Planning Inspectorate

Appeal Decisions

Site visit made on 14 July 2026

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 07 August 2026

Appeal A Ref: APP/L3625/C/26/3378370
Land at Lower Duxhurst Farm, 15 Reigate Road, Sidlow, Surrey RH2 8QH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Phil Rowe against an enforcement notice issued by Reigate and Banstead Borough Council.
- The notice was issued on 13 March 2026.
- The breach of planning control as alleged in the notice is: Without planning permission, the substantial demolition of a barn and the partial construction of two no. semi-detached dwellings with sub-terranean ground levels.
- The requirements of the notice are to:
  1. Demolish the two partially built semi-detached residential units, hardstanding and brick walls shown in the location on the attached plan (within the black dotted line).
  2. Remove from the Land (outlined in red on the attached plan) all materials resulting from step 1.
  3. Reinstate the levels of the Land to what they were before the development took place.
- The period for compliance with the requirements is 6 (six) months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).

Appeal B Ref: APP/L3625/W/26/3378502
Lower Duxhurst Farm, 15 Reigate Road, Sidlow, Reigate RH2 8QH

- 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 Mr Phil Rowe against the decision of Reigate and Banstead Borough Council.
- The application Ref is 25/01572/F.
- The development proposed: Demolition of barn and erection of 2no semi-detached dwellings (Retrospective).

Decisions

Appeal A

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

Appeal B

2. The appeal is allowed and planning permission is granted for ‘Demolition of barn and erection of 2no semi-detached dwellings (Retrospective)’ at Lower Duxhurst Farm, 15 Reigate Road, Sidlow, Reigate RH2 8QH in accordance with the terms of the application Ref 25/01572/F, subject to the attached schedule of conditions.

Preliminary Matters

3. The appeal site is within the Green Belt. During the appeal process, the parties agreed a Statement of Common Ground which was signed and dated 10 July 2026. This confirmed that the appeal site was considered to be Grey Belt and that the development was no longer deemed inappropriate in Green Belt terms having

regard to paragraph 155 of the National Planning Policy Framework ("the Framework"). Consequently, any effect on the openness of the Green Belt is not relevant to the determination of the proposal and there is no requirement for the appellant to demonstrate very special circumstances. This agreed position is further reinforced by the Council's acknowledged lack of a five-year housing land supply and the demonstrable unmet need for the type of development proposed, which together provide important context for the development in the Green Belt. I have no reason to disagree with the parties regarding this matter.

4. Ground (g) of Appeal A was withdrawn by the appellant in their email dated 10 July 2026.

Relevant Planning History

5. In July 2024, following an application made for a determination under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, prior approval (ref 24/01060/PAP3Q) was granted for the change of use from an agricultural building to two dwellings (Class C3). After commencement of the works, floor levels were lowered to achieve the necessary head height and those works included the excavation of the site including the removal of the ground bearing slab, the construction of retaining walls and the propping of parts of the existing structure.

6. In December 2024, an application for planning permission (ref 24/02328/RET/AP) was made seeking retrospective consent for engineering operations to reduce the floor level within and around the building. The Council failed to give notice of a decision within the prescribed period; however, the application was dismissed on appeal ref. APP/L3625/W/25/3362387 dated 9 October 2025 as the works undertaken went significantly beyond those permissible under Class Q and thereby contravened the limitations of the Class Q consent. As a result, the previous prior approval could no longer be relied upon being no longer extant.

7. On 28 November 2025, a further application (ref 25/01572/F) was refused by the Council for the demolition of a barn and erection of 2no semi-detached dwellings (Retrospective). This is the subject of Appeal B. An Enforcement Notice was subsequently issued on 13 March 2026 regarding the partial demolition of the building and the creation of subterranean levels. This is the subject of Appeal A.

Appeal B

Main Issues

8. Having regard to my preliminary matters above and agreement with the appeal parties, the main issue that remains to be determined is the effect of the development on the neighbouring undesignated heritage assets and the character and appearance of the area.

Reasons

9. The appeal relates to the erection of a pair of semi-detached residential units on land that was formerly occupied by an implement shed said to have been constructed in the early 1960s. The building work has commenced but is not yet complete.

10. The footprint of the new building has been excavated, and the building sits between 0.4m and 1m below surrounding ground levels. A retaining perimeter wall wraps around the building, the top of which is level with the surrounding ground. The main form of the building is rectangular with a mono-pitch roof which slopes down from the front to the rear. To one side there is section with a lower-level flat roof. Two openings are displayed in the upper level facing the road and there is one opening on the north elevation. At the lower level, there are several openings of varying sizes on each elevation. An expansive area of hardstanding finished in loose gravel lies to the south of the site between the building and the neighbouring dwellings.

11. The appeal site is located to the east side of the A217 Reigate Road between Reigate and Horley. The surrounding area is largely rural in character with some residential properties nearby. The area immediately to the north and east comprises open arable fields and the River Mole runs approximately 240m to the east of the site. A mature hedge separates the land from the road.

12. The adjoining land is occupied by a range of buildings. These include Lower Duxhurst Farmhouse, which is 19th century in origin and locally listed[1], and two recently converted agricultural barns previously associated with the former farm use. The 19th century barn is now a single residential unit, and the mid-20th century barn has been converted into three residential units.

13. Paragraph 216 of the Framework provides that account should be taken of the significance of a non-designated heritage assets when assessing new development, with a balanced judgment required regarding the scale of harm or loss and the significance of the heritage asset.

14. This is reflected in Policy NHE9 of the Reigate and Banstead Local Plan Development Management Plan (September 2019) ("the DMP") which requires new development to protect, preserve, and wherever possible enhance, the Borough's designated and non-designated heritage assets and historic environment, and in part (vi), that all development proposals must be sympathetic to a heritage asset and/or its setting by ensuring the use of appropriate high quality materials, design and detailing (form, scale, layout and massing).

15. The former established farmstead complex comprises buildings of varying ages, forms and appearances. Within this context, the proposed building is experienced as part of a coherent cluster of development rather than as a standalone structure. Its visual influence is therefore closely related to the existing built form of the former farmstead, where a mix of building styles and proportions are already present.

16. Although a sizeable structure the overall design of the building retains a simple and functional appearance that reflects its rural setting. The building avoids unnecessarily complex detailing and adopts a restrained architectural approach, which allows it to sit comfortably within the existing group of buildings. Being in the same position as a previous farm building of simple design, there is no interruption of the established pattern of built form within the former farmstead. It remains proportionate to the wider group of buildings and does not appear overly dominant when viewed from within the site or its surroundings.

[1] Reigate and Banstead Borough Council's List of Buildings of Architectural and Historic Interest (2014)

17. The dark external finish to the cladding reduces its visual prominence and allows it to recede more comfortably against the backdrop of the wider farmstead. The use of black weatherboarding is also consistent with materials commonly associated with rural buildings, as referred to in The Local Distinctiveness SPD, and reflects the appearance of the locally listed barn within the complex.

18. While the mono-pitch roof form differs from the traditional dual-pitched roof form often associated with historic agricultural buildings, the implement shed formerly occupying the space had a similar style roof, albeit reportedly of smaller proportions. There are also several different roof forms within the yard and as a consequence this variety lessens the impact of the more contemporary roof form on the appeal building.

19. In considering the setting of the nearby locally listed farmhouse and Barn C, the building does not compete with these assets for prominence within the farmstead and does not prevent an appreciation of their historic significance. The building remains subordinate within the wider complex. The farmhouse and barn remain clearly identifiable as the principal historic elements of the group, and their architectural and historic interest continues to be readily understood.

20. Further to these matters, and notwithstanding my findings above, I have some reservations regarding the design of the window openings. Their scale and detailing appear more closely associated with a domestic suburban dwelling than with the simple agricultural character that otherwise informs the building's design. As a result, they introduce an element of domesticity that sits somewhat less comfortably within the rural farmstead context. A view echoed in the appellant's Heritage Statement.

21. However, this aspect of the development is limited in its visual effect and does not materially undermine the overall character of the development or its relationship with the surrounding farmstead. While a more restrained fenestration approach may better reflect the appearance of a contemporary rural barn, this element does not, in itself, result in material harm to the character and appearance of the area or the significance of the non-designated heritage assets. I am satisfied that any matters regarding its detailed appearance could be satisfactorily secured through appropriate planning conditions.

22. Overall, the effect of the development is not materially harmful to the significance of the non-designated heritage assets, or the character and appearance of the area. The physical integrity of the site is preserved, and the form of the appeal building responds to the established character and evolution of the farmstead. For these reasons, the proposed development accords with the objectives of Policies NHE9 and DES1 of the DMP when considered as a whole.

Conditions

23. I have considered the schedule of recommended conditions[2] drafted by the Council and commented on by the appellant, and in some instances I have adjusted the wording for precision and clarity and to ensure that they meet the policy tests as set out in paragraphs 57 of the Framework and 21a-003-20190723 of the Planning Policy Guidance. As the building work has already commenced,

[2] Dated 2 July 2026

the standard three-year time limit condition to implement the planning permission is not necessary.

24. Condition 1 is necessary for the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans. These plans are taken from the Council's refusal notice dated 28 November 2025.

25. The purpose of condition 2 is to require the appellant to comply with a strict timetable for dealing with the external materials and surface finishes, which need to be addressed in order to ensure that these are appropriate to the building in this setting. The condition is drafted in this form because, in the case of a retrospective grant of permission where development has already taken place, it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matters. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission effectively falls away.

26. Conditions 3 and 6 are necessary in order that the development does not prejudice highway safety, nor cause inconvenience to other highway users. Conditions 4 and 5 are necessary to encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions. Condition 7 is necessary to ensure that any external lighting is designed to avoid unacceptable harm to the rural character of the location or to ecology.

27. Condition 8 is necessary to increase the biodiversity of the site and to mitigate any impact from the approved development. The condition is drafted in this form for the reasons given above for condition 2.

28. Conditions 9, 10 and 11 are considered both reasonable and necessary to secure an appropriate and proportionate investigation of any ground contamination, and implementation of remediation works if required. A copy of a contamination survey was submitted by the appellant, however, there has been no response from the Council regarding whether this has been accepted. Hence the conditions as suggested by the Council remain.

29. Condition 12 is necessary to enhance the appearance of the development in the interest of the character and appearance of the area and the adjoining non-designated heritage assets.

30. A condition requiring evidence that the existing building was built post-2000 or an intrusive pre-demolition and refurbishment asbestos survey is deemed to be unnecessary considering the former agricultural building has been demolished, and any issues relating to asbestos would be encompassed by Condition 9.

Overall Conclusion on Appeal B

31. For the reasons given, I conclude that the appeal should be allowed.

Appeal A on Ground (f)

32. An appeal on this ground is that the steps required by the notice exceed what is necessary to remedy the breach of planning control. The purpose of the notice as set out in s173(4)(a) is to remedy the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.

33. In the absence of any implementable planning permission, since the notice is concerned with operational development, the only way the breach can be remedied is by restoring the land to its condition before the breach took place. There are no lesser steps that could achieve that purpose. The appeal on this ground cannot therefore succeed.

34. Section180(1) of the 1990 Act provides that the enforcement notice shall cease to have effect so far as inconsistent with the planning permission granted on Appeal B. Accordingly, if that planning permission is complied with, it will override the effect of the notice.

S A Hanson

INSPECTOR

Schedule of Conditions

1. The development shall be carried out in accordance with the application plan numbers hereby approved and as detailed below:

Plan Type	Reference	Version Date	Received
Elevation Plan	CEV1	A	02.09.2025
Elevation Plan	CEV2	A	02.09.2025
Floor Plan	CFP1	A	02.09.2025
Section Plan	CEX1	A	02.09.2025
Location Plan	UNNAMBERED		02.09.2025
Elevation Plan	CEV2	B	01.10.2025
Site Layout Plan	P-VIS-2	A	23.10.2025
Site Layout Plan	PBP2		12.09.2025
Floor Plan	PFP2	A	12.09.2025

2. Unless within 3 months of the date of this decision a full external facing materials schedule to include fenestration detailing and surface finishes, and all other materials to be used externally within the site is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the development and/or occupation of the building 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.

   If no details in accordance with this condition are approved within 6 months of the date of this decision, the development and/or occupation of the building 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 approved by the local planning authority is implemented.

   Upon implementation of the approved schedule specified in this condition, that scheme shall thereafter be retained.

   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.

3. The visibility splays shown on drawing no. P-Vis-2 shall be free of any obstruction exceeding 1.05m in height and shall be retained as such thereafter.

4. The development hereby approved shall not be first occupied until each of the proposed dwellings are provided with a fully operational fast-charge electric vehicle charging point (current minimum requirements – 7 kw Mode 3 with Type 2 connector – 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. They shall be retained and maintained thereafter to the satisfactory of the Local Planning Authority.

5. The development hereby approved shall not be first occupied unless and until the following cycle facilities have been provided within the development site:

    i. Secure, lit and covered cycle parking for each dwelling for a minimum of two bikes;
    ii. Charging points with timers for e-bikes;
    iii. Clear hardstanding routes between the cycle stores and the site access.

6. The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing no PBP2. Thereafter those spaces shall be retained for the parking of vehicles only.

7. Prior to the installation of external lighting, full details shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.

8. Unless within 3 months of the date of this decision an Ecological Enhancement Plan (EEP) is submitted in writing to the local planning authority for approval, and unless the approved schedule is implemented within 6 months of the local planning authority's approval, the development and/or occupation of the building 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.

    The EEP shall be based on impact avoidance, mitigation and enhancement measures specified in the submitted ecological reports and should include, but not be limited to the following:

    a) Description and evaluation of features to be provided;
    b) Location plan of all ecological enhancement features being provided;
    c) Ecological trends and constraints on site that might influence management;
    d) Prescriptions for management actions; and
    e) Ongoing monitoring and remedial measures.

    If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the development and/or occupation of the building 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 approved by the local planning authority is implemented.

    The development should be implemented in accordance with the approved details in the EEP and shall thereafter be retained.

    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.

9. No further works pursuant to this permission shall be carried out until there has been submitted to and approved in writing by the Local Planning Authority:

(a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice;

And if notified in writing by the Local Planning Authority that the desk top study identifies potentially contaminant linkages that require further investigation then, (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013;

And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

10. No further works pursuant to this permission shall be carried out until there has been submitted to and approved in writing by the local planning authority a written verification report by a competent person approved under the provisions of Condition (9c) that any remediation scheme required and approved under the provisions of Condition (9c) has been implemented fully in accordance with the approved details. The verification report shall comprise:

    a) built drawings of the implemented scheme;
    b) photographs of the remediation works in progress;
    c) certificates demonstrating that imported and/or material left in situ is free from contamination.

11. Contamination not previously identified by the site investigation but subsequently found to be present at the site shall be reported to the local planning authority as soon as is practicable. If deemed necessary by the local planning authority, development shall cease on site until an addendum to the remediation method statement detailing how the contamination discovered is to be dealt with, has been submitted to and approved by the local planning authority in writing. Should no further contamination be identified then this condition need not be discharged.

12. The development hereby approved shall not be first occupied until a scheme for landscaping has been submitted to and approved in writing by the local planning authority. The landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

    a) details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
    b) a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other

protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;

c) details of all boundary treatments to include type, position, design, dimensions and materials.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

END