



Appeal Decision

Site visit made on 20 January 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 16 February 2026

Appeal Ref: APP/R0660/C/24/3341226

Land on the West Side of Mudhurst Lane, Disley, Stockport, Cheshire, SK12 2BY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Waqas Ahmad Mir against an enforcement notice issued by Cheshire East Council.
 - The notice was issued on 9 February 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised raising of the land through the importation and deposit of soil, clay, hardcore and material and the unauthorised construction of a track.
 - The requirements of the notice are to:
 - a) Remove all of the deposited soil, clay, hardcore and material shown in its approximate position shaded in green on the attached plan marked "Plan B"
 - b) Remove the track shown its approximate position shaded orange in the attached plan marked "Plan B"
 - c) Remove all resultant material from "the Land" through the correct disposal methods. Copies of the completed Environmental Agency Duty of Care Waste Transfer Notes are to be sent to the Council.
 - The period for compliance with the requirements is 6 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). 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. The appeal is allowed insofar as it relates to land shaded orange on the plan marked "Plan 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 construction of a track at Land on the West Side of Mudhurst Lane, Disley, Stockport, Cheshire, SK12 2BY and subject to the following conditions:
 - 1) a. The engineering operations hereby permitted shall be removed and all materials brought onto the land for the purposes of the operations shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme of ecological enhancements shall have been submitted for the written approval of the local planning authority. The ecological enhancement scheme shall set objectives for the enhancement of those habitats for which the Glebe Field, Disley Local Wildlife Site (LWS) was selected. The scheme is to consist of a 30-year habitat management plan detailing management prescriptions to achieve the objectives detailed in the scheme.

The scheme to include a timetable for the implementation and delivery of the habitat enhancement measures and include the roles and responsibilities of the people or organisation(s) delivering the habitat enhancement measures. If the persons or organisations delivering the plans changes the LPA is to be notified of the change within 14 days of the change taking place.

The submitted scheme to include a methodology of ecological monitoring and reporting of the progress made towards achieving the scheme objectives with a monitoring report submitted to the Local Planning Authority in years 1, 2, 3, 5, 7, 10, 20 and 30 and include a mechanism to secure the agreement and implementation of contingency measures in the event that monitoring reveals that habitats on site are failing to achieve their target objectives.

- 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 carried out and completed in accordance with the approved timetable.
- b. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained in accordance with the approved management plan,
 - c. 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.
2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to land shaded green on the plan marked "Plan B" and planning permission is refused in respect of the unauthorised raising of the land through the importation and deposit of soil, clay, hardcore and material at Land on the West Side of Mudhurst Lane, Disley, Stockport, Cheshire, SK12 2BY on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Preliminary Matters

3. The National Planning Policy Framework, December 2024 (NPPF) has been issued since the appeal was made and initial statements of case submitted. The main parties have had an opportunity to comment on that document and so have not been prejudiced.

Appeal on ground (a), deemed planning application.

4. The appeal has been made on ground (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The appellant's statement of case advises that he is seeking planning permission through the deemed application, only for part of the matters alleged in the breach, the construction of a track. He is

not appealing the notice in so far as it alleges, without planning permission the unauthorised raising of the land through the importation and deposit of soil, clay, hardcore and material. I have thus dealt with the appeal on that basis.

Main Issues

5. The main issues in this case are:

- whether the access track amounts to inappropriate development within the Green Belt;
- the effect of the access track on the openness and purposes of the Green Belt;
- the effect of the access track on the landscape and the character and appearance of the area;
- the effect of the access track on Glebe Field Disley Local Wildlife Site (LWS); and
- if the development does amount to inappropriate development within the Green Belt, whether the harm by way of inappropriateness, and any other harm, is clearly outweighed by other material considerations such that very special circumstances exist to justify a grant of planning permission.

Reasons

Whether the development amounts to inappropriate development within the Green Belt

6. The appeal site lies within the Green Belt. Paragraph 2 of Policy PG3 of the adopted Cheshire East Local Plan Strategy, 2010-2030 (LPS) states, amongst other things, that within the Green Belt, planning permission will not be granted for inappropriate development, except in very special circumstances, in accordance with national policy. In this respect Policy PG3 of the LPS is consistent with the NPPF. However, the NPPF introduced the concept of Grey Belt Land and broadened the scope of the types of development that should not be regarded as inappropriate development in the Green Belt beyond those identified in Policy PG3. I have thus considered the development the subject of this appeal having regard to the provisions of the NPPF.
7. Paragraph 154 of the NPPF advises that development in the Green Belt is inappropriate unless one of a number of listed exceptions applies. Exceptions include engineering operations provided they preserve the Green Belt's openness and do not conflict with the purposes of including land within it. There is no dispute between the main parties that engineering operations were undertaken in the construction of the unauthorised track. Thus, my conclusions on the next issue, its effect on Green Belt openness and purposes, will determine whether the development is inappropriate.

Green Belt Openness and Purposes.

8. Safeguarding the countryside from encroachment and keeping land permanently open is a fundamental aim of Green Belt policy, and the essential characteristics of Green Belts are their openness and permanence.

9. The appeal site lies in an area of countryside which is characterised by open moorland, sporadic farmsteads, country lanes, including Green Lanes, farm tracks and bridleways. The access track is only two dimensional, and although on occasion it may have a vehicle parked on it, or travelling along it, its construction and form does not have a harmful effect on the openness of the Green Belt. Furthermore, the track is located in a relatively isolated area of countryside, away from and visually separate from the nearest settlement of Disley. The track is not extensive in scale or form and is well related to the existing field boundaries. It's open appearance and form does not encroach into the countryside or conflict with the purposes of including land within the Green Belt.
10. I conclude that the construction of the track is not inappropriate development in the Green Belt. There is no conflict with Policy PG3 of the LPS nor National Green Belt Policy as set out in the NPPF.

Character and appearance

11. A four metre wide track has been constructed from an existing field gate/access off Mudhurst Lane. The track extends in a north westerly direction for approximately 100 metres. It passes through a small field, a further gateway and into the adjoining field onto land owned by the appellant.
12. The appellant advises that a track had previously existed in this location but had not been maintained. When he purchased the Land, it was overgrown and marshy. It was therefore necessary for him to construct a track with a more solid base to enable agricultural vehicles to access his Land. Google images produced in evidence by the local planning authority¹ and submitted by a local resident do not support the claim that there was previously a track in this location, albeit the October 2010 image is less conclusive. However, the street view image provided by the Council, dated June 2023, confirms the existence of a vehicular access point/gate from Mudhurst Lane and there is evidence of tyre tracks which suggests vehicles have used the gate to access the Land.
13. The track has been constructed with hardcore and finished in stone. It has not involved substantial earthworks, and I noted on my site visit that since its original construction (seen from officer photographs²), its appearance has softened with further compaction and revegetation. Furthermore, the alignment of the track adjacent to the field boundary and stone wall significantly reduces its visual impact and no hedgerows, trees, or other landscape features, have been removed during its construction.
14. I recognise that the appeal site lies in a sensitive location on the fringe of the Peak District National Park. However, from the evidence before me, including observations on my site visit, the single track, formed from crushed stone and following a field boundary, does not appear incongruous in this moorland landscape which is characterised by farmsteads and other similar tracks.
15. I conclude that the construction of the track does not have a harmful effect on the landscape character and appearance of the area. There is no conflict with Policies SD2 and SE4 of the LPS which seek to ensure that new development respects, and where possible, enhances the landscape character of the area. I also find no

¹ Appendix 7, LPA Statement of Case

² Appendix 3, LPA Statement of Case

conflict with LPS Policy SE15 which seeks to ensure that new development does not affect the setting of the Peak District National Park.

Glebe Field Disley Local Wildlife Site

16. The track has been constructed on land designated as a LWS. Glebe Field Disley LWS was designated due to the presence of a number of qualifying habitats: Woodland (lowland mixed deciduous), Grassland (Marshy) and its function as a wildlife corridor (high value hedges). The eastern half of the LWS where the development has taken place is described as being on peaty soils.
17. LPS Policy SE3 (4) seeks to protect LWS and advises that development proposals which are likely to have a significant adverse impact on a site will not be permitted except where the reasons for or benefits of the proposed development outweigh the impact of the development. Furthermore, Policy ENV1 of the Council's Site Allocations Development Plan Document, adopted 2022 (SADPD), advises that within ecological networks, which in the case of the appeal site is identified to consist of core areas, corridors and stepping stones, development proposals should, amongst other criteria, increase the size, quality or quantity of the priority habitat. SADPD Policy ENV2 advises that development proposals should provide a net gain for biodiversity and be supported by a biodiversity metric and ecological assessment.
18. The appellant suggests that any harm or loss of habitat is not significant, with the track comprising less than 1% of the total area covered by the LWS. Furthermore, the LWS citation describes the area as comprising a stream with steep wooded banks running through the site, with rough pasture and acidic marshy grassland to the north and south of the stream. The appellant contends that there is no mention of vegetation along the LWS boundaries where the track has been constructed. He contends that the benefits to his rural business, through provision of access to his agricultural land outweighs any loss of habitat to the LWS. Furthermore, he believes that should the appeal be allowed, the mitigation of any ecological/biodiversity affects could be dealt with by a suitably worded condition.
19. In the absence of any ecological assessment prior to the track being constructed, nor any increase in size, quality or quantity of the priority habitat, there is a clear conflict with SADPD Policies ENV1 and ENV2. The construction of the track will undoubtedly have resulted in some direct loss of habitat and there is thus also conflict with LPS Policy SE3 (4). However, in the absence of any prior ecological assessment of the Land, the level of harm to that habitat is not known.
20. However, I am mindful that since the works to construct the track were completed and the Enforcement Notice issued, which is now almost two years ago, the Land has begun to re-vegetate. Removal of the track as required by the Notice will thus undoubtedly result in a further loss of vegetation and harm to interests of biodiversity. Thus, whilst the development undertaken was clearly in conflict with environmental policies in the development plan identified in this main issue, the imposition of a condition to submit, implement and maintain a scheme of ecological enhancement measures would provide some mitigation for that harm, and those enhancements would not be achieved by strict compliance with the Notice.

Planning Balance

21. Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
22. I have found that the construction of the track is not inappropriate development in the Green Belt and the development does not have a harmful effect on the landscape, character or appearance of the area. However, I have found that the works undertaken in the construction of the track will undoubtedly have had an impact on the LWS, albeit in the absence of any predevelopment ecological assessment, the scale of that impact and/or level of harm is not known. Nevertheless, there is conflict with the development plan, including LPS Policy SE3(4) and SADPD Policies ENV1 and ENV2 as set out in the paragraphs above.
23. However, as set out above, I am mindful that removal of the track to comply with requirements set out in the Notice will further impact on the LWS. In the absence of any identified harm to the Green Belt and character and appearance of the countryside, it seems to me that the opportunity to impose a condition to require ecological enhancements, is a material consideration to be balanced against the harm identified to the LWS and any additional harm to the LWS resultant from compliance with the Notice. The Land the subject of the enforcement notice extends well beyond the access track and provides opportunities for ecological enhancements to be secured and provide some mitigation measures which would outweigh the harm I have identified to the LWS from the development carried out.

Conditions

24. The Council and the appellant have had an opportunity to comment on the condition I have imposed which I have also considered in the light of advice in the NPPF and Planning Practice Guidance.
25. The condition is necessary to secure ecological enhancements/maintenance and provide some mitigation for any harm to the LWS. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the LPA or the Secretary of State on appeal), and then implemented in accordance with the approved timetable. Should the requirements of the conditions not be met in line with the strict timetable, the planning permission falls away.

Conclusions

26. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal on ground (a) succeeds in so far as the appeal was made solely in relation to the construction of a track and a split decision will be issued.
27. The notice will not be amended regarding the requirement to remove the track. However, in granting planning permission (in split decision) for the track, Section 180 (1) of the Act provides that: 'Where, after the service of a copy of

an enforcement notice, planning permission is granted for any development carried out before the grant of planning permission, the notice shall cease to have effect so far as is inconsistent with that permission'. Thus, the notice will cease to have effect with regard to the removal of the track (Requirement b) in paragraph 5 of the notice).

Elizabeth Pleasant

INSPECTOR