simply relates to the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such.
7. According to the manufacturer's details provided, the operations required for the Rootbridge system first involve the installation of ground/foundation screws into the land, which I am advised in this case are 1.16m. It then appears that beams are connected to the proud foundation screws, which then in-turn hold a number of metal grids; in this case sufficient to cover an area of approximately 15sqm.
8. I appreciate that the GPDO does not provide a definition of a hard surface, specify how much excavation may be permissible or that ground levels must remain the same as they were before. The associated technical guidance that has been brought to my attention focusses upon design solutions for permeable hard surfaces, and so does not particularly assist in this regard either.
9. I accept that the laying or creation of a hardstanding involves an engineering operation, to some extent. I also appreciate that volumetrically the foundation screws would take up less space than, for example, the sub-base for a block paved driveway. However, in my view the various operations required for the Rootbridge system, which involves ground installation and then the construction between the various component parts, goes beyond what can reasonably be considered to be that of merely a hard surface.
10. In light of this, I am not persuaded on the balance of probabilities that the RootBridge system is a hard surface for the purposes of Class F of the GPDO. The appellant has also not provided any case law or comparable appeal decisions in support of his contention.
11. The appellant also contends that the RootBridge system could be deemed as permitted development under the guise of raised decking pursuant to Class E of the GPDO. This is to say that it would be a building. Assuming this is correct, it would appear from my site visit that it is proposed to be situated on land forward of a wall forming the principle elevation of the original dwellinghouse, and I have little evidence before me to support an alternative view. Thus, even if it were to be deemed a building, it would not be permitted development. Accordingly, on the balance of probabilities, and based on the very limited evidence available, the proposed Rootbridge system is not permitted development for the purposes of Class E of the GPDO.
12. Whilst I appreciate the Council's concerns that the Rootbridge system could facilitate the future development of the site, that would be a subsequent matter as opposed a test before the development commences. I am therefore satisfied on the balance of the evidence before me that the proposal could otherwise have been regarded as for a purpose incidental to the enjoyment of the dwellinghouse as such.
13. Notwithstanding this, the appellant has not satisfactorily discharged the burden of proof that the proposed development is permitted development for the purposes of the GPDO to enable a certificate of lawfulness to be granted.

Conclusion

14. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful development was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

15. The appeal is dismissed.

Paul T Hocking

INSPECTOR