



Appeal Decision

Site visit made on 2 September 2025

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP
an Inspector appointed by the Secretary of State

Decision date: 24 September 2025

Appeal Ref: APP/A1910/C/23/3322825

Land at 86 Chipperfield Road, Kings Langley, WD4 9JD shown edged red on the plan attached to the notice

- 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 Mrs Fiona Herbert against an enforcement notice, Ref E/22/00314/COB, issued by Dacorum Borough Council on 27 April 2023.
 - The breach of planning control as alleged in the notice is without Planning Permission, the change of use of a building to a standalone dwelling.
 - The requirements (and compliance periods) of the notice are:
 - Step 1 – Cease the use of the outbuilding as a separate residential unit hatched in red on the attached plan (6 months).
 - Step 2 – Remove all fixtures and fittings from the kitchen area within the outbuilding hatched in red on the attached plan (6 months).
 - Step 3 - Remove all the debris and materials created from step 2 from the land (7 months).
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

2. Since the date the appeal was received, changes have been made to the National Planning Policy Framework (the Framework). Accordingly, and particularly given the changes made to the Chapter on protecting Green Belt land, the parties have provided comments as to the effects of those changes on their cases. I have also been updated on the Borough's Housing Land Supply.
3. For the avoidance of doubt, the deemed planning application made on ground (a) is in respect to what is alleged in the notice to be the breach of planning control. That is the change of use of a building at the rear of the appeal site to a standalone dwelling. Given this description of development, I am not tasked with considering planning permission for use of a building within the same planning unit as the main dwelling at the front of the appeal site (as suggested within the appellant's submissions) or determining an appeal against the Council's refusal of a planning application under reference 23/00466/FUL¹ (some of the Council's reasons for issuing the notice make reference to those proposals rather than to the actual breach of planning control in existence).

¹ Conversion of existing annex ancillary to main dwelling into one self-contained dwelling; Refused 19 April 2023

Main Issues

4. The main issues in the appeal are:

- whether or not the change of use of the building is inappropriate development in the Green Belt;
- the effect of the development on the character and appearance of the surrounding area and adjacent properties;
- the provision of parking and open amenity space;
- the living conditions of neighbouring occupiers, particularly as regards visual intrusion, privacy and disturbance; and
- the effect of the development upon the Chilterns Beechwood Special Area of Conservation (SAC).

Reasons

Green Belt; Character and Appearance

5. The appeal site falls within the Green Belt (and, as far as it is relevant, the appeal site has been determined by the Council to be 'Grey Belt'). The Framework says that development in the Green Belt is inappropriate, apart from certain specified exceptions.
6. One of the Framework exceptions (at paragraph 154.g)) is 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.
7. I find as a matter of fact and degree that the appeal site is previously developed land, since the appeal building had previously been lawfully constructed within the residential garden of the host dwelling for incidental purposes². I find further that the change of use of the gym/games/sauna building to a 1-bedroom self-contained 'standalone' dwelling has limited effects on the spatial and visual openness of the Green Belt. The building itself has not materially changed in its external form and appearance and, while I accept there are minor effects upon openness through its new use (such as the erection of a fence forward of its principal elevation delineating the new dwelling's private outdoor space, and the addition of an extra vehicle(s) upon the existing hardstanding to the front of the main dwelling), these effects fall far from causing substantial harm to the Green Belt. The change of use is therefore not inappropriate development in the Green Belt, upon the previously developed land.
8. The above changes do not in my view harm the character and appearance of the area, and the notice is incorrect since the development does not create a 'large area of hardstanding for parking'. Neither does the new dwelling, with a significant amount of garden space between it and the rear of the host dwelling, lead to a cramped appearance.

² Lawful Development Certificate issued under Ref 4/01273/11/LDP; 'Construction of a single storey detached building for use as a gym/games room with Sauna'; 19 September 2011

9. While I accept that the new dwelling is at odds with the established pattern of development (primarily consisting of a long corridor of residential dwellings located to the front of large plots facing the road), I find it causes no substantive harm to that pattern taking into account (i) that the main dwelling is remaining as an unaffected key component of the pattern; (ii) the appeal scheme constitutes the re-use of an existing lawful building to the rear of the main dwelling without any significant changes to external form or appearance; (iii) the new dwelling's modest size and scale; and (iv) the lack of separate vehicular access to the new dwelling.
10. For the reasons given, there is no conflict with Policies CS5³, CS10, CS11 and CS12 of Dacorum Borough Council's Core Strategy 2006-2031 (CS) which together seek to protect the Green Belt and character and appearance. There is also no conflict with the Framework in these respects.

Provision of Parking and Outdoor Amenity Space

11. There is ample parking space on the large area of hardstanding to the front of the main dwelling, certainly for the low number of vehicles that would be associated with the modest 1-bedroom building which is the subject of this appeal (together with sufficient parking space for the occupiers of the main dwelling). Therefore there is no conflict with Policy C12 of the CS in this regard.
12. There is private outdoor amenity space behind the line of a fence that has been erected to the front of the building comprising the new dwelling. This space extends down the side of the building on each side, creating functional outdoor areas adjacent to boundary fences with neighbouring properties. I find that this is reasonable provision for a modest 1-bedroom dwelling. Therefore there is no conflict with Saved Appendix 3 of the Dacorum Borough Local Plan 1991-2011.

Living Conditions of Neighbouring Occupiers

13. While unmentioned in the notice, and unassessed in the Planning Enforcement Investigating Officer's Report, the Council's statement says: "it is the Council's view this will impact on the neighbouring properties".
14. Due to size, location and effects of screening there is very limited intervisibility between the appeal building and neighbouring properties. The absence of a separate vehicle access to the rear of the site also mitigates against disturbance. I am satisfied on the evidence available that the appeal development causes no harm to the living conditions of neighbours, and that it accords with Policy CS12 of the CS in this regard.

Chilterns Beechwood Special Area of Conservation (SAC)

15. The Chilterns Beechwoods SAC represents the most extensive area of native beech woodland in England and has the following designated features:
 - *Asperulo-Fagetum* beech forests;
 - Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*); and
 - Stag Beetle *Lucanus cervus*.

³ For purposes of compliance with this policy, I find that an extra dwelling would 'support the rural economy and maintenance of the wider countryside' due to the extra local spending power of an extra household.

16. The SAC is made up of 9 separate sites scattered across the Chilterns. One of them is the Ashridge Commons and Woods Site of Special Scientific Interest (SSSI).
17. The designation, protection and restoration of SACs is embedded in the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). In those Regulations, a SAC is classified as a 'European Site'.
18. The Habitats Regulations require that any application for development that is likely to significantly affect a SAC is subject to an Appropriate Assessment (AA) of the implications of the proposal for the site's conservation objectives.
19. The Competent Authority (CA) must ensure that planning applications will not have a negative effect on the integrity of the site, alone or in combination with other plans or projects. The CA must take account of any conditions or restrictions (including avoidance and mitigation measures) that would ensure no adverse effect, before granting permission. To this end, the Council has produced its 'Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest' (the Strategy).
20. The Strategy was produced after extensive research undertaken by Footprint Ecology (commissioned by the Council) which informed Natural England's subsequent advice to CAs dated 14 March 2022 making recommendations for accommodating development while also protecting the interest features of the SAC. This included the recommendation of implementing a series of zones within which varying constraints would be placed upon development.
21. The appeal site lies within 12.6 kilometres of the SSSI which is the 'Zone of Influence' (ZOI) within which the Strategy has concluded that new growth will likely result in an increase in visitors and use of the SSSI. This results in increasing recreational disturbance and adversely affects the species and habitats of the protected site.
22. I am the CA in relation to the deemed planning application. In light of the evidence gathered by Footprint Ecology, I am satisfied that all new dwellings within the ZOI (which by definition create additional households) have the potential to adversely affect the integrity of the site, either alone or in combination with other proposals within the ZOI. I have conducted an AA and consider that the new household (albeit a small one residing in a 1-bedroom home) created by the appeal development would, in combination with other plans and projects within the ZOI, significantly and adversely affect the integrity of the site and its designated features through recreational impact pathways (as set out in Section 2 of the Strategy and summarised in Table 1 of that document).
23. Where new dwellings are created within the ZOI, Natural England has advised that these can be sufficiently mitigated (or avoided) through measures set out in the Strategy. The core objectives of the measures are to:
 - Deflect visitors away from the site so that qualifying development does not result in a proportionate increase in access to the site, by providing alternative options;
 - Better manage visitor distribution and numbers within the SAC (and ideally wider area) to reduce pressures in certain areas;

- Reduce impacts of recreation by influencing visitors to change their damaging behaviours (for example verge parking, dogs off-lead, barbeques, straying from marked paths and trampling flora);
 - Reduce impacts of recreation within the site by protecting sensitive features (veteran trees, future veterans, vegetation communities) and increasing the resilience of the site (for example, to impacts of climate change which can exacerbate recreation impacts).
24. These measures comprise of two separate elements that all proposals will be expected to contribute towards or directly deliver:
- Strategic Access Management and Monitoring ('SAMM') involving access management and engagement work wholly within the boundary of the SAC.
 - Suitable Alternative Natural Greenspace ('SANG') involving the provision of alternative recreation opportunities away from the SAC.
25. To implement the measures, the Strategy requires a payment of £4,251.71 per new dwelling for the delivery of SANG⁴ and an additional payment of £913.88 per dwelling towards SAMM⁵. These contributions appear to me to be necessary to ensure sufficient mitigation to protect the integrity of the SAC, to be directly related to the development and to be fair and reasonable in scale and kind.
26. I find through my AA that, had the appellant secured these contributions through a completed planning obligation or legal agreement with the appeal, there would be no adverse effect on the SAC. The appellant suggests the imposition of conditions⁶ but Planning Practice Guidance advises that no payment of money or other consideration can be positively required by a condition when granting planning permission. Without the necessary mitigation measures secured, I conclude that the appeal development would adversely affect the integrity of the SAC.

Conclusion

27. Notwithstanding the lack of harm or policy conflicts I have found on other main issues, Regulation 63(5) of the Habitats Regulations provides that:
- "...the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site..."*
28. Further, the Framework is explicit that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an AA has concluded that the plan or project will not adversely affect the integrity of the habitats site. Even had the presumption applied, there is a strong reason for refusing the development due to the application of the Framework's policies protecting habitats sites and SSSIs, even when the benefits of the development (including providing a new home) and the Council's very low Housing Land Supply (1.03 years) are considered. Conditions (including the suggested personal/temporary condition) would not render the development acceptable in these circumstances.

⁴ The Council has agreed with Natural England a list of suitable sites for SANG delivery purposes.

⁵ The Council passes on SAMM contributions to the National Trust for the sole purpose of implementing SAMM projects identified in Appendix A of the Strategy for the SAC at Ashridge Commons and Woods SSSI.

⁶ Though none have been suggested in any detail.

29. For the reasons given above, I consider that should not succeed and I uphold the enforcement notice.

Andrew Walker

INSPECTOR