
Appeal Decision

Site visit made on 21 January 2026

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 JANUARY 2026

Appeal Ref: APP/Z3635/W/25/3375599

Plot 2, Sandhills Meadow, Shepperton, TW17 9HY

- 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 Lord Paul Lotz against the decision of Spelthorne Borough Council.
 - The application Ref is 25/00490/FUL.
 - The development proposed is installation of boundary fences across the plot.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above is taken from the appeal form rather than the application form. The appellant has confirmed the above address to be correct and therefore I have proceeded with the appeal on this basis.
3. I have taken the description of the proposal from the Council's decision notice. Both the description within the application form and the appeal form include references to the rationale behind the development which do not form acts of development. I find the Council's description to be an accurate and concise representation of the development in the appeal before me. As such, I am satisfied that the appellant has not been prejudiced by the use of the description within the Council's decision notice.
4. The appeal proposal requires planning permission because the appeal site is subject to an Article 4 direction preventing the erection of gates, fences and other means of enclosures without planning permission.
5. The appellant has suggested that they would be willing to lower the fencing. However, the purpose of the appeal process is not to advance an alternative scheme to that considered by the Council. I have assessed the proposal based on the plans which were submitted to the Council and upon which they made their decision.

Main Issues

6. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies, including the effect upon the openness of the Green Belt;

- the effect of the proposal on the character and appearance of the area; and,
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

7. The appeal site is within the Green Belt. The Framework outlines the great importance to which the Government attaches to Green Belt, acknowledging that the essential characteristics of Green Belts are their openness and their permanence. Despite pre-dating the Framework, saved policy GB1 of the Spelthorne Borough Local Plan (2001) (the Local Plan) also indicates that development will not be permitted in the Green Belt which would conflict with the purposes of the Green Belt and maintaining its openness.
8. The proposal relates to the erection of fencing with an associated gate around the perimeter of the appeal site. No change of use of the land is proposed. The plans submitted demonstrate that the fences will be supported by posts which would be secured below ground level. The definition of a 'building' in Section 336(1) of the Town and Country Planning Act 1990, states that a 'building' includes 'any structure or erection'. Having considered this definition, as well as the size, degree of permanence and physical attachment of the proposal, I find that it does constitute a building operation.
9. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt, including harm to its openness, stating that inappropriate development should not be approved except in very special circumstances. The Framework does however outline several exceptions to inappropriate development at paragraphs 154 and 155.
10. Paragraph 154(a) refers to buildings for agriculture and forestry. Based on the evidence before me, I do not find that the fences and gate would be necessary for the purpose of forestry practices.
11. Whilst the appellant's statement refers to paragraph 155 of the Framework, the subsequent quote does not mirror the wording of paragraph 155 and is therefore inferred to relate to a previous version of the Framework. The statement is better related to the wording of paragraph 154(h) but this sets out a closed list of other forms of development, none of which relate to the appeal proposal before me.
12. Consequently, the proposal does not meet any of the exceptions to inappropriate development outlined within the Framework. It is therefore by definition harmful to the Green Belt.

Openness

13. The Planning Practice Guidance (PPG) provides advice on the factors that can be taken into account when considering the potential impact of development on the openness of the Green Belt, with openness being capable of having both spatial and visual aspects.

14. Although the proposed fences and gate would be visually permeable through their design, the proposal would still introduce built form of a considerable height and length to a site which as existing is void of built form. Despite not amounting to substantially harmful urban sprawl, the enclosure of the appeal site in the manner proposed would still add both a spatial and visual disruption to the openness of the Green Belt.
15. Based on the above, I conclude that the proposed development would be inappropriate development in the Green Belt having regard to the Local Plan and the Framework, and that it would also result in harm to the openness of the Green Belt. In this regard, it would conflict with saved policy GB1 of the Local Plan insofar as it relates to maintaining the openness of the Green Belt.

Character and appearance

16. The appeal site forms an undeveloped parcel of land which is similar in its wooded character and appearance to the adjacent land to the north, south and west. Despite the land being in separate ownership, visually the appeal site is indistinguishable from the adjacent land due to an absence of boundary treatments. The area has an open wooded character which creates a distinctly rural appearance to both the appeal site and its immediate surroundings.
17. Although the style and appearance of the fences and gate would be relatively consistent with a woodland setting, the combined length and height of the fencing would create a stark form of development which would detract from the open, rural character of the appeal site.
18. I noted during my site visit the presence of a fence towards the access at Russell Road. However, this fence differs from the appeal proposal in both its appearance and its function, serving as an enclosure to a parking area. I therefore do not find the presence of this fence to be so comparable as to justify the development before me. Whilst it is suggested that fences of a similar style and appearance are used to protect flood plains, this is anecdotal and does not constitute support for the specific appeal proposal before me.
19. I therefore find that the proposal would have a harmful effect on the character and appearance of the area. It would therefore be contrary to Policy EN1 of the Core Strategy and Policies Development Plan Document (2009) which requires new development to protect and make a positive contribution to the character of the area.

Other considerations

20. The appellant sets out that the purpose of the proposal is to prevent environmental harm through persistent fly tipping, illegal dumping and antisocial behaviour. The evidence before me suggests that an occasion of fly tipping occurred in January 2022 with a letter from the Council requesting removal of the rubbish. Nevertheless, I have little substantive evidence which indicates this to be a frequent occurrence. Indeed, the Council has confirmed that no further letters have been sent since the one from 2022.
21. Whilst the fences and gate may assist in deterring instances of fly tipping, I remain to be convinced that they would eradicate the possibility for them altogether. Moreover, it has not been demonstrated that there are not other, less harmful

means of achieving the same aims, such as additional planting which would not have the same harm to the rural nature of the appeal site. I therefore give this consideration limited weight.

22. My attention has been drawn to case law¹ in which it is inferred supports modest, site-protective enclosures where they prevent environmental degradation. I do not have the full context of this case. Nevertheless, I am not satisfied that the proposed development would serve the purpose of preventing environmental degradation or that it is strictly necessary to protect the biodiversity and trees which exist within the appeal site. I therefore equally cannot conclude that the appeal proposal would support community amenity or uphold the Council's climate change objectives. On this basis I have given this consideration very limited weight.
23. It is presented that the proposal is reversible and temporary in nature. However, the appeal proposal relates to development for full planning permission without suggestion of a temporary period. I have assessed the appeal on this basis. Even if the proposal were to relate to a temporary permission, the harm I have identified above would still exist in the short term.

Green Belt Balance

24. The proposal constitutes inappropriate development in the Green Belt which would also cause harm to the openness of the Green Belt. I attach substantial weight to the associated Green Belt harm. Furthermore, the proposal would amount to harm to the character and appearance of the area through the detracting of the open and rural character of the site. This is an additional harm to which I have assigned significant weight.
25. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Taken together, the other considerations put forward carry at most limited weight. It follows that the substantial weight to be given to Green Belt harm, together with the significant weight to which I have given to the other harm identified, are not clearly outweighed by other considerations in this case. Therefore, the very special circumstances required to justify the proposed development do not exist.

Other Matters

26. The Council did not resist the proposal on grounds of flood risk or impacts to trees. Based on the evidence before me, I see no reason to reach a different conclusion in respect to these matters. Nevertheless, this does not specifically weigh in favour of the proposal.
27. I have had due regard to Article 8 of the Human Rights Act 1998 which outlines that everyone has the right to respect for his private and family life, his home and his correspondence. These rights are engaged in reaching my decision. However, they are qualified rights, and interference may be justified where in the public interest. The concept of proportionality is key. In this case the dismissal of the appeal proposal does not prevent all reasonable means of the landowner securing the land and therefore the decision is proportionate.

¹ R (Lee Valley) (2016) EWCA Civ 404

Conclusion

28. The proposal conflicts with the development plan when read as a whole and material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

L Gardner

INSPECTOR