



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/24/3358142

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/2024/01806/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 installation of new hardstanding helipad with associated 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 F, Part 1 of Schedule 2 permits development consisting of "*(a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such*", subject to conditions and limitations. These include at F.2 (b) that if the hard surface would exceed 5 square metres, it has to be made of porous materials, or provision has to be made to direct run-off water from the hard surface to permeable or porous area or surface within the curtilage of the dwellinghouse.
5. There is no dispute between the main appeal parties that the proposed development would fall within the relevant conditions and limitations of Class F. However, the plans provided show the hard surface is to be more than 5 square metres and would be made of concrete but they do not show any provision to direct run-off. I am therefore unable to confirm whether the proposed development would meet the conditional requirement of F.2 (b).

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 0564 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.

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

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 were being used for purposes related to the stables and/or barn. At this point in time the land where the hardstanding helipad 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 be unlikely to be curtilage to a building in residential use.
17. Land to the western side of the driveway and behind the garages is densely planted with 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 hardstanding helipad 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 hardstanding helipad is proposed to be installed 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.

Incidental Purpose

19. Class F provides for hard surfaces incidental to the enjoyment of a dwellinghouse [my emphasis]. A purpose incidental to the enjoyment of the dwellinghouse as such is a broad concept. Although the development must be "required" for an incidental purpose, it is a matter primarily for the occupier to determine what incidental purpose they propose to enjoy. However, as with Class E buildings, personal preference is not a conclusive factor, as it does not rest solely on the unrestrained whim of the householder.

20. The provision of hard surfaces under Class F is not limited to road vehicle hard surfaces and a hardstanding helipad could therefore be reasonably required. The appellant has however provided no reason(s) why the one proposed is reasonably required. I am therefore unable to determine whether the development is reasonably required for purposes incidental to the enjoyment of the dwellinghouse as such.
21. For these reasons, the appellant has failed to demonstrate, on the balance of probability, that the development would benefit from the deemed planning permission granted under Article 3 and Class F, Part 1 of Schedule 2 of the GPDO.

Other Matter

22. The description of the proposed development includes “*associated 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.

Conclusion

23. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development for the installation of a hardstanding helipad and associated 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