
Appeal Decisions

Site visit made on 5 August 2025

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Appeal Refs: APP/N0410/C/24/3354154 and APP/N0410/C/24/3354155 Collingswood Road, Farnham Common, SL2 3LJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Ms Hajira Aslam Mr Majid Malik against an enforcement notice issued by Buckinghamshire Council - South Area (South Bucks).
 - The notice was issued on 18 October 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the construction of a detached dwelling with hardstanding.
 - The requirements of the notice are: 1. Demolish the dwelling marked hatched on the attached plan; 2. Rip up and remove the hardstanding marked in the area cross hatched on the attached plan; 3. Seed the Land with grass seen (in the approximate location shown hatched and cross hatched on the attached plan; and 4. Remove all materials and debris resulting from complying with Steps 1 & 2 of this notice from the Land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (f) 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.
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Decisions

1. The appeals are allowed and the enforcement notice is quashed.

Grounds (b) and (c)

2. Outline planning permission¹ was granted in 2019 for “Erection of one 4 bedroom house and new vehicle access.” in a plot that was at that time part of the rear garden of Springdale. Although the Officer’s Report states that all matters were reserved, it is clear from the permission and conditions attached that the reserved matters upon the grant of outline permission were scale, appearance and landscaping. The site was fenced off from the rear garden of Springdale and subsequently sold to the appellants in April 2021. Reserved matters approvals for scale and appearance had by this time been granted, and landscaping was approved in March 2022 following an initial refusal on habitats impact grounds. It is not disputed that the fence sub-dividing the former garden was erected a short distance south of the position shown on the approved layout plan Drawing No. 17.SP.SITE.P01 rev. D. The appellants were evidently unaware of this and the house was built taking the fence as a reference, so that its footprint is offset from that approved at the outline stage. The magnitude of the offset has been estimated on the basis of the distance between the dwelling and the dwelling at Springdale. From the layout plan I estimate that the correct distance would be 22m. Estimates of the actual distance between the dwellings have used aerial imagery, which indicates inter dwelling distances of 23.5- 24m. While I would normally be cautious about accepting measurements taken from aerial imagery, in this case I could

¹ Ref. PL/19/0016/OA

see in any case that comparison with surrounding features suggests that the new dwelling is slightly south of the approved siting. Hence I have proceeded on the basis that the building has been erected 1.5 to 2m south of the permitted site.

3. An appeal on Ground (b) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, those matters have not occurred. Although not completely finished when the notice was issued, it is not argued that a detached dwelling with hardstanding had not been built, and so the appeal on ground (b) could not succeed.

4. The more appropriate ground is ground (c), that the matters stated do not constitute a breach of planning control. The appellants' arguments are directed at establishing that the dwelling as built is that permitted in 2019. They rely in part on the approved landscaping plan, the last of the reserved matters to be approved. That plan does show the building sited as it is now, but that is hardly surprising since the plan is based on an aerial image of the site. However, a planning permission must be construed as a whole, and in that context I consider that the approved landscaping plan is not capable of altering a fundamental aspect of the approved development, namely the approved layout.

5. Nonetheless, so far as the site layout is concerned I consider that in the overall context of the development the change in position of the dwelling as erected compared to the siting shown on the approved layout plan, no more than 2m difference, is insignificant and does not go to the heart of the planning permission. It is necessary in such circumstances to consider not just the existence of differences between the plans and the completed development, but also to consider the significance of those differences. The Council does not consider that there are any planning consequences arising from the error, which I accept was entirely unintentional. In the circumstances it is easy to understand how it came about. I conclude accordingly that the layout of the development is in accordance with the 2019 planning permission.

6. There are other differences between what was permitted and what was built. Additional rooms were created in the roof space and rooflights added, and there are other differences in fenestration. These were the subject of an application made under section 73 of the Act for planning permission for the approved development without complying with conditions. This was refused because it was considered that the 2019 permission had expired, having not been implemented in time. However, in respect of the planning considerations which it deemed relevant, namely design, character and appearance, the effect on the living conditions of neighbouring dwellings, and highways considerations, the Council considered that there would be no significant impact. I agree. For this reason I consider that these departures from what was permitted are not sufficiently material as to lead to a conclusion that the development as a whole was not the implementation of the 2019 planning permission. They amount to non-compliance with conditions attached to the approval of reserved matters of appearance and scale².

7. In summary, I find that the difference in the siting of the building, and indeed the slight reduction in the size of the plot, to be *de minimus* in the circumstances, having no material planning consequences. Aside from the differences noted above, the building erected, in scale, form and appearance, is substantially that permitted and I am satisfied therefore that the building, and indeed the hardstanding, are not to be considered as new development, rather they are the implementation of the 2019

² Ref. PL/19/1986/DE

planning permission and so benefit from that. There is non-compliance with conditions attached to the permission, but again there are no material planning consequences and the Act makes provision under section 73A for rectification of such matters.

Enforcement action can also be taken to seek compliance with any conditions that may be in breach, if considered expedient. I have considered whether non-compliance with conditions should be considered under ground (a), but that would require fundamental amendments to the enforcement notice which I consider would go beyond the power of correction provided in section 176.

8. Since the construction of the detached dwelling with hardstanding is, as a matter of fact and degree, in substance the implementation of the 2019 planning permission, the appeal on this ground succeeds, and I shall quash the notice. The appeals on grounds (a) and (f) do not therefore fall to be considered.

Paul Dignan

INSPECTOR