



Appeal Decisions

Site visit made on 12 June 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2025

Appeal A: APP/R3650/C/23/3328301

Oakmede, Brooklands Way, Farnham GU9 9BU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Chris Beckett against an enforcement notice issued by Waverley Borough Council.
 - The enforcement notice was issued on 25 July 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land from a residential use to a mixed use comprising a residential use and a use for a dog hydrotherapy business.
 - The requirements of the notice are: Cease the use of the Land for a dog hydrotherapy business.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/R3650/W/24/3345431

- 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 Chris Beckett against the decision of Waverley Borough Council.
 - The application Ref WA/2024/00730, dated 9 April 2024, was refused by notice dated 31 May 2024.
 - The development proposed is: Detached single-storey outbuilding for canine dog hydrotherapy business.
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Summary of Decisions

Appeal A

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

Appeal B

2. The appeal is dismissed.

Appeal B – The refusal of planning permission

Main Issue

3. The main issue is the effect of the development on the living conditions of neighbouring occupiers, having particular regard to noise and disturbance.

Reasons

4. The site is approached via a narrow private roadway that serves 6 residential properties, nestled in very close proximity. The site itself comprises a detached dwelling, located towards the front of its plot, at the end of Brooklands Way.
5. The development relates to the retention of a detached single-storey outbuilding located in the rear garden of the property for use as a dog hydrotherapy business. Differing hours of operation have been submitted, but it would appear¹ the appellant has settled on the business operating Monday to Friday 10am-4pm and Saturdays 10am-1pm, which would see a total of 33 customers, and which in itself could be controlled by planning conditions. It is said that customers stay with their dogs, and so a total of around 66 vehicle movements (in and out) would be generated, plus those of any employees, each week.
6. In an effort to address concerns, the appellant has provided noise and transport assessments.
7. The evidence is that the 6 properties in Brooklands Way would collectively generate on average 37 vehicle movements per day (in and out) of which 19 occur outside of the indicated business hours. That being so, there are approximately 18 vehicle movements (in and out) generated by the properties during those business hours.
8. The business use would then generate 12 vehicle movements by customers (in and out) per day, which thus represents a 66% increase on the 18 movements of the 6 properties during those hours. I then do not accept that operating the business results in less vehicle movements from the appeal site owing to home working, because there is very little evidence that the appellant's wife is solely involved in working for the business and there is also evidence of an external employee. I also do not accept that an employee would always travel to the site by foot, and which in any event could not be controlled by a planning condition.
9. Even if I am wrong and the increased number of trips are deemed to be minor and brief each hour, Brooklands Way is a single-track potholed private roadway that only serves 6 properties and which terminates at the appeal site. The appellant's own evidence is that the operation of the business creates a degree of noise impact. Given the type and layout of Brooklands Way, and the intimacy of the 6 properties, it casts significant doubt in my mind as to the ongoing acceptability of the use at the level proposed. The noise and disturbance associated with the use is consequently very likely to have an unacceptable adverse impact on living conditions, and significantly more so than if the business were operating from a property accessed, for example, from a wider adopted road or road that does not terminate such as this one.
10. I appreciate there was also previously a dog grooming business operating from the site which ceased in around October 2022. However, my assessment is based upon the evidence relating to the hydrotherapy use, even if the appellant considers the original complaint to the Council was triggered owing to the combined effects of both uses taking place for a period of time.

¹ Based upon Final Comments dated 20 August 2024

11. That other nearby occupiers may have dogs is then of little relevance to the impacts associated with running a dog hydrotherapy business.
12. I conclude the development is unacceptably harmful to the living conditions of neighbouring occupiers, having particular regard to noise and disturbance, in contravention of Policies DM1 and DM5 of the Waverley Borough Local Plan Part 2, March 2023 (the LP2). These policies, amongst other things, require development to avoid harm to the amenity of occupants of nearby land. I however find no conflict with Policies TD1 of the Waverley Borough Local Plan Part 1, February 2018, and DM4 of the LP2 as these relate to design requirements and so are not relevant to my assessment.

Other Matters

13. I accept the hydrotherapy use is a beneficial provision and also generates economic growth from a residential property as might be seen to be promoted by the National Planning Policy Framework. However, such uses clearly have to take place from appropriate sites and there is little evidence as to the complete absence of other provision in the area. Furthermore, there is little evidence of a certificate of lawfulness to demonstrate on the balance of probabilities the level of hydrotherapy use that might remain incidental to the residential planning unit.
14. I appreciate the use would not result in an unacceptable impact on highway safety, but such matters are no longer in dispute between the main parties.

Conclusion

15. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Appeal A – The ground (f) appeal

16. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives steps.
17. The notice is directed at a material change of use to a mixed use including use for a dog hydrotherapy business. The sole requirement is then to cease the use for a dog hydrotherapy business. This accordingly remedies the breach of planning control, and nothing more, and so is not excessive.
18. There are then no other grounds of appeal pleaded pursuant to the notice and very little evidence to demonstrate on the balance of probabilities that the business use could have been ancillary to the residential occupation of the land had the outbuilding been in a prior residential use.
19. The appeal on ground (f) therefore fails.

Overall Conclusion

20. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission.

Formal Decisions

Appeal A

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

Appeal B

22. The appeal is dismissed.

Paul T Hocking

INSPECTOR