



Appeal Decision

Site visit made on 16 April 2025

by John Felgate BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/P2365/W/25/3359199

'Cotlea', 187 Wigan Road, Lathom, Ormskirk, Lancashire L40 6JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Darren Gibson against the decision of West Lancashire Borough Council.
 - The application Ref is 2024/0781/FUL.
 - The development proposed is change of use from agricultural land to domestic garden.
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal site lies within an area designated as Green Belt. In the West Lancashire Local Plan, adopted in October 2013, Policy GN1 states that development proposals in the Green Belt will be assessed against national Green Belt policies.
3. In this case the relevant national policies are those of the National Planning Policy Framework (the NPPF). In that document, paragraph 154 states that development in Green Belts is to be treated as inappropriate, unless any of the various exceptions specified at (a) – (h) are applicable. NPPF paragraph 153 makes clear that inappropriate development is to be regarded as harmful to the Green Belt, by definition. The same paragraph also goes on to say that any such harm to a Green Belt is to be given substantial weight, and that inappropriate development is only to be approved in very special circumstances; such circumstances will only exist where the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
4. One of the exceptions specified in paragraph 154 is for material changes of use of land, such as use for outdoor sports or recreation, or for cemeteries and burial grounds, provided that the use would preserve openness and not conflict with the purposes of Green Belt policy. The latter purposes include checking urban sprawl, preventing towns from merging, and protecting the countryside from encroachment. In the present appeal, the proposed change from agricultural use to an extension to Cotlea's domestic garden, would fall within the description of a material change of use, and there is no suggestion that it would adversely affect either the Green Belt's openness or purposes.
5. However, the Council has drawn my attention to the judgement of the High Court in the case of *The Royal Borough of Kingston Upon Thames vs The Secretary of*

*State for Levelling Up, Housing and Communities, and Mrs Laura Williams*¹. In that case, it was held by Mrs Justice Lieven that residential uses do not fall within the relevant exception (previously NPPF paragraph 150(e), now paragraph 154(h)(v)). This conclusion was reached because, in the view of the Court, a residential use was too far removed from the examples given, relating to sport, recreation, cemeteries and burial grounds. Although the inclusion of the words “such as” indicated that the examples were not exclusive, those examples were indicative of the ‘flavour’ of the exception; the very fact that examples were given at all meant that the uses to be permitted under that exception must be closely aligned to those stated examples. This judgement does not appear to have been challenged, and therefore stands, as far as I am aware, as the most recent and relevant authority on the matter.

6. In the present case, it is not disputed that the proposed use of the appeal site as a domestic garden would be a form of residential use. This would be a different form of residential use from the use as a traveller site that was at issue in the Kingston case, but that difference seems to me immaterial, as the judge’s reasoning makes it clear that the conclusions reached are not confined to any single type of residential use, but are more general in nature. None of the submissions before me give me any reason to doubt that the judgement is applicable to the present appeal. It follows that the change of use now proposed would fall outside the exception in NPPF paragraph 154(h)(v), and that the proposal would therefore be inappropriate development in terms of the NPPF’s Green Belt policies.
7. On my visit, I saw that the appeal site comprises a narrow strip of land which is separated from the more extensive field to the north by a track. The land is also said to be in separate ownership. Its potential for future agricultural uses is therefore limited, although the appellant’s stated preference for growing vegetables on it could be carried out as a horticultural use without incorporating the land into the garden. In public views from Wigan Road, the site is only glimpsed, through gaps in the roadside hedge, and through the gate, when open. In so far as the land is publicly visible at all, it is seen against a backdrop of trees, hedges and buildings. Some of the neighbouring properties appear to have extended their gardens rearwards, and the present proposal would not extend any further east than some of these. Additional planting could be provided if required, and this, together with a restriction on any new buildings or fencing could be secured by condition.
8. However, none of these circumstances changes the fact that the proposal would be inappropriate in terms of Green Belt policy. And in any event, none are matters of any significant weight. Even when taken all together, the matters raised do not outweigh the substantial weight that must be afforded to the harm to the Green Belt, by reason of the development’s inappropriateness.
9. For these reasons, I conclude that the proposal would constitute inappropriate development in the Green Belt, contrary to NPPF paragraph 154 and Local Plan Policy GN1. The very special circumstances needed to justify such development have not been demonstrated. The appeal is therefore dismissed.

J Felgate

INSPECTOR

¹ [2023] EWHC 2055 (Admin)