



Appeal Decisions

Site visit made on 27 June 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal A Ref: APP/D3640/C/23/3318319

Land at 31 The Avenue, Chobham, Woking GU24 8RU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Richard Farrer against an enforcement notice issued by Surrey Heath Borough Council.
 - The notice was issued on 13 February 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the operational development consisting of the erection of a wooden bridge between 31 The Avenue and adjacent fields constructed over public right of way.
 - The requirements of the notice are: 1. Dismantle and remove the bridge hatched in black on the plan attached to the notice. 2. Remove all resulting materials and debris from the land as a result of taking step 1. 3. Reinstate and make good any damage caused in complying with steps 1 and 2.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174 (2)(a) and (g) 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.
-

Appeal B Ref: APP/D3640/W/23/3315517

31 The Avenue, Chobham, Woking GU24 8RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Farrer against the decision of Surrey Heath Borough Council.
 - The application Ref 22/0916/FFU, dated 1 September 2022, was refused by notice dated 16 December 2022.
 - The development proposed is described as 'erection of a wooden bridge between our garden and our field over a public right of way to allow easy access to our goats for daily feeding and for access by the goats to reach shelter, without having to walk on the public right of way.'
-

Decisions

1. Appeal A-The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177 (5) of the 1990 Act as amended for the development already carried out, namely operational development consisting of the erection of a wooden bridge between 31 The Avenue and adjacent fields constructed over public right of way on land at 31 The Avenue, Chobham, Woking GU24 8RU referred to in the notice, subject to the condition in the Schedule at the end of this Decision.
2. Appeal B-The appeal is allowed and planning permission is granted for operational development consisting of the erection of a wooden bridge between 31 The Avenue and adjacent fields constructed over public right of way at

31 The Avenue, Chobham, Woking GU24 8RU in accordance with the terms of the application, Ref 22/0916/FFU dated 1 September 2022, subject to the condition in the Schedule at the end of this Decision.

Preliminary Matter

3. The description in the banner heading for Appeal B of the development for which permission is sought is taken from the application form. A similar description was used on the appeal form. Even so, in my decision for that appeal I shall take the description of development from the enforcement notice as it is more concise and omits reference to matters which do not refer to acts of development. The Council used a similar description on their decision notice.

Appeal A, Ground (a) appeal & Appeal B

Main Issues

4. The appeal site and its surroundings are located within the Metropolitan Green Belt. Therefore, the main issues in these appeals are:
 - Whether erecting the bridge constitutes inappropriate development, having regard to the National Planning Policy Framework (the Framework).
 - The effect on the character and appearance of the surrounding area.

Reasons

Whether inappropriate development

5. The enforcement notice attacks a timber bridge supported by steel frames, one of which has been clad in timber. The bridge spans over a public footpath which runs between a field and the appellant's residence (No 31). No 31 sits at a slightly higher ground level than the field. The appellant uses part of the grounds of No 31 including a small paddock for purposes associated with the field. During my visit, I observed that feed and shelter for a small livestock herd was being provided in the grounds of No 31. The appellant has operated a registered agricultural holding at No 31 concerned with the keeping of livestock for around 25 years. The field, which contains a substantial agricultural building in one corner, was acquired by the appellant in 2006.
6. Paragraph 149 of the Framework advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, with exceptions including at (a) buildings for agriculture and forestry. The definition of a 'building' in s336 (1) of the Act includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. Applying the three primary factors identified in established case law¹ as being determinative of a building, at around 10 m in length and 1.8 m wide the bridge is of a size to be constructed on site, whilst being intended to remain in situ indefinitely it has a significant degree of permanence in a planning context. The bridge is also physically attached to the ground, having concrete foundations to the supports and at either end.
7. Looked at as a whole, there is little to suggest that the works involved in erecting the bridge could be characterised other than as being integral to the erection of a building. The works were of relatively modest scale. They did not involve anything which might, in the absence of an exhaustive definition in s336 (1) of the Act, commonly be understood as engineering operations. For example, there have not been extensive groundworks, or large abutments or

¹ *Cardiff Rating Authority v Guest Keens* [1949] 1 KB 385; *Barvis v SSE* [1971] P&CR 710 & *Skerritts of Nottingham Ltd v SSTER* (No 2) [2000] 2 PLR 102.

retaining walls formed. Erecting the bridge is unlikely to have involved the use of specialist plant or equipment. Pre-planning and supervision by persons with engineering knowledge can equally be associated with the erection of a building and does not, by itself, mean that works should be categorised as engineering operations. Consequently, based on the available evidence and as a matter of fact and degree, it is not unreasonable to regard the bridge as a building.

8. There was no dispute that the activity in the field falls within the definition of agriculture in s336 (1) of the Act. The appellant explained that the bridge had improved access to the field from No 31 for feeding livestock and moving feed as well as tools and grass cutting equipment for maintenance purposes. Also, according to the appellant livestock is routinely moved between the field and the paddock at No 31 for a number of reasons including veterinary treatment, shearing, the provision of shelter and in the interests of security following attempted theft. Prior to erecting the bridge my understanding is that access between No 31 and the field was achieved by passing through two field gates, which led to problems including difficulty with operating the gates, obstruction of the footpath and livestock egress.
9. The appellant advanced sound practical reasons for using part of No 31 for agriculture in association with the activity in the field. It is not unreasonable for them to seek to create a more convenient and secure access between No 31 and the field in such circumstances. There is little to suggest that it would be practical or sensible for the range of agricultural activity undertaken at No 31 to take place in the field or that the appellant's security concerns could be addressed satisfactorily by means other than the provision of the bridge. Also, there is little which might indicate that the bridge is of unusual dimensions or is otherwise unsuited for its stated purpose. Consequently, to my mind the bridge has a clear agricultural utility.
10. As a building for agriculture, erecting the bridge does not constitute inappropriate development in the Green Belt. Established case law confirms that where development is found to be not inappropriate, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land within it². Therefore, the bridge is consistent with the Framework.

Character and appearance

11. No 31 is on the fringe of the built-up part of the village. It adjoins open land, including the field, which forms part of a wider area of gently undulating countryside. This area is generally comprised of fields of varying size bounded by maturing hedgerows, trees and tracts of woodland, with isolated pockets of built development. These factors contribute significantly to the attractive, largely undeveloped and open rural character and appearance of the surrounding area.
12. Owing to its position between No 31 and the field, the bridge is partly viewed in the context of maturing trees, as well as open countryside. It is also partly experienced in association with the considerable proportions of the nearby agricultural building. The bridge is not an especially large structure. The posts, railings, handrails and supporting frame have reasonably slender profiles. These factors and the views afforded to the background between the railings and below the deck surface contribute to the bridge having a somewhat lightweight feel, thus helping to offset its visual impact on the surroundings. The natural timber finish of the upper sections of the bridge including the deck and surface, posts, railings and handrails further assists in assimilating the structure visually with the locality. The finish sits comfortably in the context of

² Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404.

the muted palette of colours generally associated with the countryside setting and is similar to rural fencing in the vicinity.

13. As a result, although raised above the level of the adjoining ground the bridge integrates well in visual terms with its rural surroundings and is not perceived as an especially prominent or alien feature, either in close-up views from the footpath, at greater distance including from other public footpaths crossing the field, or from private viewpoints. The appearance and visual impact of the bridge is not dissimilar to that associated with the type of timber pedestrian footbridge commonly experienced in rural environments. Cladding the rest of the supporting frames in timber would further assist in assimilating the bridge into its context and could be secured by a suitably worded planning condition.
14. Therefore, the bridge has not caused unacceptable harm to the character and appearance of the surrounding area and there is no conflict with Policy DM9, which requires development to be of high-quality design respecting the local character of the environment with particular regard to scale, materials, massing and bulk.

Conditions

15. I shall impose a condition requiring all of the supporting frames to be clad in timber within a defined timescale, for the reason set out above. I have modified the Council's suggested condition so that the tests in paragraph 56 of the Framework are met.
16. I shall not however impose a condition requiring the bridge to be removed in the eventuality that the field is no longer used by the appellant and/or his wife. The Government's Planning Practice Guidance³ advises that a condition requiring the demolition of a building which, as in this case, is clearly intended to be permanent, is unlikely to pass the test of reasonableness. The appellant has owned the field together with No 31 for many years and there is little to suggest that they will not continue to do so for as far as can be seen ahead. Whilst there is a slight risk that the holding might fragment in future through a change of ownership, the same could apply in the case of many farm-related structures of more substantial scale compared to the bridge. Moreover, if the bridge were to become redundant at some later date it is entirely possible that it would be removed for re-use elsewhere.

Conclusions

17. For the reasons given above the bridge does not constitute inappropriate development in the Green Belt, it does not cause unacceptable harm to the character and appearance of the area and accords with the Development Plan as well as being consistent with the Framework. Consequently, I consider that Appeal A should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered. For similar reasons I consider that Appeal B should be allowed.

Stephen Hawkins

INSPECTOR

³ Paragraph: 014 Reference ID: 21a-014-20140306.

SCHEDULE OF CONDITIONS

Appeals A and B:

1. Within six months of the date of this decision, the steel supporting frames of the bridge shall be entirely clad in timber of a similar external colour finish to that of the rest of the bridge, in accordance with details to be submitted to and approved by the Local Planning Authority. Thereafter, the cladding shall be maintained in accordance with the approved details.