



Appeal Decision

Site visit made on 2 December 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 January 2026

Appeal Ref: APP/D3640/C/25/3360000

6 Roundway Close, Camberley GU15 1NT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr Kristian Grantham against an enforcement notice issued by Surrey Heath Borough Council.
- The notice was issued on 9 January 2025.
- The breach of planning control as alleged in the notice is *without planning permission the unauthorised building and engineering operation consisting of the formation of a raised platform and alteration to existing land levels in the approximate position shown hatched black on the attached site plan.*
- The requirements of the notice are to:
 - a) *Remove the raised platform/patio area, 2no. sets of steps and gabion baskets from the approximate area hatched black on the supporting plan.*
 - b) *Reinstate the land levels to their approximate former condition as indicated in supporting photo "A". The reinstated land levels shall approximately match those of the adjacent land laves at neighbouring properties.*
 - c) *Remove all materials resulting from the removal of the raised platform, patio are, steps and gabion baskets from the site.*
- The period for compliance with the requirements is: *Within six (6) months after this notice takes effect.*
- The appeal is proceeding on the ground[s] set out in section 174(2)(a), (c), (f), (g) of the 1990 Act (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.

Formal Decision

1. It is directed that the enforcement notice is corrected by:

- At Schedule 3 of the enforcement notice replace the word 'platform' with the plural 'platforms' and include references to the steps and gabion baskets, so that the alleged breach reads as follows:

"Without planning permission, the unauthorised building and engineering operation consisting of the formation of raised platforms, all steps and gabion baskets and alteration to existing land levels in the approximate position shown hatched black on the attached site plan"

- At Schedule 5.a) of the enforcement notice correct the requirements to read as follows:

"a) Remove the raised platforms/patio areas, all steps and gabion baskets from the approximate area hatched black on the supporting plan."

2. Subject to these corrections the appeal is allowed, and 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 for the building and engineering operations consisting of the formation of raised platforms, steps, gabion baskets, hard and soft landscaping and alteration to existing land levels to the rear of 6 Roundway Close, Camberley GU15 1NT.

The Enforcement Notice

3. The enforcement notice alleges unauthorised building and engineering operations with respect to the alteration of the land levels at the existing site. The allegation refers to a singular platform and contains no reference to the formation of steps or the use of the gabion baskets as either an operational development or in connection with the engineering works. From the evidence before me there are multiple platforms and sets of stairs as a result of the works.
4. In the interests of clarity and to avoid any misinterpretation I have corrected the notice as stated above, to ensure that the breach of planning control and requirements of the notice are directed to the building operations and engineering works at the site. No injustice would arise to the Council, since their evidence is clear they seek to remedy the breach of planning control, and return the land to its condition prior to the alleged breach taking place. Likewise, no injustice would arise to the appellant, as their case has been made on the basis the notice is targeted at the landscaping works that have been undertaken at the rear of the property.

Appeal on ground (c)

5. An appeal under ground (c) is made on the basis that the matters stated in the notice (if they occurred) do not constitute a breach of planning control. In a legal ground of appeal, the onus of proof is firmly on the appellant to make their case, on the balance of probabilities¹.
6. Class E(a), Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) relates to *'any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure.'*
7. From the evidence before me, the scheme was a single act of development comprising of building operations, including engineering works, to excavate material; reprofile the land; strengthen the land with reinforced footings; installing and positioning of gabion baskets; and the provision of retaining walls, steps and platforms.
8. The appellant claims that the garden decking could be considered as 'permitted development' pursuant to Class E.1(h), Part 2 of Schedule 2 of the GPDO, as the Council has failed to identify which parts of the land have increased in height greater than 0.3 metres, thus would be considered a raised platform². At the site visit I noted several 'platforms' at the appeal site, these varied in height, with some clearly in excess of the 0.3 metres tolerance, given the significant engineering

¹ *Thrasivoulou v SSE & Hackney LBC (No 1)* [1984] JPL 732

² Interpretation of Part 1 of the GPDO: "raised" in relation to a platform means a platform with a height greater than 0.3 metres

works that have taken place at the site with specific regard to regrading of the landscape profiles.

9. As a matter of fact and degree, the breach of planning control comprises a single and cohesive act of development. Therefore, I do not find that the breach of planning control, when taken as a whole, could fall to be considered against Class E of Part 2 of Schedule 2 of the GPDO.
10. For the reasons outlined above, I conclude that the breach of planning control constitutes a single act of development, and thus is not permitted development pursuant to Class E of the GPDO. The breach of planning control constitutes an act of development for which planning permission is required.
11. Consequently, the ground (c) appeal fails.

Appeal on ground (a), the deemed planning application

12. The deemed planning application is for the building and engineering operations consisting of the formation of raised platforms, steps, gabion baskets, hard and soft landscaping and alteration to existing land levels to the rear of the existing dwellinghouse.

Main issue

13. The main issue is the effect of the development on the living conditions of the neighbouring properties, with specific regard to overlooking and privacy.

Reasons

Living conditions – neighbouring properties

14. The appeal site is located on the south side of Roundway Close in Camberley, a small cul-de-sac consisting of residential properties which are mainly two storey detached dwellinghouses. The topography to the rear of the properties on the southern side of the road is extremely steep, with the rear of the gardens at numbers 6 and 8 providing a ground level approaching the height of the eaves on the existing dwellings.
15. From the evidence before me, prior to the works being undertaken, the significant change in ground levels within the area, provided a sensitive relationship between neighbours, as it appeared they were afforded unrestricted views of rear elevations and also views into rear gardens spaces. It is acknowledged that the development as existing provides more formalised platforms than the original undulating topography. These would assist in the appellant being able to sit outside during the more clement seasons, and the ability to formally provide tables and chairs etc, on the platform/patio areas. However, I am not aware of any restrictions that would have prevented similar levels of activity from occurring prior to the works having taken place.
16. The existing works at the appeal site provide platforms and areas within the garden that allow for high vantage points when looking back towards Nos. 4 and 8 Roundway Close. However, these platforms and their subsequent viewpoints are at the rear of the site and are a respectful distance from the rear elevations and windows at the adjoining dwellings. Moreover, during my site visit I noted that the

appeal site has been subject to significant and robust landscaping in an attempt to mitigate the mutual overlooking experienced between neighbours.

17. In particular, a large laurel hedge has been installed along the boundary with No 8, which prevents views of the garden, and restricts views of the rear of the property to glimpse views only, from the 'upper' garden level at the appeal site. Similarly, the provision of a wooden fence restricts views from the 'lower' garden level to the rear elevation of No 4, whilst the southeast corner of the 'upper' level has been planted with large evergreen shrubs that also provide screening of the garden and rear elevations at this property. These measures assist in protecting the privacy of these residents, who will have been subject to views from similar vantage points prior to the works taken place, albeit slightly less formal.
18. Suitable conditions can be used to secure the retention of the existing vegetation and their protection for longevity, given their important screening purpose. I appreciate that it can be difficult to ensure the protection of landscaping in perpetuity and there may well be pressures to reduce and remove vegetation in the future. However, given the current status of the hedging and shrubs along the boundary and the relatively modest scale of the development, it is likely that an adequate level of landscaping can be maintained through the use of conditions.

Conclusion on ground (a)

19. Overall, subject to conditions, the development will not have a harmful effect on the living conditions at neighbouring properties with particular reference to privacy. The development would therefore comply with policy DM9 of the Surrey Heath Core Strategy and Development Management Policies Document 2011-2028, adopted in February 2012, the aims and objectives of the Surrey Heath Residential Design Guide Supplementary Planning Document, adopted September 2017 and the National Planning Policy Framework (the Framework) which collectively seek to provide a high standard of private and public amenity space and respect the amenities of occupiers of neighbouring properties, amongst other things.

Conditions

20. In attaching conditions to this decision, I have had regard to the tests set out at paragraph 56 of the Framework and the Planning Practice Guidance³. Given that the proposal is retrospective there is no need to attach the standard time limit condition or approved plans. However, I have imposed conditions in respect of a landscaping scheme in order to retain and enhance the existing vegetation in the interests of appearance of the area, and the protection they provide to the living conditions of the neighbouring properties.
21. The Council have raised concerns in respect to the landscaping scheme conditions specifically in that they do not meet the six tests. The submission of the landscaping scheme, subject to condition 1, is necessary in order that it retains the vegetation which is currently providing suitable screening to and from the appeal site. The submission for an approval of a landscape scheme and landscape plan, will ensure precision and consistency for all parties with regard to positioning, type, size, species and management responsibilities to provide and maintain the adequate screening. In this regard this condition is relevant to planning and the development, precise, enforceable and reasonable in all other respects.

³ Use of Planning Conditions: Paragraph: 003 Reference ID: 21a-003-20190723

22. In regard to condition 2, its function is as a backstop to ensure that the vegetation becomes established and continues to provide adequate screening, but should it die or be removed within a five year timeframe it can be replaced with similar species to ensure the screening is maintained. Nevertheless, following the end of the five year period, the second paragraph of condition 1 will ensure that the scheme (as approved) would be enforceable for the lifespan of the development, thus retaining its screening function.

Conclusion

23. Whilst the ground (c) appeal is unsuccessful, for the reasons given above, I conclude that the appeal should succeed on ground (a). Planning permission will therefore be granted, and the corrected enforcement notice will be quashed. The appeal on grounds (f) and (g) do not therefore fall to be considered.

Robert Naylor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless within three months of the date of this decision a landscape management scheme, including but not limited to a landscape management plan, long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

Upon implementation of the approved landscape management scheme specified in this condition, that landscape management scheme shall thereafter be maintained for the life span of the development.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) All approved vegetation, shrubs and hedges in the landscape management scheme, referred to in condition 1 shall be retained. No retained tree or hedge shall be cut down, uprooted, destroyed, pruned, or damaged in any manner within 5 years from the date of the development hereby permitted. Any element of the new planting which is uprooted, destroyed, damaged, dies or becomes diseased within 5 years from the date of the approved landscape management plan shall be replaced in the same location with planting of a similar size and species, by no later than the next planting season.

END OF SCHEDULE