



Appeal Decisions

Site visit made on 15 September 2026

by **R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 October 2026

Appeal A Ref: APP/T0355/C/24/3344874

Appeal B Ref: APP/T0355/C/24/3344875

Oakley Cottage, Oakley Green Road, Windsor, SL4 4QF

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Abdul Sattar and Appeal B by Muryum Choudry against an enforcement notice issued by Royal Borough of Windsor and Maidenhead.
- The notice (Notice 1) was issued on 18 April 2024.
- The breach of planning control as alleged in the notice is 'Without planning permission, the demolition of an existing building and the erection of a building configured for the stabling of animals, partially on the same footprint as the previous building, situated to the south of the dwellinghouse and adjacent to the western boundary'.
- The requirements of the notice are to: 1. Demolish the building coloured in blue as identified in the appended image marked BB1. 2. Remove all materials from the land following compliance with step one.
- The period for compliance with the requirements is: three calendar months.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended). Appeal A is also proceeding on ground 174(2)(a). 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.

Appeal C Ref: APP/T0355/C/24/3344902

Appeal D Ref: APP/T0355/C/24/3344903

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal C is made by Mr Abdul Sattar and Appeal D by Muryum Choudry against an enforcement notice issued by Royal Borough of Windsor and Maidenhead.
- The notice (Notice 2) was issued on 18 April 2024.
- The breach of planning control as alleged in the notice is 'Without planning permission, the reconstruction and enlargement of a detached garage building with new first floor and dormer windows in roof, to the east of the host dwelling-house'.
- The requirements of the notice are to: 1. Demolish the building coloured in blue as identified in the appended image marked BB1. 2. Remove all materials from the land following compliance with step one. OR 3. Remove the additional built form as identified on drawing p/19 and restore the building back to its pre-existing state as shown in drawing p/21, both drawings that were submitted as part of planning application 24/00107/FULL marked BB2.
- The period for compliance with the requirements is: six months.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (d) and (f) of the Town and Country Planning Act 1990 (as amended). Appeal C is also proceeding on ground 174(2)(a). 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.

Decisions

Appeal A

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is allowed, enforcement Notice 2 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 the reconstruction and enlargement of a detached garage building with new first floor and dormer windows in roof as shown on the plan attached to the notice.

Appeal D

4. Appeal D is dismissed, but the notice is quashed as set out in the Decision for Appeal C.

Preliminary and Procedural Matters

5. As set out in the banner heading above, there two appeals relating to each of two enforcement notices. Appeals A and B relate to a stable building for the housing of alpacas (Notice 1). The building is constructed in brick and tile. It is shown on plans submitted to the Council to measure about 25.9 x 4.2 x 4.0 (h)m. The building is located close to the site's western boundary some distance to the south of the dwelling. Appeals C and D relate to a detached building to the east of the dwelling (Notice 2). That building provides for vehicle garaging with office accommodation at first floor.
6. In appeals A and B, the appellants case refers to a draft officer report prepared for withdrawn application ref. 23/00508/CLD. That was for a Certificate of Lawfulness (LDC) for the stable building. While I have duly considered the representations referring to it to the extent that they are relevant to the matters stated in enforcement Notice 1, for the avoidance of doubt, that report is not before me.
7. In appeal A the appellant requests that a Certificate of Lawfulness be issued for the development under the ground (a) appeal. That ground of appeal is that planning permission ought be granted for what is alleged in Notice 1. It requires that the development be considered against the development plan and with regard to all other material considerations. However, it is open to me to issue a LDC under the ground (c) appeal, should the evidence dictate. I have proceeded on that basis.
8. In Appeals A and B, the appellants' also made a claim under ground (d). That was that the land on which the building was erected has been in use in conjunction with the residential occupation of the dwelling for a period of 20 years or more. This is distinct from a claim that no enforcement could be taken in respect of the alleged breach of planning control as set out in Notice 1. However, as a matter relevant to the ground (c) case, I duly consider that part of the appellants' case there.
9. In relation to the development subject of Notice 2 and Appeals C and D, the appellants' statement was submitted prior to the outcome of an appeal made under s78 against the Council's refusal of planning permission for the development alleged in the Notice. That appeal ref. APP/T0355/D/24/3345958 was dismissed on 14 February 2025. As a relevant matter, I have also had regard to that decision.
10. On 17 August 2026, the Government published a replacement National Planning Policy Framework (the Framework). In the interests of fairness, the main parties

were consulted on the revised policies. I have taken the submitted views into account and have used the Framework's updated paragraph/policy references in this decision.

Appeals A and B – Ground (b)

11. An appeal on ground (b) is that that the matter alleged in the notice has not occurred. Here, the appellants contend that there is no breach of planning controls because the building is permitted development or that planning permission should be granted for it. Those are ground (c) and (a) arguments respectively. I deal with those grounds below. There is no dispute that a building as described in Notice 1 was present on the Land on the date the notice was issued. Accordingly, what is alleged in Notice 1 had occurred and the appeal on ground (b) fails.

Appeals A and B – Ground (c)

12. An appeal on ground (c) is that the matters stated in the Notice do not constitute a breach of planning control. On this legal ground, the burden of proof in demonstrating that claim lies with the appellants. The test of the evidence is on the balance of probability.
13. The appellants claim that the land on which the building was erected has been in use in conjunction with the residential occupation of the dwelling for a period of 20 years or more such that it forms part of the dwelling's curtilage. It is asserted that the building thereby benefits from planning permission consequent to the provisions of Article 3(1) and Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
14. Subject to conditions and limitations, Class E provides for 'The provision within the curtilage of the dwellinghouse of — (a) 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'.
15. To benefit from Class E, the building must lie within the curtilage of the dwelling. The GPDO does not define the term 'curtilage', however, the Technical Guidance: Permitted development rights for householders (2019) (the householder guidance) advises it is 'land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area.' A curtilage may not, therefore, necessarily coincide with a garden area.
16. The land on which the building referred to in Notice 1 is located is within the appellants' ownership. They assert that the whole site, including separately fenced land to the south of a rear garden for the keeping of alpacas as pets, is used in conjunction with the residential occupation of the main dwelling such that the land forms a single residential planning unit and the entirety forms the residential curtilage.
17. The relevant building is the residential dwellinghouse. It includes the dwelling with an in-out access to the front. The garage building (subject of Notice 2) and a pool building closely flank it either side. A fenced garden area lies to the rear alongside

a tennis court. Beyond that is an extensive area to grass with a central line of trees. To the west of the dwelling is a building under construction with an additional road access, and what appeared to be a former riding paddock behind.

18. The land intimately associated with the dwelling and the immediate outbuilding extensions appears as the frontage with domestic driveways and the enclosed rear garden with the tennis court to the rear. The open areas to the south and some 90m from the dwelling, as estimated by the Council, are distant such that they neither appear 'intimately associated' with, or 'part and parcel' of the domestic buildings.
19. In support of the appeal, the appellants have provided aerial images showing a previous building located in a similar position to the building subject of Notice 1. This was said to be a stable used in conjunction with the keeping of horses. It is claimed that this was a use incidental to the occupation of the dwelling by a previous owner, and was sited there for a period of 20 years or more.
20. 'Curtilage' is not a use of land. Notwithstanding, the appellants' evidence in relation to past use is limited. Although a building is previously shown to have existed on the site, the images are undated and there is little evidence as to its use, or how the parcel of land it sits within was used. The site planning history includes equine uses, however, there is little to demonstrate any continuity of that use or whether, as a matter of fact and degree, it was at a scale that could be regarded as part and parcel of a primary residential use. Photographs of family members present on the land alongside the building subject of the Notice do not convey any continuous use for residential purposes.
21. As horse keeping is generally not carried out within the confines of a domestic property (unless at very low levels), I find the appellants' evidence adds little to show the use of the field where the building is located benefits from an established lawful residential use incidental to, or in association with, the use of the dwelling.
22. I am also mindful that the site planning history includes plans identifying the subdivision of the site in the appellants' ownership. A site plan submitted in 2001 by a previous owner, and in 2023¹ by the current owner, show the northern part of the site containing the dwelling along with closely sited outbuildings, gardens and a former stable edged in red. These are separate from the other land. An application in 2012 included the whole of the land, however, the officer's assessment at that time highlighted that that representation did not correspond with the residential curtilage. Again, although not determinative, those formal distinctions in the documentation add to the proposition that the land to the south was not either in an established residential use or part of the curtilage of the residential building.
23. Taking all of the above together, I consider the building to lie outside of the curtilage of the dwellinghouse. Accordingly, the development does not meet the prerequisite requirements of Class E of Part 1.
24. I acknowledge the dispute between the main parties as to whether the building otherwise meets limitations specified in the Class E provisions because of its scale and design. However, pursuant to my findings above those matters do not fall to be considered further.

¹ Application ref.23/0211/CPD

25. For the above reasons, I conclude the building does not benefit from the provisions of the GPDO. In the absence of alternative reasons as to why the buildings would not require planning permission as 'development' defined under s55(1) of the Act, I find the appeal on grounds (c) fails.

Appeal A – Ground (a) and the Deemed Application for Planning Permission

Main Issues

26. The main issues are:

- whether the development is inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
- the effect/s of the development on biodiversity in the locality; and,
- if found to be inappropriate, 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 development.

Reasons

Whether inappropriate development

27. The revised Framework states that the Government attaches great importance to Green Belts, the essential features of which are their openness and permanence. Policy GB6 of the Framework states that development in the Green Belt is inappropriate unless it falls within one of the categories in Policy GB7 and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
28. Policy QP5 of the Borough Local Plan 2013-2033 [2022] (the BLP) relating to development in Rural Areas and the Green Belt is consistent with the Framework as it limits new buildings in the Green Belt in accordance with the Framework's terms.
29. The Notice alleges a replacement building for the stabling of animals. The appellants' case is clear that this is for a domestic purpose for the keeping of pet alpacas rather than for any agricultural function. Given the estimated 120m distance between the dwelling and stable, the building could not be construed as a domestic extension of the dwelling.
30. There is no other provision within Paragraph GB7 for domestic outbuildings. However, there is no dispute between the main parties that the building replaced a former timber structure on the site. Policy GB7.1.b provides for the replacement of a building, providing that building was of permanent and substantial construction, was lawful in planning terms, and should be for the same use and not materially larger than the one it replaces.
31. However, pursuant to my finding above, there is little to demonstrate the actual use of the former building. Notwithstanding, even if it were used for the keeping of domestic animals, from the appellants' plan provided with the application ref. 23/00508/CLD and photographs of the previous building, the scale of the replacement building appears substantially larger. It appears more than twice the

length and is probably of greater height given the comparably steeper roof pitch across a similar span. On comparison, I find it is materially larger than the previous building and, on that basis alone, it falls outside the scope of the exception to inappropriate development in Paragraph GB7.1.b.

32. I note that the appellants do not rely on the Paragraph GB7.1.e, relating to the redevelopment of previously developed land (PDL), here. However, mindful of the limitation imposed under Paragraph GB7.1.b, for the reasons given above, I find the harm to openness arising from the building is substantial. Accordingly, that exception does not apply. In the absence of any other claim of exemption, I find the building is inappropriate development in the Green Belt.
33. Inappropriate development is, by definition, harmful to the Green Belt. Additionally, the presence of a large, domestic building of permanent construction causes harm to the spatial and visual openness of the Green Belt. Although the visual effect would be limited based on the extent of surrounding trees and hedges preventing long, open views, it would be visible from some surrounding residential, equine and agricultural properties. Spatially, the building causes a substantial loss of openness due to its scale and isolated position away from other forms of built development.

Biodiversity

34. Policy NR2 of the BLP states that development should avoid the loss of biodiversity, which should be protected. However, the requirements for Biodiversity Net Gain do not apply in enforcement cases.
35. There is little to show that the development has caused any material effects on biodiversity. The evidence suggests that the area of the building was either previously developed or laid to grass. Even accounting for the site's location in a red zone for Great Crested Newts, I find it unlikely that a significant adverse effect on biodiversity has resulted. Accordingly, I find there is no conflict with Policy NR2 of the BLP.

Other considerations

36. I acknowledge the appellant's frustrations in relation to the degree of communication by the Council and their decision to proceed by way of enforcement action resulting in the appeal. I also note the appellants' stance that the draft report prepared for LDC application ref. 23/00508/CLD was incorrect and unlawful. However, matters of expediency and/or procedural unfairness outside the scope of the appeal are not strong arguments in favour of the development.

Conclusion on Appeal A – Ground (a)

37. The development is inappropriate in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The building also causes substantial harm to the openness of the Green Belt.
38. The considerations presented by the appellants are largely concerns in relation to the Council's actions. They are not matters that weigh in favour of a grant of planning permission. Accordingly, very special circumstances have not been demonstrated to exist sufficient to outweigh the totality of the harm identified. I find the development conflicts with the development plan read as a whole and there

are no material considerations, including the Framework, to indicate a decision otherwise than in accordance with the development plan. The appeal on ground (a) should not therefore succeed.

Appeals A and B - Ground (f)

39. An appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
40. In this case, the notice alleges the construction of a building, and it requires the building to be demolished. The notice does not 'under-enforce' and the purpose of the notice must be to remedy the breach.
41. The appellants contend that the building could be altered by removal of the projecting gables to the front roof slope to accord with the Council's interpretation of the GPDO. However, as I have found that those provisions do not apply and that planning permissions should be refused, that proposal would not serve to remedy the breach.
42. The appellants also highlight that the building was a replacement. However, that is short of a suggestion that the previous building might be reinstated. Even if that was the intention, there is little detail of its actual scale, construction or use to provide the necessary degree of certainty required by an enforcement notice. In the absence of any detailed alternative, I find the requirements of the Notice are proportionate to remedy the breach of planning control and the appeal on ground (f) fails.

Appeal A and B - Overall Conclusion

43. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Appeals C and D – Ground (b)

44. The appellants' case on ground (b) refers me to the evidence submitted under the ground (a) appeal. This includes reference to a Planning Contravention Notice issued by the Council describing the development as a 'new building'. The appellants contend the works were merely an extension to the previous garage.
45. Notice 2 describes the alleged breach as the 'reconstruction and enlargement of a detached garage'. At the site visit, I observed that the changes to the building are significant compared to the plans showing the former building. Despite some variations in brickwork, there were few obvious signs that any elements of the former building had been retained. If the building has not been reconstructed, as alleged, then there is little substantive evidence submitted to demonstrate that.
46. Accordingly, I find the appellants have not discharged the evidential burden to demonstrate what was alleged didn't occur and the appeal on ground (b) fails.

Appeals C and D – Ground (c)

47. The appellants' submissions on ground (c) is that planning permission ought to be granted for the development alleged. This is a ground (a) claim.
48. The appellants additionally state that the ground floor extension to the former building could have been constructed under the terms of the GPDO. However, as the extension of the ground floor is integral to the building, those works cannot be considered in isolation. It is the building as a whole that is subject of Notice 2².
49. In the absence of substantive evidence to demonstrate that the building either benefits from explicit planning permission, planning permission granted by statutory order, is not 'development' requiring planning permission, or, did not constitute a breach of planning control for any other reason, the ground (c) appeal fails.

Appeals C and D – Ground (d)

50. The appellants' claim that it was too late for the Council to take enforcement action again points to the submission under the first appellant's ground (a) appeal and that there was no breach of planning control. As determined under ground (c), there is little to demonstrate that a breach of planning control has not occurred.
51. Within the ground (a) claim, the evidence suggests that the development was carried out in 'mid 2020'. Correspondence presented by the Council indicates that the appellants' representative confirmed substantial completion of the works in July 2020. This was stated in an email dated 21 November 2023. Notice 2 was issued on 18 April 2024 such that the [then] applicable four-year period specified in s171B(1) of the Act, as the time limit in which enforcement action could be taken, had not expired. Accordingly, it cannot be concluded that enforcement action could not be taken on the date Notice 2 was issued.
52. I note the appellants' reference to the fact that the original building has stood for some 20 years. That is not disputed by the Council. However, as the development described has not been shown to benefit from planning permission, the whole of the development is open to enforcement action. The appeal on ground (d) therefore fails.

Appeal C – Ground (a) and the Deemed Application for Planning Permission

Main Issues

53. The main issues are:

- whether the development is inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
- the effect/s of the development on biodiversity in the locality; and,
- if found to be inappropriate, 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 development.

Whether inappropriate development

² See *Oates v SSCLG & Canterbury CC* [2017] EWHC 2716 (Admin), [2018] EWCA Civ 2229; [2019] JPL 251

54. Of the exceptions to inappropriate development in the Green Belt listed in Paragraph GB7 of the Framework, the appellant refers me to those at GB7.1.b and GB7.1.e relating to the extension, alteration or replacement of an existing building and the redevelopment of previously developed land (PDL) respectively.
55. There is significant dispute between the main parties as to whether the development would result in a disproportionate increase in size compared to the original³ building. As a replacement or extension of the former building, the Council estimate that the building's floorspace has increased some 140% compared to the original garage. If assessed as an extension to the original dwelling in conjunction with other extensions, the Council estimate the floorspace increase to be between 91% and 120% compared to the original dwelling. This depends on whether or not the previous garage floorspace was to be considered original or not.
56. In contrast, the appellant suggests that the additional floorspace is 2.8%. However, that is calculated from surveyed dimensions of the existing floorspace rather than the 'original' dwelling. It also includes a non-domestic stable building. It is not therefore the relevant measure of proportionality.
57. In either case, there is little show what the 'original' dwelling was. Notwithstanding, the assessment of whether or not a proposal is a disproportionate addition does not solely rely on floorspace. Matters of volume and the visual increase in the size of the building are equally relevant. It is an assessment made on a case-by-case basis, taking account of the specific nature of the site and the precise nature of the proposal.
58. A plan attached to Notice 2 shows the comparable scale of the existing and previous buildings. The enlarged footprint, greater eaves and ridge heights, and the change from a low hipped roof form to a gabled roof incorporating dormer windows results in a building that appears significantly larger with greater bulk. Based on that information alone, I find the increase in scale of the building to be disproportionate. I also account for the Inspectors finding in appeal 3345958, that, taken as an extension to the dwelling, the totality of extensions was disproportionate to the original building. Accordingly, I find the development does not benefit from the provision in Paragraph GB7.1.b.
59. The site falls within the Framework's definition of PDL. The alternative test in Paragraph GB7.1.e. refers to the effect on openness and whether it would amount to a substantial harm. On account of the increase in volume and height of the building, there is a considerable increase in the scale of the building and a corresponding considerable effect on the spatial openness of the Green Belt. A more limited effect on the visual aspect of openness results because of the building's recessed position where it is observed in conjunction with the adjacent line of road-fronting development. The group of buildings are also reasonably well contained by boundary hedging.
60. In the wider context of the Green Belt, the overall effect on openness is less than substantial. Accordingly, I find the development benefits from the exception to inappropriate development in the Green Belt detailed in Policy GB7.1.e. For similar reasons, the development complies with Policy QP5 of the BLP and there is no need, therefore, to consider whether very special circumstances exist sufficient to outweigh the harm to the Green Belt.

³ As defined by Footnote 40 of the Framework

Biodiversity

61. Enforcement Notice 2 states that the erection of the building has resulted in a loss of biodiversity. However, again, there is little evidence before me to substantiate that claim. As a development constructed mainly over the footprint of an existing building or otherwise utilising maintained grass, there is little to suggest any significant loss of biodiversity interests. On that basis, I cannot conclude that the development caused any such loss or resulted in any conflict with Policy NR2 of the BLP.

Other Matters

62. The appellant asserts that the Council did not follow due process in issuing the enforcement notice prior to the expiry of a corresponded deadline. He further claims that, in consideration of the development, the Council's report failed to carry out any planning balance. However, any claim of procedural misconduct is a legal matter for the courts.

Conclusion on Appeal C – Ground (a) and the deemed application for planning permission

63. For the reasons above, I find the development complies with the BLP and the Framework when read as a whole. Appeal C succeeds on ground (a) and I shall grant planning permission for the development described in Notice 2.

Conclusions on Appeals C and D

64. For the reasons given, I conclude that Appeal C succeeds on ground (a). I shall grant planning permission for the development as described in Notice 2. Appeal D is dismissed, however, the success on Appeal C will result in enforcement Notice 2 being quashed.
65. In these circumstances the appeals on ground (f) do not fall to be considered.

R Hitchcock

INSPECTOR