
Appeal Decision

Site visit made on 11 October 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/R4408/C/21/3277862

Land adjacent to Willow Bank and 'Bleachcroft' Barnsley S71 1PF

- 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 Lyndon Murphy against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The enforcement notice was issued on 28 May 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the alteration of land levels and the construction of a hard surface on the Land involving the importation of rubble, waste, tarmac surfacing and other material.
 - The requirements of the notice are:
 - i) Remove the unauthorised hard surface from the Land including all imported rubble, waste, tarmac and other material associated with the construction of the hard surface from the Land; and
 - ii) Restore the land to its previous condition including restoring pre-existing land levels and the laying of topsoil and seeding the same with grass and seed.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (c) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal on ground (b)

2. The main issue is whether as a matter of fact the land levels have been altered and a hard surface constructed involving the importation of rubble, waste, tarmac surfacing and other material. The burden of proof falls on the appellant to make out their case.
3. The appellant's case is that it was necessary to relay and fence the field which forms the Land at Bleachcroft to prevent it being used as an illegal dumping ground. A hard surface has been laid to provide an area for livestock, hay and farm vehicles.
4. From the evidence before me, including my own observations on my site visit, a new hard surface area has been created on the Land. Taking into account the adjoining land levels and the Council and third party correspondence, it is also apparent that material has been brought onto the land to create a level hard surface area. I have not been provided with any substantive evidence from the appellant that would lead me to a different conclusion.

5. Consequently, the breach of planning control alleged in the enforcement notice has taken place as a matter of fact and the appeal on ground (b) fails.

Appeal on ground (c)

6. The ground of appeal is that matters alleged do not constitute a breach of planning control. The appellant's case is that they have carried out engineering operations to create a hardstanding for the use of livestock, storage of hay and farm vehicles. They consider that such development is granted planning permission by Class A, Part 6, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (GPDO). To support his case the appellant states that the farm unit is a registered farm extending to 36.4 hectares. He has provided copies of documents showing transfer/movement of stock, Animal Health Registration documents and correspondence from the Rural Payments Agency advising that he would be eligible for basic payments as a farmer under the Basic Payment Scheme in England.
7. Class A, Part 6 of the GPDO provides for agricultural development on units of 5 hectares or more. Class A permits: *The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of – (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit, and subject to restrictions at A.1 and conditions at A.2. D.1 provides interpretation for Class A and defines "agricultural land" as "land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for purposes of trade or business, and excludes any dwellinghouse or garden."*
8. The enforcement notice was issued on 28 May 2021. However, it is clear from the Temporary Stop Notice issued by the Council that the unauthorised development took place prior to 30 April 2021. With the exception of the Animal Health Registration correspondence, the documents provided in support of the appellant's case are dated May 2021 and are not evidence that the Land where the hardstanding has been constructed was previously in use for agriculture. Indeed, the appellant states that the Land was used for the dumping of vehicles and fly tipping, prior to the works he undertook to level, surface and fence it.
9. No substantive evidence has been provided to demonstrate that the parcel of Land where the hardstanding has been created was in use for agriculture and for the purposes of trade or business before the development was carried out. Furthermore, I noted on my site visit that the gates which have been erected to enclose the Land display a sign advertising "Yards to rent" and a phone number to call for enquiries. Third party photographic evidence indicates that this signage has been in place for some time.
10. I appreciate the appellant's intention to manage the land and undertake some farming activities. However, taking into account all of the evidence before me, as a matter of fact and degree, the Land the subject of this appeal was not in use for agriculture, and for the purposes of trade or business before the development was carried out.
11. My conclusion is that the development that has taken place was not permitted by Class A, Part 6, Schedule 2 of the GPDO and none of the Classes provide for

the development undertaken. Development took place for which no planning permission was granted by the local planning authority. A breach of planning control occurred and the appeal on ground (c) fails.

Overall Conclusions

12. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Elizabeth Pleasant

INSPECTOR