



Appeal Decision

Site visit made on 13 January 2026

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 February 2026

Appeal Ref: APP/Q4625/X/24/3358141

Chadwick Court, Chadwick Lane, Chadwick End, Solihull B93 0AS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Azher Sharif against the decision of Solihull Metropolitan Borough Council.
- The application ref PL/2024/01805/CLOPUD, dated 11 September 2024, was refused by notice dated 2 October 2024.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
- The development for which a certificate of lawful use or development is sought is proposed erection of PPC aluminium greenhouse with red brick dwarf wall and associated hardstanding pathway.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Azher Sharif against Solihull Metropolitan Borough Council. This application is the subject of a separate decision.

Reasons

3. The **main issue** is whether the Council's refusal to issue an LDC is well founded. This turns on whether the appellant can show, on the balance of probability, that the proposed operational development would benefit from express planning permission.
4. Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) grants planning permission for the classes of development in Schedule 2 of that order, described as permitted development. Class E, Part 1 of Schedule 2 permits buildings "*incidental to the enjoyment of a dwellinghouse*" providing they are "*within the curtilage of the dwellinghouse*", and subject to conditions and limitations.
5. There is no dispute that the proposed development would fall within the relevant conditions and limitations of Class E, and I see no reason to disagree.

Curtilage

6. Despite being specifically referenced in the GPDO, there is no legal definition of 'curtilage'. The extent of the curtilage of a building is therefore a question of fact and degree, and it is therefore a matter for the decision maker. There are several legal authorities on the matter of curtilage, some of which I have been directed to.

For clarity, I set out the relevant cases and their respective elements for determining curtilage below.

7. *Sinclair-Lockhart's Trustees*¹, established that land may be regarded as being within the curtilage of a building if "...it serves the purpose of the house or building in some necessary or reasonably useful way". *Methuan-Campbell*² established that, to be curtilage, land must be "...so intimately associated with [the building] as to lead to the conclusion that the former in truth forms part and parcel of the latter", which is the relevant test.
8. While concerning a listed building, but equally applicable to any building, *Calderdale*³ set out three important factors that must be considered, but are not necessarily determinative:
 - (i) *The physical layout of the building and land;*
 - (ii) *Their ownership, past and present; and*
 - (iii) *Their function, past and present.*
9. Other factors include, the relative size of the building and its curtilage, whether the building or land would be ancillary to the main building (*Skerritts*⁴), and the degree to which the building and claimed curtilage fall within one enclosure (*Sumpton*⁵). These factors are relevant considerations but are not determinative.
10. *Blackbushe Airport Ltd*⁶ reinforced that the approach to be taken was to ask not whether the land and building comprise part and parcel of the same planning unit, but whether the land is part and parcel of the building as a matter of fact and degree. Andrews LJ found that "*on a proper reading of [Methuen-Campbell], the conclusion that the land and building together constitute an integral whole is the consequence of applying the intimate association...test*".
11. Chadwick Court is accessed off Chadwick Lane and comprises a dwellinghouse, several outbuildings including but not limited to garages, annexes, stables and barn, woodland, formal landscaped gardens, tennis court, football pitch, and informal gardens. The extensive planning history that has been recounted, and in the absence of any argument to the contrary, defines the planning unit as that being edged red on drawing number 0562 01-00 PL1.
12. The planning unit is a term applied to the use of land. The planning unit and curtilage do not therefore, necessarily, apply to the same area of land associated with a building. It is also generally accepted that, like a planning unit, the extent of a building's curtilage can change over time.
13. The historic aerial imagery set out in section 4 of the appellant's Appeal Statement shows how land within the planning unit has been used since 1999. The images show that prior to the appellant's purchase in 2006, land to the west of the driveway and south of the dwelling was divided by fencing and livestock appears to be grazing in some areas. It would not be unreasonable to conclude that the paddocks

¹ *Sinclair-Lockhart's Trustees v Central Land Board* [1950] 1 P&CR 195

² *Methuan-Campbell v Walters* [1979] 1 QB 525

³ *Attorney General, ex r Sutcliffe v Calderdale Borough Council* (1983) 46 P&CR 399

⁴ *Skerritts of Nottingham Ltd v SSETR* [2001] QB 59

⁵ *Sumpton v London Borough of Greenwich* [2007] EWHC 2776 (Admin)

⁶ *Hampshire CC & the Open Spaces Society & Others v SSEFRA & Blackbushe Airport Ltd* [2020] EWHC 959 (Admin), [2021] EWCA 398, [2020] JPL 1359

were being used for purposes related to the stables and/or barn. At this point in time the land where the greenhouse is proposed to be erected would not have been curtilage to the dwellinghouse.

14. The image taken in 2007, and subsequent images, show the land that was paddocks to be in much more active use, with well-worn pathways and landscape features having been established. While the pathways may not be so apparent in the later images, from 2012 onwards a tennis court and football pitch, as well as the formalisation of garden around the pond and the retention of informal grassed areas are evident.
15. There is no evidence of the paddock use of land within the planning unit continuing beyond 2007. This land may not be used as manicured lawn or flower beds, however I am satisfied that the evidence provided shows it in use for recreational or leisure purposes pursuant to the occupation of the dwellinghouse, which is a reasonably useful purpose. The land is accessed by established pathways, and it represents a continuation of the lawn adjacent to the terrace. It is therefore well related to the dwellinghouse.
16. While size is not a determining factor, the building is a large detached dwellinghouse located in a rural setting. It is not uncommon for such properties to have substantial gardens and even parkland and/or woodlands associated with them. Parkland and woodland areas would clearly not be curtilage to a building in residential use.
17. Land to the western side of the driveway and behind the garages has densely planted woodland trees. I saw no pathways through this area, and it did not have the appearance of being put to any necessary or reasonably useful purpose. The land east of the driveway, located between the stables and the dwellinghouse, however has an overtly domestic appearance, including ornamental trees and shrubbery, block paved and grassed pathways and areas of lawn. The land where the green house is proposed therefore, in my view, constitutes an integral whole with the dwellinghouse.
18. Taking all these factors together, I find the land where the greenhouse is proposed to be erected is intimately associated with the dwelling, such that it in truth forms part and parcel of the dwelling. For these reasons, the land where the development is proposed was curtilage to the dwellinghouse at the time the application was made.

Whether the development is required

19. The Courts have held that the word '*required*' in Class E should be interpreted to mean '*reasonably required*'. The words '*as such*' are also important. Thus, in this type of case, the appellant should show that what is proposed is reasonably required for a purpose incidental to the use of the dwelling as a dwellinghouse. The onus of proof is squarely upon the appellant, and the relevant test is the balance of probabilities.
20. It is appropriate to examine the reasons for the development being required under Class E. The GPDO would be open to abuse otherwise, by proposals involving buildings being constructed for one stated purpose and then being used for a different purpose.

21. When evaluating whether a building to be erected under the provision of Class E is reasonably required for the enjoyment of the dwellinghouse, matters such as personal preference are not conclusive factors. The matter does not rest solely on the unrestrained whim of the householder.
22. An unusually large building will not necessarily be reasonably required just because a householder says it is. It is for the appellant to show that a building of a proposed size is reasonably required, and that it would be designed with incidental uses in mind, having regard to all circumstances. While the proposed physical size of the greenhouse is not therefore determinative, it is a relevant consideration.
23. The dwelling is more than modest in size, and I saw there are several associated outbuildings, including a semi-derelict greenhouse, stables, and barn. The proposed greenhouse would be substantial in size, having dimensions of approximately 26m by approximately 9m with an overall height of 4m⁷. The floor plan shows the provision of circulation pathways throughout its interior and cold frames outside on either side of its entrance.
24. Information addressing the purpose the greenhouse will be put to is found in the final paragraph of the appellant's appeal statement. This states "*...the appellant, as he nears his retirement years, has the means and time to indulge in his gardening hobbies and the scale of the proposal is consistent with his curtilage and means for personal use. For the avoidance of any doubt, the greenhouse is for normal domestic use by the appellant and his family members...*".
25. A greenhouse could be reasonably required for purposes incidental to the enjoyment of the dwellinghouse as such. However, it is not the size of the dwellinghouse or its curtilage that justifies the size of any proposed Class E building. It is whether it and/or its size are reasonably required for purposes incidental to the enjoyment of the dwellinghouse.
26. No information is provided as to what the appellant intends to grow or why a greenhouse of the proposed size is necessary. Furthermore, while the existing greenhouse may be in a semi-derelict state, no explanation is provided as to why it could not be refurbished to meet the appellant's future horticultural needs.
27. In the absence of evidence as to the actual purpose a greenhouse of the size and scale proposed would serve, I am unable to conclude that the development is reasonably required for purposes incidental to the enjoyment of the dwellinghouse as such. The appellant has therefore failed to demonstrate, on the balance of probability, that the development would benefit from the deemed planning permission granted under Article 3 and Class E, Part 1 of Schedule 2 of the GPDO.

Other Matter

28. The description of the proposed development includes "*associated hardstanding pathway*". While this has been shown on the submitted drawings, no other information has been presented to demonstrate why it would be lawful. Furthermore, the Council's case does not address whether it would be lawful either. In these circumstances, there is insufficient information upon which I could conclude the pathway would be lawful.

⁷ Drawing number 0562 11-00 PL1 dated 21/08/24 provided dimensions of 26090 mm by 8965 mm

Conclusion

29. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the proposed erection of PPC aluminium greenhouse with red brick dwarf wall and associated hardstanding pathway is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

M Madge

INSPECTOR