



South Staffordshire Council

**STATEMENT OF CASE
OF
SOUTH STAFFORDSHIRE DISTRICT COUNCIL**

**S174 APPEAL
PLANNING INSPECTORATE REFERENCE
APP/C3430/C/25/3362523**

APPEAL BY: MR RA PATEL & MRS J PATEL

**APPEAL SITE: LAND TO THE NORTH OF 12, THE HIGHFIELDS, WIGHTWICK,
WOLVERHAMPTON WV6 8DW**

LOCAL AUTHORITY REFERENCE: 19/00230/UNCOU

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Appendix 3	Aerial imagery July 2013 to June 2023
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1. INTRODUCTION

1.1 This appeal is brought against the decision by South Staffordshire District Council to serve an Enforcement Notice, ("the Notice") in respect of land, ("the Land") to the North of 12, The Highfields, Wightwick, Wolverhampton WV6 8DW.

1.2 The alleged breach of planning control is:

Without planning permission, the material change of use of the Land to domestic residential garden land in association with 12, The Highfields, including to facilitate the material change of use the depositing of gravel to create a hardstanding for the parking of motor vehicles.

1.3 A copy of the Notice served 18th February 2025 has previously been sent to the Planning Inspectorate and is produced at Appendix 1.

1.4 Land Registry Title Register and Title Plan reference SF469642 showing the Appellants ownership of the Land in respect of Mrs J Patel is produced at Appendix 2.

2. SITE DESCRIPTION AND REASONS FOR ISSUING THE NOTICE

2.1 The material change of use of the Land to domestic residential garden land in association with 12, The Highfields took place less than ten years ago and is not immune from enforcement action.

2.2 The Land consists of a parcel of land that acts as a buffer between the settlements of Perton and Wolverhampton and is defined as Green Belt in the Councils Local Plan Policies Maps. It is located north of a detached residential dwelling house known as 12, The Highfields.

2.3 Paragraph 142 of the National Planning Policy Framework (NPPF), states that the essential characteristics of Green Belt are their openness and their permanence.

2.4 Paragraph 143 b) of the NPPF states that one of the five purposes of the Green Belt is to prevent neighbouring towns merging into one another; Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

2.5 Paragraph 153 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

2.6 Policy GB1 of the Core Strategy is worded differently and accepts a change of use would be permitted where the carrying out of engineering or other

operations, or the making a material change of use of land, where the works or use proposed would have no material effect on the openness of the Green Belt, or the fulfilment of its purposes. Whilst worded differently, it is considered the aims of the two are the same.

- 2.7 The use of the Land as residential garden land for the parking of cars and a domesticated lawn encroaches into the green belt buffer which clearly conflicts with the green belt purpose (part b), that is to prevent neighbouring towns from merging into one another. The buffer between the settlements has already been eroded to a certain extent with the agricultural land being divided and sold off. This has resulted in the planting of trees/hedging along the boundaries to define different ownerships. The creation of a hardstanding area for the parking of motor vehicles for the associated property is not considered acceptable and represents inappropriate development in the Green Belt, there should be a clear boundary distinction between the residential property and the agricultural land to maintain the green belt purpose.
- 2.8 The loose gravel parking area allows for the parking of a number of vehicles, (at least four), in connection with the residential property. This additionally introduces a spatial impact upon the openness of the Green Belt.
- 2.9 There are no 'Very Special Circumstances' to justify the inappropriate development in the Green Belt and as such it is, therefore, contrary to the relevant provisions of the NPPF and Policy GB1 of the South Staffordshire Core Strategy Adopted 2012.
- 2.10 The Council do not consider that conditions could overcome the harm created by the harm to the Green Belt caused by this breach in planning control and as such, planning permission should be refused.

2.11 National Planning Policy Framework

13. Protecting Green Belt land

2.12 Adopted Core Strategy

Core Policy 1 – The Spatial Strategy for South Staffordshire
GB1 – Development in the Green Belt

3. PLANNING HISTORY

None in respect of the Land.

4. SUMMARY OF EVENTS

- 4.1 On 15th April 2019 the Council received a complaint in relation to the Land being used as an extension to the garden of 12, The Highfields.
- 4.2 A short time after the complaint a Council officer visited the Land and spoke to the owner who was present with his planning agent. The land was not

demarcated from the adjacent garden of 12, The Highfields however, the planning agent stated that the land would be used in association with the agricultural use of the land. The Council officer suggested a fence should be erected to demarcate the Land between the residential curtilage and the agricultural land.

- 4.3 Due to the pandemic the case was left in abeyance but resurrected again in 2024 as part of a review of a backlog of unresolved cases. A desktop review using aerial imagery showed that the Land was not developed as of June 2018 with what appeared to be a hedge demarcating it from the residential garden of 12, The Highfields. This changed as of May 2019 with aerial imagery showing the hedge had been removed and hardstanding had been laid. Two vehicles are seen parked on the hardstanding and the land had clearly been incorporated for residential use in connection with 12, The Highfields.
- 4.4 Aerial imagery from June 2018 to June 2023 is produced at Appendix 3.
- 4.5 On 9th August 2024 a Council officer carried out a site visit where it was observed that the Land was being used as an extension to the garden of 12, The Highfields. Loose gravel had been used to form a hardstanding parking area which was not demarcated from the garden of 12, The Highfields; domestic potted plants had been placed around the edge of the parking area which then opened out onto the wider land consisting a striped manicured lawn. Photographs were taken and these are produced at Appendix 4.
- 4.6 An opportunity was given to the owner to regularise the breach, and a pre-application was submitted to ascertain the possibility of obtaining planning permission. The pre-application advice issued 23rd December 2024, informed the landowner that the development represented inappropriate development within the Green Belt and that a planning application would not be looked upon favourably.
- 4.7 The landowner has since refused to cease the use of the Land, and a planning application has not been forthcoming.

5. GROUNDS OF APPEAL

Ground (b) - That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

Ground (c) - That there has not been a breach of planning control

Ground (d) - That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

Ground (f) - The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

6. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND B

Ground (b) - That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

The Appellants case under Ground B appears to be that a material change of use took place in 1961 at the latest and the matters alleged in the Notice have not occurred within the last ten years. There appears to be no evidence to support a Ground B appeal and the matters raised by the Appellant in support of the Ground B appeal will be addressed by the LPA under Ground D.

7. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND C

Ground (c) - That there has not been a breach of planning control

Again, as with the Ground B appeal, the Ground C appeal refers to matters to be addressed under the Ground D appeal. There appears to be no evidence to support a Ground C appeal and the matters raised by the Appellants in support of the Ground C appeal will be addressed by the LPA under Ground D.

8. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND D

Ground (d) - That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

- 8.1 The Appellants state that their case is that the agricultural use ceased in 1961 at the latest, evidenced by a Conveyance dated 11 December 1961. Following this they were divided in plots numbered 1 – 5. The Appellants own plot number 5 which is the Land. The Appellants then state at G12 that:

“Although the plots have been in residential use since 1961, the plots have not been developed before 1990 nor to date. Notwithstanding; we say that the Act does not influence the Appeal Decision. The plots, left undeveloped, offer a wildlife corridor between the very open Green Belt Countryside to the West and the green spaces to the East.”

And at G14:

“The other four plots have been kept mown and plain and car parking has taken place on all five plots in later years.”

- 8.2 Aerial imagery produced by the LPA at Appendix 3 shows only plot 1 was subdivided as of July 2013 with the remaining plots 2-5 left open and separated from the residential dwellings adjacent to them.
- 8.3 This changes as of April 2015 when aerial imagery appears to show the plots as separate units of land, however they remain undeveloped and separated from the residential dwellings adjacent to them. A far clearer picture can be seen in the aerial image as of April 2016 that shows plot 5 as separated from the Appellants dwelling of 12, The Highfields by a substantial hedge, preventing any access to it from the dwelling for parking. It is separated from plot 4 by what appears to be trees or shrubs. Whilst it is evident that any agricultural use has long gone, it represents as roughly maintained grass land, consistent with its use as an area of separation and green belt buffer between settlements. It has not been incorporated into the curtilage of 12, The Highfields and maintains the

same appearance, separated from the residential dwelling by a thick hedge. The hedge can be seen clearly in the aerial image as of June 2018. The LPA has circled the hedge in red on this image.

- 8.4 On one hand the Appellant states that no development has taken place with the Land being kept mown and plain with car parking taking place, and on the other claims that the Land subject of the notice has been used as garden land since 1961. Any ad hoc parking over the various plots given their appearance and clear separation from the adjacent dwellings has not constituted a material change of use. However as regards the Land, it is apparent from aerial imagery that given its position and separation from plot 4 by trees and the residential dwelling by the thick hedge parking would not have been possible.
- 8.5 This changes in the aerial image as of May 2019 when the hedge can be seen to have been removed, hardstanding has been laid and the Land has been incorporated into the curtilage of the residential garden. Cars are parked on the hardstanding and the grass has taken on a striped domesticated appearance. The Council's position is that the material change of use to domestic residential garden land in association with 12, The Highfields took place some time between June 2018 and May 2019, well within the ten-year period of immunity required to be demonstrated by the Appellant.
- 8.6 The use of the Land has continued for parking of vehicles and as part of the residential garden of 12, The Highfields as shown on aerial imagery up to June 2023.
- 8.7 Finally, the Appellants state that the gravel and the plant plots were placed on the land in 2019 and as such took place more than four years ago and are immune from enforcement action. However, as per **Murfitt v Secretary of State for the Environment and East Cambridgeshire District Council [1980]** and **Somak Travel Ltd v Secretary of State for the Environment [1988]**, the hardstanding was laid to facilitate the material change, it was part and parcel of and integral to the unauthorised change of use. It is not considered to be development in its own right and therefore the four-year period of immunity does not apply.
- 8.8 Whilst the hardstanding is considered to be development, the plants pots are not, however under the same ruling, even elements that are not considered to constitute development can be required to be removed if considered part of the material change of use. This equally applies to the plant pots in this case.
- 8.9 The Appellant has failed to demonstrate that the material change of use to domestic residential garden land in association with 12, The Highfields took place in excess of ten years ago and the appeal under Ground D should be dismissed.

9. **LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND F**

Ground (f) - The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

- 9.1 The LPA has demonstrated through aerial imagery (Appendix 3), that a hedge was in place prior to the unauthorised material change of use to domestic residential garden land taking place.
- 9.2 In order to remedy the breach and ensure that the Land is no longer incorporated into the curtilage of 12, The Highfields it has requested it be delineated from the residential with what was there before, however has allowed for an acceptable alternative option. This is not considered to be excessive but a necessary step to remedy the breach in planning control. As such, the appeal under Ground F should be dismissed.