
Appeal Decision

Site visit made on 3 February 2026

by **F Rafiq BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th March 2026

Appeal Ref: APP/D2320/C/24/3346222

Land to the rear of Sandons Farm Sandy Lane, Adlington, Chorley PR7 4JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Alan Makin against an enforcement notice issued by Chorley Borough Council.
- The notice was issued on 13 May 2024.
- The breach of planning control as alleged in the notice is:
 - (i) Without planning permission, the unauthorised material change of use of Land to Land as a domestic residential garden land.
 - (ii) Without planning permission, the unauthorised operational development consisting of the erection of a detached outbuilding on the land in the approximate position shown shaded blue on the attached plan.
- The requirements of the notice are to:
 - i) Cease the use of the Land as domestic residential garden Land.
 - ii) Permanently remove from the Land the detached outbuilding, including any foundations and/or base and all resultant materials.
 - iii) Permanently remove the hydrotherapy pool from the Land.
 - iv) Demarcate the Land from the rear of the domestic garden of Sandons Farm with a fence of no less than one metre high and restore the Land back to the condition it was in before the material change of use took place.
- The period for compliance with the requirements is: Within 3 (three) months from the date the notice takes effect.
- 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.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld with a correction and variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. Section 3(i) of the Notice describes part of the alleged breach of planning control as "... material change of use of Land to Land as a domestic residential garden land". The words, 'Land as a' are unnecessary, and the description would be clearer, and would accord with requirement 5(i) of the Notice, if these words were removed. No injustice would arise to either party if I were to correct the Notice by deleting these words, and I will do so in my Formal Decision.
2. The Appellant has referenced the rear garden being established over many years. However, an application for a certificate of lawfulness¹ for the existing use of land as a garden was refused by the Council and an appeal against the enforcement notice has not been made on ground (d). Consequently, this appeal has proceeded on ground (a) only.

¹ LPA Ref: 24/00059/CLEUD

The Appeal on Ground (a) and the Deemed Planning Application

Main issues

3. The main issues are:

- whether the proposal is inappropriate development in the Green Belt; and,
- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

4. The appeal site is situated in the Green Belt. The National Planning Policy Framework (Framework) states that development within the Green Belt is inappropriate with a number of exceptions.
5. Reference is made to the exception at paragraph 154 b) relating to the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments. The appeal development however relates to the change of use of land to a domestic residential garden and an outbuilding that is used mainly by a resident of the appeal property. As a result, the development is not for appropriate facilities for outdoor sport, or outdoor recreation.
6. The Framework at paragraph 154 b), states that this exception is subject to there not being any conflict with the purposes of including land within it. The extended domestic residential garden land and outbuilding, although on an area of land between the dwelling at Sandons Farm and a quarry, has resulted in the spreading of development into an open area of land forming part of the countryside, and the development has therefore contravened one of the purposes of the Green Belt, namely to assist in safeguarding the countryside from encroachment.
7. The exception at paragraph 154 g) has also been referenced, but no details have been provided on whether the site comprises of previously developed land, and I therefore do not consider it benefits from the provisions of this referenced paragraph.
8. In any event, both exceptions referred to by the Appellant reference openness, in terms of preserving openness or not causing substantial harm to the openness of the Green Belt. Although not defined in the Framework, openness encompasses both visual and spatial elements with references from the Appellant pointing to an assessment between how built up the Green Belt is before and after a development.
9. Although the appeal site forms a small part of the overall Green Belt, the extended area of land for garden use into an open field, and the introduction of a building where there was none has harmed the spatial aspect of openness.
10. Views from public vantage points are limited, but the development is clearly seen from neighbouring properties and the quarry. The introduction of domestic, urban characteristics into the landscape arising from the paved areas in the extended

garden and domestic paraphernalia, such as play equipment, has reduced the openness of the Green Belt in visual terms. The detached outbuilding, although seen in the context of larger nearby buildings, has increased the volume of built development which has a greater visual impact on the openness of the Green Belt.

11. I therefore conclude that the development is inappropriate development in the Green Belt. It is contrary to Paragraph 153 of the Framework, which states that this is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other considerations

12. In support of the appeal development, the needs of a disabled family member have been set out who given his complex conditions is entirely dependent on care. The provision of an external private amenity space, and the use of the outbuilding and hydrotherapy pool is beneficial to the health of the individual, as set out in the supporting documentation provided with the appeal.
13. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. From the evidence, my decision has the potential to affect a person with the age and disability protected characteristics.
14. This is evidently an important consideration, but it has not been demonstrated that the appeal scheme is the only means to address his health needs. I appreciate the location of the outbuilding was chosen for privacy reasons, but I have not been provided with any evidence that other options have been considered in any detail, such as that referenced by the Council, in that the approved curtilage to the dwelling would have room to provide a reasonable garden space, an outbuilding and a hydrotherapy pool. Consequently, I attach moderate weight to this matter.
15. Planning conditions restricting the use of the building would not overcome the harm that I have identified.

Other Matters

16. I have taken into account other matters raised, including reference to permitted development rights, but it is acknowledged that the change of use of land and the outbuilding require planning permission.
17. There is no harmful impact on the amenity of neighbouring occupiers and nor does the appeal site contribute to the Borough's agricultural land stock. The outbuilding has been constructed in materials to match the existing dwelling, and it is not harmful in terms of its effect on the character and appearance of the area. These are however neutral considerations and not ones which weigh in favour of the proposal.

Conclusion

18. I have found that the appeal development is inappropriate development, which the Framework clearly sets out is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework says that

substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.

19. I have set out the other considerations and my analysis leads me to attach moderate weight to the health needs of the individual. With this in mind, the substantial weight I have given to the Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
20. Dismissing the appeal would interfere with the appellant's rights to peaceful enjoyment of their possessions, and to a private and family life and home, under Article 1 of the First Protocol and Article 8 as set out under the Human Rights Act 1998. However, those are qualified rights; interference with them in this instance would accord with the law and be in pursuance of a well-established and legitimate aim: the protection of the Green Belt.
21. In dismissing the appeal, it does not prevent the use of the existing lawful garden area from providing an outdoor space and it is proportionate and necessary to refuse to grant planning permission for the reasons set out. The protection of the public interest cannot be achieved by means that are less interfering with their rights.
22. I have had regard to the PSED, but the harm outweighs the benefits in terms of eliminating discrimination against persons with the protected characteristics of age and disability, advancing equality of opportunity for those persons and fostering good relations between them and others. However, I will increase the time period for compliance with the requirements of the Notice to 9 months to afford the appellant with greater opportunity to find alternative provision.
23. I conclude that the development does not accord with the development plan as a whole, and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this.
24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) but will increase the time period for compliance with the requirements of the Notice to 9 months.

Formal Decision

25. It is directed that the enforcement notice is corrected by:
 - In Section 3(i) the deletion of the words 'Land as a'.
26. And varied by:
 - In Section 6, extending the time period for compliance to 9 months.
27. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

F Rafiq INSPECTOR