



Appeal Decision

Site visit made on 8 November 2022

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 November 2022

Appeal Ref: APP/C4235/C/22/3295666

**Land at Smooth Lea Farm, on the north side of Chatterton Lane,
Mellor, Stockport SK6 5 LS**

- 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 Ms Jill Ainsley against an enforcement notice issued by Stockport Metropolitan Borough Council.
 - The enforcement notice was issued on 4 March 2022.
 - The breach of planning control as alleged in the notice is as follows:
The construction of a wooden building on the land.
 - The requirements of the notice are as follows:
 1. Remove the building from the land.
 2. Break up any compacted area of soil caused as a result of the construction and siting of the building, then seed this area using a meadow grass mixture.
 - The period for compliance with step 1 is 3 months. The period for compliance with step 2 is within 1 month of step 1 being complied with.
 - The appeal is proceeding on ground (a) only, as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The Appeal is dismissed.

The appeal building and its location

2. The appeal building is located to the north of Mellor, on the north side of Chatterton Lane, between Marple Bridge and Rowarth. It lies on agricultural land at Smooth Lea Farm and is within the Green Belt and the Ludworth Moor Landscape Character Areas (LMLCA). This is identified on the Proposals Map of the Council's adopted Core Strategy and Unitary Development Plan Review (UDP). The building is in an elevated and remote position on a high part of open moorland and is adjacent to a byway a wooded area.

The initial reason for constructing the outbuilding

3. It is indicated that the unauthorised building was initially constructed on the basis of providing a building for '*educational and other purposes in connection with a proposed children's nursery school*', within the woodland area. On behalf of the appellant it is now indicated that this nursery school use proposal had been submitted '*on an informal basis in May 2021*' and that it was no longer intended to pursue this use. Instead it is the appellant's wish to use it as a tack room (see below).

4. From the submissions it is evident that the Council had commenced the enforcement action against the building on the basis that it was for the nursery related educational use which would be inappropriate development in the Green Belt. I am only empowered to deal with it on the same basis.

The revised proposed use of the building

5. When this Appeal was lodged it was confirmed, on behalf of the appellant, that a planning application was being prepared for a timber stable building and it is now stated that it is the preferred intention to use the unauthorised appeal building as a '*tack room and food store*' in connection with the keeping of horses. The Planning Inspectorate Case Officer wrote to the parties requesting clarification and status of the application.

6. In response to the request it is indicated that an application for the stable has now been submitted. The Council has confirmed that it remains undetermined; that it needs to be assessed, amongst other things, on the basis of whether or not it constitutes appropriate development in the Green Belt and that the use of the appeal building as a '*tack room/food store*' would need to be the subject of another planning application. On behalf of the appellant it is stated that the Council's response was '*at best non-committal*' and that a stable building (and *tack room/food store*) would comply with all local and national planning policies and guidance.

7. In effect, therefore, the appellant is seeking to retrospectively justify the retention, of the unauthorised building by proposing this alternative use in connection with the proposed stable building. However, the appellant constructed the appeal building with the initial intention of using it as an educational nursery. Planning permission had not been applied for and it is evident that the Council, in any case, would not have granted permission for this inappropriate development in the Green Belt, which was also considered to be harmful to the openness of the Green Belt and to the character and appearance of the LMLCA.

The appeal on ground (a)

Matters of clarification

8. I find issues with the appellant's proposition that the unauthorised building should now be granted planning permission for a new proposed '*tack room and food store*' use in conjunction with the proposed stable use.

9. First, on a ground (a) appeal, planning permission can only be granted for what is set out in the allegation in the enforcement notice. This is clearly the unauthorised '*construction of a wooden building*'. The allegation does not specifically relate to the construction of a '*tack room and food store*' for use with a proposed stable building. I acknowledge that the appellant now wishes to use the building as a '*tack room and food store*' but I agree with the Council that planning permission would be required for this use. Secondly, planning permission has not yet been granted for the stable building.

10. I do not consider, therefore, that planning permission for the '*tack room and food store*' use can be granted in this appeal under ground (a), or the deemed application under section 177(5) of the Act. To do so would, in my view, cause injustice to the Council and any other interested party. I have dealt with the appeal, therefore, on the same basis as the Council and irrespective of the status of the planning application for the proposed stable building.

Relevant Policy

11. The most relevant development plan policies are Policy SIE-3 (Protecting Safeguarding and Enhancing the Environment) of the Core Strategy Development

Management (CSDM) and the Saved UDP Policies GBA1.2 (Control of Development in the Green Belt) and LCR1.1 (Landscape Character Area). The NPPF is also relevant and, in particular, Section 13, Protecting Green Belt Land.

The main issues

12. The main issues are:

- whether the original building use constitutes inappropriate development in the Green Belt for the purposes of the NPPF and development plan policy,
- the effect of the building on the openness of the Green Belt,
- the effect on the character and appearance of this part of the LMLCA,
- if the building does represent inappropriate development, whether the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development within the Green Belt.

13. As referred to above the appeal building, the subject of the enforcement notice, was constructed on the land to provide a building for educational and other purposes in connection with a proposed children's nursery school. The building was not therefore provided for any purpose connected with agriculture or any of the other exceptions within paragraph 149 of the NPPF. I agree with the Council that it constitutes inappropriate development within the Green Belt and that it is contrary to Saved UDP Policies GBA1.2 (Control of Development in the Green Belt). It follows that it is, therefore, harmful by definition to the Green Belt.

14. I noted that the timber building is domestic in appearance with large windows and doors to the front. Because it is constructed in an elevated position, very close to the byway and in isolation from other buildings, it is visible from both near and distant viewpoints. However, it is screened to a certain extent by the surrounding woodland and vegetation. Nevertheless, in this particular location, despite its relatively small size, it clearly affects the openness of the Green Belt both spatially and physically.

15. I also agree with the Council that, because of its isolated and its particular elevated position, the building, as constructed, is perceived as a somewhat obtrusive feature within the landscape. In this context and in this particular location, albeit not markedly, it does affect the natural character and appearance of the LMLCA.

16. In conclusion I find that the harm by reason of its inappropriateness, the slight harm to the openness of the Green Belt and the effect on the character and appearance of the LMLCA outweigh any of the other matters raised on behalf of the appellant. The very special circumstances to justify this particular initial development in the Green Belt do not, therefore exist. The appeal, therefore, fails.

Other Matters

17. I acknowledge that the provision of facilities for outdoor sport and recreation in the Green Belt can include stabling for horses and that such a use might not be inappropriate, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

18. Clearly the LPA will take this into account when considering the application for the stable. It follows that a tack room used in conjunction with an approved stable building could also be considered not to be inappropriate development. However, as referred to above, planning permission would be required for the retention of the appeal building for use as such, whether in the same location, or positioned close to

any permitted stable building and not in such an elevated position. It is now for the planning authority to reach a decision on the stable and for the appellant to either amend the stable application to include the appeal building or to submit a further separate application for the use of the appeal building as a tack room.

19. In reaching my conclusions I have taken into account all other matters raised by the parties but none is of such significance so as to alter how I have dealt with this appeal or to change my decision.

Formal Decision

20. The appeal is dismissed and the enforcement notice is upheld. The application deemed to have been made under Section 177(5) of the Act is refused.

Anthony J Wharton

Inspector