



Appeal Decision

Site visit made on 7 April 2025

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06th May 2025

Appeal Ref: APP/G2245/C/23/3315046

Verulam House, Philippines Shaw, Ide Hill, Kent TN14 6AF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr Tim Peppiatt against an enforcement notice issued by Sevenoaks District Council.
- The notice was issued on 13 December 2022.
- The breach of planning control as alleged in the notice is 'Without planning permission, erection of an outbuilding (marked X in the approximate location on the attached Plan A)'.
- The requirements of the notice are: Demolish the outbuilding marked X as the approximate location on the attached Plan A. Remove all resultant material from the land.
- The period for compliance with the requirements is 3 months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), and (g) of the Act. 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.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Ground (a) and the deemed application for planning permission

Main Issues

1. The main issues are:

- Whether the development is inappropriate development in the Green Belt;
- The effect of the development on the openness of the Green Belt;
- The effect of the development on protected habitats, with particular regard to the Scord's Wood and Brockhoul Mount Site of Special Scientific Interest (SSSI);
- The effect of the development on the landscape character of the Kent Downs National Landscape (NL); and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Whether inappropriate development

2. The National Planning Policy Framework (the Framework) explains that the Government attaches great importance to Green Belts, and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

3. Development in the Green Belt is inappropriate development unless specific exceptions apply. It is claimed that the development is a forestry building, and that it replaces a former building in the same use which was of similar size. If either of these claims is correct, the development would not be inappropriate on account of the exceptions at paragraph 154 (a) and (d) of the Framework.
4. The development is a single storey building with brick skirt, single-skin timber-clad walls and a clay tiled half-hipped roof. There is very little information before me to explain why it is required for the purposes of forestry, specifically. I appreciate that it can be used to store equipment used to manage woodland at the site, as set out in a legal agreement relating to the land¹, but the size of that woodland is relatively modest. Although I saw equipment which could be used for the management of the woodland within the building, I also saw other domestic items within it.
5. The fact that some of the items stored in the building are used to manage a small area of woodland does not qualify it as a building for the purposes of forestry in the context of the Framework. This is in the absence of detailed evidence that the management of the woodland means it is necessary for specific tools to be stored within the building, which cannot be stored elsewhere.
6. I note that woodland management works appear to have been undertaken, including the clearance of Rhododendron and thinning of woodland. I am also aware that the Council's SPD² states new buildings that are demonstrably essential for forestry purposes are considered to be appropriate development in the Green Belt. However, there is very little information before me as to what forestry tools specific to the site are stored in the building, or how it may otherwise be reasonably necessary for the purposes of forestry.
7. Therefore, notwithstanding my findings in respect of the other main issues in this appeal, the building does not benefit from the exception to inappropriate development at paragraph 154(a) of the Framework. Furthermore, insufficient information has been provided for me to be satisfied that a condition restricting its use to forestry purposes would be reasonable in this particular case.
8. There is minimal evidence to show that the development comprises the replacement of another building in the same use, and that it is not materially larger than the building it has replaced. In the absence of detailed plans and evidence showing the former building was likely lawful, in the same use, and of similar size as the development, I do not find that the current building benefits from the exception to inappropriate development at paragraph 154(d) of the Framework.
9. I have been referred to Policy GB3 of the Council's Allocation and Development Management Plan (2015) (ADMP), which applies to residential outbuildings within the curtilage of a dwelling, in the Green Belt. On the limited information provided, I am not satisfied that the building is located within what could reasonably be described as the curtilage of Verulam House (in the context of Policy GB3) due to its significant separation from the dwelling by distance, an extensive lawned area, and trees. I do not therefore find any support is offered to the development by Policy GB3 of the ADMP.

¹ The appellant's Appendix 4: legal agreement dated 20 October 2006

² Supplementary Planning Document: Development in the Green Belt (2015)

10. The building is inappropriate development in the Green Belt, and the Framework advises that planning permission should not be granted unless very special circumstances apply.

Openness

11. Paragraph 142 of the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and permanence. Paragraph 143 sets out the purposes Green Belts serve, which include assisting in safeguarding the countryside from encroachment. Openness is therefore a fundamental quality of the Green Belt, which has spatial and visual aspects.
12. The development is located on the edge of thick woodland, towards the outskirts of a small enclave of residential development. There are limited views of the development from outside the site on account of surrounding vegetation largely enclosing the site. The development is a modestly sized single-storey building, with a half-hipped roof and low eaves. It is set in from the boundary, in a slightly exposed position within a woodland clearing, but this is only evident within the site.
13. The distance of the building from other development and the more neatly arranged garden area of Verulam House means it comprises encroachment of development into previously more open countryside. On account of its size and its limited visibility from outside the site, the building only has a low-level effect on the openness of the Green Belt, visually and spatially.

Protected habitats

14. The building has been erected within the SSSI, which is designated as such for its ancient woodland. The Framework defines irreplaceable habitats as habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland.
15. An email to the appellant from Natural England's Protected Sites Lead Advisor for Kent³ confirms that this part of the SSSI was previously in an unfavourable declining condition, but it is now in an unfavourable recovering condition following works undertaken by the appellant. The email follows an inspection of the site and states 'the location of the new storage building is on the edge of the SSSI and does not impact on the notified features of the site'. On this basis, and in the absence of evidence to the contrary, I am unconvinced by the Council's claims that the development results in the loss or deterioration of irreplaceable habitats or otherwise has an adverse effect on the ancient woodland and SSSI.
16. I therefore find no conflict with Policies SP1 and SP11 of the Council's Core Strategy (2011) (CS) with regard to protected habitats, which require development to conserve and enhance biodiversity, amongst other things.

Landscape character

17. The site is located within the NL. The statutory purposes of National Landscapes are to preserve and enhance their natural beauty. There is a duty on me to seek to further those purposes, and the Framework sets out that great weight should be

³ The appellant's Appendix 3: Email dated 20 December 2022 from Ken Obbard, Natural England

given to conserving and enhancing the landscape and scenic beauty of National Landscapes.

18. The site and its immediate surroundings are characterised by secluded and spacious residential plots amongst thick tree cover. The local area forms part of the Westerham and Brasted Chart landscape and character type in the Sevenoaks Landscape Character Assessment (2017). This is described as being characterised by woodland which should be conserved and managed.
19. The relevant Draft Management Plan⁴ for the NL refers to its landscape components as including its dramatic landform and views, biodiversity-rich habitats, woodland, and tranquillity and remoteness. Again, woodland is noted as being a much-valued component of the landscape.
20. It is unclear whether the building has resulted in the removal of any woodland, or whether it has been erected in a pre-existing clearing. In any case, the above-mentioned correspondence from Natural England raises no concerns with the effect of the building on the ancient woodland. In the absence of evidence to show otherwise, I am therefore satisfied that the building at least preserves the woodland and biodiversity-rich habitat characteristics for which the NL is known.
21. Visually, the development is typical of its surroundings in that it has a high-quality domestic finish and is contained within a private setting, surrounded by trees. It is a building of modest size and design, which is visible from very limited viewpoints outside the site. Its scale and location are therefore somewhat consistent with the landscape character, and the building has a neutral effect on the landscape and scenic beauty of the NL.
22. Limited information is before me as to how the building may enhance the landscape and scenic beauty of the NL. Although woodland management works have taken place and are needed in the future, it has not been shown that the building is reasonably necessary in this location to facilitate them. Furthermore, the domestic scale and appearance of the development fails to improve the special qualities of the area. For these reasons it has not been shown that the development enhances the natural beauty of the NL or provides opportunities to do so.
23. The building therefore preserves the landscape and scenic beauty of the NL, but it fails to also enhance these special qualities, contrary to Policy EN5 of the ADMP. This requires the scale and design of development within the NL to enhance the character of the landscape, amongst other things.

Other considerations

24. The building can be used to safely store tools, materials and paraphernalia associated with the management and improvement of the condition of the SSSI and ancient woodland. However, even if it were subject to a condition restricting its use for such purposes, it is unclear whether those works rely on such items being stored in a building of this scale and design in this location. This limits the weight I assign to claims that the building is wholly necessary for or associated with the improvement of the SSSI and irreplaceable habitats, or any other management of the land required by the legal agreement referred to at footnote 1.

⁴ Kent Downs Area of Outstanding Natural Beauty (AONB) Draft Management Plan 2021-2026 by the Kent Downs AONB Partnership

25. I have been referred to planning permission being granted for a 'garden room' at a nearby property. Very few details have been provided of that development. The limited evidence suggests that building is located within a residential curtilage and is compliant with Policy GB3 of the ADMP. Very different circumstances therefore applied in that case, and it does not convince me that the building in this case should not be considered inappropriate development in the Green Belt.
26. It has been claimed that demolition of the building and the removal of resulting material, including its concrete strip foundations and slab, will result in the loss of soil and have a negative impact on the SSSI, ancient woodland, and the NL. This is not supported by any credible evidence, and the correspondence from Natural England which explains the development does not impact the notified features of the SSSI indicates otherwise. In any case, there would be a separate responsibility to ensure harm is not caused to the features of the SSSI.
27. Although a condition could restrict the use of the building to forestry purposes, it has not been shown that the building is reasonably necessary for such purposes and I am therefore unconvinced such a condition would be reasonable. A programme of woodland management and wider ecological enhancement could be secured by condition, but there is limited detail before me to show what that should include or the magnitude of any associated benefits. I am also mindful that reference has been made to woodland management works specified separately in the legal agreement referred to above. For these reasons I do not find the harms caused by the development could be addressed by conditions.

Conclusion on Ground (a) and the deemed application for planning permission

28. There are other considerations which weigh in favour of the development, but these do not attract any more than moderate weight in favour of the development, cumulatively. On the other side of the balance, the building is inappropriate development in the Green Belt, it causes a low-level amount of harm to the openness of the Green Belt, and it fails to enhance the landscape and scenic beauty of the NL. In accordance with the Framework, I assign substantial cumulative weight to these harms associated with the development.
29. The other considerations weighing in favour of the development do not clearly outweigh the totality of the harm it causes, and I do not find any very special circumstances exist to justify the development. The development is contrary to the development plan as a whole and there are no material considerations which indicate planning permission should be granted. The appeal under ground (a) therefore fails and the deemed application for planning permission is refused.

Ground (f)

30. To succeed under this ground the appellant needs to show that the steps required by the notice exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused.
31. The notice requires the building to be demolished and all resultant material to be removed. The purpose of the notice is therefore to remedy the breach, rather than any injury to amenity. There are no obvious alternatives or lesser steps which would achieve the purpose of the notice with less cost and disruption.
32. The appeal under ground (f) therefore fails.

Ground (g)

33. To succeed under this ground the appellant needs to show that 3 months falls short of what should reasonably be allowed for the notice to be complied with. A period of 6 to 9 months is requested.
34. The appellant was entitled to assume their appeal would succeed, and they did not therefore need to start making arrangements to comply with the notice before the date of this decision.
35. Notwithstanding the comments of Natural England in respect of the erection of the building, there is potential for harm to be caused to the SSSI and the ancient woodland soil through compliance with the notice. It would be the responsibility of the land owner and/or persons carrying out remedial works to ensure no harm is caused in those regards. For this reason, even in the absence of supporting evidence, it would be reasonable to expect a high level of care to be taken when complying with the notice, possibly including the use of specialist non-mechanised equipment and methods. It would therefore be reasonable for more than three months to be allowed for the notice to be complied with. On the evidence, I see no reasons why 6 months would not be a reasonable period for the notice to be complied with.
36. The appeal under ground (g) therefore succeeds.

Conclusion

37. For the reasons given above, I conclude that the appeal should not succeed, except on ground (g). I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Formal Decision

38. It is directed that the enforcement notice is varied by the deletion of the text '3 months' at section 6 of the enforcement notice and its substitution for the text '6 months'. Subject to the variation, 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 Act.

L Douglas

INSPECTOR