



Appeal Decision

Site visit made on 17 October 2023

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 06 December 2023

Appeal Ref: APP/X4725/C/23/3316201

Land at 2 Gawthorpe Lane, Kirkhamgate, Wakefield, WF2 0SR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Andrew David Burland against an enforcement notice issued by Wakefield Metropolitan District Council.
- The notice, numbered 23/00229, was issued on 6 January 2023.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agricultural use to use as a vehicle parking area and garden ancillary to residential use including the formation of hardstanding and raised garden.
- The requirements of the notice are to: Cease the use of the land for parking vehicles ad domestic garden and ii) remove the gravel and any aggregate sub layer, the raise garden area including the artificial grass and any aggregate beneath to support this surface and remove the timber sleepers form the site, iii) grade out and level the land to its condition prior to this taking place.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. 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.

Preliminary Matters

2. The appellant confirmed that the appeal under ground (b) has been withdrawn. This ground of appeal was predicated on a separate appeal reference APP/X4725/W/22/3301766 for a new dwellinghouse which was dismissed and I have therefore not considered it in this determination.

Ground (a) and the deemed application for permission

3. The appeal site is located in the Green Belt and the main issues are:
 - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2023 ("The Framework") and any relevant development plan policies.
 - The effect of the development on the openness of the Green Belt;
 - The effect of the unauthorised development on the character and appearance of the surrounding area;

- Whether or not any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal in accordance with the Framework.
4. The development alleged is the material change of use of the land to use as a vehicle parking area and garden ancillary to residential use including the formation of hardstanding and raised garden. The Framework advises that development in the Green Belt is inappropriate unless it falls within one of the exceptions. The appellant argues that the development is engineering work as opposed to the construction of new buildings, and as such does not constitute inappropriate development and the openness of the Green Belt is preserved. However, the material change of use itself is inappropriate development unless it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.¹
 5. The development adjoins and extends the garden of the dwelling house of 2 Gawthorpe Lane to the east and adjoins fields to the north and west which falls down to the M1, and the Yorkshire Water facility which faces Gawthorpe Lane. It consists of a raised area which extends the garden which is covered in artificial grass, and the larger area of hardstanding which links to Gawthorpe Lane.
 6. The operational elements of the development, with the use of gravel, timber sleepers and artificial grass, look significantly different to the original and still surrounding grass fields. The changes in the levels of the land, and particularly the raised element of the garden with its right angled corner, are prominent and sharply contrast with the naturally rolling landscape. The Yorkshire Water facility is at a lower level than the garden, and whilst this is clearly a built structure which is very different in appearance from the adjoining fields, the development in this appeal significantly increases the size of the built up area and urbanising features and materially harms the openness of the Green Belt.
 7. The material change of use element of the development which is facilitated by the works further harms the openness of the Green Belt through the ability to park vehicles on the hardstanding and the use of the garden with associated paraphernalia, for example garden furniture, toys and other domestic items. The development does not preserve the openness of the Green Belt and is in conflict with its purpose of assisting in the safeguarding of the countryside from encroachment. It is therefore inappropriate development as defined in the Framework and in conflict with Policy CS1 of the Core Strategy of the Wakefield Metropolitan District Council Local Development Framework 2009 ("the WMDCLDF") which states that development in the Green Belt will conform to national policy.
 8. For the same reasons, the extension of the built up element within the previously agricultural land outside of any defined settlement area also causes harm to the character and appearance of the area which is in conflict with Policies D8 and D9 of the Development Policies and CS10 of the Core Strategy of the WMDCLDF.
 9. The appellant has not provided details of any other considerations to be taken into account other than the fact that the raised area of the garden screens the

¹ Paragraph 150(e) of the Framework.

LGP gas tank which is required to power the dwelling house. He states that this provides a neat and tidy garden area as opposed to an ugly structure but as there is nothing before me regarding the relative size or appearance of the tank structure I afford it limited weight.

10. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Zoë Franks

INSPECTOR