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## Appeal Decision

Site visit made on 15 July 2025

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 August 2025

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**Appeal Ref: APP/G5180/C/24/3346209**

**Land at Downe Livery Stables, High Elms Road, Downe, Orpington BR6 7JL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr A Brackstone against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 13 May 2024.
- The breach of planning control as alleged in the notice is without the required planning permission, the construction at the above Land, of a single storey wooden outbuilding on the above Land, situated within the Green Belt area, close to the highway known as High Elms Road to the left of the main entrance to the stables. The outbuilding measures approximately 7m in length, 5m in width and 2.95m in height with a flat roof. It is being used by staff and as a welfare unit for visiting public and is located in the approximate position marked with an X in the attached plan.
- The requirements of the notice are to:
  - (a) Permanently remove the outbuilding from the Land and,
  - (b) Remove any resulting debris and,
  - (c) Restore the land to its condition before the breach of planning control took place.
- The period for compliance with the requirements is: two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (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.

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

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### Preliminary Matters

1. The reasons set out in section 4 of this enforcement notice are brief and refer to Policies 37 and 49 but do not state of what document or plan. Section 173(10) of the Town and Country Planning Act 1990 (the Act) and section 4(b) of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 require that enforcement notices specify the reasons why it was expedient to issue the notice and all policies and proposals in the development plan which are relevant to the decision to issue an enforcement notice.
2. The Council consider that the omission of the name of the Bromley Local Plan (LP) that contains the above policies did not cause prejudice as they consider it would be reasonable for a recipient to understand and appreciate a notice would refer to policies within that LP. The appellants submissions refer to the LP. On that basis, I consider that the omission of the name of the LP in this instance has not resulted in injustice to the appellant.
3. Taking account of my powers under 176(1) of the Act to correct or vary the notice where I am satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority, I will correct the notice to refer to the LP.

4. The reference to the effect on “visual amenities of the area” within the reasons for the notice is unclear as to whether this relates to the visual aspects of openness of the Green Belt or any other effect on the character and beauty of the countryside. I queried with the parties whether the reasons are sufficiently clear, in this case, to meet the requirements of section 173(10) the Act or the Regulations. Whilst I consider the reference to visual amenities of the area is somewhat vague, it is sufficiently clear that I can proceed to consider this matter through the appeal under ground (a). I do not need to correct the notice in this regard.
5. The description of the breach of planning control within the enforcement notice sets out in detail the location of the building and refers to its location within the Green Belt. I consider, in accordance with my powers at section 176(1) of the Act, that this would need correcting as it lacks precision. In addition, reference to the Green Belt appears to be confused with the reasons for issuing the enforcement notice. The Council indicated agreement with amended wording and the appellant have not objected to that. I consider that the amended wording would not result in injustice to either party, so will correct the notice.
6. The original description of the breach of planning control and the suggested amended version refer to the use of the building as a welfare unit. However, this is not a separate use of land to the existing use of the wider unit for equestrian purposes. As the requirements are seeking to solely remove the outbuilding and do not relate to the use, I consider this reference is unnecessary and may lead to confusion. I do not consider that this would result in injustice to the appellant or local planning authority.

### **The Appeal on Ground (c)**

7. An appeal on this ground is that “those matters” (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
8. There is no dispute that the outbuilding constitutes development within the meaning of Section 55 of the Act for which planning permission is required. No planning permission has been sought from or granted by the Council for the outbuilding.
9. The appellant suggests that the outbuilding has been granted planning permission by Class A, Part 4, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). This enables the provision on land of buildings required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land. That is subject of restrictions and conditions including that planning permission is required for the operations but is not granted or deemed to be granted.
10. I understand that planning permission was granted for a comprehensive redevelopment of the stables and ancillary equestrian facilities at Downe Livery Stables under reference 22/03417/FULL1 on 6 September 2023, following discussion at committee on 31 August 2023. These included provision of a gatehouse containing office, administration and first aid facilities.

11. A Planning Contravention Notice (PCN) was issued by the Council on 10 November 2023. The appellant's response refers to the outbuilding having been constructed on 6 September. It does not specify a year but I assume this was also 2023. As the outbuilding appears to have been constructed on the day the planning permission was granted it is unclear whether this took place after planning permission was granted for the redevelopment. On the balance of probability I consider that construction of the outbuilding began prior to the planning permission being granted.
12. The appellant suggests that the outbuilding is required due to the poor quality existing facilities. This indicates that the outbuilding was erected for that purpose rather than in connection with the operations required in redeveloping the site in accordance with the planning permission. As such, it would not meet the requirements of Class A, Part 4, Schedule 2 of the GPDO.
13. Further evidence suggests that the outbuilding was constructed pending implementation of the planning permission. That is a further indication that it was not constructed in connection with the operations subject of the planning permission.
14. Taking account of the above factors, and having regard to all other evidence before me, I conclude that, on the balance of probability, the outbuilding does not comprise development granted by Class A, Part 4, Schedule 2 of the GPDO.
15. For these reasons, I conclude that the appeal under ground (c) should fail.

### **The Appeal on Ground (a) and the Deemed Planning Application**

#### *Main issue*

16. The main issues are:
  - Whether the development comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
  - The effect on the openness of the Green Belt;
  - The effect of the development on the intrinsic character and beauty of the landscape; and
  - 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 required to justify the proposal.

#### *Reasons*

##### **Inappropriate development**

17. The Framework states that development within the Green Belt is inappropriate with a number of exceptions. This includes the provision of appropriate facilities, including buildings, for outdoor sport and outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Policy 49 of the LP reflects the contents of the Framework in this regard.
18. The outbuilding is used to provide welfare facilities and office in relation to Downe Livery Stables, that is an outdoor sport and recreation use. It is intended to replace space within the stable block that, I understand, is not suitable to provide these

facilities for staff and visitors to the livery yard. It provides an office and first aid room, allowing secure storage of sensitive and personal documentation and is a suitable safeguarding access point. I have been referred to a need to provide a suitable welfare unit in compliance with the Health and Safety Act, Child Act and Animal Welfare Act. It is unclear whether alternative or upgraded provision could have been made for this need within the existing buildings. Nevertheless, the outbuilding provides facilities for outdoor sport and outdoor recreation.

19. The outbuilding is located to the opposite side of the access and parking area from the existing stables and other buildings associated with the equestrian use, such that it is located some distance from existing built facilities. It is located close to the road. There is a substantial mature hedge along the roadside that restricts most views of the building from the road, apart from through the area around the existing access. The land to the opposite side comprises sand schools and paddocks with woodland and fields beyond. There appear to be no public vantage points from which the outbuilding can be seen other than the limited views from the road. However, the outbuilding extends development on the site, which has a visual effect on the openness of the Green Belt.
20. The location away from buildings other than a small toilet block adjacent to the access means that the outbuilding has an effect on the spatial openness of the Green Belt.
21. The Green Belt serves five purposes according to the Framework. These include safeguarding the countryside from encroachment. As set out above, this is a modest building but it does extend development outside the village of Downe, such that it encroaches into the Green Belt. Therefore, the outbuilding conflicts with that purpose of the Green Belt.
22. For these reasons, I find that the outbuilding is not an appropriate facility for outdoor sport and recreation that preserves the openness of the Green Belt and that does not conflict with the purposes of including land within it. As a result, it comprises inappropriate development within the Green Belt, contrary to Policy 49 of the LP and the Framework.

#### Character and beauty of the landscape

23. Downe Livery Stables are located over High Elms Road from a school on the edge of the village of Downe. It comprises stable blocks, open fronted barn, sand schools, parking area and paddocks. The boundary with High Elms Road comprises a mature hedgerow with limited views through except at the access point to the yard. The buildings, including outbuilding, are located at a high point on the land, with the paddocks sloping down away from the buildings within the gentle rolling landscape of fields divided by hedges and woodland.
24. The outbuilding is a modest building adjacent to the hedgerow, separated from other buildings on the site by the access and parking area. As a result, its visibility is limited with the hedgerow largely hiding views from the road and seen against the backdrop of the hedge from over the fields. It is more visible in views through the access from High Elms Lane but is a relatively small building largely tucked into the adjacent hedgerow.
25. For these reasons, I conclude that the outbuilding has resulted in modest harm to the intrinsic character and beauty of the landscape. As a result, it is contrary to

Policy 37 of the LP that seeks development of a high standard of design and layout that positively contributes to the landscape and respects landscape features.

#### Other considerations

26. The appellant suggests that the building is required on a temporary basis whilst the redevelopment of the site takes place, as set out in the ground (c) appeal. It is unclear how long that development will take, nor what operations may have taken place to begin that development and, as a result, how long the building is required. In the absence of that information, it is unclear how much weight may be placed on this factor. Further, I note that Class A, Part 4, Schedule 2 of the GPDO would allow the construction of an outbuilding required temporarily in connection with and for the duration of operations being or to be carried out.

#### Conclusion

27. The outbuilding comprises inappropriate development in the Green Belt that has affected its openness and conflicts with the purposes of it. The Framework makes clear that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances do not exist where the harm to the Green Belt by reason of inappropriateness, and any other harm such as that to the intrinsic character and beauty of the landscape, is clearly outweighed by other considerations. The need for the outbuilding whilst redevelopment of the livery yard takes place is unclear, particularly in relation to the length of time it would be required. As such, that does not clearly outweigh the harm to the Green Belt by reason of inappropriateness.
28. For the reasons set out above, I conclude that on balance the development does not accord with the development plan. The appeal on ground (a) therefore fails.

#### **The Appeal on Ground (g)**

29. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The compliance period specified in the notice is 2 months.
30. The appellant suggests that a longer period is required to allow alternative provision within the existing buildings be provided. In addition, time would be required to allow the demolition and removal of the building from the land by suitable contractors within an area surrounded by hoarding to allow safe and secure demolition. They suggest a period of 9-12 months would be necessary.
31. I consider that the period of two months suggested by the Council is short to allow alternative accommodation to be provided for the uses contained within this outbuilding. However, the refurbishment of space within existing buildings and demolition of this modest building would not justify the period of 9-12 months requested. In the circumstances, I consider a period of 4 months would be appropriate.
32. For these reasons, I conclude that the appeal under ground (g) should succeed and I will vary the notice to allow a period of 4 months for compliance with the notice to take place.

## Formal Decision

33. It is directed that the enforcement notice is corrected and varied by:

- the deletion of the matters which appear to constitute the breach of planning control at section 3 and their substitution with the words "Without planning permission, the construction of a single storey wooden outbuilding of approximately 7m in length, 5m in width and 2.95m in height with a flat roof and located in the approximate position marked with an X on the attached plan.";
- the addition of the words "of the Bromley Local Plan" after the words "Policies 37 and 49" in section 4 Reasons for this Notice; and
- the deletion of the words "Two months" and their substitution with the words "Four months" in section 6 Time for Compliance.

34. Subject to the corrections and 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 1990 Act as amended.

*AJ Steen*

INSPECTOR