
PLANNING SUBMISSION

Local Authority Ref: **SMD/2021/0576 and 0577**

Proposed: Freestanding Orangery

At: Stonelowe Hall, Leek Road, Longsdon

PREPARED BY CROWLEY ASSOCIATES IN PARTNERSHIP WITH MEL MORRIS CONSERVATION

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1 APPLICATION SUMMARY

SPECIFICS	
Name of LPA	Staffordshire Moorlands District Council
Date of the application	Made valid on 31/08/2021
Date of LPA's decision	Pending
Is the site within a Green Belt?	Yes
Which site ownership certificate applies?	Certificate A Certificate B Certificate C and D
Description of the development stated on the application form?	Proposed freestanding orangery/garden room

SUMMARY POSITION	
Pre-application advice sought	Yes: <i>"Pre-application submitted 1/12/2020 – Various observations and opinion that [the proposal] will need to demonstrate that the proposed location [of] the new building is within the curtilage of the Listed Building and an assessment of its impact on the Listed Building"</i>
Development Plan	Adopted in September 2020, but not referred to by the case officer in correspondence with the Applicants.
Planning Policy	Green Belt designation
Material Considerations	Green Belt Policy and Approach The extent of the curtilage Impact on openness of the Green Belt Heritage Impact
Summary of LPA's Position	Provided development is classed to fall within the curtilage of the parent property (and not just the curtilage of the listed building) it falls to be considered under Paragraph 149 of the NPPF.

2 INTRODUCTION

2.1.1 Crowley Associates has been instructed by Mr and Mrs J. Trigg (the “Applicants”) to prepare an additional submission in support of the following applications:

- **SMD/2021/0576**; and
- **SMD/2021/0577**

2.1.2 Taken together the applications (to be determined by Staffordshire Moorlands District Council (the “LPA”)) seek planning permission and listed building consent for development in the form of a free-standing orangery (the “proposal”), located to the rear (north-west) of the property on an area of land which has been excavated level with the parent property.

2.1.3 They relate to land and buildings (the “site”) referred to as Stonelowe Hall; the main residence of the Applicants. The statement is specifically aimed at addressing the concerns of officers raised in correspondence with the Applicants over the lifetime of the application.

2.1.4 In preparing this statement Crowley Associates has had sight of the applications and the supporting information as well as correspondence with the case officer. The site is located on the edge of the settlement of Leek, in the open countryside and within the Green Belt.

3 OVERVIEW

3.1.1 The LPA in its consideration of the applications has raised concerns (in email correspondence with the Applicants’ agent dated 8 and 9 November 2021) about the acceptability of the proposal. These are centred on the fact that in the LPA’s view, the development, were it found to be located outside of the “curtilage of the listed building”, would not benefit from in principle support under the objectives of Green Belt policy (specifically that outlined at Paragraph 149 within the National Planning Policy Framework (the “NPPF”)).

3.1.2 In addition, even if the LPA was to accept that the location for the orangery fell within the curtilage of the listed building, officers consider that, despite there being in principle policy support for limited infill within the site, because the structure would have a physical presence, there would likely arise a greater impact on the Green Belt (the test) and as such the proposal could not be supported.

- 3.1.3 The LPA has also addressed itself to the matter of the impact of the development of the setting of the listed building – noting the Applicants’ position that “the principle of an orangery or detached garden room is well-established and justifiable” (Paragraph 7.5 of the Heritage Statement and Heritage Impact Assessment (HIA)) and the conclusion drawn by the Applicants’ heritage consultant that the proposal would have a “minor positive impact” – finding the Applicants’ stance (on impact) “interesting” but not necessarily evidential.
- 3.1.4 Furthermore, the LPA finds that the proposal is “out of character with the listed building and features of its setting”, including “loss of previously walled or banked delineations in the curtilage and setting and the various compartments; significant excavation into the raised ground to the rear”.
- 3.1.5 Officers note that (in accordance with the provisions of Paragraph 199 of the NPPF) “great weight is to be given to the conservation of the heritage asset” and that (as per Paragraph 200 of the NPPF) if the harm to the asset arising from the proposal is less than substantial, “the harm should be weighed against any public benefits”.
- 3.1.6 From our examination of the evidence to hand, officers have expressed no concerns that the use of the orangery would fall outside the normal bounds of uses which might ordinarily be considered incidental to the enjoyment of a dwelling and as such this statement will not address the matter of the use.
- 3.1.7 The Applicants note that the LPA does not examine matters, nor have officers framed their response in the context of the recently adopted (September 2020) Development Plan Policies. As such the Applicants do not intend to frame the contents of this additional submission with reference to/examine matters in the context of the adopted Development Plan.
- 3.1.8 All parties must agree that but for the fact the property comprises a designated heritage asset the structure in question would benefit from the express consent granted within the Town and Country Planning (General Permitted Development)(England) Order 2015 (and any subsequent updates (the “Order”) specifically under Class E of Part 1 to Schedule 2 thereof. The Applicants accept however that the proposal does not accord with the conditions attached to Class E of the Order; as such planning permission for the proposal is required and

when determining the application, the LPA has a responsibility to weigh all material considerations in the balance.

3.1.9 The Applicants further acknowledge that the area of ground on which the proposal is to be sited has been excavation and that the works undertaken to make the ground level amount to an engineering operation for which planning permission has not previously been granted.

3.1.10 This additional submission is intended to make the case for the proposal in the context of Green Belt policy and planning policy and legislation as it applies to development affecting the setting of a listed building. In putting forward the Applicants' position, in this regard, the statement relies upon the advice of Counsel and confines itself to the following issues:

- Green Belt Policy and Approach
- The extent of the curtilage
- Impact on openness of the Green Belt
- Heritage Impact

3.1.11 The Applicants' position is that having considered these issues, to grant planning permission and listed building consent would accord with the Development Plan (when read as a whole), and the NPPF, and so applying the 1st limb of s. 38(6) of the 2004 Act and as per the NPPF Paragraph 11, the Applicants are hoping the LPA will grant consent without delay.

4 GREEN BELT POLICY AND APPROACH

4.1.1 Crowley Associates has been advised previously by Thea Osmund Smith (“Counsel”) of No5 Chambers on the matter of ‘Green Belt Policy and Approach’ and it is considered appropriate to set out her opinion on the issue (dated 8 October 2019) at this point.

4.1.2 According to Counsel:

“National Green Belt policy is contained within part thirteen of the NPPF. There is significant case law in respect of the approach to be taken to proposals in the Green Belt, and it is worth setting out some of leading cases and principles that are derived from them here.

First, it might seem obvious to say that the concept of “openness” means the state of being free from built development, the absence of buildings; see *R. (on the application of Lee Valley Regional Park Authority) v Epping Forest District Council* [2016] EWCA Civ 404. It is clear however that the site does not presently enjoy the openness that is an essential characteristic of the Green Belt. Instead it is occupied by buildings and significant hardstanding. The openness has already been compromised and thus, it is necessary to consider what the additional impact is arising from the proposals; i.e. how built up the Green Belt is currently and how built up it would become if the development were to take place.

It is plain from *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466, that visual impact, as well as spatial impact, is relevant to the assessment of the effect of a development on openness.

In *Turner* (explained by Holgate J in *Goodman*¹), the Court of Appeal upheld the High Court’s refusal to quash an Inspector’s dismissal of an appeal against the refusal of planning permission to replace a mobile home and a yard for the storage of lorries with a three bedroom bungalow. The Inspector concluded that the proposed redevelopment did not fall within the sixth exception in paragraph 89 (now Paragraph 149) of the NPPF by which a new building may be treated as “appropriate” development because the proposal would have a greater impact on the openness of the Green Belt than the existing development. The challenge in the Court of Appeal was to the Inspector’s conclusions (a) that the comparison between the existing and proposed development could not be made solely on a volumetric

¹ *Goodman Logistics Developments (UK) Ltd v SSCLG* [2017] EWHC 947 (Admin)

basis and (b) that, although there might only be a marginal, or no, increase in volume, differences in visual impact would have a considerably greater impact on openness.

The Court of Appeal held that the concept of harm to the openness of the Green Belt is not limited to a volumetric approach, or size. The word “openness” is open-textured and a number of factors are capable of being relevant. Prominent considerations include those relevant to how built up the Green Belt is currently and how built up it would become if development were to take place (to which a volumetric assessment may be material), as well as factors relevant to the visual impact of the development “on the aspect of openness which the Green Belt presents” (paragraph 14). As a matter of language the question of visual impact is implicitly part of the concept of the “openness of the Green Belt”. The Court supported this conclusion by reference to the first four purposes of including land in the Green Belt (paragraph 15).

Sales L.J. said (in paragraphs 14, 15 and 16 of his judgment):

“14. The concept of “openness of the Green Belt” is not narrowly limited to the volumetric approach suggested by [counsel]. The word “openness” is open- textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs ... and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.

15. The question of visual impact is implicitly part of the concept of “openness of the Green Belt” as a matter of the natural meaning of the language used in para.89 of the NPPF. I consider that this interpretation is also reinforced by the general guidance in paras[.]79-81 of the NPPF, which introduce section 9 on the protection of Green Belt Land. There is an important visual dimension to checking “the unrestricted sprawl of large built-up areas” and the merging of neighbouring towns, as indeed the name “Green Belt” itself implies. Greenness is a visual quality: part of the idea of the Green Belt is that the eye and the spirit should be relieved from the prospect of unrelenting urban sprawl. Openness of aspect is a characteristic quality of the countryside, and “safeguarding the countryside from encroachment” includes preservation of that quality of openness. The preservation of “the setting ... of historic towns” obviously refers in a material way to their visual setting, for instance when seen from a distance across open fields. Again, the reference in para.81 to

planning positively “to retain and enhance landscapes, visual amenity and biodiversity” in the Green Belt makes it clear that the visual dimension of the Green Belt is an important part of the point of designating land as Green Belt.

16. The visual dimension of the openness of the Green Belt does not exhaust all relevant planning factors relating to visual impact when a proposal for development in the Green Belt comes up for consideration. ... But it does not follow from the fact that there may be other harms with a visual dimension apart from harm to the openness of the Green Belt that the concept of openness of the Green Belt has no visual dimension itself.”

Accordingly, and importantly, while volumetric and other numerical calculation might be part of the picture, they are not determinative of the impact of any particular proposals on openness. The issue is much broader, or to use the words of the Court, “open-textured.” The issue of visual impact is an implicit part of the concept of openness; see 15 above”.

5 THE EXTENT OF THE CURTILAGE

5.1.1 Crowley Associates has been further advised (in the same opinion) by Counsel on the matter of curtilage. In that regard Counsel states:

“The extent of the curtilage is a matter to be determined on site. However, the following provides the legal framework, which is intended to provide assistance in determining the questions. In the case of Lowe, cited below, Lord Donaldson MR explained the approach to be taken to curtilage in **Dyer v Dorset CC** [1989] 1 QB 346, at 355B: “[The question of determining the extent of the curtilage] is a question of fact and degree and thus primarily a matter for the trial judge, provided that he has correctly directed himself on the meaning of ‘curtilage’ in its statutory context.”

At 358B-G, Nourse LJ further discussed the meaning of curtilage by reference to the Oxford English Dictionary definition: “A small court, yard, garth or piece of ground attached to a dwelling-house, and forming one enclosure with it, or so regarded by the law; the area attached to and containing a dwelling-house and its outbuildings.”

He then accepted the proposition drawn from the authorities in that case that “an area of land cannot properly be described as a curtilage unless it forms part and parcel of the house or building which it contains or to which it is attached” (358D-E).

In ***Skerritts of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions*** [2001] QB 59, the Court of Appeal noted that it is the relationship between the main dwelling and the land in question which is relevant when considering function/use.

Furthermore, the concept of “smallness” is not relevant when determining the curtilage of a building. Robert Walker LJ said at 67: *“I ... respectfully doubt whether the expression ‘curtilage’ can usefully be called a term of art... It is, as this court said in Dyer’s a question of fact and degree”*.

Robert Walker LJ continued:

“In the context of what is now Part 1 of the Act, the curtilage of a substantial listed building is likely to extend to what are or have been, in terms of ownership and function, ancillary buildings. Of course, as Stephenson LJ noted in the Calderdale case, 46 P&CR 399, 407, physical ‘layout’ comes into the matter as well. In the nature of things the curtilage within which a mansion’s satellite buildings are found is bound to be relatively limited. But the concept of smallness is in this context so completely relative as to be almost meaningless, and unhelpful as a criterion.”

In ***Lowe v Secretary of State*** [2003] EWHC 537 (Admin), Sir Richard Tucker reviewed the relevant authorities and commented:

“21. Of the authorities cited to me, I derive most assistance from the decision of the Court of Appeal in Dyer v Dorset CC, and in particular the judgment of Nourse LJ in the passage already referred to at p.358F-G. The expression ‘curtilage’ is a question of fact and degree. It connotes a building or piece of land attached to a dwelling house and forming one enclosure with it. It is not restricted in size, but it must fairly be described as being part of the enclosure of the house to which it refers. It may include stables and other outbuildings, and certainly includes a garden, whether walled or not. It might include accommodation land such as a small paddock close to the house. But it cannot possibly include the whole of the parkland setting in which Alresford Hall lies, nor the driveway along which the fence was erected. It could not sensibly be contended that the site of the fence was attached to the hall, or that it formed one enclosure with it, or was part of the enclosure of it.”

6 THE PROPOSAL AND IMPACT ON OPENNESS OF THE GREEN BELT

6.1.1 The site comprises PDL, thus it is the case that in accordance with Paragraph 149 of the NPPF, there is in principle support for limited infilling, and for the partial or complete redevelopment of the site, provided, said infill/partial/complete redevelopment of the site would not have a “greater impact” on the openness of the Green Belt in this location than the existing development.

6.1.2 As has already been established with the help of Counsel (in Section 4), that:

- Openness is not limited to volume;
- Openness is an *open-textured word*;
- Visual impact is implicitly part of openness;
- **Lack of visual impact can ameliorate spatial harm to openness;**

6.1.3 In this instance the Applicants consider that it would be irrational not to weigh the visual impact of the proposal in the balance when arriving at its decision, since the matter is ‘obviously material’ to the case. Indeed, in this instance the Applicants consider the matter of visual impact is intrinsic in determining whether the proposal would result in harm to the openness of the Green Belt.

6.1.4 On the matter of curtilage and with the help of Counsel’s opinion the Applicants have established that:

- Curtilage is not a land use for planning purposes
- The extent of a curtilage must be judged as a matter of fact and degree to be determined on a case by case basis
- Curtilage forms part of the parcel/one enclosure with the house/building that contains it
- Ownership and function is material
- Curtilage is not restricted in size

- 6.1.5 Following on it is the Applicants' position that the land to be given over to the proposal falls within the curtilage to Stonelow Hall, and that the proposal would amount to infill. The Applicants accept that the proposal would increase the amount of building (and associated volume) on site, but when measured as a proportion of the overall site area, the proposal can only be described as limited.
- 6.1.6 As Paragraph 149 of the NPPF supports 'limited infill' within PDL. It must follow that an additional amount of volume can be delivered as part of that infill, and so it is reasonable to suppose that the test, taking into consideration the court judgements outlined in Section 4, when measuring impact on openness (under Paragraph 149 of the NPPF) is weighted towards the matter of visual impact.
- 6.1.7 As it stands, it is the case that the Applicants are entitled to fill the area to be given over to the proposal (whether it falls within the curtilage of the parent property or otherwise) with any manner of domestic paraphernalia, including trampolines etc. a fact that is material in the consideration of the application.
- 6.1.8 It is the Applicants' position that; given the characteristics of the site, and taking into consideration the siting, layout, scale and appearance of the proposal; any harm to openness by way of spatial impact is offset by the lack of harm in terms of visual impact (a matter that is addressed in detail in the following section from paragraph 7.4.3), and the effect of the appeal proposal, as a form of limited infill, on the openness of the Green Belt, would be no greater than the existing development.

7 HERITAGE IMPACT

7.1.1 In summary, on the matter of heritage impact, as stated, the LPA is concerned that the proposal would impact on the character of the listed building; more specifically officers are concerned at the perceived loss of ‘features’ that form part of the setting to the building. The matter of the proposal’s impact on the setting of the listed building is addressed within the following paragraphs.

7.2 Setting

7.2.1 The setting of the hall incorporates both the garden and the wider yard and landscape, as the hall is located on a high knoll, the ‘lowe’ being an old English and local word often denoting a barrow. The setting is, therefore, wider than the curtilage of the listed building. This is common.

7.2.2 The status of the hall is of high gentry and as befitting this status the designed aspects of the landscape hold distinct characteristics. This is discussed in the HIA, which explains that there are clumps of trees with mixed planting slightly detached from the Hall, which extend the setting of the Hall to the wider landscape. The setting could also be said to include the drive from the A53.

7.2.3 The garden is largely enclosed and private, with some views outwards from the house to the front (south) but no designed views out to the back (north). The house is surrounded by walls and the northern garden is surrounded by a drystone wall and a perimeter belt of trees, whilst the more formal southern garden has a tall coursed ashlar boundary wall.

7.2.4 Gardens can contribute to the setting of dwellings, where they can enable us to appreciate the lifestyle of the occupants, where they can illustrate social functions and pastimes or horticultural practices, where they can demonstrate a designed relationship between the dwelling and views, or vistas, or ancillary functions. In the case of a country house, the garden could be part of something much more conceptual; for example, large areas of the garden at Kedleston Hall follows a landscape created by Robert Adam, the architect of the present house; this has high-level meaning, by creating classical structures and incidents on a journey through the landscape, reinforcing an intellectual link between the house, the landscape and the owner, a man of culture. The garden could of course be much more mundane, and simply hold vegetable beds or an orchard to feed the occupants.

- 7.2.5 The garden at Stonelowe Hall does a number of these things and continues to have that important relationship today, as it is being cultivated and enjoyed as a flourishing garden. Garden buildings within the garden are part of the lifeblood of dwellings. Historically garden buildings could be for private enjoyment or for horticulture: glasshouses, greenhouses, gardeners' bothies, summerhouses, orangeries, potting sheds, bowling houses and banqueting houses, are all types of garden buildings enjoyed or used by the occupants of dwellings and historic houses as ancillary to the domestic function.
- 7.2.6 As a matter of principle, therefore, there is no reason why we cannot consider a garden building within the garden of Stonelowe Hall. This need not have any negative connotation or negative impact on the setting of the Hall, as matter of principle. The impact of a new building within the garden will have to be judged on its own merits, but the principle of a new garden building cannot be harmful by definition, unless it affects the significance of the principal listed building.
- 7.2.7 Under the guidance on setting (GPA3 – Historic England, 2017), it is the contribution that setting makes to the significance of a heritage asset, which determines how we assess the impact. The guidance states:

“Setting is not itself a heritage asset, nor a heritage designation, although land comprising a setting may itself be designated ...Its importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance.”

7.3 Significance and Setting

- 7.3.1 The significance of Stonelowe Hall is both historic and architectural: its high local gentry status, its impressive location set on a hilltop, its important early surviving fabric, its largely complete architectural form of the 17th and 18th century, its impressive, high-quality masonry, of large mass and fine detail. It does not derive much significance from the modifications in the late 19th century.
- 7.3.2 This site is part of the garden, but it does not make a specific contribution to the significance of the house, other than that it falls within the holistic historic garden enclosure, as proven by the submitted information in the HS / HIAS.

7.3.3 The location chosen for the Orangery is significantly detached from the house. This is deliberate. It is not designed to blend with the house, but to stand architecturally on its own, as many Orangeries did.

7.3.4 This part of the garden has no specific intrinsic value. It is not part of a formal design and there were no significant walls affected. Part of the bank was removed to create the area now proposed for the Orangery. With the exception of the removal of soil, which does not hold significance per se, there has been no intrinsic loss of significance of any historic elements of the garden.

7.4 Response to LPA's concerns about the impact on Setting of the Listed Building

7.4.1 On the specific points made by the planning officer, we respond as follows:

1. *"a proposal building out of character with the Listed building and features of its setting."*

7.4.2 We dispute that there is any harm to the setting of the listed building in the proposal. We do not disagree that there is some harm from the current state of affairs, which needs to be resolved. We disagree with the planning officer's view that there is 'less than substantial harm' in the proposal and we do not consider that paragraph 202 of the NPPF needs to be engaged.

7.4.3 We are asking for the current proposal to be assessed on its own merits. We have carefully considered the design of a new ancillary garden building and we have responded to the LPA's request to omit the arches and to make the building plainer. We have reduced the visibility further by omitting any form of lantern and limiting the rooflights, which will be flat, to one single rooflight. The arches of course gave the masonry slightly greater mass and were more akin to the scale of masonry on the listed building. The existing listed building is of large masonry mass, with large external chimney stacks. Those parts of the building closest to the location of the Orangery have these prominent features. Short of designing a building with no windows, which defeats the object of having a glazed detached Orangery, we cannot design the building to mimic the massing and form of the main building, nor would we want to. It would be harmful to create an independent version or reflection of the 16th and 17th century. Authenticity is a very valuable concept when dealing with buildings of early origin such as this. We have opted for a design in masonry as we considered it was more

appropriate. This is also the preference of the owners. The alternative was to design an entirely contemporary glazed conservatory, which we discounted, as we considered that the sympathetic way to integrate the building is to ground it within the lawned landscape in masonry, which in colour and materiality reflects the main dwelling. There are no “features of its setting” of any value affected.

2. *“visibility from the surroundings, perhaps especially in views from the front where it will appear noticeably back left to the main listed building”*

7.4.4 The elevations submitted by the architect include one elevation where the new building appears at first impression to perhaps sit alongside the existing. But, when you actually look at this location on site, it will never be seen as shown in that elevation, because it is set back a long way from the front elevation and in fact 8 metres back from the rear elevation, corner to corner. In views from the forecourt (outside the garden wall) you will only see the very tip of the cornice, so it will hardly be visible, as described in the HIA. Whilst you will see the new building when standing alongside the west wall of the Hall, it will be completely detached so it is entirely readable in terms of appreciating the historic building as a separate and distinct entity. It doesn't dominate the building in any way, being quite small. We fail to understand why the planning office considers that there is any harm based on visibility. We have discounted attaching a conservatory to the building because of the harm in the removal of 17th and 18th century historic fabric from the building and the loss of the visibility of the masonry stack, which is important. That would be far more harmful than the current proposal. We don't agree that just seeing the new building from within the garden causes any harm at all. It does not affect the significance of the listed building as nothing of any value is being removed. It has been designed to merge with the lawn and to be set down hunkered within the landscape so that its visibility is negligible in the wider views from within the garden.

3. *“loss of previous walled and or embanked delineations in the curtilage and setting and the various compartments”*

7.4.5 The excavation did not remove a wall. This was simply a bank and a small section of modern retaining wall which was approved as part of the previous approval (see photos of 2008 below). The delineation of the garden and its compartment had no specific value that we can identify. The original alignment of the rear low garden retaining wall was changed with

planning permission as part of the works undertaken to restore the listed building, as shown in these photos, in order to remove penetrating damp. Many of the internal divisions of the previous compartments, including the separate orchard, have been removed over the years. Please note that all gardens evolve and it would be quite wrong to suggest that a line on a plan, whether a wall or a fence or a hedge, somehow limits changes to landscaping within a garden in perpetuity. If there were an important wall affected then that would be a different matter, but there wasn't.



4. *“significant excavation into the raised ground to the rear”.*

7.4.6 We do not dispute that this is a significant excavation. This clearly needs resolving, whether that is in the form of a drystone Millstone Grit retaining wall or a new building and reinstatement of a significant area of soil and retaining walls, as proposed. We do dispute that this detailed proposal before the LPA as a matter of principle causes harm. We agree that it would cause harm if left unresolved, with the present temporary close-boarded fencing.

8 CONCLUSION

8.1.1 The Applicants’ position is that having considered all of the issues material to the matter in hand, to grant planning permission and listed building consent would accord with the Development Plan (when read as a whole), and the NPPF, and so applying the 1st limb of s. 38(6) of the 2004 Act and as per the NPPF Paragraph 11, the Applicants are hoping the LPA will grant consent without delay.

