
Appeal Decisions

Site visit made on 25 February 2026

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 10th April 2026

Appeal A Ref: APP/Y9507/C/25/3361150

Land at Abesters, Quell Lane, Lurgashall, West Sussex, GU27 3BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
- The appeal is made by Cincilla Holdings Limited against an enforcement notice (EN) issued by South Downs National Park Authority.
- The EN was issued on 13 January 2025.
- The breach of planning control as alleged in the EN is: Without planning permission, the erection of a gate and fence in the approximate positions shown on the Plan.
- The requirements of the EN are:
 - i) Dismantle the said fence and remove the resulting debris from the Land; and
 - ii) Remove the said gate (including gate pillars) from the Land.
- The period for compliance with the requirements is: 3 Months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (e), (f) and (g) of the 1990 Act.

Summary Decision: The EN is quashed.

Appeal B Ref: APP/Y9507/W/25/3362129

Abesters, Quell Lane, Lurgashall, GU27 3BS

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
- The appeal is made by Cincilla Holdings against the decision of South Downs National Park Authority.
- The application Ref No is: SDNP/23/01408/FUL.
- The development proposed is: erection of replacement gates.

Summary Decision: The appeal is allowed and planning permission is granted subject to conditions.

Preliminary Matters

1. As set out above there are two appeals on this site. The appellant is the same for both appeals and they relate to similar developments. The EN relates to the erection of a gate and fence, and the refusal of planning permission is for the erection of replacement gates. It is clearly apparent that the planning refusal does not include any element of fencing. Moreover, at the site visit there was no dispute that the planning refusal relates to the relocation of the gates and pillars attacked by the EN.

The Notice – Appeal A

2. On an appeal any defect, error, or misdescription in an EN may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority. It may be the case that defects are too fundamental to be corrected without causing injustice, leading to the EN being quashed.

3. In this case the alleged breach of planning control, the erection of a gate and fence, is identified by reference to a plan attached to the EN. The gate is marked by a black line and 2 sections of fence by blue lines on that plan. At my request, during my site visit, the representative from the local planning authority (LPA) indicated which sections of fencing the EN was intended to target. From their indications it appears that the EN was intended to target the tall oak gates at the entrance to Abesters and 2 sections of wooden paling fence that run between the gate pillars and nearby trees on either side of the access road to Abesters.
4. The redline identifying the land that the EN relates to is drawn along the edge of one side of that access road. I observed at the site visit that one of the gate pillars appears to have been erected in an area beyond that edge of the access road. Moreover, the section of fence to the right-hand side of the gates, when viewed from Quell Lane, is clearly beyond that edge. Whereas on the plan attached to the EN the gates and that section of fence are drawn wholly within the access road.
5. I have considered whether I can correct the EN by deleting the plan and all references to it. However, there are 2 sets of gates currently at the entrance to Abesters and there are several sections of fencing. As such, to ensure clarity a plan identifying the gates and fences attacked by the EN is required. I have also considered whether I could correct the plan by altering the annotations identifying the gates and fences and extending the redline to include the area to the right-hand side of the access road. Nevertheless, according to the evidence before me that area beyond the edge of the access road is not owned or occupied by the appellant. It is part of the land and property known as Blackdown Beacon.
6. The appellant's ground (e) appeal relates to the lack of service on these and other owners of properties that utilise the access road. Yet that evidence does not relate to the matters highlighted above. Nevertheless, section 172(2) of the 1990 Act states that a copy of the EN shall be served on the owner and occupier of the land to which it relates and on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
7. The evidence before me indicates that the LPA did not serve a copy of the EN on the owner/occupier of Blackdown Beacon. If the corrections were made to the plan attached to the EN to include the additional land, I cannot be certain that it would have been served on all of the relevant parties as required by section 172(2) of the 1990 Act. Section 176(5) of the 1990 Act permits failure to serve any person as required by section 172 of that Act to be disregarded if neither they nor the appellant have been substantially prejudiced by that failure.
8. However, it would not be appropriate to disregard the potential failure to serve the owner/occupier of Blackdown Beacon as I cannot be certain that they would not have wished to submit an appeal on their own behalf. Therefore, they could be substantially prejudiced and injustice caused if this appeal continued.

Conclusion

9. For the reasons given above I conclude that the EN does not specify with sufficient clarity, the land where the breach of planning control is alleged to have taken place. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act since it appears that injustice would be caused were I to do so. Consequently, the EN is invalid and will be quashed. In

these circumstances the appeal under grounds (c), (e), (f) and (g) as set out in section 174(2) of the 1990 Act do not fall to be considered.

Formal Decision – Appeal A

10. The EN is quashed.

Appeal B

Main Issue

11. The main issue is the effect of the development upon the character and appearance of the area, having particular regard to the natural beauty, wildlife and cultural heritage of the South Downs National Park (SDNP).

Reasons

12. The development relates to the replacement of a pair of existing solid painted timber gates (the painted gates) with a pair of taller natural timber finish gates (the replacement gates). The replacement gates are currently located 3 metres (m) in front of the painted gates. A planning application and subsequent appeal decision¹ to retain the replacement gates in their current position was refused/dismissed. The painted gates are approximately 2m in height. The access road that they are located on serves Abesters, a large, detached dwelling, and several other dwellings that have a right of way over that road.
13. The site is within the SDNP, where there is a statutory duty² upon relevant authorities exercising their function to seek to further the purposes for which National Parks are designated. This includes conserving and enhancing their natural beauty, wildlife and cultural heritage. Paragraph 189 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape matters.
14. The appeal site is located within a heavily wooded area that is relatively isolated and tranquil. The junction of Quell Lane and Fernden Lane and a public right of way (PROW) are adjacent to the site. Those lanes are narrow and winding with passing places. Overall, those features impart a rural, sylvan and verdant character and appearance to the area.
15. I observed on my site visit that the painted gates are still in place and due to the topography, that they are sited at a materially lower ground level to that of the present location of the replacement gates. The top of each side of the replacement gates is curved with the highest point at the meeting/centre part and that highest point is 2.88m tall. As such they are/would be taller than the painted gates. Yet both sets of gates are of a solid design and there is no evidence before me to indicate that the painted gates are unlawful. The increase in height of the gates, in my judgement, would not materially alter the visual impact of gates in that location. Moreover, the unpainted timber of the gates is complementary to the woodland setting. Therefore, the tranquillity of the immediate vicinity of the appeal site would be unharmed.

¹ Ref No: APP/Y9507/W/22/3298243

² Levelling-up and Regeneration Act 2023

16. I acknowledge that the previous Inspector stated that *'However, due to the significant height of the gates and the location of the gates and gateposts close to the edge of an outside bend in the lane, they would be prominent when viewed on approach from Fernden lane and when entering or exiting the adjacent public right of way (reference LUR/2014/4).'* Yet the replacement gates would be 3m away from that location, at a lower ground level and they would be replacing the painted gates. As such, I consider that in the alternative location the replacement gates would not be seen as a prominent feature and the rural, sylvan and verdant character and appearance to the area would be conserved. There is no evidence before me to indicate that the replacement gates would harm wildlife or biodiversity.
17. Taking into account all of the above, the development would not harm the natural beauty, wildlife and cultural heritage of SDNP. As such, the statutory duty would be met and the development would comply with Policies SD1, SD4, SD5 and SD7 of the South Downs Local Plan 2019. These policies seek, amongst other things, sustainable development; to conserve and enhance landscape character and tranquillity; and sensitive and high-quality design. It would also comply with Policy P1 of the SDNP Partnership Management Plan and section 15 of the Framework which reflect the statutory duty.

Conditions

18. The Council has submitted the wording of suggested conditions that could be imposed if I were minded to grant planning permission. I have considered the conditions in the light of the advice within the Framework and the Planning Practice Guidance (PPG), and I have also taken the views of the parties into account.
19. Condition 1 is the standard time limit condition and condition 2 is required as it creates certainty for all parties. Condition 3 relates to the submission of details of materials/ external finishes but as the replacement gates are being relocated those details are not necessary. Condition 4 relates to restricting permitted development rights regarding the provision of hard landscaping including decking, or gates and fencing or alterations affecting the external appearance of a building. However, the development does not involve a building and there is no justification as to why it would be necessary to restrict permitted development rights in respect of those matters. As such, I do not consider that suggested conditions 3 and 4 are necessary.

Decision – Appeal B

20. The appeal is allowed and planning permission is granted for the erection of replacement gates at Abesters, Quell Lane, Lurgashall, GU27 3BS in accordance with the terms of the application, Ref No: SDNP/23/01408/FUL and the plans submitted with it, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos: 002 (Block Plan) and P01 (Proposed Gate Elevation).

D Boffin

INSPECTOR