



Appeal Decisions

Site visit made on 10 June 2025

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 August 2025

Appeal A Ref: APP/G5180/X/24/3347720

Woodhill Farm, Norsted Lane, Bromley, Orpington BR6 7PQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended)(the Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Kevin Cook against the decision of the Council of the London Borough of Bromley.
- The application ref 23/04778/ELUD, dated 13 December 2023, was refused by notice dated 10 May 2024.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
- The development for which a certificate of lawful use or development is sought is described as 'storage building, used for storage of tractor and associated implements, other vehicles and equipment incidental to the use and maintenance of the main dwelling property and its grounds'.

Appeal B Ref: APP/G5180/C/24/3355914

The building in Pratt's Bottom Wood, Off Norsted Lane, Pratt's Bottom

- 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 Kevin Cook against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 17 October 2024.
- The breach of planning control as alleged in the notice is without the required planning permission, the erection of a building.
- The requirements of the notice are to:
 - (a) Demolish the building
 - (b) Restore the land to its condition before the breach of planning control took place.
- The period for compliance with the requirements is: 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) 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: Appeal A

1. The appeal is dismissed.

Decision: Appeal B

2. 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.

Appeal A and Appeal B: ground (c)

3. An application under S191(1)(b) of the Act seeks to establish whether any operations which have been carried out in, on, over or under land are lawful at the time of the application. S191(2)(a) and (b) sets out that uses and operations are lawful at any time if:
 - i) No enforcement action may be taken in respect of them

(whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.

4. The main issue of Appeal A is whether the Council's decision to refuse the certificate of lawfulness is well-founded. In an LDC appeal, the onus is firmly on the appellant to make out their case, on the balance of probabilities. Their evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted. Planning merits form no part of the assessment of an application for a LDC under S191 of the Act, which must be considered in the light of the facts and the law.
5. An appeal under ground (c) is made on the basis that the matters alleged in the notice do not constitute a breach of planning control. Appeal A and Appeal B both relate to the same building. The main thrust of the appellant's case under Appeal A and the appeal under ground (c) is that the building which has been erected benefits from planning permission granted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). Given the similarities between Appeal A and the ground (c) appeal for Appeal B, I shall deal with them together.
6. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO), Schedule 2, Part 1, Class E, permits buildings etc incidental to the enjoyment of a dwellinghouse. The Council refused the LDC application on the basis that it had not been demonstrated that the outbuilding would be located within the residential curtilage of Woodhill Farm or that the size of the outbuilding is required for purposes incidental to the enjoyment of the dwellinghouse.

Whether the land is within the curtilage of the dwellinghouse

7. The Act does not define the term 'curtilage'. The Permitted development rights for householders: Technical Guidance (2019) advises 'curtilage' is land which forms part and parcel with the house. Usually it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area.
8. The Council has drawn my attention to appeal decision APP/C2741/X/22/3297054, which concerned a LDC and appeal decision APP/G5180/C/18/3195844, which concerned an enforcement notice. Both cases considered the separation between land asserted to be within the curtilage of a dwellinghouse and the dwellinghouse. While there are inevitably different facts at play, and neither case is directly comparable to the appeal scheme before me, the Inspectors in these decisions set out some principles which are of relevance when considering curtilage.
9. The case of *Hampshire CC & the Open Spaces Society & Others v SSEFRA & Blackbushe Airport Ltd* [2020] EWHC 959 (Admin), [2021] EWCA 398, [2020] JPL 1359 (*Blackbushe*) was considered by the Inspector in respect of appeal reference APP/C2741/X/22/3297054. In *Blackbushe*, it was held that the approach was to ask not whether the land and building comprise part and parcel of the same unit but whether the land is part and parcel of the building as a matter of fact and degree.

10. As established in *Methuen-Campbell v Walters* [1979] 1 QB 525, for land to fall within the curtilage of a building, it must be intimately associated with the building to support the conclusion that it forms part and parcel of the building. Although not specifically cited by the Inspector in APP/G5180/C/18/3195844, it is clear from the wording used in the decision letter that the Inspector was applying this principle when determining whether the land in question was within the curtilage of the dwellinghouse.
11. The Inspector also referred to *Sinclair-Lockhart's Trustees v Central Land Board* (1950) 1 P&CR 195 and applied the principle established therein, that the ground used for the comfortable enjoyment of a house or other building may be regarded as being within the curtilage of the house or building. It is enough that it serves the purpose of the house or building in some necessary or reasonably useful way.
12. The Inspector in respect of APP/C2741/X/22/3297054 also considered various other cases, referred to at Paragraph 18 of the decision letter¹. The important point to note from the decisions and from the case law referred to within, is that curtilage is primarily a matter for the decision maker, taking into account the relevant considerations. Regard should be had to three tests of (i) physical layout of the building and the land or building said to be in the curtilage, (ii) ownership (past and present) and (iii) use or function (past and present).
13. I have been provided with a Land Registry Title Plan, which shows the extent of the appellant's landholdings. The landholdings comprise a roughly triangular shape, with the main dwelling located in the northern part of the site. The dwelling is a detached, split level building, which is accessed via a driveway off Norsted Lane. To the south of the dwelling is a substantial grassed area, which was neatly mown at the time of my visit and contained play equipment and seating, suggesting it is used by the occupants of the dwelling for sitting out and playing. Beyond the grassed area are a series of trees which form part of Pratt's Bottom Wood, which are subject to a Tree Preservation Order (TPO).
14. It seems the unit of occupation is the appellant's landholding and so the planning unit is likely to comprise the entire site, as shown on the Land Registry Title Plan. However, the planning unit and curtilage are not necessarily the same and I note that the appellant does not suggest that the whole of the land within their ownership is within the curtilage of the dwellinghouse. The appellant has highlighted an area ('the highlighted area') they consider comprises curtilage and suggests it includes part of the land covered by trees, including the location of the appeal building.
15. The appeal building is located a significant distance from the main dwelling, in an elevated position. The appellant points out that there is no physical or theoretical barrier separating the location of the building and the dwelling and suggests that the highlighted area comprises mowed maintained lawn and areas of trees that give shade in the summer.
16. The appellant suggests that the outbuilding is positioned on previously developed hard standings that have been present since the 1960's and has provided an aerial photograph dated December 1960. However, at that date, there was no

¹ *Methuen-Campbell v Walters* [1979] 2 QB 525, *Dyer v Dorset County Council* [1989] 1 QB 346, *Attorney-General ex rel Sutcliffe v Calderdale BC* (1983) 46 P&CR 399, *Skerritts of Nottingham Ltd v SSETR* [2001] QB 59, *Challenge Fencing Ltd v SSHCLG* [2019] EWHC 553 (Admin), *Hampshire County Council v SSEFRA* [2020] EWHC 959, *Burford v SSCLG & Test Valley BC* [2017] EWHC 1493 (Admin), *Sumption & Sumption v London Borough of Greenwich* [2007] EWHC 2776, *Lowe v First Secretary of State* [2003] EWHC 537, *Sinclair-Lockhart's Trustees v Central Land Board* [1950] 1 P&CR 195.

dwellinghouse and so the land upon which the appeal building has been erected could not have comprised the curtilage of the dwellinghouse at that time.

17. A statement signed by an individual who states they spent the majority of their childhood, the 1980's, in and around the appeal site suggests there were buildings and remnants of buildings on the site previously. However, there is no substantive detail as to what these buildings comprised or how they were used. It is therefore not clear from the statement provided whether the location of the appeal building comprised curtilage in the 1980's. Nevertheless, curtilage can change over time. In order to have been permitted by Part 1, Class E of Schedule 2 of the GPDO, the land must have been within the curtilage of the dwellinghouse at the time it was constructed.
18. It is suggested that the highlighted area is enjoyed as the residential garden and that the area has always been associated with the dwelling. However, it is not clear how the land upon which the appeal building is located served the purpose of the house in some necessary or reasonably useful way. Furthermore, it is not clear why the appellant considers only part of the wooded area is within the curtilage. While trees may be used to provide shade during the summer, it is not clear why this section of trees is used and not others. Trees are located much closer to the dwellinghouse which could serve this purpose.
19. Moreover, the land within which the building has been constructed is a significant distance from the dwellinghouse at Woodhill Farm. I note the appellant suggests there are 'clear views between the main dwelling and outbuilding', however, while I saw that the outbuilding can be glimpsed from the path adjacent to the dwellinghouse, due to topography and intervening vegetation, it does not appear intimately associated with the building. Indeed, in their statement of case for Appeal B, the appellant describes the location of the outbuilding as 'discrete, hidden from view and blends into the surrounded wooden setting'.
20. The appellant's landholdings are substantial in size and go far beyond what is typical of a residential dwelling and its curtilage, even in a rural area. Given the extent of land available closer to the house, I consider it more likely that the mown area adjacent to the dwelling serves the purpose of the house. I acknowledge that curtilage does not have to be small or that it cannot include trees, however, the evidence in my view, does not show that the land upon which the appeal building has been constructed is so intimately associated with the dwellinghouse as to support the conclusion that it forms part and parcel of the building. As a matter of fact and degree, I find that the appeal site is not within the curtilage of the dwellinghouse and was unlikely to be so at the time the building was constructed.
21. The appellant has drawn my attention to a number of appeal decisions, references APP/P0240/X/22/3305621 (Periwinkle Lane), APP/A1530/X/22/3291073 (New Road) and APP/C1950/X/20/3256606 (Harmer Green Lane). However, these cases turned on whether the buildings would be reasonably required for a purpose incidental to the enjoyment of a dwellinghouse. Since I have found the location of the outbuilding in this case is not within the curtilage of a dwellinghouse, there is no need for me to go on to consider whether the outbuilding is reasonably required for a purpose incidental to the enjoyment of the dwellinghouse.
22. Thus, for the reasons given above, the outbuilding would not be permitted by the GPDO and Appeal A and the appeal under ground (c) must fail.

Appeal B: Ground (a)

Main Issues

23. The main issues of the ground (a) appeal are:

- Whether the appeal scheme is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (December 2024)(the Framework) and relevant development plan policies;
- The effect of the appeal scheme on the openness of the Green Belt; and
- If the appeal scheme is 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 required to justify the appeal scheme.

Reasons

Whether inappropriate development in the Green Belt

24. The appeal site comprises the area of land occupied by the appeal building, which is located within the grounds of Woodhill Farm, within an area washed over by the Metropolitan Green Belt (the Green Belt). Woodhill Farm comprises a residential property set within very generous grounds, which includes part of Pratt's Bottom Wood. Mature vegetation bounds the site in all directions, significantly limiting views from outside the site.
25. Policy G2 of the London Plan (2021)(the LP) seeks to protect the Green Belt from inappropriate development and policy 49 of the Bromley Local Plan 2019 (the BLP) sets out that within the Green Belt, permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. Policy 49 goes on to advise that the construction of new buildings on land falling within the Green Belt will be inappropriate, unless it is for certain purposes. The wording used in the policy is consistent with the previous Framework but is not consistent with the current Framework, in particular in relation to the redevelopment of previously developed land. For the avoidance of doubt, this limits the weight I afford any conflict with this part of the policy.
26. Paragraph 153 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 sets out that development in the Green Belt is inappropriate unless certain exceptions apply, including g) the limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
27. Previously developed land is defined as land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully

developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

28. As set out above, I have found that the land is not within the curtilage of the dwellinghouse. The Council has provided the history of the site and advise that in 1949, Woodhill Farm comprised an area of about 20 acres, with a market garden use. It seems since this time, the site has been subdivided, with the dwelling at Woodhill Farm erected following approval in 1962, with conditions restricting the occupancy of the dwelling to workers employed locally in agriculture in order to serve what was the piggery site (to the west of the dwellinghouse).
29. In 1984, permission was sought to remove the agricultural occupancy condition as it was intended to sever the dwelling from the piggery site, together with 6 acres of land. While this was refused and dismissed on appeal, the Council advise that the agricultural occupancy condition has since been 'lifted', reference 14/045564/ELUD.
30. The aerial photograph dated December 1960, referred to above, which is asserted to show previously developed land is in black and white and shows a wooded area, with two clearings: one a triangular shape and the other a roughly circular shape (the circular clearing). While there are features within the circular clearing, it is not clear what these comprised. The dwelling at Woodhill Farm had not yet been constructed and so even if features within the circular clearing are buildings, it seems likely that they were constructed in association with the agricultural use of the land. The appellant suggests the photograph shows hard standings have been present in this location since the 1960's, however, the photograph is far from clear in this regard. Previously developed land excludes land that is or was last occupied by agricultural or forestry buildings.
31. A later aerial photograph, dated December 1990, appears to show a building within the circular clearing, however, it is in a different location to the appeal building. While I saw during my visit that there is a wooden building in this general location, the building is modest in size, and it seems unlikely the appeal building could be considered within its curtilage.
32. An annotated OS map provided by the Council is suggested to show 6 structures in close proximity to the building². However, it is not clear what the annotations are intended to show, or, if they do represent buildings, that they were ever constructed at the site. The appellant suggests it was annotated by an Inspector carrying out a site visit and is likely to show an accurate picture of what was there. However, it is simply not clear who annotated the plan, for what reason or what the annotations mean. There are other annotations in relation to sites outside the appeal site and so it seems unlikely this was produced by an individual inspecting the appeal site.
33. The appellant asserts that there is clear evidence of former hardstanding and suggests that it is also clear when visiting the site that this area previously

² Appendix 7 of the Council's Statement of Case

accommodated buildings. However, hardstanding that I saw appeared recently laid. I did see remnants of rubble and concrete in the vicinity of the appeal building, however, even if remnants of historic hardstanding remained, it is likely to have blended into the landscape. On the evidence before me and from my inspection of the site, I consider it unlikely that the building has been constructed on land which meets the definition of previously developed land set out in the Framework. Thus, the exception at paragraph 154g) of the Framework does not apply.

34. Paragraph 155 of the Framework advises that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where certain criteria apply, including a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; and b) there is a demonstrable unmet need for the type of development proposed.
35. The appellant suggests that the appeal site should be considered grey belt land. 'Grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
36. The appeal site is not within or close to a large built-up area, nor does it prevent neighbouring towns merging, or preserve the setting and special character of a historic town. In my view, it does not, therefore strongly contribute to any of purposes (a), (b) or (d) in paragraph 143 of the Framework and constitutes grey belt land.
37. The Planning Practice Guidance (PPG) advises that, in reaching a judgement with regards to criterion (a) of paragraph 155, authorities should consider whether, or the extent to which, the release or development of Green Belt Land would affect the ability of all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way. However, there is limited evidence before me to enable me to make an assessment in this regard.
38. Furthermore, while the building may provide the appellant and their family additional space for storage and enable them to store their cars and other domestic paraphernalia, the appellant has not shown there is a demonstrable unmet need for the type of development proposed.
39. The appellant has drawn my attention to appeal reference APP/M3645/W/24/3347328, however, that concerned the construction of two dwellings and a garage. It is therefore not comparable to the appeal scheme before me. Although I have found the land to be grey belt, it fails to meet criterion (b) of paragraph 155 of the Framework and is therefore inappropriate development in the Green Belt.

Openness

40. The appeal building is located within a part of the site which is not readily visible from the public domain and has been constructed in timber to harmonise with its wooded setting. However, openness has both a visual and a spatial aspect. The appeal building, although single storey, is substantial in size and has a modest adverse effect on the openness of the Green Belt.

Other considerations

41. The appellant advises that the outbuilding was constructed in good faith, in the belief that it complied with permitted development rights and suggests that, should the appeal be dismissed, they would seek to relocate the structure elsewhere within the grounds, most likely on a section of land closer to the dwelling utilising permitted development rights. It is suggested that this would have a far greater visual impact on the Green Belt. However, were I to allow the appeal, the appellant would still be able to exercise their permitted development rights.
42. I have considered whether it would be possible to restrict the appellant's ability to further exercise their permitted development rights. However, the Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.
43. I do not consider it would be reasonable to impose a condition restricting permitted development rights and so the appellant could construct a building in the location suggested in addition to the appeal scheme. I therefore afford this matter very limited weight.
44. I recognise that the appeal building provides the appellant and their family with additional space and enables them to carry out their hobbies, which is a private benefit to which I afford very limited weight.

Appeal B: Ground (a) Planning balance and conclusion

45. The Framework sets out the general presumption against inappropriate development within the Green Belt. When considering any planning application, it advises that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
46. I have found that the appeal scheme is inappropriate development in the Green Belt and have also identified modest harm to openness from the works. I afford the harm to the Green Belt substantial weight. I recognise that the appeal site provides additional space for the appellant and their family. However, even when taken together, the other considerations in this case do not clearly outweigh the totality of the harm identified and so very special circumstances do not exist.
47. Having regard to the legitimate and well-established planning policy aims to protect the Green Belt, in my view, the benefits of the appeal scheme are outweighed by the harm I have identified. The appeal scheme therefore conflicts with policy 49 of the BLP and policy G2 of the LP, the requirements of which are set out above and the relevant expectations of the Framework.
48. The appeal scheme is not in accordance with the development plan as a whole and material considerations do not indicate a decision should be other than in accordance with the development plan.

Appeal B: Ground (g)

49. An appeal under ground (g) is made on the basis that any period specified in the notice falls short of what should reasonably be allowed. The appellant states that the outbuilding would need to be relocated to a new building elsewhere on the premises, as there is no other provision for storage of various items, including vehicles, within the appeal site. The appellant suggests a more reasonable time period would be 9 – 12 months.
50. I saw during my visit that the appeal building accommodates a number items, including motor vehicles, bikes and various gym equipment. While the appellant suggests they require time to erect another building within the property, off-site storage is likely to be an option. I consider 6 months is likely to be sufficient time to secure alternative storage for the items contained within the building and to enable the building to be removed.
51. I find that 6 months is reasonable and proportionate and so the appeal under ground (g) must fail.

Appeal A Conclusion

52. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a storage building, used for storage of tractor and associated implements, other vehicles and equipment incidental to the use and maintenance of the main dwelling property and its grounds is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Appeal B Conclusion

53. 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).

M Savage

INSPECTOR