



Appeal Decision

Site visit made on 11 August 2025

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 August 2025

Appeal Ref: APP/C3620/D/25/3368203

Godstone House, Cobham Road, Fetcham, Leatherhead KT22 9SA

- 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 Mrs Janni Omotajo against the decision of Mole Valley District Council.
- The application Ref is MO/2025/0733/CC.
- The development is demolition of 1950s outbuilding (Building D) and retention of building for use as home gym and home office and study/hobby room (Building B)
- The condition in dispute is No.3 - *Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building or enclosure, swimming or other pool, within Schedule 2, Part 1 Class E, shall be carried out on the land the subject of this planning permission.*
- The reason for the condition was *to protect the character and amenities of this rural area, in accordance with the advice contained in the National Planning Policy Framework Mole Valley Local Plan policy ENV22 and policy CS14 of the Mole Valley Core Strategy.*

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether condition 3 is reasonable and necessary, having regard to the potential effects of permitted development on the character of the area.

Reasons

3. The National Planning Policy Framework (the Framework) advises against the use of planning conditions to restrict permitted development (PD) rights unless there is clear justification to do so. Such conditions should only be imposed where they are necessary, relevant, and, amongst other criteria, reasonable in all other respects.
4. The proposal for the retention of the gym/home office (building B) was permitted on the basis that the very special circumstances outweighed the harm to the Green Belt. The proposal also included the demolition of an outbuilding (building D), which had a slightly larger floor area and volume, in relation to which the Council found that its removal had benefits in terms of openness. The Council also explain in their officer's report that, based on the benefits of the positioning of building B, the size and number of outbuildings, it would be reasonable to remove PD.
5. There is an extensive planning history relating to the outbuildings at the property. Building B was the subject of an enforcement notice and appeals in 2022¹. That appeal decision confirmed that when the building was constructed it was beyond

¹ APP/C3620/C/21/3276946, APP/C3620/C/21/3276995 and APP/C3620/X/21/3281430

the residential curtilage and would not have constituted PD under Class E². It was also found that the building has a detrimental effect on the openness of the Green Belt and encroaches on the rural character of the area. At that time, the building was proposed to function partly as a gym and partly as a garage. The Inspector concluded that, considering the other garaging on site, the garage would not be an incidental use.

6. That appeal decision and the other planning history formed part of the considerations with the officer's report for MO/2023/1959/PLAH advising that the appeal decision forms a significant material consideration for the assessment of the scheme³. The very special circumstances resulted from a combination of factors and were not simply as the appellant suggests that the proposal would have an equal or lesser impact on openness than building a home gym elsewhere. The Council did not attribute weight to that 'fallback' position, although they recognised benefits in the location of building B and noted that relocating it within the curtilage would increase built form around the site.
7. Building B is inappropriate development in the Green Belt with harm to openness and character of the area. Setting aside whether the former nursery land to the north now forms part of the residential curtilage, the property is set within a substantial plot. Without the condition, other outbuildings elsewhere within the curtilage could be erected, increasing the spread of built form and thereby negating part of the rationale and benefits of the consented development, with further harm to the rural and open character of the area.
8. The condition restricts outbuildings only and, therefore, is not a blanket removal. It requires a planning application for any additional outbuildings, which allows for an assessment of the impact on openness and the character of the area. However, it does not necessarily prevent them.
9. While permitted development rights apply within the Green Belt in relation to the specific circumstances of this case, I find that the removal of PD in relation to Class E is justified and necessary. I therefore conclude that the condition is reasonable, the restriction is defined in relation to outbuildings only and is directly related to the proposal.

Other Matters

10. I recognise that there are limitations to the location of outbuildings under PD and that a new building could not be erected in the same location as the now removed building D. However, its removal was not the only reason the scheme was allowed. In addition, reading the officer's report as a whole, in my view, the reference to being 'in line' relates to the alignment of building B with the existing garage, not the relationship of development with the front elevation of the house.
11. The appellant has also drawn my attention to an application where the Council agreed to the removal of a condition restricting permitted development rights. From the information before me, that development for a single-storey dwelling was not found to be materially larger or to have a greater impact on openness and therefore would not be inappropriate development in the Green Belt. As such, it is not directly

² The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 2015 Order) - Class E, Part 1, Article 3, Schedule 2

³ Paragraph 10.5 officer's report - Ref No: MO/2023/1959/PLAH

comparable, and any event, I am required to determine the appeal on its own merits. In addition, whether or not other dwellings in the immediate area benefit from PD rights is not a matter before me.

Conclusion

12. For the reasons set out, condition 3 is clearly justified and therefore the appeal is dismissed.

G Ellis

INSPECTOR