



Appeal Decision

Hearing held on 5 November 2025

Site visit made on 5 November 2025

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/Q3115/C/25/3370518

Land at River House, Mill Lane, Shiplake RG9 3LY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Marek Reichman against an enforcement notice issued by South Oxfordshire District Council.
 - The notice was issued on 26 June 2025.
 - The breach of planning control as alleged in the notice is:
Without planning permission (i) the demolition of a dwellinghouse to ground floor slab and foundation level (ii) the undertaking of building work comprising of a dwellinghouse, with raised platforms and steps to the front and rear and incorporating and utilising the existing raised slab and foundations; and (iii) the erection of walls and gates along the front boundary.
 - The requirements of the notice are to:
 - i. Demolish the dwellinghouse, raised platforms and steps to the front and rear, referenced to in 3 above, with the exception of the raised slab and foundations which existed on the Land prior to the breach of planning control, described in 3 above, taking place.
 - ii. Demolish the wall and gates along the front boundary, referenced to in 3 above.
 - iii. Rebuild the dwelling house to match in facsimile the dwelling house, as it stood prior to the commencement of the unauthorised development, utilising and incorporating the existing raised slab and foundations and in conformity with the drawings showing existing plans and elevations and photographs at Appendix 2, which were submitted under the planning application ref: P15/S1856/HH.
 - iv. Remove from the Land all waste materials resulting from the works required by (i), (ii) and (iii) above.
 - v. Reinstatement areas disturbed by the works required by (i), (ii), (iii) and (iv) above by the backfilling of any excavations using clean fill, the spreading of topsoil to levels commensurate with the natural levels and fall of immediately adjoining lands and the sowing of grass seed.
 - vi. Reinstatement and restore the front boundary to its former condition and natural levels and fall before the breach of planning control took place
 - The period for compliance with the requirements is: 12 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(a), (f) 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.
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Decision

1. 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 as amended for the development already carried out, namely '*i) the demolition of a dwellinghouse to ground floor slab and foundation level (ii) the undertaking of building work comprising of a dwellinghouse, with raised platforms and steps to the front and rear and incorporating and utilising the existing raised slab and foundations; and (iii) the erection of walls and gates along the front boundary*', subject to the conditions set out in the schedule below.

Preliminary Matters

2. At the final comments stage for the appeal the appellant submitted a technical note of flood risk and drainage which the Council had initially objected to as it included new evidence. I sent a pre-hearing note to the main parties on 17 October canvassing the appellant on the reasons for the evidence and asking the Council to explain if there were any reasons why they could not consider that evidence in time, prior to the hearing. The Council responded to confirm that they and the Environment Agency would be in a position to respond to the information by the date of the hearing. I accepted the further evidence at the beginning of the hearing along with other correspondence including that prepared by the Environment Agency and the Council's Flood Risk and Drainage Engineer.
3. I had also made it clear that, given the technical nature of the information relating to flood risks, that it would be very helpful if the parties could work together to provide a statement of common ground before the hearing. Whilst I did not receive a statement of common ground, the parties did work towards a set of planning conditions before the hearing.

Appeal on ground (a)

4. The Council had also accepted in its hearing statement that there was no longer any concern about the development with respect to a lack of information about carbon and energy impacts of the unauthorised structure. I have no evidence to dispute that position and the environmental credentials of the construction were explained briefly at the hearing.
5. The main issues below are based upon the remaining matters that were in dispute when the hearing opened. I agreed to the request of both parties for a short adjournment which enabled them to reach further agreement regarding the details that would need to be submitted in order to overcome the Council's outstanding concerns. I will therefore consider the main issues in this context.

Main Issue

6. The first is whether the development is appropriate in this location with respects to flood-risks. The second is the effect of the development on highway safety.

Flood risk

7. The appeal site is within the functional flood plain of the River Thames. There is no dispute that a new dwelling has been constructed albeit on the original slab of the previous dwelling on the site. The dwelling as constructed has a floor level 220mm above that of the previous, demolished dwelling. Although the dwelling is below that advised for the appropriate design level and there will be a residual risk of flooding within the building, it is accepted by the Council that the current situation is a betterment over the demolished dwelling. The dwelling has also been designed with flood resilience measures.
8. Externally, there are large patio areas at the front and rear of the dwelling which have increased the amount of built development within the flood-plain. The potential displacement of floodwater reduces flood-storage which can increase flood levels locally, shifting flood-risk downstream or to neighbouring properties. The voids that had previously existed beneath the previously dwelling have been retained. The Planning Practice Guidance (PPG) however discourages the

reliance on voids for compensatory flood storage as they do not allow water to freely flow and they can get blocked.

9. The first of the planning conditions agreed by the parties would require the submission of a 'Site Development Scheme' (SDS). The SDS would propose a number of physical changes on site as well as survey work, a flood risk management plan, a void space management plan, further flood resilience measures, drainage strategies as well as details of all boundary and other walls within the site. I have made some minor changes to the suggested wording of this condition. These include clarifying that the removal of the large patios, to overcome the problem with flood storage, in very small part near to the house need to be retained for structural reasons. I have also corrected an inaccuracy with one of the figures given for the allowance for climate change and to confirm that any means of enclosure, as agreed through the condition, would need to be replaced, if they become damaged in future.
10. The condition requires steps similar to the enforcement notice, if its steps are not complied with. That is simply to provide the jeopardy for non-compliance because the development already exists and it is not possible to impose a pre-commencement condition. The condition is clearly necessary to provide the additional safeguards for the occupants of the dwelling as well as those who could otherwise be affected by changes in flood risks elsewhere. The planning condition provides a proportionate approach to dealing with flood-risks in this case. As such, taking account of recent changes to the PPG, it is unnecessary to apply the sequential tests for the development which would otherwise be required by National Planning Policy Framework (the Framework).
11. There is also the need for a separate stand-alone condition to ensure the retention and maintenance of the voids below the dwelling. These circumstances also justify the removal of permitted development rights so that the Council retains control over developments within the curtilage of the dwelling in order to manage flood risks and flood storage. I have specified the classes of permitted development that need to be restricted, as set out within schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which were agreed at the hearing. I have removed the tailpiece element of the suggested condition allowing for an exception where the written approval of the Council is achieved. Planning permission will be required for those specified restricted developments and so the tailpiece is unnecessary and mis-leading.
12. With these safeguards, in relation to this main issue, the development is appropriate in this location with respects to flood-risks. As such, this complies with Policy EP4 of the South Oxfordshire District Council Local Plan 2035, adopted in December 2020 (LP) because the risk and impact of flooding would be minimised.

Highway safety

13. The lane leading to the site known as Mill Lane, is unsurfaced along much of it and terminates as a vehicular road a short distance to the east, near the railway viaduct. The track is however a public right of way and the byway continues along a path, past the viaduct and also connects with the wider rights of way network. As a vehicular highway, the track serves other properties along Mill Lane as well as the nearby fields and I saw several gates into those.

14. There is no suggestion by the Council that Mill Lane is heavily used although there were a lot of vehicles parked along it at the time of my visit. The rough surface of the lane helps to limit speeds generally as I found when I drove along it to carry out my site visit. This informal traffic calming is assisted by parked vehicles alongside the lane although some of those may have been present due to nearby construction work. I am however satisfied that these physical characteristics and position close to the end of the lane as a vehicular highway, provides traffic calming and reduces risks to pedestrians.
15. Along the front boundary of the appeal site, there is a high wall with an automatic sliding gate which enable vehicular access and egress. Although the wall alongside the opening restricts visibility in either direction, drivers of vehicles exiting the site in a forward gear, are able to position the vehicle centrally in order to ensure a good degree of visibility in both directions along the lane. The large patio and steps up to the front of the dwelling provide a limitation to the turning within the site however, especially when other large vehicles are parked inside the site. The high walls along the front of the site block views for drivers reversing out of the site which could bring about some potential conflicts with other users of the lane and increased danger therefore, when compared with the previous dwelling that had been on site. However, it was agreed at the hearing that the requirement to remove much of the front patio and steps would satisfactorily increase the turning area at the front of the dwelling, enabling vehicles to turn within the site.
16. In relation to the second main issue, the physical changes required due to the first planning condition suggested by the main parties would mean that the development would have an acceptable impact upon highway safety. This would comply with LP Policy TRANS5 because a safe and convenient access for all users of the highway network would be provided.

Further planning conditions

17. It is also necessary for a biodiversity compensation scheme to be prepared, submitted, agreed by the Council and then implemented in order to comply with LP Policy ENV3 to ensure no biodiversity loss as a result of the development. Both main parties were content that the benchmark for that assessment could be satisfactorily evaluated through evidence of what previously existed on site including aerial photographs. I will attach a condition requiring that as agreed between the main parties. This condition also requires strict measures similar to the notice, if it is not complied with.
18. There is no need for the standard time limit condition as development has commenced.

Conclusion

19. For the reasons given above and having had regard to the development plan as a whole and all other material considerations, I conclude that the development is acceptable. The appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The appeal on grounds (f) and (g) do not therefore fall to be considered.

Andy Harwood

INSPECTOR

Schedule of conditions:

1. The development hereby approved, including the replacement dwelling, raised platforms and steps to the front and rear, front wall and gates and hard surface areas shall be demolished and removed from the land (with the exception of the raised slab and foundations which existed on the land prior to the erection of the replacement dwelling); and the original dwelling and land shall be reinstated to the condition that existed prior to the replacement dwelling and related development being erected, within 18 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 4 months of the date of this decision a 'site development scheme' (SDS) shall have been submitted for the written approval of the local planning authority. This scheme shall include:
 - (a) The removal of the raised patios from the front and rear of the dwelling (other than partial elements of the patios which the SDS shows are required for the structural stability of the dwelling) and provision of practical steps and/or ramps to external doors of a construction that is permeable and open to flood waters;
 - (b) A detailed survey of the land and building showing the existing and proposed finished levels to Above Ordnance Datum; (AOD);
 - (c) Plans and elevations of the proposed finished development comprising the dwelling, front wall and gates and all hard surface areas;
 - (d) A Flood Risk Management Plan specifying the actions to be taken before during and after flood, to help ensure the safety of occupants and the protection of property;
 - (e) A Void Space Management Plan addressing the ongoing maintenance of the void beneath the building;
 - (f) A scheme to reduce flood risk to occupiers of the dwelling outlining the steps already taken and any flood resilience and flood resistance measures that are proposed to be taken, to achieve to the fullest extent practicable 300mm above the 1% annual exceedance probability (AEP) +31% climate change allowance;
 - (g) A full surface water drainage strategy adhering to the surface water drainage hierarchy, including details of the size, position and construction of drainage works; and
 - (h) a full foul water drainage strategy, including details of the size, position and construction of all drainage works;
 - (i) details of all boundary and garden walls, fences and any other means of enclosure, permeable to floodwater up to the 1% AEP flood with a 35% allowance for climate change;
 - (j) a timetable for its implementation.
 - (ii) If within 8 months of the date of this decision the local planning authority refuse to approve the SDS or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- (iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained and maintained. If after implementation of the approved scheme any of the measures become damaged or ineffective at any time, they shall be replaced, within 1 month of that time, in accordance with the approved details.

2. The development hereby approved, including the replacement dwelling, raised platforms and steps to the front and rear, front wall and gates and hard surface areas shall be demolished and removed from the land (with the exception of the raised slab and foundations which existed on the land prior to the erection of the replacement dwelling); and the original dwelling and land shall be reinstated to the condition that existed prior to the replacement dwelling and related development being erected, within 18 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- (i) Within 4 months of the date of this decision a Biodiversity Compensation Scheme (BCS) for the site, prepared by a suitably qualified ecologist, shall have been submitted for the written approval of the local planning authority. The BCS shall demonstrate that the approved scheme will not result in a net loss of biodiversity. The BCS shall include:
 - a) details, including plans and habitat descriptions as necessary, of a post-development scheme of habitat creation and enhancement;
 - b) full details of a biodiversity metric assessment (utilising the statutory biodiversity metric published by Defra), including habitat condition assessment sheets, to demonstrate that the scheme will not result in a net loss of biodiversity from the pre-development baseline;
 - c) detailed method statement for the successful implementation and establishment of created or enhanced habitats and features stated in the BCS;
 - d) full details of ongoing habitat management for the scheme to achieve relevant habitat condition criteria;
 - e) the scheme shall secure no net loss of biodiversity on-site, with any short fall secured through off-site enhancement or, as a last resort, through the purchase of credits;
 - f) a timetable for its implementation.
- (ii) If within 8 months of the date of this decision the local planning authority refuse to approve the BCS or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted BCS shall have been approved by the Secretary of State.

(iv) The approved BCS shall have been carried out and implemented in accordance with the approved timetable.

Upon implementation of the approved BCS specified in this condition, the ongoing management provisions shall thereafter be retained and complied with.

3. The voids beneath the building shall be retained and kept open and free from stored items and water deposited materials, and other obstructions at all time in perpetuity for the lifetime of the development.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any other order revoking and re-enacting that order with or without modifications), no alterations, extension, incidental buildings, structures, walls, fences, other means of enclosure or hardstanding areas falling within Schedule 2 Part 1 classes A, AA, D, E and F and Part 2 Classes A and B of the order, shall be constructed on the site.

APPEARANCES

FOR THE APPELLANT:

Andrew Parkinson of counsel instructed on behalf of the appellant by Richard Buxton
Solicitor

David Barker MRTPI MRICS Planning Consultant

Mr Reichman The Appellant

Mark Geddes IENG MICE Highways consultant

FOR THE LOCAL PLANNING AUTHORITY:

Robert Cramp Planning Officer

Leigh Travers EngTech MICE Flood Risk and Drainage Engineer

INTERESTED PARTIES:

Michelle Kidd MSc Planning Specialist, the Environment Agency

Neil Landricombe Flood Risk Manager, the Environment Agency

DOCUMENTS

1. GWP Consultants, Technical Note on Flood Risk and Drainage 13 October 2025
2. Leigh Travers' letter 29 October 2025
3. Environment Agency Letter by Michelle Kidd to Planning Inspectorate 4 November 2025
4. Council comments on nearby planning permission referred to by the appellant – 14 Milldown Avenue
5. Further change to suggested condition 1