



Appeal Decisions

Site visit made on 8 April 2025

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2025

Appeal A Ref: APP/Y3615/C/24/3341825

Appeal B Ref: APP/Y3615/C/24/3341826

1 Tower Hill Villa, Goose Green, Gomshall, Guildford, Surrey GU5 9LL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Ben Greaves, and Appeal B is made by Mrs Natalie Dade-Greaves against an enforcement notice issued by Guildford Borough Council.
- The notice was issued on 4 March 2024.
- The breach of planning control as alleged in the notice is: Without planning permission operational development consisting of:
 - (i) The erection of a building in the approximate position hatched in black on the attached plan¹ marked "Plan B"; and
 - (ii) The erection of a fence adjacent to a highway used by vehicular traffic which exceeds 1m in height in the approximate position marked with a black line between the points X and Y on the attached plan marked "Plan B".
- The requirements of the notice are:
 - i) Demolish the building approximately hatched in black on the attached plan marked "Plan B";
 - ii) Remove the fence posts and panels approximately marked with a black line between the points X and Y on the attached plan marked "Plan B"; and
 - iii) Remove all debris and materials resulting from compliance with steps i) and ii).
- The period for compliance with the requirements is: 4 months after this notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (c), (f), (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 is proceeding on the grounds set out in section 174(2)(c), (f), (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decisions: Appeal A is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B is dismissed.

Appeal C Ref: APP/Y3615/W/23/3334438

1 Tower Hill Villa, Goose Green, Gomshall, Guildford, Surrey GU5 9LL

- 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 Ben Greaves against the decision of Guildford Borough Council.
- The application Ref is 23/P/01118.
- The development proposed is: Construction of outbuilding to be used as office and weekend playroom, and for storage space.

Summary Decision: The appeal is allowed and planning permission is granted in the terms set out below in the Formal Decision.

Applications for costs

1. An application for costs has been made by Mr B Greaves & Mrs N Dade-Greaves against Guildford Borough Council. That application is the subject of a separate Decision.

¹ Reference in this heading to an 'attached plan' is a reference to a plan attached to the enforcement notice.

Preliminary Matters

2. There is inconsistency in the way that the site address is stated on the enforcement notice subject of Appeals A and B (“the Notice”) and the application form for the application subject of Appeal C (“the Application Form”). Nevertheless, the same property address is stated as the appellant’s address on the Application Form in a manner broadly consistent with the Notice, and on both appeal forms. The appeal site is clearly defined in all appeals with reference to a plan, and I have used the address as stated on the Notice throughout this decision letter in the interests of consistency.
3. The description of development on the application form is long. Beyond the initial sentence, it gives a detailed description of the building and draws comparison to other buildings in the locality. This is an unnecessary level of detail to describe the development being applied for, which is shown on the accompanying plans and detailed elsewhere on the application form. I have, therefore, referred only to the first sentence, which sets out the development proposed, in my heading above, and my Formal Decision below.
4. This decision letter will begin by dealing with some procedural matters concerning the Notice, followed by the appeals against it on ground (c). The required fee for the ground (a) appeal was only paid in respect of Appeal A, so there is no ground (a) appeal in respect of Appeal B. As the outbuilding subject of the refused planning application and Appeal C is the same building as that targeted by the Notice, I then consider Appeal C and the ground (a) appeal against the Notice together.

The Notice

5. An enforcement notice must inform the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it. If necessary, before determining the appeal, I have a duty to put the Notice in order. My powers under section 176(1)(a) of the Town and Country Planning Act 1990 as amended (“the 1990 Act”) include to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the Notice. In each case, the only test is whether the correction or variation would cause any injustice to the appellants or the local planning authority.
6. The land to which the Notice relates is defined at section 2 of the Notice and makes reference to the ‘attached plan’. However, two plans are attached, so for clarity, specific reference should be made here to “Plan A”.
7. At section 5, the first requirement of the Notice, to demolish the building, describes the building as “approximately hatched in black”. In the interests of clarity, that should be corrected to refer to the building “located in the approximate position shown hatched in black”, which would also be consistent with its description in the alleged breach of planning control. The same correction should be made in respect of the second requirement relating to the fence.
8. These corrections are minor in nature and simply add clarity to the Notice. Therefore, no injustice will arise to either party.

Appeals A and B on ground (c)

9. Ground (c) is that the matters alleged in the Notice do not constitute a breach of planning control. The basis of the appeal is that the fence replaces one that was previously on the site. There is no suggestion that the building does not require planning permission.
10. The fence that has been erected runs along the site's highway boundary and then returns to meet the front of the house. The evidence indicates that a timber fence previously existed in broadly this position along at least part of the highway boundary. However, that section was set back behind a metal railing 'estate' fence. The return section of the new fence, up to the house, appears to be in the same position as the former, but the section along the highway boundary was previously, on the appellant's estimate, 20-40cm further into the site.
11. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"), Article 3 and Schedule 2, Part 2, Class A ("Class A") permits the erection, construction, maintenance, improvement or alteration of a fence adjacent to a highway up to 1m above ground level, or where maintained, improved or altered, up to its former height.
12. The evidence suggests that the new fence has, in effect, replaced the estate fence rather than the close boarded fence that was once behind it. Thus, it appears that a decision was taken to realign the close boarded fence and, as such, differences in location should not be attributed to setting out errors within normal building tolerances. Accordingly, it is not an improvement or alteration to the close boarded fence, but to the estate fence.
13. In isolation, the return section, which is not adjacent to a highway, would fall within the parameters of Class A and probably does replace the fence that was there before. However, from my observations, it is clearly part and parcel of the same fence along the highway boundary, sharing a corner fence post, having matching materials and height, and colouring that suggests contemporary construction. As a whole, the fence has been constructed adjacent to a highway and it exceeds 1m in height, and the height of the former estate fence.
14. The onus of proof on this ground of appeal is with the appellants, and they have not given clear and precise reasons why the fence should not be considered as a single act of development. Therefore, on the balance of probabilities, none of it benefits from the planning permission granted by the GPDO. It, therefore, is a breach of planning control and the appeal on ground (c) should fail.

Appeal A on ground (a) and Appeal C

15. Ground (a) is that planning permission ought to be granted for the matters stated in the Notice. Those matters comprise both the building and the fence, whereas Appeal C is against a refusal of planning permission for the building alone.
16. The main issues for the ground (a) appeals and Appeal C are:
 - (a) Whether the development would be inappropriate development in the Green Belt; and
 - (b) the effect on the character and appearance of the area.

Inappropriateness

17. Policy P2 of the Guildford Borough Local Plan: Strategy and Sites 2019 (“LPSS”) sets out that the Green Belt will be protected in accordance with the National Planning Policy Framework (“the Framework”). The Policy and the Framework confirm that that development in the Green Belt is inappropriate unless it falls within one of the exceptions stated in the Framework.
18. The exceptions include the extension of a building provided that it does not result in disproportionate additions over and above the size of the original building, and the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.
19. Further clarification is given within Policy P2 in respect of those exceptions. This is that replacement buildings will only constitute a ‘replacement’ if it is sited on or in a position that substantially overlaps that of the original building, unless it can be clearly demonstrated that an alternative position would not increase the overall impact on the openness of the Green Belt. For extensions, the original building is that that existed on 1 July 1948 or, if no building existed on that date, then the first building as it was originally built.
20. For the purposes of Green Belt policy, I have no reason to find that the fence is not a building operation. Photographs of the previous timber fence do not clearly show it running the full length of the roadside boundary, but there was enclosure to the boundary and a timber fence can be seen along much of the length of the new one. Although one photograph shows heras fencing where gates have now been installed, as a whole, the new fence is not materially larger than what was there before.
21. I have already found that the fence is in a different location to the former timber one, and too distant from there to constitute its maintenance or improvement such that it would benefit from the permission granted by the GPDO. However, in respect of the policies of the Framework, the fence has clearly replaced the solid boundary that previously existed in substantially the same location. The return section of the fence overlaps the previous fence.
22. Even if it were deemed not to be in substantially the same position it is only slightly closer to the road. Being closer to the road may have an effect on the character and appearance the area, but as both the former and new fences provided a solid structure alongside the highway, the new one would not increase the overall impact on the openness of the Green Belt. Therefore, I find that the fence is a replacement building and is not inappropriate development in the Green Belt.
23. The building stands separate to the existing dwelling. However, it is intended to provide storage, playroom and office accommodation in support of activities within the main house. As a domestic-scale outbuilding, only a short distance from the main house, it is a normal domestic adjunct and can be considered an extension to the dwelling for the purposes of Green Belt policy. There is no clear evidence that its size would result in a disproportionate extension to the original dwellinghouse and, therefore, I also find that the building is not inappropriate development in the Green Belt.
24. With regard to the foregoing, there is no conflict with LPSS Policy P2 that seeks to control development in the Green Belt.

Character and appearance

25. The appeal site is within a low-density residential area. While most dwellings are set back from the road, buildings are generally informally arranged. A generally narrow pallet of materials provides coherence to the built form. Rising landforms, both immediately behind the site to a railway embankment, and at greater distance beyond the settlement are very present, creating a soft verdant appearance that reinforces the rural characteristics of the area.
26. In this context, while the fence is a somewhat stark and atypical roadside boundary, it is seen as just a small component in the context of the house behind and substantial vegetation on the railway embankment. A tree within the fence line that complements other trees in the backdrop provides visual focus to the boundary, rather than the focus being on the fence itself. The fence also sits alongside a far more visible fence on an open corner at neighbouring Dickens, that the Council's evidence indicates is probably lawful. While that neighbouring fence should not mean that high fences, generally, are acceptable elsewhere in this settlement, the appeal fence is, in effect, a visual continuation of that one.
27. The building is a small structure with the appearance of a typical garden shed. Its materials of timber boarding and profiled sheet roofing are commonly used on a variety of buildings around the immediate locality. While it is sited close to the road, the informal arrangement of buildings is such that its siting does not detract from the overall character of the area. The main defining characteristics remain the rising, vegetated landform and cohesive pallet of materials.
28. While, unlike the previous situation, there is not space for any planting between the development and the road, and other, less prominent locations for an outbuilding might be available within the garden, I find the development acceptable as constructed.
29. For the reasons given, the fence and building do not harm the character and appearance of the area. There is, therefore, no conflict with LPSS Policy H4, or Policy D4 of the Guildford Borough Local Plan: Development Management Policies 2023 that seek to ensure that development exhibits high quality design that contributes to making well-designed places and respects its existing context and character and appearance of the surrounding area.

Other matters

30. The Council concluded that the development would have no adverse effect on other neighbouring property, including in respect of sunlight to Chivnor Cottage. Based upon the physical relationships and distances involved, I have no reason to disagree.
31. The Surrey Hills Area of Outstanding Natural Beauty Planning Advisor has confirmed that the development does not harm this National Landscape. I have no reason to disagree and, therefore, find that allowing the appeals would not conflict with the duty to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
32. The Council have indicated that conditions relating to the commencement of development, use of matching materials and development in accordance with the approved plans should be imposed. However, as the development is complete,

appears to accord with the plans and, by design does not match the materials of the house, such conditions are unnecessary.

Conclusion in respect of ground (a) and Appeal C

33. The fence and building are not inappropriate development in the Green Belt and do not harm the character and appearance of the area. There is, therefore, no conflict with the development plan in respect of either component. No other material considerations otherwise indicate that planning permission should not be granted. Appeal A on ground (a) and Appeal C should succeed.

Conclusion

34. I have concluded that Appeal A should succeed on ground (a). I shall, therefore, grant planning permission for the development as described in the Notice. Following the necessary corrections, the enforcement notice will be quashed. It follows that Appeals A and B on ground (f) and (g) do not fall to be considered.

Formal Decision Appeal A

35. It is directed that the enforcement notice is corrected by:

In Section 2, the land to which the Notice relates: After the words “attached plan”, insert the words “marked as “Plan A””.

In Section 5, what you are required to do:

- In paragraph i), delete the word “approximately” and substitute it with the words “located in the approximate position”.
 - In paragraph ii), delete the word “approximately” and substitute it with the words “located in the approximate position”.
36. Subject to the corrections, 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 for the development already carried out, namely:
- (i) The erection of a building in the approximate position hatched in black on the plan marked "Plan B" attached to the enforcement notice; and
 - (ii) The erection of a fence adjacent to a highway used by vehicular traffic which exceeds 1m in height in the approximate position marked with a black line between the points X and Y on the plan marked "Plan B" attached to the enforcement notice

at 1 Tower Hill Villa, Goose Green, Gomshall, Guildford, Surrey GU5 9LL, as shown on the plans attached to the enforcement notice.

Formal Decision Appeal B

37. The appeal is dismissed.

Formal Decision Appeal C

38. The appeal is allowed and planning permission is granted for construction of outbuilding to be used as office and weekend playroom, and for storage space at 1 Tower Hill Villa, Goose Green, Gormshall, Guildford, Surrey GU5 9LL in accordance with the terms of the application, Ref 23/P/01118, and the plans submitted with it.

M Bale

INSPECTOR