



Appeal Decision

Site visit made on 14 April 2026

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th May 2026

Appeal Ref: APP/R0660/W/25/3373282

52 Woodlands Road, Handforth, Cheshire East SK9 3AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Bowker against the decision of Cheshire East Council.
 - The application Ref is 24/4339/FUL.
 - The development proposed is change of use of land to residential garden land to facilitate the erection of a garden outbuilding and associated garden remodelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A consultation draft of the National Planning Policy Framework (the Framework) was published on 16 December 2025 but given that this is at the consultation stage I do not consider it necessary to invite comments from the parties at this time. Any reference to the Framework is based on the current version, dated December 2024.
3. Although a site visit was arranged for the above date, access had not been arranged by the appellant and I was unable to enter the site. However, I was able to view it from both neighbouring properties, Nos 50 and 54 Woodlands Road. Also, I have previously visited this site when considering an earlier planning application in May 2025¹. From my observations from the neighbouring properties together with my visit last year, I am satisfied that I was able to see the site sufficiently to determine the appeal, taking into account any differences that had occurred in the intervening time between May 2025 and April 2026.

Main Issues

4. The main issues are:-
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies, and the effect on openness and the purposes of the Green Belt;
 - the effect of the proposal on the living conditions of the occupiers of nearby residential property, 54 Woodlands Road by reason of overlooking and loss of privacy;

¹ Appeal Ref: APP/R0660/D/24/3352516.

- the effect of the proposal on ancient woodland, a designated local wildlife site, biodiversity and trees protected by a Tree Preservation Order; and
- whether any 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

Green Belt

5. The appeal site comprises a detached house and its gardens. To the rear, the garden has been remodelled and a terrace area has been created which is elevated above steeply sloping land overlooking a water body, trees and natural vegetation. Below the decked terrace a garden outbuilding has been partly constructed. When complete this would be finished with glazing and timber cladding with the glazed balustrade to the terrace above. Currently the structure comprises concrete steel work and Gabian walling. There are steps from the garden to the outbuilding below.
6. The Green Belt boundary excludes the terraced area and the outbuilding proposed below it. The appellant states that the land has formed part of the domestic garden for about a decade and the proposal represents a regulation of the land. However, an application for a Certificate Lawful Use or Development (LDC) has been refused by the Council and dismissed on appeal². Although the appeal site, together with additional land running down the slope towards the water body below is within the appellants ownership and has been used by occupiers of this house, it is not established curtilage. The proposal therefore is to extend the garden outside the lawful domestic curtilage into land designated as Green Belt.
7. The Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It makes it clear that development is considered inappropriate unless it satisfies one of the exceptions cited in paragraphs 154 and 155. No evidence has been put forward to establish that the proposal falls within any of the exceptions cited. Local Plan³ Policy PG 3 is worded differently to the Framework and is an older document but the thrust of it is similar. The proposal is contrary to both Policy PG 3 and the Framework and would be inappropriate development in the Green Belt. The harm caused by inappropriateness carries substantial weight.
8. The appellant states that as the land remains visually open and functions as a residential garden in a manner similar to those surrounding it. However, although details have not been submitted indicating the gradient of the land before the works were carried out, it is clear from my observations and the evidence submitted that the land has been raised in order to level the terrace with the rest of the garden and create the space for the proposed outbuilding. This remodelling is extensive and has changed the topography of the land considerably. It therefore has an adverse effect on the openness of the Green Belt due to the construction work involved, the Gabian walling and the fencing.

² Planning Application Ref: 24/4340/CLEUD & Appeal Ref: APP/R0660/X/25/3373317.

³ Cheshire East Council – Cheshire East Local Plan Local Plan Strategy 2010 – 2030 July 2017.

Living Conditions

9. The rear garden of No 54 slopes away from the house but the garden at No 52 is raised. Therefore, without screening, it is possible to view the garden of No 54 from the terrace and the steps of No 52. At the time of my site visit in April, the appellant had installed planters and erected a bamboo trellis style screen. Whilst this provides a screen between Nos 52 and 54 Woodlands Road, it is very much a temporary measure. The planters and trellis could easily be removed and the potential for overlooking the garden area of No 54 remains due to the elevated position of the patio and the location of the steps close to the boundary.
10. The proposed plan indicates that the existing steps would be removed and repositioned away from the boundary and the retaining wall would be cut back. A 1800mm close boarded fence is proposed to extend to the edge of the decking along the boundary. Also, the plan indicates planters 600mm high and a 1800 mm high screen fence to the decking. Given the difference in land levels and the space between the decked terrace, steps and the boundary with No 54, I am not convinced that any modifications here would lessen the impact on the neighbouring property.
11. Furthermore, although I appreciate that the steps are required to access the outbuilding below and the time spent actually on the steps may be limited, their presence and their use would still enable users to look into the neighbours garden in the absence of any permanent screening. I accept that in urban areas some degree of overlooking would occur. However, the overlooking from the end of the elevated garden terrace, where previously neighbouring gardens dropped down in levels, not only results in a loss of privacy but is also visually intrusive. The effect on privacy is intensified by the size of the terrace to No 52 which extends across most of the width of the garden as well as projecting further to the rear.
12. I note that the neighbouring property, No 50 has a raised terrace at the end of the garden although this does not project out as far as No 52's. I have no information as to when that was constructed but in any event, it does not provide a basis for allowing the proposal before me.
13. I agree that conditions could be imposed to ensure that screening was installed and retained and landscaping carried out. However, these are measures designed to overcome the problems that result from an inherently poor development. Whilst I am required to consider whether a development can be acceptable should appropriate conditions be imposed, the extent of the development here is such that permission should not be granted. This is because the attempts at screening rely on those measures being retained and ultimately enforced. I have little confidence in this case that the measures would provide anything other than short term solutions.
14. Consequently, I find that the living conditions of the occupiers of No 54 would be harmed due to overlooking and loss of privacy. This would conflict with Local Plan Policy SE 1 and Policy HOU 12 of the Site Allocations and Development Policies Document (SADPD)⁴ which, amongst other things, seek to protect the amenities of residential occupiers including ensuring an appropriate level of privacy.

⁴ Cheshire East Council – Cheshire East Local Plan Site Allocations and Development Policies Document Adopted December 2022 (SADPD).

Ancient Woodland/Local Wildlife Site/Biodiversity/TPO

15. The land to the rear of the appeal site is described as the Hall Wood Handforth and River Dean Banks Local Wildlife Site (LWS) which is an ancient broadleaved deciduous woodland priority habitat. It also includes land covered by a Tree Preservation Order (TPO)⁵. The fourth reason for refusal states that the proposal harms this habitat due to the removal of ancient woodland and the loss of biodiversity. Aerial images are referred to. In particular, from 1999-2003, 2010 and 2015-17 indicating no domestic activity beyond the curtilage of the dwelling and from 2019-21 and 2023 showing the land beyond the curtilage to be cleared of shrubs and trees and developed with the outbuilding/decking area. Copies of these have not been submitted with the documents for this appeal. The aerial photographs included in the appellants submission indicate the current rear garden and land beyond that cleared of vegetation which is consistent with the Council's comments about the condition of the land in the later part of this period.
16. An ecological assessment is submitted, dated September 2024 and includes a desktop study and a site survey. This concludes that the proposed development, involving the retrospective works for a raised deck in the rear garden, is unlikely to result in significant adverse effects on local biodiversity, based on the ecological assessment conducted. It refers to the site comprising mostly of maintained garden and a well-maintained residential building, both of which of limited value to protected species.
17. The survey notes that the proximity to the adjacent nature reserve at the rear necessitates careful consideration with particular regard to foraging bats and nesting birds. It notes the proximity of the water body, which provides a suitable habitat for amphibians, but states that there is moderate likelihood of species dispersing into the garden. However, it suggests landscaping to incorporate amphibian friendly measures together with hedgehog friendly fencing, planting native floral species to encourage bumblebees and invertebrates and a lighting strategy to reduce light spill into the adjacent nature reserve. Although not subject to Biodiversity Net Gain (BNG) Regulations, the assessment includes a metric calculation.
18. The evidence indicates that the land to the rear of the domestic garden and beyond the line delineating the Green Belt, was at some point cleared of vegetation. Part of this land was included in the remodelling of the garden and the creation of the raised terrace and the outbuilding below it. As the work has been carried out, it is not possible to determine what habitats were affected. The ecological assessment submitted is in effect after the event. A before and after assessment has not been made and so its findings provide limited information about the harm carried out.
19. There is a beech tree to the rear of No 50 which due to its size is close to No 52's boundary. It is a large mature tree and the appellants tree assessment indicates that it is in good health. I have no evidence to indicate that this is not the case.
20. I note that the appellant states a commitment to ecological enhancements including the planting of native understorey species and new trees along with the introduction of wildlife features and a long term maintenance plan to secure BNG. From the aerial photograph in the appellants statement and the ecological survey,

⁵ Urban District of Wilmslow [Hall Wood (Bluebell Wood)] Tree Preservation Order 1957 (TPO).

most of the rear garden looks like it has been cleared of vegetation and the bare ground stands out in stark contrast the greenery around it. Indeed, the ecological assessment is based on the condition of the site after clearance had taken place and refers to the site prior to development being a mixture of bare ground, ruderal vegetation and exposed stone. The onus is not on the Council to produce an ecological survey of the site before the land was cleared and indeed the circumstances that could have enabled this to occur are extremely unlikely.

21. Thus, any harm would have occurred already and although I accept that it is not possible to ascertain the extent of damage that has been caused, that does not lessen the outcome that land has been cleared, reprofiled, potentially material has been brought in and Gabian walling has been constructed. It is very likely therefore that harm has been caused and given the status of the land as a LWS, ancient woodland and priority habitat, the development conflicts with the objectives of Local Plan Policies SE 3 and SE 5 and SADPD Policies ENV 1, ENV 2 and ENV 6 and Policy H9 of the Neighbourhood Plan⁶. Collectively these seek to protect and enhance LWS's and biodiversity including ancient woodland and aged or veteran trees, amongst other things.
22. The appellant has suggested a condition to secure an approved scheme of biodiversity enhancement. Given that any damage would have already occurred, the condition would enable some of that harm to be mitigated. Should the proposal otherwise be acceptable, despite the conflict with the development plan policies, this would provide a way forward on this matter.

Other Considerations

23. The appellant considers that the works simply regularise an established use and the garden remains visually open and functions in a manner consistent with surrounding residential gardens. However, this is not the case, the use of the land as domestic garden has not been legitimised through a Certificate of Lawfulness. Furthermore, whilst the terrace is used for domestic purposes, the development overall comprising raising land levels, retaining Gabian walling and fencing together with the concrete and structural work for the outbuilding, cumulatively impact on openness as I have described above. Whilst fencing and planters are reversible structures, the development comprises substantial construction works that are not easily reversible.
24. I also disagree that the proposal would not contravene the purposes of Green Belt. These are set out in paragraph 143 of the Framework and in Local Plan Policy PG 3. In particular, the domestic garden has encroached into the countryside, beyond the Green Belt boundary and into land noted for its ancient woodland and wildlife.

Other Matters

25. Although not previously raised, my site visit on this occasion did enable me to view the development from No 50 Woodlands Road. From No 50's garden, the works carried out so far are intrusive and prominent. The submitted details are unclear as to the finished appearance of this section of the development. This causes additional harm to the occupiers of neighbouring properties, in this case, No 50.

⁶ Handforth Neighbourhood Plan 2018 – 2030 Submitted Version February 2018.

Planning Balance

26. The Framework makes it clear that inappropriate development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other circumstances.
27. I have found that the proposal would be inappropriate development. Harm caused by inappropriateness carries substantial weight. I have also found harm to the openness of the Green Belt and conflict with the purposes of Green Belts which adds to the totality of harm in the Green Belt. I have also found harm in relation to the effect on the living conditions of the occupiers of the nearby residential property, 54 Woodlands Road by reason of overlooking and loss of privacy and also harm to the occupiers of No 50.
28. I have found that there has been harm to ancient woodland, a designated local wildlife site and biodiversity but accept that a condition could help secure measures that could provide some mitigation. I have not found harm to a tree covered by a TPO. However, the weight afforded to these matters is small and does not overcome the substantial harm identified.
29. I therefore conclude that the proposal would be inappropriate development in the Green Belt and the very special circumstances required to clearly outweigh the harm caused by inappropriateness, and any other harm, do not exist. The scheme would conflict with the Framework and with development plan policies PG 3, HOU 12, SE 1, SE 3, SE 5, ENV 1, ENV 2, ENV 6 and H9.

Conclusion

30. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, for the above reasons, I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR