

Application Number 20/01058/FUL

Proposal	Erection of a timber pagoda structure and a timber summerhouse building and associated landscaping works in secondary garden area (Part Retrospective)
Site	Land Opposite 20 Hill End Cottages, Hill End Lane, Mottram, SK14 6JP
Applicant	Mr. Andrew Murphy
Recommendation	Refuse
Reason for Report	A Speakers Panel decision is required following a request of the applicant via their appointed agent.

1.0 APPLICATION DESCRIPTION

- 1.1 The application seeks full planning permission for alterations to what the applicant refers to as a secondary garden area serving 20 Hill End Cottages. Specifically, the application seeks the retention of a pergoda structure (the retrospective element of the application), the erection of a proposed summerhouse, and associated landscaping works on the land.
- 1.2 The pergoda is constructed in timber and has trellis attached to the rear and partially along each side to facilitate climbing plants. The pergoda structure measures 2.45m in length, 2.45m in width, and attains a height of 2.4m. It has been provided on a raised platform at the far end of the site constructed using railway sleepers and which is claimed by the applicant to be pre-existing.
- 1.3 The proposed timber summerhouse measures 4.8m in length, 3m in width, and 2.5m in height to the ridge of the mono-pitched roof and would be located alongside the south eastern boundary of the application site.

2.0 SITE AND SURROUNDINGS

- 2.1 The application relates to a plot of land to the north east of Hill End Cottages and is owned by the occupiers of 20 Hill End Cottages and used as private outdoor amenity space. Specifically, the land does not form part of any residential curtilage, a position accepted by the applicant in their supporting statement. The land is bordered to the southeast, southwest and northeast by other areas of landscaping and is adjacent to a farm track that runs along the northeast boundary. The site forms part of the wider Green Belt identified by the Proposals Map which is associated with the Unitary Development Plan for Tameside. Furthermore, the land is also in the setting of Old Hillend Farm House which is a Grade II listed building.

3.0 PLANNING HISTORY

- 3.1 None

4.0 RELEVANT PLANNING POLICIES

4.1 Tameside Unitary Development Plan (UDP) Allocation:

The site is located in the Green Belt.

4.2 **Part 1 Policies:**

1.3: Creating a Cleaner and Greener Environment; and,
1.11: Conserving Built Heritage and Retaining Local Identity.

4.3 **Part 2 Policies:**

OL1: Protection of the Green Belt; and,
C6: Setting of Listed Buildings.

4.4 **Other Policies:**

National Planning Policy Framework (NPPF)

Section 13 Protecting Green Belt land; and,
Section 16 Conserving and enhancing the historic environment.

4.5 **Planning Practice Guidance (PPG)**

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5.0 PUBLICITY CARRIED OUT

5.1 Neighbour notification letters were issued in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement on the 8 July 2020 and a Site Notice displayed close to the application site on Hill End Lane on 01 December 2020.

6.0 RESPONSES FROM CONSULTEES

6.1 None

7.0 SUMMARY OF THIRD PARTY RESPONSES RECEIVED

7.1 In response to the consultation that has been undertaken six representations have been received – four in support, one raising objections, and one offering neutral comments.

7.2 The following (summarised) concerns were raised within the objection received:

- Some of the proposed development is out of keeping with the historic and rural setting of the area;
- Concerns relating to drainage provision considering increase in paved areas; and,
- Visibility of the site from public footpaths (LON/84, LON/83) and adjacent farm track which constitute public vantage points.

7.3 The following (summarised) comments were raised within the letters of support received:

- Design is sympathetic and blends in to surroundings;
- The proposed summerhouse will enhance the area; and,
- Similar structures to adjacent garden areas.

8.0 ANALYSIS

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.2 The current position is that the Development Plan consists of the policies and proposals maps of the Unitary Development Plan and the Greater Manchester Joint Waste Plan Development Document.
- 8.3 The National Planning Policy Framework (NPPF) is also an important consideration. The NPPF states that a presumption in favour of sustainable development should be at the heart of every application decision. For planning application decision making this means:
- approving development proposals that accord with the development plan without delay; and,
 - where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - specific policies in the Framework indicate development should be restricted.

9.0 PRINCIPLE OF DEVELOPMENT

- 9.1 The application site is located in the Green Belt. Unitary Development Plan Policy OL1 states that the Green Belt will be protected from inappropriate development and approval will not be given, except in very special circumstances, for the construction of new buildings unless they are required for a limited number of stated purposes. This aligns with the current position in the National Planning Policy Framework although there are differences in the listed exceptions to those contained in the UDP. Essentially, the NPPF supersedes any elements of UDP Policy OL1 where there is conflict.
- 9.2 The NPPF explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 145 explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt unless it is required for a purpose that meets one of the listed exceptions criteria.
- 9.3 A building, in planning terms, is clearly defined in the Town and Country Planning Act 1990 as including any structure or erection. It would therefore apply to both the timber pagoda and summerhouse which are the subject matters of the application. Neither are considered to be required for purposes whereby they meet the exceptions criteria in paragraph 145 of the NPPF and therefore both are considered to represent 'inappropriate development' within the Green Belt.
- 9.4 Paragraph 143 of the NPPF states that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 9.5 The applicant, in providing a case of very special circumstances, has explained that the application site has been used as a secondary garden space by residents of Hill End Cottages for over 60 years and is therefore well established in planning terms. Also, it is stated that residents who own and occupy these “garden strips” have erected similar buildings and structures on the land over time and many have been undertaken without planning permission. The case is also made on the basis that the developments will not cause any visual harm to the Green Belt due to their relatively small size and height and the choice of construction materials involved. It is on this basis that the applicant believes very special circumstances exist to justify inappropriate development in the Green Belt being acceptable.
- 9.6 To establish whether the principle of development is acceptable requires an assessment to be undertaken of the harm (to the Green Belt) which would arise from the inappropriate development. This is needed to inform a decision as to whether the harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by the considerations that have been put forward by the applicant. Consideration of these points is set out and considered in the following sections of this report.
- 9.7 It is also relevant to acknowledge that because the land does not form part of a residential curtilage there is no ‘fall-back position’ for the buildings to be erected on the site under ‘permitted development’ rights.

10.0 IMPACT ON THE OPENESS AND VISUAL AMENITY OF THE GREEN BELT

- 10.1 The starting point for assessing harm to the Green Belt is acknowledging that the NPPF clearly states that inappropriate development is by definition harmful. It cannot therefore simply be concluded that proposals resulting in limited harm amount to very special circumstances.
- 10.2 In terms of the impact on openness the timber pagoda and proposed summerhouse would introduce permanent features to this part of the Green Belt which would undoubtedly have a degree of impact on the openness of the Green Belt. The site can be readily seen from certain vantage points including from an adjacent track and nearby public footpaths and, therefore, despite being timber structures the buildings will form built features that detract from the otherwise open character of the Green Belt. It is acknowledged that other structures and buildings exist in the surrounding area but this holds very little weight in determining whether very special circumstances exist.
- 10.3 Although it could be argued that the impact on openness and visual amenity is limited by certain factors, such as the materials used and location in the vicinity of other structures, this does not amount to factors which clearly outweigh the harm to the Green Belt. The pagoda and summerhouse conflict with the aims and objectives of Green Belt policy which, amongst other purposes, aims to assist in safeguarding the countryside from encroachment.

11.0 SETTING OF A LISTED BUILDING

- 11.1 The proposed development is within the setting of a nearby listed building known as Old Hillend Farmhouse at Home Farm, Hillend Lane, as was listed in 1986 and dates back to 1604.
- 11.2 As per paragraph 190 of the Framework, local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by the proposal (including by development affecting the setting of a heritage asset) taking into account the evidence and any expertise. They should consider this when considering the impact of a

proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

- 11.3 When considering the scale, position and height of the pagoda and proposed summerhouse in relation to the heritage asset, it is not considered that they would cause such detrimental harm to its setting to justify refusing the application on such grounds.

12.0 DESIGN AND APPEARANCE

- 12.1 The pagoda and proposed summerhouse in isolation to their Green Belt location are considered to be simple in their form and appearance. The proposed summerhouse in particular, by virtue of its single storey height, would not appear oppressive to nearby residents or when viewed from public vantage points. As such, their design is considered to be acceptable.

- 12.2 The proposed outbuildings and associated works are to a private garden area. However, the private garden area is not directly associated with the curtilage of the dwelling house. As such, there is no fall back to be considered which would otherwise have applied for outbuildings under the General Permitted Development Order.

13.0 RESIDENTIAL AMENITY

- 13.1 Due to the scale and location of the pagoda, proposed outbuilding and associated works, in relation to the nearest dwellings on Hill End Lane, it is not considered they would lead to such harm to the amenity of those residents that would conflict with the requirements of UDP Policy H10.

14.0 CONCLUSION

- 14.1 In summary, the pagoda and proposed summerhouse, represent 'inappropriate development' in the Green Belt. They are then, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

- 14.2 Harm from the pagoda and proposed summerhouse would be caused to the openness of the Green Belt in this location. Irrespective of the extent of harm the principle of development cannot be found to be acceptable in planning terms unless that harm is clearly outweighed by factors that amount to very special circumstances. The applicant's case for such circumstances is primarily based upon describing the surroundings of the site and the fact that the buildings are relatively small low-level structures constructed in sustainable materials. The applicant acknowledges in their statement that the summerhouse building, pagoda structure, and landscape garden works will have some minimal impact to the openness of the Green Belt and that they consider this impact will not demonstrably harm the Green Belt or its character and appearance. However, that is not the relevant planning test required to determine whether inappropriate development is acceptable.

- 14.3 It is considered that the applicant has been unable to demonstrate that the extent of harm to the Green Belt is clearly outweighed by other considerations that amount to very special circumstances. In the absence of such circumstances it must follow that the application is unacceptable and conflicts with the overarching aims and objectives of Green Belt policy set out in both the Unitary Development Plan for Tameside and the National Planning Policy Framework.

RECOMMENDATION

REFUSE, for the following reason:

1. The pagoda and proposed summerhouse represent inappropriate development in the Green Belt which is by definition harmful must not be approved except where very special circumstances are present according to the National Planning Policy Framework. Such circumstances will only exist where the harm caused to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The circumstances presented by the applicant fail to demonstrate that such circumstances exist and therefore the application is contrary to Unitary Development Plan Policy OL1 and paragraphs 133, 134, 143, 144, and 145 in the National Planning Policy Framework.