



Appeal Decisions

Site visit made on 27 January 2026

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

an Inspector appointed by the Secretary of State

Decision date: 20 February 2026

Appeal Ref: APP/C3620/C/25/3358752

Mark Oak Nursery, Cobham Road, Fetcham, Surrey KT22 9SA

- 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 Kevin Allen against an enforcement notice issued by Mole Valley District Council.
- The notice was issued on 5 December 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the erection of a fence and gates over 2 metres in height, in the approximate location shown by a blue line between points A and B on the attached plan.*
- The requirements of the notice are:
 - i) *Either remove the fence and gates, in the approximate location shown by a blue line between points A and B on the attached plan, from the Land; or reduce the height of all parts of the fence and gates so that no part exceeds two metres in height above adjacent ground levels between points A and A, one metre between B and B on the attached plan*
 - ii) *Remove from the land all materials associated with compliance with paragraph 5(i) above.*
- The period for compliance with the requirement is: *Three months after this Notice takes effect.*
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act (as amended).

Formal Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. There is another appeal¹ at the property made by the same appellant against the refusal of planning permission by Mole Valley District Council for a change of use of land from garden nursery (Use Class E) to outside storage (Use Class B8) at the appeal site. Whilst at the same site these are independent appeals and are subject to separate decisions.

Appeal on ground (f)

3. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. Having regard to its requirements, it is clear that the purpose of the notice is to remedy the breach of planning control.
4. The appellant has a choice, either completely removing the development, thus restoring the land to its condition before the breach took place; or alternatively reducing the height of the development which are more than 2 metres in height measured between points B and B and 1 metre between points A and A. Under section 173(11) of the 1990 Act the remaining sections of the fence and gates

¹ PINS Ref: APP/C3620/W/25/3360473

shall be treated as having gained planning permission granted by virtue of section 73A of the 1990 Act. This second option therefore provides for retaining part of the existing development, which is an obvious alternative to its complete removal.

5. The appellant contends that the site requires the retention of the current fencing and gates to allow the landowner access to their land, whilst providing a degree of security from trespass, fly tipping and other unsociable activities taking place. The appellant further contends that the appeal site is large enough to store the materials resulting from any removal of the development without harming the Green Belt, or the character and appearance of the area.
6. The appellant has not appealed the enforcement notice under ground (a) therefore, I cannot consider the planning merits of the case. Whether the development itself, or the storage of the materials associated with the compliance of the notice, would constitute inappropriate development in the Green Belt and/or would cause any harm to the visual character and appearance of the area, cannot be taken into account under this ground (f) appeal. I can only consider whether lesser steps would suffice to remedy the breach of planning control, and no lesser steps have been advanced by the appellant. In the absence of details for an alternative proposal, I have no basis on which to consider whether another option is viable, as this could prejudice the parties.
7. Consequently, I find that either option would be appropriate to remedy the breach of planning control, and as such the requirements of the enforcement notice are not excessive. The steps required by the notice to be taken, therefore do not exceed what is necessary to remedy the breach of planning control.
8. The ground (f) appeal therefore fails.

Appeal on ground (g)

9. For an appeal on ground (g) to succeed, it is to be demonstrated that the period specified in the notice for compliance in accordance with section 173(9) of the 1990 Act falls short of what should reasonably be allowed.
10. The appellant argues that a period of 12 months is the minimum necessary to undertake the requirements of the enforcement notice. The fence and the gates whilst tall and imposing have a temporary appearance, similar to hoardings that one might find surrounding a construction site. Therefore, the works to either remove or lower these structures as required by the enforcement notice would be within the capabilities of a competent person within the building trade and could be undertaken within 3 months of the date of this decision.
11. Furthermore, I have been presented with little evidence that would lead me to otherwise conclude that the period of 3 months is reasonable and proportionate to remedy the breach of planning control. The specified timeframe would strike an appropriate balance between the remedial rather than punitive requirements of the enforcement notice whilst also maintaining public confidence in the planning system.
12. I therefore conclude that the ground (g) appeal fails.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Robert Naylor

INSPECTOR