



Appeal Decision

Site visit made on 7 October 2025

by Richard S Jones BA(Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2025

Appeal Ref: APP/W1905/C/24/3339195

Land at Flopsy Wood Community Project CIC, Cock Lane, Hoddesdon, EN11 8LS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Miss Amanda Terrington against an enforcement notice issued by Broxbourne Borough Council.
 - The notice was issued on 25 January 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of two wooden buildings.
 - The requirements of the notice are to:
 - (i) Permanently remove the two buildings, labelled A and B on the attached plan, from the land
 - (ii) Remove the associated hard surfacing, including the patio slabs and any other materials used in the provision of the hard surface, from the land
 - (iii) Remove any debris resulting from compliance with steps (i) and (ii)
 - The periods for compliance with the requirements are two calendar months for steps (i) and (ii) and three calendar months for step (iii).
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) 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.
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - Deleting the matters which appear to constitute the breach of planning control in section 3 and substituting with “Without planning permission, the erection of a canopy to building ‘A’ and a canopy to building ‘B’, as marked on the attached plan.”
 - Deleting requirement (i) and substituting with “Remove the canopies to the buildings marked ‘A’ and ‘B’ on the attached plans from the land.”
 - Deleting requirement (ii) and substituting with “Remove any debris resulting from compliance with step (i).”
 - Deleting requirement (iii).
2. Subject to the corrections, the appeal is allowed insofar as it relates to the erection of a canopy to building ‘B’ and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the canopy to building ‘B’ at land at Flopsy Wood Community Project CIC, Cock Lane, Hoddesdon, EN11 8LS, and subject to the following condition:
 - (i) Any lighting attached to the canopy shall be in accordance with details submitted to and approved in writing by the Local Planning Authority.

3. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the erection of a canopy to building 'A' and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended in respect of the erection of a canopy to building 'A' at land at Flopsy Wood Community Project CIC, Cock Lane, Hoddesdon, EN11 8LS.

The Appeal on Ground (d)

4. Ground (d) is that, on the date that the enforcement notice was issued, it was too late for the Council to take enforcement action.
5. For operational development, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed¹, which in this case equates to 25 January 2020.
6. The breach relates to the erection of two wooden buildings, labelled A and B on the plan attached to the enforcement notice. The appellant refers to the former as the pergola holistic workshop building and the latter as the wooden holistic workshop building. Planning permission was recently refused for the reconstruction of the wooden holistic building and pergola holistic building².
7. For the purposes of this appeal, I shall refer to the buildings as identified in the enforcement notice.
8. Building A comprises a structure enclosed on three sides, with the open side facing onto an attached timber frame canopy. In terms of footprint, the area of canopy is significantly greater than the structure to which it is attached. The floor of the whole of building A is surfaced in concrete slabs.
9. Building B similarly comprises a timber structure enclosed on three sides facing out onto an attached canopy. The floor is again surfaced with concrete slabs but in this case the slabbed area extends well beyond the footprint of the structure and canopy.
10. Although not forming part of the matters constituting the breach of planning control, the enforcement notice requires the removal of associated hard surfacing, including patio slabs.
11. The appellant argues that 'much of this' has been in place since the site was previously used as a donkey sanctuary. In support of her case a number of dated, Facebook photograph screenshots have been provided. Those from March and August 2016 clearly show that building A, save for the front canopy extension, was in place, complete and functioning at that time, likely as a field shelter for the donkeys. The screenshot photograph from March of that year also shows that the concrete slabs in front of the building were in place at that time.
12. The screenshots from June and November 2015 also show building B in place and complete, save for the front canopy, as well as the expanse of concrete slabs in front of it. The building was evidently being used as a stable.
13. The Council state that neither the use or the building works benefit from immunity. To that end, it says the application form for the refused planning permission states

¹ S171B(1) of the 1990 Act prior to the recent amendments which do not apply where the operations were substantially completed before 25 April 2024

² Ref: 07/23/0930/F

that the development started in August 2023. The Council also refer to the Flopsy Wood CIC Facebook page stating in 2019 that the use of the land “will take place”. However, the enforcement notice is targeted at operational development, rather than the use of the land.

14. Moreover, whilst the planning application was for the “reconstruction of a wooded holistic building with an opening and pergola holistic building”, the plans/photographs refer to the adaption of old stable buildings, which are clearly buildings A and B.
15. The Council’s delegated report similarly refers to the development involving the enlargement of two stables, which again are clearly buildings A and B. It is unclear what the reference to starting in August 2023 is, but save for the canopies, I observed that both buildings appear largely as they were in 2015 and 2016.
16. It is therefore very likely that part of building A (the stable/shelter) and part of building B (the stables), as well as the paving slabs in and around those buildings, were substantially complete as distinct building operations more than four years before the date of the enforcement notice and are now immune from enforcement action through the passage of time.
17. However, it is likely that the canopies were added to both buildings sometime after 2016, as a separate building operation, but I have no evidence to show that they were substantially complete on or before the material date of 25 January 2020.
18. Accordingly, I shall correct the allegation and the requirements to refer only to the canopies to buildings A and B.
19. The ground (d) appeal succeeds to the extent explained.

The Appeal on Ground (a)

Main Issues

20. The reasons for issuing the enforcement notice include the Council’s reasons for refusing the aforementioned planning application. While noting that the application did not seek to retain the buildings as currently built, the notice states that those policies and considerations remain relevant. The Council’s appeal case also states that its assessment of the planning merits is set out in the delegated report for the planning application.
21. However, the reasoning contained therein and reasons for refusal refer, at least in part, to the development as proposed. For the avoidance of doubt the Council cannot issue an enforcement notice in anticipation of a breach – what is alleged must have taken place at some point beforehand.
22. Moreover, the notice is only concerned with operational development. The alleged breach of planning control does not include the use of the land and buildings. The relevant ground (a) considerations are therefore restricted to the merits of the operational development, which, following partial success on ground (d), are in turn restricted to the effects of the canopies of buildings A and B.
23. It is evident that the land was previously used as an animal sanctuary, but I note that planning permission was refused for the same in 2017. The land and buildings are now used as part of the Flopsy Wood Community Project. Should the Council

have concerns over that land use, then it will need to consider whether separate enforcement action should be taken. For the purposes of this appeal, the reasons for issuing the enforcement notice, insofar as they relate to use, are not relevant.

24. In that regard, reason 1 states:

“By reason of location, proposed use, scale, and detailed design the proposed development would intensify use at the site, where there is no established use for community buildings. Insufficient information has been provided in relation to the scale and nature of activities and management of the site to demonstrate that there would be no adverse impact on the Green Belt. The proposed development is not considered compatible with the existing use of the land at Chestnut Grove Locally Listed Wildlife Site within the Green Belt, where no very special circumstances are evident to outweigh the harm to the Green Belt. As such, the proposed development is contrary to Policy GB1 of the Local Plan (2018 – 2033) and Chapter 13 of the NPPF (December 2023).”

25. Those are issues which primarily relate to the use of the site and the proposed development, so are not matters for this appeal. It is, however, necessary to consider the effects of the canopies, as operational development, on the Green Belt and Locally Listed Wildlife Site.

26. The second reason is:

“By reason of location and design, the detailed design as demonstrated within the submitted details fails to ensure development enhances local character and distinctiveness within the Local Wildlife Site setting. As such, the proposed development is contrary to Policy DSC11 of the Local Plan (2018 – 2033).”

27. That again relates to the proposed development, so is not a matter for this appeal. Nevertheless, it is necessary to consider the effects of the canopies on the character and appearance of the area, and, having regard to reason 3, the nature conservation interest of the site.

28. Reason 4 refers to the location and design of the intended car parking of up to 25 cars taking place on unmade, unmarked ground amongst protected trees within a Local Wildlife Site, and the purported effects on the same. However, car parking does not form part of the allegation and is concerned with the use of the land. So too is the suitability or otherwise of the access to the land. Consequently, those again are not matters for this ground (a) appeal.

29. Taking the above into account, the residual main issues are:

- whether the canopies would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
- the effect on the character and appearance of the area;
- the effect on the nature conservation interest of the site; and
- if the canopies are inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the developments.

Reasons

Whether inappropriate development in the Green Belt

30. The appeal site is located within the Green Belt. The Broxbourne Local Plan June 2020 (LP) Policy GB1 states that within the Green Belt, planning applications will be considered in line with the provisions of the Framework.
31. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is inappropriate unless one of the exceptions in paragraph 154 applies.
32. The Council's delegated report considers what was proposed against two of those exceptions but doesn't appear to conclude that it would amount to inappropriate development, although it does conclude that very special circumstances do not exist to justify the development.
33. In any case, exception (c) is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
34. Although running to the full width of the former stable building, the canopy erected in front of building B is of limited depth, relative to the original building, so does not amount to a disproportionate addition to the size of the original building. The canopy therefore meets exception (c) and does not amount to inappropriate development in the Green Belt.
35. The front canopy to building A however, is significantly greater than the depth of the original building, thereby resulting in a disproportionate addition. The canopy to building A does not therefore meet exception (c).
36. Exception (b) is the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, 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. However, the existing use and proposed use of the land is beyond the scope of this appeal, for the reasons explained, so I cannot reasonably conclude that the canopy extension is an appropriate facility in connection with it. Exception (b) does not therefore apply and for essentially the same reasons, neither does exception (h)v, which relates to material changes in the use of land.
37. Exception (g) relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt, which is identified in the Framework as one of the Green Belt's essential characteristics. It has both a spatial and visual aspect.
38. The canopy extension to building A has been built over the area covered by the lawful concrete slabs, so, for the purposes of the Framework, has been sited on previously developed land. Because it is largely open on all sides, it has a high degree of visual permeability and a limited spatial presence on the land. It is visually lightweight and because of its woodland setting, there are very limited views of it from outside the boundary of the site.

39. Combining the spatial and visual aspects, the canopy to building A has a limited effect on the openness of the Green Belt. It follows that it does not result in substantial harm to the same, thereby meeting exception (g).
40. Accordingly, the canopies to buildings A and B do not amount to inappropriate development in the Green Belt for the purposes of the Framework or LP Policy GB1. Very special circumstances do not therefore fall to be considered.

Character and appearance

41. Save for an open, central area, the appeal site is largely wooded, forming part of a wider area of attractive deciduous woodland within the open countryside.
42. The canopy to building A protrudes into the open central area of the site so can clearly be seen in that context. As noted, its largely open design provides a high degree of visual permeability. The timber frame is also in keeping with its surroundings. However, the relatively large expanse of plastic translucent roofing appears overly bright and contrasting and somewhat makeshift in appearance. The Council's photographs show that the visual harm arising is compounded by the different coloured roll-up canopy sides.
43. Due to landform and woodland screening, views of the canopy from outside of the site are limited, thereby localising the harm arising. Nevertheless, it appears out of place within its woodland setting and detracts from the intrinsic character and appearance of the land.
44. Building B and its canopy sits between two banked areas so even within the site there are limited views of it. As noted, it has a limited depth and is largely open in design. Although it is of rudimentary construction, that is in keeping with the building to which it is attached, so does not appear as an obvious or harmful addition. As a result, the building's appearance is not materially or unacceptably affected.
45. I therefore find that the canopy to building B does not result in unacceptable harm to the character and appearance of the woodland and does not result in conflict with LP Policy DSC1. That policy states, amongst other things, that the Council expects a high standard of design for all development.
46. However, for the reasons explained, the canopy to building A results in unacceptable harm to the character and appearance of the area, contrary to LP Policy DSC1.

Nature conservation

47. The site is designated as Chestnut Grove Local Wildlife site and is a remnant of ancient oak/hornbeam woodland. The trees on the site are protected by a blanket Tree Preservation Order.
48. For the most part, the canopy to building A is situated in the open grassed area and is unlikely to fall within the root protection areas of the nearest trees. In any case, it is of fairly lightweight construction with the load bearing posts positioned close to the edge of land already compacted by the concrete slabs. It is unlikely therefore that the canopy has adversely affected the viability of the nearest trees.

49. Although parts of the canopy to building B likely fall within the RPA of trees either side of it, a number of supporting posts are fixed onto existing concrete slabs. There are several posts outside of the slabbed area but given their adjacency and likely minimal load bearing responsibilities, the canopy structure is unlikely to have adversely affected the viability of those trees.
50. LP Policy NEB2 states that development on a Local Wildlife Site will not be permitted unless: (a) local development needs significantly outweigh the nature conservation value of the site; and (b) the development provides appropriate avoidance or mitigation, and as a last resort compensation measures to offset any detriment to the nature conservation interest of the site.
51. For criterion (a), local development needs are invariably based on the use of the site. Indeed, the other biodiversity/ecological concerns expressed by the Council relate to its use and operation, which do not form part of the matters before me.
52. The Council refer to a lack of an ecological appraisal to support the previous application to ensure appropriate avoidance or mitigation. That is entirely understandable as it applies to proposed development. However, I can only concern myself with the effects of the existing operational development, comprising two canopies.
53. The Council does not identify any specific harms in that regard, and I find it unlikely that the mere presence of those relatively modest structures would have an adverse effect on the nature conservation interest of the site.
54. Whilst a Preliminary Ecological Appraisal and Roost Assessment has been submitted with the appeal, that was prepared to support an appeal against the refusal of the planning application, so the recommendations are tailored accordingly, rather than identifying any issues arising from the canopies and any mitigation that may be required.
55. The Council's view is that the assessment does not go far enough to address the reasons for refusing the planning application, but the appeal is made against the enforcement notice, not the previously proposed development.
56. Nevertheless, the assessment does highlight a need to avoid nighttime lighting, or to use lighting designed to avoid light spill on habitats which badgers and hedgehogs could use.
57. Although I saw no existing lighting in the canopy structures, I am mindful that could change if I were to grant planning permission for them, and, given their open fronted design, there is clearly scope for significant light spillage into an otherwise dark, wooded location, along with the potential harm to wildlife, including protected species. I therefore need to be satisfied that any such harm to the nature conservation interest of the Local Wildlife Site is capable of being avoided or acceptably mitigated, in accordance with LP Policy NEB1.
58. Given the size of the canopy to building A, the degree of openness and its translucent roofing material, it is difficult to envisage, in the absence of evidence to the contrary, how that would be achieved.
59. The canopy to building A is therefore contrary to LP Policies NEB1 and NEB2 and chapter 15 of the Framework. Those policies state, amongst other things and in

addition to the above, that development will be expected to apply the mitigation hierarchy of avoidance, mitigation and compensation.

60. However, the canopy to building B is much shallower and has a solid roof. I am therefore satisfied that the use of appropriate lighting could be controlled by way of condition, so as to accord with LP Policies NEB1 and NEB2 and chapter 15 of the Framework.

Conditions

61. The Council suggests conditions be imposed in respect of additional details in relation to parking, visibility splays, access arrangements and waste collection. However, those are matters concerning the wider use of the site, rather than the canopies. They are not therefore reasonable or necessary.
62. Moreover, as no new works form part of the matters before me, conditions requiring tree protection measures and a construction environmental management plan, are not necessary.
63. The Council does suggest that a condition be imposed requiring the implementation of recommendations in the Ecological Assessment in relation to badgers and hedgehogs. However, as noted, those recommendations relate to proposed development so are not directly relevant, save for the use of lighting. As explained, because of the open fronted design of building B, a condition to control lighting is necessary.

Conclusion

64. The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld as corrected in the terms set out in the Formal Decision.

Richard S Jones

INSPECTOR