



Appeal Decision

Site visit made on 15 December 2025

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2026

Appeal Ref: APP/X0415/C/23/3332205

Land on the north west side of Frith Hill (known as The Stables), South Heath, Buckinghamshire HP16 9QF

- 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 Keith O'Donoghue against an enforcement notice issued by Buckinghamshire Council.
- The notice was issued on 19 September 2023.
- The breach of planning control as alleged in the notice is without planning permission, operational development comprising the erection of a building, the laying of hardstanding, the erection of fencing, the erection of a wall, the erection of gates, the erection of an outbuilding and the installation of an electricity box.
- The requirements of the notice (and as shown in approximate positions or labelled) are to:
 1. Demolish the building.
 2. Rip up and remove the hardstanding.
 3. Dismantle the fencing.
 4. Dismantle and remove the wall and gates.
 5. Dismantle/demolish and remove the outbuilding.
 6. Disconnect and demolish/remove the electricity box and all associated electrical facilities.
 7. Remove all debris and materials resulting from compliance with steps 1 to 6 of this Notice from the Land.
- The period for compliance with the requirements is: six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (c) of the Act. 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 of Decision: The appeal is dismissed; the enforcement notice is upheld and planning permission is refused.

Preliminary Matters

1. The appellant contests only part of the alleged breach of planning control – the erection of a building (the building). As I saw, including internally, the building is designed and fitted out for use as a dwellinghouse, with kitchen and bathroom installed. It is intended for the appellant and his family to live in and is essentially the basis for resisting corresponding requirement 1 to demolish the building. The appellant has not suggested any alternative, such as partial demolition or another use, and ground (f) was not present when the appeal was lodged. The building is identified hatched in the notice plan and is clearly severable from the other matters, so I can consider a split decision¹. In addition, if I were to grant planning permission for the building, I could specify that it be used as a dwellinghouse².
2. I have, therefore, determined the appeal on this basis and am satisfied that to do so causes no injustice to any party.

¹ Section 177(1) of the Act.

² Section 75(2) of the Act.

3. At my request, I received comments from the main parties on the National Planning Policy Framework published in December 2024, amended February 2025 (NPPF). In addition, comments on the Chiltern Beechwoods Special Area of Conservation and the Council confirmed its latest 5 year housing land supply position. I have taken these submissions into account.
4. Also at my site visit, the main parties identified that some other requirements of the notice may have been complied with and the appellant suggested some might be dealt with by a unilateral undertaking. There is no such planning obligation before me but in any event these are not matters for me.

Grounds (b) and (c)

5. These grounds are intertwined in the appellants case, so can be taken together. For either ground to succeed, the onus and burden of proof is firmly on the appellant to demonstrate, on the balance of probabilities, that in ground (b) the erection of a building had not occurred as a matter of fact when the notice was issued, and in ground (c) that if a building had been erected, it does not constitute a breach of planning control, in this case because it has been granted planning permission by the Council.
6. In December 2018 the Council granted planning permission for change of use of a stable and hay barn, on the Land at the time, to a dwellinghouse, then in November 2019 and June 2020 extensions and recladding. Non-material window amendments were approved in October 2020 and March 2021. In September 2020, the appellant submitted a Building Regulation application to the Council for a new dwellinghouse on the Land by new build.
7. Regardless of what actually happened on the Land between December 2018 and September 2020, or when, there is unchallenged evidence that by the end of October 2020 the Land was observed to be 'clear with no structures visible'³. The appellant does not dispute that whatever building was on the land (and no matter in what use), it had by then been demolished and there was no building on the land. This also opened a new chapter in the planning history of the Land, including that the basis for a dwellinghouse by change of use, with parasitic extensions, recladding and window amendments, never did or no longer existed.
8. The appellant was not the applicant when the Council granted planning permissions for the change of use or extensions and recladding, though the same architects acting as agent submitted the applications to the Council, including for Building Regulations. It is now suggested that the extensions and recladding would either have required complete demolition and re-construction of the stable and hay barn building fabric or left only a small part of the external wall and foundations.
9. However, this retrofit claim that total or partial demolition was a tacit reality of the development then sought for planning purposes appears somewhat disingenuous. What was applied for, as set out in supporting plans or documents, was plainly advanced as change of use of the existing stable and hay barn by conversion into a dwellinghouse, then extension and alteration of the consented building. I have not been informed that the descriptions of development used by the Council to that effect were challenged as inaccurate at the time. Nor that there was any evident

³ Council building control officer signed witness statement.

explicit reliance on demolition as part of the total works necessary to carry out this development.

10. Whether the 2018 change of use could practicably have been carried out by conversion, including extension and recladding, was a matter for the applicant to demonstrate at the time. That technical details, informed by a Structural Engineer, in the Building Regulation application were not present in the applications made for planning purposes is a matter for the appellant. There was otherwise no obvious connection to demolition and it is unsurprising that the Council's planning officers considered applications for planning purposes at face value.
11. Consequently, as a matter of fact and degree, the extensions and recladding alone, or taken with the change of use and works of conversion, did not grant planning permission for a new building on the Land and a new dwellinghouse by this means, or authorise demolition of the stable and hay barn. Nor did the Council unintentionally grant planning permission for a new dwellinghouse by new build. The only dwellinghouse granted planning permission was dependent on change of use and the only application for a new dwellinghouse by new build was for Building Regulation and Building Control purposes. These are two separate regimes.
12. The appellant does not dispute that the building on the Land is the new build dwellinghouse considered by the Council for Building Control, as was inspected being built on the Land in accordance with the Building Regulation application⁴. I have not been informed that the Council has granted planning permission for the building, thus for this new build dwellinghouse.
13. There is, then, little to suggest other than that a building has been erected on the Land without planning permission granted by the Council. On the evidence before me the appellant has not, therefore, demonstrated on the balance of probabilities that the erection of a building had not occurred as a matter of fact when the notice was issued, so ground (b) fails. Nor, on this same basis, that the building does not constitute a breach of planning control, so ground (c) fails.

Ground (a)

14. Ground (a) is that planning permission ought to be granted for the erection of the building, in the context that it is intended to be used as a dwellinghouse.

Main Issues

15. The main issues are:
 - whether the building is inappropriate development in the Green Belt;
 - if it is inappropriate development, its effect on the openness and purposes of the Green Belt;
 - its effect on the Chilterns National Landscape⁵, including the countryside; and
 - whether other considerations clearly outweigh the harm to the Green Belt, and any other harm, so as to amount to very special circumstances required to justify the building.

⁴ Council building control officer signed witness statement.

⁵ Formerly known as the Chilterns Area of Outstanding Natural Beauty.

Reasons

Inappropriate development

16. The NPPF sets out that development in the Green Belt is inappropriate unless a relevant exception applies. The exceptions at paragraphs 154(c), 154(d), 154(e), 154(h)(iv) and 155 potentially apply.
17. **Paragraph 154(c)** – The deemed application for planning permission is for the erection of a building, not extension or alteration of a building, so paragraph 154(c) does not apply.
18. **Paragraph 154(d)** – I have not been informed that a building on the Land was demolished concurrently with (ie part and parcel of) works to erect the building or, indeed, when demolition occurred. If there was a significant gap, there was no building to be replaced and paragraph 154(d) does not apply. If it did replace a building, then even if it is not materially larger, it is not clear that the building would be in the same use as a building it replaced, so paragraph 154(d) does not apply.
19. **Paragraph 154(e)** – In this context, I consider a single dwellinghouse is limited development. Though near it, the Land is not in the identified settlement boundary of South Heath village. On one side it is next to a wide parcel of mainly open land; either a field or part of the garden of the last house at this end of the village. Albeit by a small gap, the building is visually and spatially discrete from these houses and further still from houses along the other side of the road in this built-up part of South Heath. Despite a nearby National Grid pylon and HS2 railway works compound, the Land is immediately bordered on the other three sides by countryside, also with no buildings next to it. Consequently, though on the periphery and immediate approach into South Heath, the building is not in this village, nor has it infilled a gap or pocket of land between or sufficiently surrounded by built form to constitute infilling, as this term is usually understood for planning purposes. Accordingly, paragraph 154(e) does not apply.
20. **Paragraph 154(h)(iv)** – I do not need to consider the Green Belt and construction parts of this exception because there is little to suggest that the building results from re-use of a building. Paragraph 154(h)(iv) does not apply for this reason alone.
21. **Paragraph 155** – It supports homes in the Green Belt where, in this case, all three of the applicable criteria a., b. and c. apply. The effect of the building on the Chilterns National Landscape⁶ provides a clear reason for refusing the building (see below). Consequently, the Land is not grey belt land and this part of criterion a., so criterion a. overall, is not met. As all three criteria are not met, I do not need to consider criteria b. or c. further because for this reason alone paragraph 155 does not apply.
22. Taking account of all the above, the building is inappropriate development in the Green Belt, contrary to the NPPF. It is also at odds with Policy GB2 of the Chiltern District Local Plan, September 1997 as altered and consolidated (LP). This policy protects the Green Belt from inappropriate development.

⁶ An NPPF footnote 7 area or asset of particular importance.

Openness and purposes of the Green Belt

23. The building is single storey with modest eaves and ridge heights, including a low pitched roof with shallow gable ends. However, the wide and long rectangular floorplan means there is notable building volume, massing and overall size, with evident intended permanence. No compensation or mitigation by net off-set in other significant existing built form on the Land is apparent. In the absence of evidence to the contrary, there is also little to counter that by sufficient interval, openness tangibly increased on the Land for a period of time before the building was erected. Although next to a boundary of the Land on one side, the building is free-standing in its immediate surrounds with innate three-dimensional physical and visual presence. As a result, the Land is intrinsically no longer open in any equivalent or comparative sense.
24. The Council considers that the Land does not strongly contribute to any of Purposes (a), (b) or (d) of the Green Belt in NPPF paragraph 143. I have no reason to find otherwise. I also accept that the building does not fundamentally undermine the purposes (taken together) of the remaining Green Belt, including the objectives of purpose (e). But, notwithstanding this, in isolation the building nevertheless does not safeguard this part of the Green Belt from this encroachment, in conflict with purpose (c) of the Green Belt.
25. These outcomes can also be observed from the road and the public footpath alongside the building. Though in a small way compared to the extent of the Green Belt, the building therefore does not preserve the openness of this part of the Green Belt, thus the Green Belt overall, which is one of its essential characteristics. Nor does it maintain all five purposes of the Green Belt.
26. Consequently, the building is contrary to the Council's objectives for the Green Belt in LP Policy GB2 and at odds with the aims of NPPF paragraphs 142 and 143(c).

Chilterns National Landscape (CNL) and the countryside

27. As a nationally designated landscape, the CNL has the highest status of protection in relation to conserving and enhancing its landscape and scenic beauty. Special qualities of the CNL⁷, as I saw near the Land, include a broadly level plateau of largely open fields bordered by hedgerow or trees interspersed by villages set amongst this countryside. Some key issues in the CNL are pressure to erect new buildings for homes with associated change of use of land and maintaining the landscape setting of rural settlements to avoid a harder, more defined edge with the countryside.
28. A condition could ensure that most of the Land to the west of the building was retained as rough grassland. Nevertheless, the siting of the building abruptly bookends the wide parcel of land on the east side of it. This unduly extends the frontage of houses and this built-up part of South Heath westward, along the north side of the road, with a more pronounced overlap beyond the last house in the village along the south side of the road. This means the building noticeably interrupts and erodes the continuity of this mainly open buffer, where existing houses peter out at the interface of countryside and village. It also narrows the gap to some more sporadic houses further along both sides of the road, not far in this direction, also beyond the confines of the village.

⁷ Chilterns AONB Management Plan 2014 – 2019, as amended June 2025.

29. The building is high quality in design and materials with a broadly timber and slate clad rural vernacular that in overall form suggests a barn or similar agricultural or equestrian building. However, the design, proportions and placement of windows and doors give a tangible domestic impression. The narrow, deep floorplan and orientation with front entrance facing sideways, away from the road, is distinctly different to the prevailing layout and two-storey form of the closest houses in this part of the village, including brick and render elevations, more steeply pitched tiled roofs and in overall scale.
30. The discordant presence and juxtaposition of the building in these terms (and as a dwellinghouse) is obvious in immediate public view from the road, across the vehicular entrance into the Land, and from further east along the road which also reveals the long, extensive roof plane. It is also evident from the public footpath, including in more distant view as it crosses the field beyond. The appellant has not suggested any relevant exception under the Council's development plan or the NPPF for a dwellinghouse by new build in the CNL and this part of the countryside.
31. Consequently, the building does not conserve or enhance the landscape or scenic beauty of this part of the CNL, or the CNL overall, and has a negative influence on the character and appearance of the countryside. It is therefore contrary to LP Policies GC1 and LSQ1 and Policy CS22 of the Chiltern District Core Strategy, November 2011. Amongst other things, these require development to be assessed on its appearance and relationship to its surroundings, including not be at variance in scale with buildings, conform in height and use matching or similar materials so as to have a degree of harmony with the local vernacular style of architecture. In addition, to have regard to siting and visual impact and to conserve and enhance the special landscape character, high scenic quality and distinctiveness of the CNL.

Other considerations

32. **Principle of the development** – The appellant contends that the building used as a dwellinghouse is the same or similar composite equivalent of what could have resulted from the change of use and works of conversion, extensions, recladding and amended windows.
33. However, there is little objective evidence (such as a lawful development certificate, statutory declaration or photographs) that this is actually what happened, ie that the development authorised for planning purposes was carried out, including lawfully implemented⁸. Nor that a dwellinghouse came into being on the Land by this means. But even if it did, the planning permission for change of use and works for conversion (with or without extension, recladding or amended windows) was extinguished when the site was cleared. There is thus no fallback position for a dwellinghouse by this means.
34. I appreciate that in size, design, layout and intended use, the building echoes a building that could have been established on the Land as a dwellinghouse by the permissions and approvals issued by the Council for planning purposes. But no development plan or NPPF policy basis has been advanced for the building or intended use as a dwellinghouse by new build in the Green Belt, the CNL or the countryside. Moreover, the in principle benefit of an extant planning permission for a dwellinghouse on the Land has been lost. It has not been suggested that relevant

⁸ There is unchallenged evidence an ecological enhancement pre-commencement of development condition in the 2018 change of use permission has not been discharged.

policies of the Council's development plan in these regards have changed since 2018 or that the NPPF is materially different now (or to the development plan) in these respects.

35. **Personal circumstances** – There is uncontested evidence that the appellant's daughter has autism across a broad spectrum and his disabled son has daily living and mobility health related needs. The Building Regulation dwellinghouse incorporated features for an accessible and adaptable home but, albeit I have not been informed about the full extent of the appellant's family, two bedrooms. Nonetheless, on the face of it, including the plans before me, it is not clear why the dwellinghouse granted planning permission by change of use and extension could not have achieved the same or similar living accommodation.
36. The Council has not certified the building as a dwellinghouse for Building Control purposes given its planning enforcement investigation. It has not been clarified where the appellant and his family have lived meantime, so this could be longer than was anticipated in an existing family home or now for a more settled period elsewhere. Even if it has been in temporary accommodation there is little to suggest that such living arrangements have unduly affected health, well-being or quality of life.
37. That all said, I accept that the enforcement notice and appeal process has likely caused some prolonged uncertainty, distress and hardship in these regards. Furthermore, if the building were to be demolished, this would likely be at some appreciable financial cost and potentially leave future family living arrangements further in limbo.
38. Refusal of planning permission for the building would, therefore, likely imminently significantly affect the personal circumstances of the appellant and his family. This would directly interfere with their rights for respect for private and family life, including their home⁹ and their peaceful enjoyment of this possession¹⁰. I have also had due regard to the age and disability protected characteristics in this case (including substantial or long-term impairment with regard to normal day-to-day activities) for the purposes of the Public Sector Equality Duty, including the need to eliminate discrimination and advance equal opportunity¹¹.
39. **Housing supply** – The Council agrees it does not currently have a five-year supply of deliverable housing land within this constituent part of its area, at just 0.75 years supply, including over 4,500 dwellings outstanding in this period¹². This is a substantial, acute shortfall.
40. **Location** – Though the dwellinghouse would not be in South Heath, the Council considers that it is on the edge of this settlement with connectivity into the village by pavement, thus that it would be in a sustainable location in these terms. I have no reason to find otherwise.
41. **Ecology and bio-diversity** – I accept that the appellant's proposed scheme for bat boxes, restricted external lighting and new hedge and tree planting on the Land would likely bring some ecology enhancement and bio-diversity net gain. This could

⁹ Human Rights Act 1998, United Nations Convention on the Rights of the Child and United Nations Convention on the Rights of Persons with Disabilities.

¹⁰ European Convention on Human Rights.

¹¹ Equality Act 2010.

¹² East Planning Area Five-Year Housing land Supply Position Statement, January 2025 (updated May 2025).

be secured by a condition. It would not affect the openness of the Green Belt and have a small positive effect on the CNL and the countryside.

42. **Climate change** – A new build development is likely to have resulted in some construction and related sustainability benefits compared to conversion works, but there is no comparative assessment before me.
43. **Previous appeal** – An enforcement notice appeal allowed a new build dwellinghouse in the Green Belt elsewhere in the Council's area, with some similar considerations as in the current appeal¹³. However, the Inspector's findings and weight given was on the evidence and circumstances of that case. Limited harm to the Chilterns Area of Outstanding Natural Beauty (now a National Landscape) and offset to openness of the Green Belt by demolition of other buildings were important determinative factors in the balance towards granting planning permission in that case. They do not apply here.
44. **Conditions** – In addition to possible conditions already outlined, I have considered those suggested by the main parties, as well as others that might be relevant. I am satisfied that none would overcome the fundamental incompatibility of the building and its use as a dwellinghouse in the circumstances of this case.

Green Belt Balance

45. The building is inappropriate development in the Green Belt, by definition (as set out in the NPPF) harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
46. As required by the NPPF, I give substantial weight to what I consider to be significant harm to the Green Belt, including its openness and purpose, caused by the inappropriate development¹⁴. The building also causes significant harm to the CNL, including that an otherwise unjustified new dwellinghouse by new build undermines the Council's objectives for development in this part of the countryside. These are matters of acknowledged planning importance in the wider public interest and add further significant weight against granting planning permission for the building.
47. Set against this, the building is in the same sustainable location and not dissimilar to a building that was granted planning permission for use as a dwellinghouse and may even have been established on the Land. However, this consideration has little weight because planning permission for a dwellinghouse by change of use and works of conversion, extension and recladding (otherwise justified in accordance with the Council's development plan and the NPPF) is no longer extant and any dwellinghouse previously on the Land no longer exists.
48. I have no reason to doubt the gravity of the appellant's personal circumstances. Nonetheless there is little evidence that he would not be able to comply with requirement 1 of the notice. Nor that the best interests of any child would be significantly adversely impacted or that anyone would lose their current home, be made homeless or could not live elsewhere, including as a reasonable adjustment. In these circumstances, these considerations carry moderate weight. Qualified

¹³ APP/X0415/C/22/3293635.

¹⁴ Footnote 55, which otherwise affects this weight, is not engaged in this case.

rights such as these personal circumstances can be infringed by a decision under planning legislative provisions where it is justified.

49. The building in use as a dwellinghouse would be a net gain towards housing land supply in a sustainable location. Notwithstanding that the Council is currently not delivering the required amount of housing in this part of its area, the benefit of a single dwellinghouse would be small, as would be the ecology, bio-diversity and climate change benefits. Accordingly, these considerations each have limited weight.
50. Consequently, while I am sympathetic to the predicament of the appellant and the implications for him and his family, the other considerations do not, therefore, individually or collectively clearly outweigh the totality of harm. Accordingly, the very special circumstances necessary to justify the building do not exist.

Other matters

51. The building, thus intended dwellinghouse, is within a zone of influence of the Chilterns Beechwoods Special area of Conservation (SAC), designated a European Protected Site for beech woodland, grassland/scrubland habitat and Stag Beetle species. As the Competent Authority in this appeal, it would ordinarily be necessary for me to undertake Appropriate Assessment¹⁵. But, as I intend to dismiss the appeal for other reasons, even if the net increase in people from the building used as a dwellinghouse who could visit the SAC, including for recreation, did not adversely affect the integrity of the SAC, so not provide a clear reason for refusal, there is no need for me to consider this matter any further. This is because to do so would not affect my decision or therefore alter the outcome of the appeal.

Planning Balance and Conclusion

52. Given the Council's housing land supply position, by virtue of NPPF footnote 8 the Council's housing policies are deemed to be out-of-date and NPPF paragraph 11(d)(ii) is engaged in this appeal. The starting point is that planning permission should be granted.
53. The appellant has been professionally advised at application and appeal stages. He believed that he had planning permission to construct the building as new build (or the equivalent thereof) and use it as a dwellinghouse. I am not persuaded that he carried out intentional unauthorised development in the Green Belt. I also acknowledge that planning enforcement is intended to be remedial, not punitive and that having done what he did, albeit at his own risk, the appellant is entitled to seek planning permission for the building and its use as a dwellinghouse retrospectively, including on its individual planning merits.
54. However, the building conflicts with national planning policy to protect the openness and a purpose of the Green Belt and is at odds with commensurate objectives of the Council's development plan. It is also contrary to local and national planning policy relating to National Landscapes. Consequently, by virtue of NPPF footnote 7, the application of policies in the NPPF that protect these areas or assets of particular importance provide a strong reason for refusing the building. As a result, the presumption in favour of sustainable development (the tilted balance) does not apply in this appeal.

¹⁵ The Conservation of Habitats and Species Regulations 2017, as amended.

55. There are no other considerations to indicate that ground (a) should be determined otherwise than in accordance with the development plan taken as a whole and I am satisfied that this would be a proportionate outcome in this case. Consequently, for the reasons given above the building is not acceptable and ground (a) fails.

Formal Decision

56. The appeal is dismissed and the enforcement notice is upheld. Planning permission is also refused on the application deemed to have been made under section 177(5) of the Act.

Robin Buchanan

INSPECTOR