



Appeal Decision

Site visit made on 10 February 2025

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 FEBRUARY 2025

Appeal Ref: APP/A4710/C/23/3329180

Land at Northeast of Ellis Bottom Farm, Mill Fold Way, Ripponden, HX6 4HS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Dr Caroline Taylor against an enforcement notice issued by Calderdale Metropolitan Borough Council.
 - The notice was issued on 11 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a timber chalet building (with decking) for residential use, the construction of a timber workshop building and the erection of detached freestanding solar panels on the land (in the approximate position indicated on Plan EN1 and as seen in the digital photographs attached to this Notice at appendix 1).
 - The requirements of the notice are to (i) remove the timber chalet building (including the timber decking around the timber chalet building), the timber workshop building, the detached freestanding solar panels, garden furniture, appliances, bins, waste, machinery (including grass mower), tools, barbecue, trailer and caravan and all other domestic paraphernalia from the Land (in the approximate indicated on Plan EN1 and as seen in the digital photographs attached to the Notice at appendix 1), and (ii) remove permanently from the Land all building materials, debris and timber arising from compliance with requirement (i) above and restore the Land to its condition before the breach took place by re-seeding it with grass.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) 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 Matter

2. The National Planning Policy Framework was revised in December 2024 and subsequently amended in February 2025 (the 2025 Framework). This replaces the previous version of the National Planning Policy Framework published in December 2023. As part of this appeal, I afforded the main parties the opportunity to comment on the implications of the 2025 Framework. I have considered the comments received as part of the determination of the deemed planning application under the ground (a) appeal.

Reasons

Ground (a) appeal and the deemed planning application

Main Issue

3. An appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and note that the appeal site falls within land washed over by Green Belt.
4. The main issues for consideration are therefore whether the breach of planning control is inappropriate development in the Green Belt including its effect on openness and the purposes of the Green Belt; the effect of the development on the character and appearance of the area; and, if the development is inappropriate, 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 development.

Whether inappropriate development in the Green Belt

5. The timber chalet building (with decking), timber workshop building and freestanding solar panels are erected on land which is a considerable distance away from built development at Ellis Bottom Farm. The buildings are grouped together in one area as shown in the photographs appended to the notice. The photographs also show a white touring caravan to the side of the timber chalet building.
6. The freestanding solar panels comprise a single structure. The evidence indicates that the solar panels provide energy for the timber chalet building which has been used for residential purposes. Section 336 of the Act defines a building as including a structure. The freestanding solar panels, timber chalet building (with decking), and timber workshop building, comprise the erection of new buildings in the Green Belt.
7. The development is positioned well away (about 200 metres) from existing built development at Ellis Bottom Farm. The separation distance is such that it could not reasonably be said that the development comprises an extension or addition to an original building and so it does not meet the exception in paragraph 154(c) of the 2025 Framework.
8. Based on the evidence before me, I cannot reach a precise or clear view on whether the land is part of the curtilage of Ellis Bottom Farm or Ellis Bottom Cottage (i.e., lawfully developed land) and so I cannot conclude, on the balance of probability, that the appeal development has been constructed on previously developed land (PDL) with reference to the definition of PDL in annex 2 of the 2025 Framework. That said, my site visit revealed that the land did not have an intimate association with Ellis Bottom Farm owing to its position and degree of separation from the dwellinghouse. Even if it had been proven that the buildings had been constructed on PDL, the exception in paragraph 154(g) of the 2025 Framework also requires the development to '*not cause substantial harm to the openness of the Green Belt*'.
9. While the site is generally well screened from public view, owing to the existence of boundary vegetation, I find that owing to the position, scale, bulk, and extent of the development, it causes substantial harm to the openness of

the Green Belt in spatial terms. Indeed, the development has had a much greater impact on the openness of the Green Belt when compared to the otherwise open and undeveloped nature of the appeal site prior to the unauthorised development taking place. Therefore, I find that the development does not accord with the exception in paragraph 154(g) of the 2025 Framework.

10. I have considered whether the breach of planning control might meet the exception in paragraph 155 of the 2024 Framework. On the evidence that is before me, I find that the land functions positively being on the edge of the built-up settlement of Ripponden and seeks to check the unrestricted sprawl of large built-up areas. In this regard, I do not find that the development falls within Grey Belt land. Moreover, there is no objective or compelling evidence before me to counter the claim made by the local planning authority that it can demonstrate a five-year supply of deliverable housing sites. In this regard, the requirements of paragraph 155 of the 2025 Framework are not met in so far that the evidence does not indicate that there is a demonstrable unmet need for the type of development proposed.
11. The development is positioned well away from existing built development at Ellis Bottom Farm and Ellis Bottom Cottage. It is experienced as being a remote form of development and the buildings, coupled with the associated domestic paraphernalia, have materially urbanised this part of the Green Belt. In this regard, I find that the development conflicts with one of the purposes of the Green Belt, i.e., to safeguard the countryside from encroachment.
12. For the above reasons, I conclude that the buildings are inappropriate development in the Green Belt and the development does not accord with all the purposes of the Green Belt. Paragraph 153 of the 2025 Framework states that decision makers should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. I find direct conflict with the Green Belt requirements of policy GB1 of the Calderdale Local Plan 2023 (CLP) and the 2025 Framework.

Effect on the character and appearance of the area

13. The appeal buildings fall within an area of countryside where development is sporadic and where there is a noticeable absence of built form. There is a pleasing sense of open and green land in this area and the unauthorised development is seen as being remote and disconnected from the existing built development at Ellis Bottom Farm and Ellis Bottom Cottage.
14. While there is vegetation that screens the development from Mill Fold Way, that may not always endure. I find that the development causes harm to the otherwise open, green, and undeveloped landscape character of the area. In the context of an area which is more rural and open in character, I find that the development fails to assimilate well into its surrounding valley bottom context.
15. I therefore conclude that there is conflict with the design, character, and appearance requirements of policy BT1 of the CLP, and chapter 12 of the 2025 Framework.

Other considerations

16. I acknowledge that the freestanding solar panels provide a source of green energy for the timber chalet building. However, the timber chalet building is inappropriate development in the Green Belt and hence, by definition, is harmful to it.
17. There is no indication that the freestanding solar panels would be needed or utilised in the absence of the timber chalet building. Moreover, when considered alongside the unauthorised buildings, I find that the development has caused harm to the openness of the Green Belt and there is conflict with one of the purposes of the Green Belt. I do not find that the provision of green energy outweighs the harm that has been caused to the Green Belt and to the character and appearance of the area from the breach of planning control.

Planning balance and conclusion

18. The breach of planning control constitutes inappropriate development in the Green Belt. Substantial harm has been caused to the openness of the Green Belt and the development does not accord with all Green Belt purposes. I afford substantial adverse weight to the harm caused to the Green Belt. Moreover, some harm has been caused to the character and appearance of this rural location.
19. Weighed against the above are the identified other considerations. I conclude that the harm by reason of inappropriateness, and the other identified harm, is not clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development. Therefore, the ground (a) appeal fails.
20. In reaching the above conclusion, I am mindful that the appellant states that at least part of the development is being used for residential purposes in association with the use of Ellis Bottom Farm as a dwellinghouse. I have little information before me in terms of who is occupying or using the buildings, or indeed whether the appeal land forms part of the curtilage of a residential property. The onus is on the appellant to make his case. However, for the purpose of determining this appeal I have assumed that at least one building is being used for residential purposes and hence refusing planning permission and upholding the notice could result in the loss of a home.
21. In the context of the above, I have considered Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998 which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Given the identified harm caused by the development, I find that the interference with the Article 8 rights of occupiers of the land is proportionate and necessary in the public interest.

Ground (g) appeal

22. An appeal on ground (g) is that the period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.
23. The appellant claims that three months is not long enough to remove the development. He claims that specialist demolition and waste

engineers/contractors would have to be engaged to ensure that the development is demolished safely, and waste thereafter removed. The appellant therefore requests a period of twelve months to comply with the requirements of the notice.

24. The appellant does not substantiate why 'specialist' demolition and/or waste contractors would be needed and, in any event, why a period of more than three months would be required to comply with the requirements of the notice. On the evidence that is before me, I find that a period of three months strikes a reasonable balance between compliance with the requirements of the notice and bringing the harmful development to an end. Therefore, the ground (g) appeal fails.

Conclusion

25. 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).

D Hartley

INSPECTOR