



Appeal Decisions

Site visit made on 22 April 2025

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date 09 May 2025

Appeal A Ref: APP/M3645/C/23/3325641

Unit 1, Pinewood House, Chaldon Road, Caterham, Surrey CR3 5PE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Errol Woodhouse (Coffee & Creams (Surrey) Ltd) against an enforcement notice issued by Tandridge District Council.
- The notice was issued on 22 June 2023.
- The breach of planning control as alleged in the notice is 'Without planning permission, the construction of a side lean to shelter made of wood with a polycarbonate roof'.
- The requirements of the notice are to:
 - 5(i) Remove the side lean to shelter in the area shaded blue on the attached plan in full, including the roof, timber walls, blinds and supports.
 - 5(ii) Remove the material arising from compliance with 5(i) above to an authorised place of disposal.
- The period for compliance with the requirements is: 3 months from the date on which the notice takes effect.
- 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.

Summary Decision: The appeal is dismissed; the enforcement notice is corrected then upheld and planning permission is refused.

Appeal B Ref: APP/M3645/W/23/3324310

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 Errol Woodhouse (Coffee & Creams (Surrey) Ltd) against the decision of Tandridge District Council.
- The application Ref is TA/2023/222.
- The development proposed was described as 'erection of a lean to shelter made of wood with a polycarbonate roof (retrospective)'.

Summary Decision: The appeal is dismissed.

Preliminary Matter

1. After planning permission was refused and the enforcement notice was issued, the National Planning Policy Framework (NPPF) was revised and altered. This does not materially affect my determination of both appeals and there is therefore no injustice to the main parties.

Enforcement Notice

2. I have a duty to make sure the enforcement notice is in order. Part of requirement 5(ii) – to remove the materials arising 'to an authorised place of disposal' – is

unenforceable, so I shall correct this requirement accordingly. I am satisfied that no injustice will be caused to the main parties.

Appeal A on ground (a) and Appeal B

Main Issue

3. Ground (a) is that planning permission ought to be granted for the breach of planning control stated in the notice. It is essentially the same description of development refused planning permission by the Council, except more precisely refers to a 'side' lean-to shelter. The reasons for issuing the notice include the same reason for refusal of planning permission. The main issue for both appeals is therefore:

- the effect of the shelter on the character and appearance of the area.

Reasons

4. Unit 1 is a ground floor café, part of a modern, three-storey corner block of apartments. This building is of a high standard of detailed design and permanent external materials, including brick, tiles and glass balcony balustrades. It is at one end of a row of retail units in an older shopping parade with flats above. Other nearby buildings are in residential, commercial or community uses and though varied in age and design include similar permanent external materials. This gives cohesion, substance and a lasting impression to this development in this area.
5. The shelter encloses a previously open, partly recessed outdoor paved seating area between the back edge of a public path and bi-fold doors in the side elevation of the café, facing towards Westway Common. The Council did not object to development of this sort in principle and in my experience an ancillary space, with blinds and appropriate materials, is no longer unusual at cafes, restaurants or pubs next to pavements or in a roadside setting.
6. However, though no doubt well intended, the shelter that has been built is of basic construction with most of it – the frame, eaves, gable end barge boards and lower infill panels – made from smooth or rough cut sawn timber. The shallow sloping monopitch roof is translucent polycarbonate panels. Wood is a natural, sustainable resource and with a 'green wall' inside the shelter, resonates with the landscape of the Common. Polycarbonate is lightweight and impact resistant. But while these external materials are functional, those used are intrinsically low quality and, in essence, temporary in nature. Even though the shelter could be dismantled, it is presently constructed in situ and is to all intents and purposes an extension of the café with some intended longevity.
7. As a result, there is an unsatisfactory and incongruous close juxtaposition between the external materials of the shelter, the rest of the café and the block of flats. This undermines the intrinsic visual and physical integrity of this development as a whole, despite the finite extent of the timber and polycarbonate materials. This jarring contrast is conspicuous in short distance views from the Common, the path and the pavement passing by the shelter along Chaldron Road. It can also be noticed in these views as out of kilter with the other buildings nearby in the area.
8. The shelter is otherwise narrow, long and low in form and the dark grey colour of some of the external materials, including upper canvass blinds (albeit with transparent plastic inset 'windows') complements the façade of the café. A planning

condition could ensure that all of the timber was stained this same colour. In these respects this modest sized, subordinate structure is not intrusive in distant views and in the wider streetscene context. Nor does it unduly erode the extensive spacious setting of the Common beyond the side of the café and apartment block.

9. Nevertheless, I find that external materials of the side lean-to shelter cause harm to the character and appearance of the area. This is an important planning consideration in the wider public interest and as such I give it substantial weight.
10. The shelter conflicts with Policy CSP18 of the Tandridge District Core Strategy October 2008, Policy DP7 of the Tandridge Local Plan Part 2 July 2014 and Policies CCW4 and CCW5 of the Caterham, Chaldon and Whyteleafe Neighbourhood Plan June 2021. These policies include that development should be of a high standard and quality of design and integrate well with its surroundings and local vernacular context, including by using complementary building materials and designs and demonstrably enhance the quality of built form.

Other considerations

11. During my visit the café was busy and, evidently, valued by those using it, including for social interaction. The shelter was likely relatively easy to build and low cost and there is little evidence that removing it would seriously threaten the continued operation of the business. It does, though, give a distinctly different customer experience – an intermediate space between the exposed, open seating area in front of the café under an awning facing a busy road and the main, fully enclosed internal environs of the café. It likely encourages people to use the café, including during inclement weather and colder months or in warm weather when the blinds can be raised to give a semi-open ambience.
12. The shelter is, in these respects, consistent with other policies of the Council's development plan and the NPPF to help businesses expand and adapt and to support economic growth – in this case by also helping sustain the vitality of the shopping parade – and to promote well-being and community cohesion. Taking account of the scale of the café and the size of Caterham, I give moderate weight to these economic benefits and modest weight to these social benefits.
13. The shelter may help suppress some customer chatter in the originally open seating area, previously experienced by occupants of apartments next to it, including in external balconies. On the other hand, more customers may now use this part of the café so create more noise. There is little objective evidence either way so this is a neutral factor in my decision.

Planning Balance

14. Other material considerations do not, therefore, indicate that these appeals should be determined otherwise than in accordance with the development plan taken as a whole.

Conclusions

15. For the reasons given above, I conclude that Appeal A on ground (a) fails.
16. I also conclude that Appeal B should be dismissed.

Appeal A on ground (g)

17. For the appeal on ground (g) to succeed, the appellant must demonstrate that the 3 month period specified in the notice to take the steps required by it falls short of what should be reasonably allowed.
18. The shelter is of basic construction so it should be a relatively straightforward task to remove it. The appellant has provided little evidence to substantiate that it would be overly expensive to do so, nor that if a contractor was required one could not be instructed or the work carried out within 3 months. There is little else to justify extending the period for compliance to 9 months as is otherwise sought.
19. Consequently, I find that the 3 month period given by the notice does not fall short of what is reasonable. Accordingly, the appeal on ground (g) fails.

Formal Decisions

Appeal A

20. It is directed that the enforcement notice is corrected by:
 - In schedule 5(ii), delete ‘...to an authorised place of disposal.’ then insert ‘...from the land affected.’
21. Subject to this correction, Appeal A is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act (as amended).

Appeal B

22. The appeal is dismissed.

Robin Buchanan

INSPECTOR