



# Appeal Decision

Site visit made on 12 December 2023

**by M Bale BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 January 2024**

**Appeal Ref: APP/Y3615/C/23/3318162**

**91 Glaziers Lane, Normandy, Guildford GU3 2DF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Sam Janzir against an enforcement notice issued by Guildford Borough Council.
- The notice, numbered EN/19/00069, was issued on 6 February 2023.
- The breach of planning control as alleged in the notice is: Without planning permission operational development consisting of the erection of a front boundary wall, pedestrian and vehicular gates over one metre in height.
- The requirements of the notice are to:
  - (i) Remove the front boundary wall.
  - (ii) Remove the pedestrian and vehicle gates.
  - (iii) Remove all materials and debris resulting from steps (i) and (ii).
- The period for compliance with the requirements is: 2 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) 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 Decision: The appeal is dismissed and the enforcement notice is upheld.**

## Preliminary Matters

1. The appellant has suggested that the wall and gates, as built, were shown on plans submitted with a variation of condition application made to the Council. It is not clear whether the purpose of this submission is to suggest that the Council previously raised no objection to them, or that planning permission may have been given for the matters alleged in the notice.
2. Given the uncertainty, I sought clarification from the appellant as to whether, following the latter interpretation, they were making an argument relevant to an appeal on ground (c) - that the matters alleged do not constitute a breach of planning control. However, in the absence of any response to that enquiry, or any other clear, relevant submission, considering an appeal on ground (c) in this case would cause injustice to the Council, who have not provided any evidence on the matter. I have, therefore, considered these submissions solely in relation to the appeal on ground (a).
3. Since the enforcement notice (the Notice) was issued, the Council has adopted the Guildford Borough Local Plan 2023 (LP). The Council has indicated that the policy of the Guildford Borough Local Plan 2003 cited on the Notice has been superseded and that the development is now alleged to conflict with LP Policy D4 as well as those listed on the Notice from the Guildford Borough Local Plan: Strategy and Sites 2019 (SSP). The appellant has had opportunity to comment on this change in circumstance and I have considered the ground (a) appeal in the context of the SSP policies listed on the Notice and LP Policy D4.

4. Since the Notice was issued and appeal made, the National Planning Policy Framework (the Framework) has also been revised. There has been no substantive change to the text of the Framework insofar as it is relevant to this appeal, although the paragraph numbering has changed. My decision is based upon the current version.

#### **Ground (d)**

5. Ground (d) is that, at the time the Notice was issued, it was too late to take enforcement action. For success on this ground, it must be shown that the Notice was issued after the end of the period of four years beginning on the date that the development was substantially completed. The onus is on the appellant to make their case to the standard of the balance of probabilities.
6. The appellant has provided photographs that purport to be from 2018 showing a wall at the appeal site. However, these appear to be of a wall that is materially different to that currently on site, being higher with no facing render applied. There are other photographs showing the wall at what appears to be the current height and rendered, but those are undated. None of the photographs show the wall in its current form, which has railings between the piers.
7. Conversely, the Council's evidence includes photographs of a higher, partly rendered, wall in March 2019. It explains that following the refusal of a planning application for a wall in this location in July 2019, modifications were made to the wall, and that it was recorded as being lower in November 2019. At some point after that, railings have been added between the piers, and gates installed.
8. Having regard to the above, the Council's evidence makes the appellant's version of events less than probable. It is, therefore, more likely than not that the development subject to the Notice had not been substantially complete until the wall and gates were added sometime after March 2019 (being the last definitive photographic record of a materially different wall) and probably after November 2019. On the balance of probability, the substantially complete structure could not, therefore, have stood for more than 4 years prior to service of the Notice on 6 February 2023, and the appeal on ground (d) should fail.

#### **Ground (a)**

9. Ground (a) is that planning permission should be granted for the matters alleged in the Notice. The main issues on this ground are:
  - (i) Whether the development would be inappropriate development in the Green Belt;
  - (ii) the effect on the openness of the Green Belt;
  - (iii) the effect on the character and appearance of the area;
  - (iv) whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

### *Inappropriateness*

10. Paragraph 154 of the National Planning Policy Framework (the Framework) and SSP Policy P2 set out that the construction of new buildings is inappropriate in the Green Belt unless covered by one of 7 exceptions. Under the Town and Country Planning Act 1990 (as amended) a building includes any structure or erection and so would include the wall subject of the Notice.
11. There has been no suggestion by either party that any of the exceptions under Framework paragraph 154 apply. Certain other types of development, listed under Framework paragraph 155 may also not be inappropriate development in the Green Belt, but the development is not one of those either. Therefore, the development is inappropriate development in the Green Belt.

### *Openness*

12. The development has introduced a solid structure where one did not previously exist. While I understand that there was once a hedge in this location, that would not have been a solid or permanent structure. The gates have fairly thick horizontal railings, positioned close to one another such that, when shut, they also prevent views through the site boundary, giving a solid appearance.
13. Notwithstanding that there are numerous other boundaries of various types in the area and that the site is generally surrounded by residential development, the wall and gates, albeit to a limited extent due to their height, reduce visibility across the site boundary. The presence of a hedge between the footway and the wall does not diminish its effect on openness and does not affect the visual appearance of the gates at all. I therefore find that the proposal harms the openness of the Green Belt.

### *Character and appearance*

14. The site is within a ribbon of varied housing development stretching along Glaziers Lane. There are a variety of front boundary treatments including fences and walls, although from around about No 87 to the top of the hill beyond the site, hedges predominate. The grass verge between the footway and front boundaries also gradually widens along this stretch, complementing a very wide verge area on the opposite side of the road that all contributes to a gradual change from a more enclosed section of Glaziers Lane to a more spacious one, giving the area a semi-rural character and appearance.
15. A hedge has been planted between the wall and the road. To some extent, this screens views of the wall, although it is not thick enough to fully screen it. Given the limited space between the footway and wall, it appears narrow in long views along the street and more ornamental than the thicker hedges, typical of most nearby properties. Furthermore, the position of the hedge pushes the front boundary of the site further out, at odds with the prevailing arrangement where there is an increasing verge to the front of the individual dwellings. I'm mindful that the hedge is not part of the matters alleged in the Notice, but without any planting, the wall would certainly appear stark and out of character with the predominant hedge boundaries. There does not appear to be space for thicker planting, more characteristic of the locality.
16. In any case, the gates, which are not in any way screened by the hedge, are also fairly solid in appearance, in contrast to most other gates in the area that are usually 5 bar timber gates or with narrow vertical railings that allow greater

views through. The solid suburban design is at odds with the prevailing semi-rural character and appearance of the area.

17. I note the appellant's suggestion that the alleged unauthorised development may have been shown on plans presented to the Council in connection with another application for a variation of conditions to alter the fenestration details. Whatever the appellant's reasons for not including the boundary treatment in that application, there is no clear evidence before me that the Council were considering the boundary treatment at that time. Thus, their lack of objection at that time does not indicate their acceptance of it. In any case, I must consider the appeal on the basis of the evidence presented to me now and I give very limited weight to the suggestion that the Council may once have found it acceptable.
18. For the above reasons, I find that the proposal would harm the character and appearance of the area. This would be contrary to LP Policy D4 and SSP Policy D1 that require development to be of high quality and respect local context and character.

#### *Other considerations*

19. I note reference to other enforcement notices that are said to have been 'discharged' and details of various other boundaries in the area. However, I must determine this appeal on the basis of the evidence applicable to this particular case and site. The circumstances at other notices or nearby sites are of limited relevance. I, therefore, attach very limited weight to these other situations.

#### *Whether very special circumstances exist*

20. Framework paragraphs 152 and 153 and SSP Policy P2 indicate that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found harm to the Green Belt by reason of inappropriateness and due to effects on openness. While the effects on openness may be small, the Framework nevertheless indicates that any harm to the Green Belt should be given substantial weight. There is also harm to the character and appearance of the area.
21. The Framework and SSP Policy P2 go on to indicate that very special circumstances should not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The other considerations noted above are of very limited weight and, therefore, the very special circumstances necessary to justify the development do not exist.

#### *Conclusion on ground (a)*

22. With regard to the above, the development conflicts with the development plan and the Framework. No material considerations have been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with the development plan. Therefore, planning permission should not be granted for the matters alleged in the Notice and the appeal on ground (a) should fail.

**Formal Decision**

23. The appeal is dismissed and the enforcement notice is upheld.

*M Bale*

INSPECTOR