
Appeal APP/K2420/X/25/3377078
Hill Rise, Station Road, Desford LE9 9FP

Additional information in support of the Appeal

A recent Appeal decision (APP/M1595/X/24/3336878) provides further clarification, in addition to the documents already submitted, in respect of curtilage definition, which is relevant to the current Appeal.

This information is provided in addition to the information already submitted.

In this example, whilst the Appeal was dismissed, the Inspector provides a specific response in respect of the definition of curtilage in the following extracts;

10. The term 'curtilage' is not defined in the 1990 Act nor in any other legislation, including the GPDO. Its meaning and application is derived, instead, from court judgements.

It is accepted that each case is viewed upon its own merits and is a matter of fact and degree.

11. In terms of what can be reasonably considered as residential curtilage it was held in Dyer v Dorset CC [1989] that curtilage constitutes a piece of ground attached to a dwellinghouse and forming one enclosure with it; thereby the area attached to and containing a dwellinghouse and its outbuildings.

As is the case at Hill Rise (the Appeal site) the whole of the ground forms one enclosure, containing the dwelling and its outbuildings.

12. Curtilage defines an area of land in relation to a building, and not a use of land. It is not fixed for all time; its physical extent is readily capable of changing at any time. From the Court of Appeal's judgement regarding the case of Sumption v LB Greenwich & Rokos [2007] EWHC 2776 (Admin) it has become clear that land can very easily be incorporated into curtilage.

As has been explained in the planning application documents, the curtilage to Hill Rise has varied over the passage of time and, as confirmed in this Appeal example, 'it is not fixed for all time', 'is readily capable of changing at any time' and that 'land can very easily be incorporated into curtilage'.

In the case of Hill Rise, the LPA failed to undertake a site inspection during the planning application. Had they done so, it would be, without doubt, quite apparent that the curtilage at Hill Rise is clearly defined and forming one enclosure with the dwellinghouse.

Given the planning history of the application site, it is not feasible to understand the changes that have occurred over the past 25 years. The failure to undertake a site inspection to fully understand these changes is unreasonable on the part of the LPA.

Had the inspection taken place, it is doubtful that the application would have been refused. Consequently, this decision has caused unnecessary costs to the Applicant in the submission of this Appeal.