



## Appeal Decisions

Site visit made on 8 November 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> November 2025

### Appeal A and B Refs: **APP/W1525/C/23/3322796/97**

#### **Land at Downham Hall, Castledon Road, Downham, Billericay, Essex, CM11 1LG**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “1990 Act”).
- The appeals are made by Mr Andrew Metcalfe (Appeal A) and Mrs Christina Metcalfe (Appeal B) against an enforcement notice issued by the Chelmsford City Council.
- The enforcement notice was issued on 18 April 2023.
- The breach of planning control as alleged is the erection of a building.
- The requirements of the enforcement notice are to: 1) Dismantle the building shown edged in blue at the approximate location on the plan attached to the notice. 2) Remove from the land all material and debris resulting from the action taken at step (i), including all internal components and paraphernalia and, 3) restore the land affected by the works carried out at steps (i) and (ii) to its pre-development condition.
- The period for compliance with requirements is nine months.
- Both Appeal A and B are proceeding on the grounds set out in section 174(2) (a) and (g) of the 1990 Act.

**Summary of Decisions: The enforcement notice is quashed, and temporary planning permission is granted in the terms set out below in the Formal Decision.**

### **The appeals on ground (a) and the deemed applications**

1. The terms of the deemed applications are directly derived from the allegation and planning permission is sought for the erection of a building, which is a marquee 9.1 metres wide, 30 m deep and 3.9 m in height. The appeal site is in the Green Belt, and the surrounding area is characterised by open and undeveloped agricultural land.
2. Relevant local and national planning policy in force at the time of my decision must be considered. Local planning policies referred to in the reasons for issuing the notice are found in the Chelmsford Local Plan (LP) 2020. It is probably under review, and the Council will have regard to updated national planning policy found in National Planning Policy Framework 2024 (“the NPPF”) and the Planning Practice Guidance. Having considered the LP policies relevant to the determination of these appeals, I am content that they are broadly consistent with the main Green Belt policy aims set out in the NPPF.
3. The **main issues** are as follows: 1) Whether the development constitutes inappropriate development in the Green Belt. 2) The effect on openness and purposes and the character of the surrounding area. 3) The effect of the development on the setting of St Margret’s Church and Downham Hall, and 4) whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

#### *Inappropriateness*

4. There is agreement between the appeal parties that the development does not fall within the exception categories set out in NPPF154 sub-section a) to h). I have no reason to take a different approach. However, I will address the implications of grey belt policy, which includes previously developed land and/or any other land that does not, in either case,

strongly contribute to criterion (a), (b), or (d), which are found in NPPF143 and make up purposes of designating land in the Green Belt.

5. The appellants do not challenge the Council's stance on the status of the land upon which the marquee is situated. For example, the claim is that the building is constructed on previously undeveloped grassland within the grounds of Downham Hall. Although this part of the site falls in proximity to the host building, the land appeared to be open and mainly undeveloped. However, given the location and position of the site, it does not make a strong contribution to either checking unrestricted sprawl, preventing neighbouring towns from merging nor does it function to preserve the setting and special character of historic towns.
6. NPPF155 explains that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where sub-paragraph a) to d) are met. I consider that the development can be reasonably described as "other development" but sub-paragraph d) is irrelevant. It seems to me that the development utilises grey belt land and the limited scale does not, to my mind, fundamentally undermine the purposes, taken together, of the remaining Green Belt across the LP area. NPPF155 sub-paragraph a) is met. That said, putting aside social and economic benefits, the evidence presented does not show to me there is a demonstrable unmet need for the development. Additionally, given the site's rural location, the development is not located in a sustainable area and the marquee's use for events does not provide opportunities to maximise sustainable transport solutions. For these reasons, NPPF155 is breached.
7. I too find that the development constitutes inappropriate development in the Green Belt. Accordingly, taken as a whole, the alleged development utilises grey belt land. However, it is at odds with NPPF154 a) to h), and NPPF155 and LP policies SPS1, SPS11, DM6 and DM10.

#### *Openness and purposes*

8. Clearly, to me the building appears as a permanent structure fixed to the ground and replaces largely open and undeveloped land. It has a spatial and visual effect given the site's location. Its bulk and mass diminish the open aspect of this part of the Green Belt and is visible from within the site. In contrast, while the marquee is likely to be noticeable in longer distant views due to its external appearance and colour, the visual effect is local due to the surrounding area's undulating topography.
9. In addition, while some of the purposes for designating land in the Green Belt would not be undermined, I consider that the scheme intrudes into this part of the Green Belt, which is characterised by mainly open and undeveloped land. The scheme conflicts with the objective of safeguarding the countryside from encroachment and I find that to be a serious planning objection. I too concur with the Council's assessment that the marquee is utilitarian in appearance, and the external appearance has a visually detrimental effect on the surrounding landscape setting.
10. The suggestion is that the external elevations of the marquee could be treated so as to reduce its visual effect on the character of the surrounding area and open aspect of this part of the Green Belt. However, such alternative would not overcome the design and scale of the building.
11. There is some conflict with national and LP policies which seek to ensure Green Belt remains permanently open and the quality of the natural landscape is unharmed.

### *Heritage assets*

12. Such an asset is a building identified as having a degree of significance meriting consideration in planning decisions because of its interest. These include statutory designated listed buildings, but also non-designated assets identified as having special interest, such as Downham Hall, due to its architectural and historic interest. Although the reasons for issuing the notice do not clearly refer to St Margaret's Church, which is listed at grade II, the Council is concerned about the effect of the marquee on its setting.
13. The significance of St Margaret's Church is derived from its ecclesiastical design and layout, and it is positioned on higher ground and located to the north of Downham Hall. The latter is a non-designated heritage asset, and its external appearance and design reinforce its special interest. The church and its grounds are visible from the Downham Hall. Both are experienced in the context of a working rural landscape, which makes a significant contribution to the setting of the assets. However, the setting of the heritage assets has changed over time given the development in and around the locality and within the grounds of Downham Hall.
14. The marquee is noticeable from within Downham Hall given its proximity to the building, but it is also noticeable in views from St Margaret's and the churchyard. It is however seen in the context of built development and the immediate and surrounding working rural landscape. In addition, established and mature trees and field hedgerows form intervening barriers and reduce the visual impact of the marquee's utilitarian external appearance. The area immediately around and about the marquee is heavily landscaped and acts as a green buffer, and its location and siting and utilitarian appearance and white plastic finish does not have a visually jarring effect in views of the heritage assets, nor does it visually compete with the asset or distract from it.
15. Pulling all the above points together, in my planning judgment, contrary to the Council's arguments, I find that the marquee's design, layout, siting and location has a neutral effect on the setting of the designated and non-designated heritage assets. At the very least, I consider that the development preserves setting and does not adversely affect any features of special architectural and historic interest or significance. Consequently, the building meets with the main aims of LP Policies S1, S3, and DM14 as well as national policy found in NPPF chapter 16.

### *Other considerations*

16. The following arguments, underlined and evaluated, are advanced in favour of the development.
17. Social and economic benefits: the marquee plays a crucial role because it provides additional covered space to hold events. For example, it is used for special events like weddings. The building's use adds to the available facilities at the venue and contributes to the long-term expansion of the business, secures employment and supports the viability of the enterprise. In addition, there is a social dimension but there is harm to the environment given the nature, scale and extent of the building.
18. Employment and local impact: the development facilitates an uplift in employment, creating economic opportunities for individuals living within the local area and larger settlements such as Wickford.
19. Alternative: the external elevations of the marquee could be altered or treated in a different colour or texture. However, in the absence of specific detailed information or plans

showing how this could be achieved, I do not consider suitable worded planning condition could achieve such an outcome.

20. Other developments nearby: I am concerned with the development before me but there is a need for consistency in decision making. Nonetheless, apart from generalised assertions that the Council granted planning permission for similar development, there is no evidence to suggest a strong precedent for the same type of development has been set. In any event, I must determine these appeals upon their individual merits.

### *Planning balance*

21. Substantial weight is given to the inappropriate nature of the development in the Green Belt and harm to openness. The development conflicts with at least one purpose of designating land inside the Green Belt, which is a serious planning objection. There is conflict with Green Belt protection policies in the NPPF and LP cited above. My finding on the effect of the development on heritage assets has a neutral effect in the overall balance in that it neither weighs in favour or against. On the other side, I attach significant weight to the advanced, as summarised above, economic and social benefits. Minimal weight is attached to the proposed treatment of external elevations of the marquee as an alternative.
22. Refusal of planning permission and upholding the enforcement notice is likely to impact the business but I attach limited weight, if any, to human rights arguments. In my planning judgement, the advanced considerations in support of the appeals, whether taken individually or cumulatively, do not, on balance, clearly outweigh the conflict with planning policies designed to protect the Green Belt so as to justify the grant of a permanent planning permission on the basis of very special circumstances. In all the circumstances, it is not disproportionate to refuse permanent planning permission.
23. I shall, however, consider the grant of temporary planning permission next. This is because both appeal parties suggest that planning permission could be granted subject to a temporary period.
24. The totality of harm to the Green Belt is substantial but reduce were it for only a limited period, and, again, should only be granted based on very special circumstances. The material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. The latter might be appropriate where planning circumstances will change in a particular way at the end of that period.
25. Since the making of these appeals, things have moved on. On 26 April 2024, the Council granted planning permission (ref: 23/01541/FUL) for the following development: *'Replacement of existing barn and use of the barn to provide event facilities including an extension to existing annex kitchen to provide improved facilities and change of use of part (ground floor) of the main building accommodation to provide a bar area for hotel/event use.'* It is subject to condition 10) which states that *no marquees will be permitted on the site, including those permitted under the Town and Country Planning (General Permitted Development) Order 2015 (as amended)*. The agent accepts this permission is likely to be implemented in future but is subject to several conditions requiring details to be submitted and approved, and there is time needed to arrange development finance.
26. The appellants submit a conditional temporary planning permission for 24 months should be granted so the business can plan. The Council say the period should be limited to 18 months. Such limitation on duration of the planning permission could be imposed via a

suitably worded condition. I consider that a temporary planning permission safeguards this rural enterprise in the short-to-medium term while the alternative scheme is implemented. To my mind, to overcome the planning difficulties, an 18-month permission will be a reasonable compromise and allow sufficient time for the business to adapt and make plans for the implementation of the alternative scheme. There is potential for a change in planning circumstances on the ground at the end of the temporary period.

27. Usually, a marquee can be dismantled without significant building operations or difficulty, and it could be removed at the end of the temporary period. I consider that the grant of planning permission would be a proportionate approach to the legitimate aim of protecting the environment, and it would have no greater impact on the appellants than would be necessary to address the wider public interest.
28. On the circumstances of this case, it is therefore concluded that the points raised in support of the proposal are sufficient to clearly outweigh the harm identified so that very special circumstances exist, provided that the planning permission is limited in duration by suitably worded condition to a period of 18 months from the date of my decision.

### **Conditions**

29. A condition limiting the temporary period to 18 months is necessary. The wording should be sufficient to require the demolition of the building hereby approved: a standalone condition. Given the temporary period in which the building shall be erected, it is unnecessary to require the marquee to remain erected for no more than 3 months in any 12-month period. Requiring the marquee to be removed for nine months of the year is unreasonable, especially having regard to the landscape and parkland setting of the building.
30. A second condition is necessary for the submission of a restoration scheme. In situations where the development has already taken place, it is not feasible to impose a condition precedent or to require that outstanding details be agreed prior to the commencement or occupation of the development, regardless of the importance of those details. Therefore, when a condition is imposed that requires the submission and approval of details or a scheme for development which already exists, it is essential that the condition incorporates a sanction or enforcement mechanism. This is necessary to ensure compliance if the required details are not submitted or approved as stipulated.
31. The key feature of the retrospective condition is that the operational development permitted must be removed if the required detail or scheme is not implemented in accordance with the submitted details within the prescribed timescale. Alternatively, it is submitted on time but not approved and an appeal against the Council's refusal to approve the details submitted pursuant to the condition is not made on time or an appeal is dismissed, or the scheme is submitted and approved but not implemented within the prescribed timescale. I consider a suitably worded condition requiring the submission and implementation of restoration, which meets the six tests, can be imposed.

### **Overall conclusions**

32. Having regard to all other matters, I conclude that the appeals should be allowed on ground (a) for a limited period of 18 months. As the notice will be quashed, there is no need for me to consider ground (g).

## Formal Decisions

33. Appeals A and B are allowed on ground (a), the enforcement notice is quashed, and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act, for the development already carried out, namely, the erection of a building at land at Downham Hall, Castledon Road, Downham, Billericay, Essex, CM11 1LG, subject to the following conditions:
- 1) The building hereby permitted shall be totally dismantled and the resulting materials removed from the land within 18 months from the date of this decision (hereinafter the “end date”).
  - 2) The building hereby permitted shall be demolished and all materials resulting from the demolition shall be removed within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
    - i) Within 6 months of the date of this decision, details of a scheme to restore the land to its condition before the development took place (or such other restoration as agreed in writing by the local planning authority) on or before the end date of this planning permission for the building, has been submitted to and approved in writing by the local planning authority. These details shall include an implementation programme. The restoration works shall be carried out in accordance with the approved details.
    - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
    - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
    - iv) The approved scheme shall have been implemented and the development completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained and retained.
    - v) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

*A U Ghafoor*

INSPECTOR