The Planning Inspectorate

Appeal Decisions

Hearing Held on 20 July 2021

Site visit made on 21 July 2021

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2021

Appeal A Ref: APP/Y3615/C/21/3272739
Appeal B Ref: APP/Y3615/C/21/3272740
Land at Heath Cottage, Cuttmill Road, Shackleford, Godalming GU8 6BJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the 'Act').
- **Appeal A** is made by Mr Paul Boag and **Appeal B** by Mrs Melanie Boag against an enforcement notice issued by Guildford Borough Council.
- The enforcement notice was issued on 9 March 2021.
- The breach of planning control as alleged in the notice is: *Without planning permission the construction of three extensions to the property in approximate locations in green and marked A, B and C [on the plan attached to the notice].*
- The requirements of the notice are:
  i) Demolish in their entirety the unauthorised extensions in the approximate location outlined in green and labelled A, B and C;
  ii) Upon demolition, reinstate the affected walls and roof of the dwellinghouse to what existed prior to the works commencing as per plan SHA 1359/3 Rev A on application 05/P/00377 which is attached to this Notice, using materials to match the existing dwellinghouse;
  iii) Permanently remove from the land all materials, rubble, rubbish and debris arising from steps (i) to (ii).
- The period for compliance with the requirements is 6 months.
- Both appeals are proceeding on the grounds set out in section 174(2 (a), (f) and (g) of the Act. Since appeals have been brought under ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act.

Formal Decision

1. It is directed that the enforcement notice be varied by extending the compliance period by ***deleting*** 6 months and ***substituting*** with 12 months.

2. Subject to this variation **both appeals** are dismissed and the enforcement notice is upheld, and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for costs

3. An application for costs was made by Guildford Borough Council against Mr and Mrs Boag. This application is the subject of a separate Decision.

Procedural Matters

4. I kept the Hearing open on the site visit so that discussion could continue regarding the layout of the property, the accommodation provided for the appellants' disabled son and live-in carer and issues of severability in the context of whether 'any part of the matters' alleged against could be granted planning permission.

5. During the course of the appeal the National Planning Policy Framework (the Framework) has been revised. The July 2021 version officially replaces the previous version published in February 2019. The parties have had the opportunity to comment on the revised Framework, and in reaching my decision I have had regard to it.

6. Since the appeal was lodged, the Puttenham Neighbourhood Plan (PNP) has been 'made'. It now forms part of the Development Plan, which also comprises 'saved' policies from the Guildford Borough Local Plan 2003 (hereafter the 'old local plan') and the Guildford Borough Local Plan: Strategy and Sites 2015-2034 adopted April 2019 (hereafter the 'new local plan'), which were terms used at the Hearing for convenience.

7. Mr and Mrs Boag live in the appeal property with her disabled adult son, who is Mr Boag's step-son. For simplicity and sensitivity, I shall not refer to him by name in this decision but simply as 'their son'.

8. The Hearing was closed in writing on 3 August 2021 after comments had been received on the revised Framework and the Council's suggested additional condition presented at the Hearing.

Background and Planning History

9. A dwelling existed on the site prior to 1 July 1948. Whilst I do not have details of this building, the parties are in agreement that it had a floor area of about 100 sqm.

10. In 2005 full planning permission[1] was granted for a detached 'replacement' dwelling following the demolition of the previous dwelling. The appellants moved into the replacement dwelling sometime in 2006.

11. Between 2015 and 2017 the appellants extended the replacement dwelling with a single storey orangery and 2no. two-storey extensions. These three extensions are identified in the enforcement notice and on its plan shown in approximate locations 'A', 'B' and 'C'. I shall refer to the replacement dwelling with its appeal extensions as the 'existing' dwelling.

The Appeals on Ground (a) and the Deemed Planning Applications

12. The appellants have made appeals on ground (a) – that planning permission ought to be granted for the matters alleged in the notice.

[1] LPA ref: 05/P/00377 granted 18 April 2005

Main Issues

13. The main issues are:

- Whether the appeal development would be inappropriate development in the Green Belt, having regard to the Framework and the development plan, and the effect of the appeal development on the openness of the Green Belt and purposes of including land within it;

- The effect of the appeal development on the character and appearance of the property;

- The effect of the proposal on the character and appearance of the Surrey Hills Area of Outstanding Natural Beauty (the 'AONB') and Area of Great Landscape Value (the 'AGLV'); and

- If the proposed development constitutes inappropriate development in the Green Belt, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations which amount to very special circumstances required to justify a grant of planning permission for the alleged development.

Reasons

Whether inappropriate development in the Green Belt

14. The appeal site comprises a detached 'replacement' two-storey dwelling to which the three appeal extensions have been added to the rear and sides. There is also a detached timber garage/store building and a detached pool house that have been erected, but these do not form part of the appeal before me. The dwelling occupies a large plot surrounded by woodland and accessed via a private track through woodland off Cuttmill Road, which is a rural lane. There is some sporadic housing along the road. As the site is surrounded by woods and fields it clearly occupies a countryside location. It is also located within the Metropolitan Green Belt and the Surrey Hills AONB.

15. The Framework identifies that the fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. It goes on to state that 'inappropriate development' in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

16. Policy P2 of the new Local Plan seeks to protect Green Belt from inappropriate development, unless the development falls within the exceptions listed in the Framework. If the development does not fall within any of the exceptions, then there must be other considerations sufficient to amount to very special circumstances to justify the development. I am satisfied that Policy P2 is broadly consistent with the Framework.

17. The Framework regards the construction of new buildings as inappropriate development in the Green Belt, subject to various exceptions. Paragraph 149c) is the most relevant to this appeal and allows for "the extension or alteration of

a building provided that it does not result in disproportionate additions over and above the size of the original building".

18. At the Hearing the appellants accepted the Council's position that the previous dwelling on the site was the 'original building' for the purposes of the Framework and Policy P2 of the new Local Plan, rather than the replacement dwelling as it was first built. In the High Court Consent Order of 2019 submitted by the Council it was conceded by the Secretary of State[2] that for the purposes of interpreting Policy P2 [only] the 'original building' is the one that existed on the site on 1 July 1948, and not the replacement building.

19. In the Framework glossary[3] the definition of 'original building' does not expressly deal with the scenario of 'replacement' buildings constructed after 1 July 1948. In this case, determining what is the 'original building' is academic because there is no dispute between the parties that the extensions and alterations are disproportionate additions to the replacement dwelling that was built in 2005. From the evidence provided, this in turn means the extensions and alterations are also disproportionate to the pre-1948 dwelling that once existed on the site.

20. The development plan and the Framework do not provide a definition of what is meant by 'disproportionate additions'. Nonetheless, the parties agree that the extensions are disproportionate additions and result in inappropriate development. I have no reason to come to a different conclusion.

21. There is no dispute between the parties that the combined floor area of the three appeal extensions A, B and C is circa 287 sqm. This gives the 'existing' dwelling a total floor area of about 530 sqm, compared with a floor area of approximately 243 sqm as built. This more than doubles the floor area of the approved replacement dwelling, which is already more than double the floor area of the pre-1948 dwelling. Therefore, based on floor area alone the three extensions represent a substantial enlargement of the dwelling.

22. Furthermore, extensions A and C have effectively doubled the overall width of the replacement dwelling from side to side (when looking at the front and rear elevations). In addition, the Orangery Extension B has almost doubled the depth of the dwelling (from front to back). The footprint of the dwelling has therefore also been substantially enlarged.

23. In addition to extending the linear dimensions, footprint and floor area of the dwelling, all of the extensions have increased the volume of the property, especially as extensions A and C are two-storey. Due to the dimensions of the extensions, their design and their positioning, the overall form and massing of the dwelling has been altered and the dwelling's form has changed from a squat 'L' shape to a long linear property. As a result, the overall size of the dwelling has been significantly increased.

24. Taking account of all these components, alone and in combination, I conclude the appeal development amounts to a substantial enlargement of the dwelling that represents disproportionate additions over and above the size of the

[2] Secretary of State for Housing, Communities and Local Government
[3] In the Framework glossary 'original building' is defined as "A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally".

previous and replacement dwelling as originally built. Consequently, the development constitutes inappropriate development in the Green Belt.

Openness and Green Belt purposes

25. Openness requires consideration of both spatial and visual aspects and consideration of the impact or harm, if any, wrought by the change. The property and extensions are located within a spacious plot of extensive private garden laid to lawn and trees and surrounded by woodland. Even though the extensions are not visible from public vantage points they are still capable of affecting openness.

26. The appeal site may be small in area compared to the overall size of the Metropolitan Green Belt, but the appeal extensions nonetheless, individually and in combination, are physically present and occupy space on the ground that was previously free of built development. They also have volume and have changed the shape and massing of the dwelling. The extensions have therefore significantly reduced the spatial and visual openness of the Green Belt.

27. Furthermore, whilst the appeal extensions are sited within the private garden and curtilage of the property, they physically extend the footprint of the dwelling and take built form further towards the adjacent woodland and surrounding countryside. As such, the appeal development also fails to safeguard the countryside from encroachment.

Conclusion on inappropriate development in the Green Belt

28. I find the appeal development represents disproportionate additions over and above the size of the previous or replacement dwelling as originally built. As such the development does not fall within the exception set out in paragraph 149c) of the Framework. It is therefore inappropriate development in the Green Belt for the purposes of Policy P2 and the Framework. There is also a reduction in openness and conflict with one of the purposes of including land within the Green Belt contrary to paragraphs 137 and 138 of the Framework, respectively.

Character and appearance of the property

29. The replacement dwelling, as shown on the submitted plans, was a squat L-shaped, two-storey, 4-bedroom dwelling. It had a hipped roof with pitched roof dormer windows sitting in the middle of the roof slope or breaking the eaves line. With its design features and varying roof and eaves lines, the replacement dwelling appeared as a characterful dwelling with a cottage-like appearance. On my visit I saw the materials used, timber window frames and detailing of the extensions matched those of the main dwelling well. The dwelling has plain clay tiled roof and is built in red/brown brick with the upper floors clad in decorative hanging tiles.

30. Extension A is the largest of the extensions and comprises two elements. The first is a two-storey hipped-roof extension or 'wing' intended for a live-in carer (hereafter the 'carer's wing'). It is set at an angle to the front elevation of the house. The second element is a two-storey extension added to the side of the house, with a continuation of the ridge line. The carer's wing and extension are joined together by an angled two-storey brick and glazed link.

31. The carer's wing contains a kitchen on the ground floor, accessed independently of the main house via a separate entrance porch. Above it is a bedroom with en-suite bathroom that can only be accessed by the staircase in the main house. There is a ground floor cloakroom accessed from the link, although the submitted floor plans show this to be accessed off the carer's kitchen. The carer's wing, without the link, is about 68 sqm. This is only 6 sqm more than the minimum internal floor area prescribed for a 1 bedroom/2 storey dwelling in the national space standards[4]. The remainder of Extension A joins to the side of the dwelling to create an enlarged ground floor open-plan kitchen dining area. Above it there is a bathroom for the appellants' son and a living room for the carer.

32. Extension B is a single storey rectangular timber frame and glazed orangery with a floor area of 44 sqm. It is located at the rear of the property, along part of the back wall of the house, and integrates with part of Extension A to form part of the open-plan kitchen/dining/living area.

33. Extension C is a two-storey extension that has been added to the other end of the house. It has a floor area of about 50 sqm. On the ground floor it provides a gym/physio room, and above it a new master bedroom.

34. The remaining internal layout of the dwelling has been partially reconfigured to give the son a suite of rooms upstairs comprising a living room and bedroom, adjacent to his new bathroom created in part of Extension A. The appellants now have a separate dressing area and en-suite bathroom, which adjoins the new master bedroom.

35. As already described, the extensions have substantially increased the size of the replacement dwelling, effectively doubling its width, depth and floor area. The locations of the two-storey extensions at either end of the dwelling have also obliterated the 'L' shape floor plan and created a long linear property. The ridge line of Extensions A and C continue that of the main dwelling. Consequently, there is no break or variation in the roofline and this exacerbates the elongation of the property and its change in form. This is at odds with the Council's design guidance[5] (the 'design SPD') that expects extensions and alterations to respect the proportions and character of the existing dwelling, be subordinate, and the height of an extension to be lower than the height of the replacement dwelling.

36. In addition, the carer's wing with its own entrance porch and attached link, appears as a separate dwelling. The wide, chunky framed, pitched roof porch is more visually prominent than the main front entrance to the property, which is recessed, set in shadow and set to one side close to the corner of the 'L' form with the family living room. As a result, the carer's porch appears to be the main entrance to the overall property. These various factors combine to distort the proportions and apparent functions of the property, fundamentally altering its character and appearance and diminishing the former cottage-like character. Removing the porch would help re-address the issue of the primary entrance, but would not diminish the overall size of Extension A, its appearance as a separate dwelling or its effect on the character and appearance of the property.

[4] Technical housing standards – nationally described space standards (March 2015)
[5] Adopted 'Residential Extensions and Alterations Supplementary Planning Document' (2018)

37. On approaching the dwelling from the entrance drive, Extension C is not initially seen. Whilst it is smaller than Extension A, it still presents a sizeable bulk and addition to the dwelling, compounded by the roof ridge being the same as the main house.

38. In my view Extensions A and C, which include the carer's wing, alone and in combination, present overly large extensions that are not subservient to the dwelling and consequently adversely affect its character and appearance.

39. The design SPD uses terms like 'generally' and 'normally', but this does not preclude assessment of the individual merits of a scheme and its context. I have not been presented with any evidence to demonstrate that these extensions had to be built to the size they have been, or added to the dwelling in the way and positions they have. Nor have I been advised of any technical reasons why the extensions could not have been built smaller, or why the ridge lines had to follow those of the main house, apart from the appellants' design preference. I saw nothing on my visit to indicate that smaller or lower extensions were not possible.

40. By not following the guidance in the design SPD, I find Extensions A and C have caused unacceptable harm to the character and appearance of the dwelling. Accordingly, they are in conflict with saved Policy G5 of the old Local Plan and Policy D1 of the new Local Plan, which collectively seek to ensure development is of a high quality that respects the context, scale, proportions and materials of the surrounding environment.

41. Extension B is a simple single storey extension on the rear elevation that does not interfere with the front elevation of the property. Whilst it is has a sizeable footprint, it is a relatively lightweight structure that is subservient to the dwelling. In isolation, Extension B does not adversely affect the character or appearance of the dwelling to contravene saved Policy G5 of the old Local Plan and Policy D1 of the new Local Plan or the guidance in the design SPD, whose aims are outlined above.

Character and appearance of the AONB

42. According to the AONB Management Plan, the Surrey Hills are a diverse landscape characterised by a patchwork of woodlands, chalk grassland, heathland and commons, with mixed farming, ancient lanes, villages and market towns. Housing development is one of the key pressures and threats to the AONB, including the increasing impact of replacement dwellings.

43. Paragraph 174 of the Framework states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing 'valued' landscapes and recognising the intrinsic character and beauty of the countryside. Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of a nationally designated area, which includes an AONB, as they have the highest status of protection in relation to those issues. It goes on to state that the scale and extent of development within these designated areas should be limited.

44. Policy P1 of the new Local Plan requires great weight to be attached to the conservation and enhancement of the natural beauty of the AONB, and development proposals within the AGLV will be required to demonstrate they do not harm the setting of the AONB and the distinctive character of the AGLV

itself. Policy P-NE1 of the PNP expects development proposals to preserve and enhance the natural environment and rural character of the Parish, with particular regard to the scenic and landscape qualities of the AONB.

45. I have not been presented with any Local Plan policy map showing the extent of the AGLV. The site is to the south of the A31 and west of the A3 and on the maps in the AONB Management Plan is not shown sited within an AGLV, even accounting for the approximation of the areas. I shall therefore disregard this landscape designation in my considerations of this appeal.

46. The site lies within "K1: Puttenham Wooded Greensand Hills" character area identified in the 2007 Guildford Landscape Character Assessment & Guidance (LCAG). I saw on my visit the described secluded densely wooded landscape with areas of open heathland and commons. A key positive landscape feature is its remote and largely unsettled character, with quiet rural lanes. One of the built development guidelines for this landscape area is to conserve the largely rural unsettled landscape. Whilst this document is of some age, it is still relevant and can be afforded weight.

47. There was originally a dwelling on site. The approved replacement dwelling was double in size and the appeal extensions effectively double the size of the replacement dwelling. Whilst there are no public views of the site and the materials used for the extensions harmonise with the dwelling and are of a high design quality, the extensions nonetheless represent a sizeable amount of built development, with the carer's wing appearing as a separate dwelling.

48. In my view, this amounts to a significant increase in built development that compounds the development pressures on the AONB, particularly with the appearance of a second dwelling on the site. This serves to erode the relatively remote and unsettled rural character of the AONB as to harm it, something I must give great weight to. Accordingly, the appeal development is contrary to Policy P1 of the new Local Plan and Policy P-NE1 of the PNP, whose aims are outlined above. It is also contrary to the guidance in the AONB Management Plan.

Other Considerations

49. The appellants' personal circumstances are crucial to their case. Details of their son's needs have been provided. They contain personal information and for that reason I do not record the particulars here. However, I have fully taken them into account.

50. The appellants are keen for their son to have the best care possible and believe that is best done at the family home so that he can benefit from continuity of care and stability of routine. However, as the appellants get older and their son's medical needs change they are mindful they may not always be able to look after him. Consequently they want a live-in carer some time in the future. They contend this would also help ease the burden on Surrey County Council Adult Social Services. There is no dispute that the appellants' son needs specialist care.

51. According to the appellants, they carried out the appeal extensions and alterations to the dwelling to aid or because of their son's needs and to future-proof it. All of the extensions were built and completed between 2015 – 2017. To date, some 4 years later, there is no live-in carer. Asked at the Hearing

what the timescale is for this, I was told that was unknown. On my visit I saw that in the carer's wing, the ground floor kitchen was in use as a utility room by the appellants and the carer's en-suite bedroom upstairs was currently occupied by the appellants' adult daughter. The carer's living room in the remaining part of Extension A was empty of furniture and appeared unused.

52. The appellants want the carer's accommodation to be separate and private from the rest of the family. However, currently any live-in carer would have to access their dedicated upstairs accommodation by using the only staircase in the centre of the house. Apparently, a spiral staircase can be installed in the link in the future if a carer wanted such access. This seems somewhat at odds with creating separate and private carer accommodation.

53. I heard from the Council's Occupational Therapist that there is no requirement under adaptation regulations to provide a separate suite of accommodation for the son. The majority of the son's accommodation is already in the replacement dwelling, with only his bathroom in the extension. I also heard that it is unusual for live-in carers to have their own accommodation. Under care regulations they need only have their own bedroom and would be expected to share the family bathroom. This is in contrast to the relatively self-contained accommodation being provided. Nor is there a requirement for a carer to be in an adjacent room, especially with the use of assistive technology such as sensors that can alert the carer if support is needed. The spacious and well-appointed accommodation I saw for both the son and any live-in carer, whilst the choice of the appellants, exceeds what is usually required.

54. A stairlift or lift could be installed in the future, and this would be no different to other families with disabled or mobility impaired relatives who want to continue living in their own home.

55. On the site visit I saw how the accommodation in Extensions A and B has been laid out to facilitate their son's needs. I also saw that the extensions have provided spacious day to day living accommodation that allows the family to enjoy time and activities together in one space. However, there is nothing before me to indicate that the space before was unworkable to care for their son.

56. I also saw that the ground floor of the dwelling was not all on one level, with steps into various rooms and internal door widths did not appear to have been widened. I have not been presented with any evidence to explain why when future-proofing the house, a fully accessible property was not created.

57. Extension C provides a gym/physio room on the ground floor, deemed essential for their son's care. It is a good sized room not yet equipped for its intended purpose several years after completion. On my visit it was being used primarily to store various household belongings/domestic paraphernalia with only a small amount of exercise-related items.

58. At the Hearing I was advised that the gym/physio room would eventually be equipped with various exercise equipment. None of it is specialist or unique and is the type easily bought by people wanting to do their own exercise and fitness routines in their own home and can be accommodated in rooms in the house, or garages and other domestic spaces. I can understand that regular exercise helps with their son's needs. However, there is no substantive evidence before me to demonstrate that the gym/physio room needs to be the size it is in order

to accommodate particular equipment, or that other rooms of the house could not be used.

59. The Occupational Therapist was of the view that the layout of the replacement dwelling could have been adapted for a live-in carer even if that meant rooms taking on alternative uses. From what I saw of the unoccupied carer's accommodation and existing storage use of the gym room, causes me to question the necessity for the extensions. There is very little evidence to explain why the replacement dwelling could not have been otherwise altered/reconfigured or smaller extensions built.

60. All of the extensions have provided the family as a whole with enlarged accommodation in which to live more comfortably. Clearly and understandably the appellants want the best for their son. I heard the appellants lament the poor treatment of carers in general and a desire that they are better looked after within their own accommodation, even if that exceeds minimum requirements.

61. However, I am not satisfied that the extensions are essential requirements for looking after their son and coping with his ongoing medical conditions, however desirable that may be. There are a number of letters from various NHS consultants but these refer to matters not directly related with the need for the extensions. At Final Comments stage the appellants submitted a 'Profile and Care Needs Assessment[6]. Whilst this helps describe the son's condition, it does not demonstrate that the extensions are necessary or need to be of the design and size they are. There is a lack of overall specific medical evidence to demonstrate the son needs his own suite of rooms, or a gym/physio or even the type of equipment he needs. There is no overriding medical assessment or timescale for when his care may change and timescale for when a live-in carer would be needed, other than references to 'sometime in the future'. Hence at the moment there is no substantive evidenced justification for the extensions, and in particular the carer's wing, which the appellants consider to be the most important.

62. The appellants have referred to the other departments of the Council having years of documentation on their son's condition, which the planning officers could have accessed. However, the onus is on the appellants to put their case and support it with the necessary documentation, and not for the Council to go searching.

63. The Council has suggested the imposition of a condition that would allow the extensions to be occupied by the appellants, their disabled son and any other family members for a 50 year period or for as long as the appellants' son occupies the premises, whichever is the shorter time period. Although both parties have had the opportunity to comment and suggest amendments to the wording, the condition is tantamount to a permanent planning permission. The extensions would be physically present for a considerable time continuing to cause harm to the Green Belt, the AONB and the property for potentially up to 50 years. This would be unacceptable and unreasonable in my view. Hence, the imposition of such a condition would not reduce the harm to the Green Belt or the other harms I have identified.

[6] Dated 6 July 2021 .

Other Matters

64. I was directed to look at some large dwellings in the vicinity. I have not been provided with any details to explain their size so I am unable comment or draw any meaningful comparisons. In any event I must consider the appeal development on its own merits.

65. The appellants' concerns with the Council's handling of the retrospective planning application and enforcement notice and other complaints fall outside the remit of this appeal. In reaching my decision I have been concerned only with the planning merits of the case.

Green Belt balance

66. The development represents inappropriate development in the Green Belt which is harmful by definition. I have also found significant harm to openness and conflict with one of the Green Belt purposes. Inappropriate development should not be approved except in very special circumstances, which will not exist unless the harm to the Green Belt, by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.

67. Any harm caused to the Green Belt must be given substantial weight. Great weight must also be given to the harm that is caused to the landscape and scenic beauty of the AONB. In addition, I have found there is significant harm to the character and appearance of the dwelling. These are serious planning objections.

68. On the other side of the balance are the appellants personal circumstances. I am sympathetic to the appellants' desire to care for their disabled son at home and future-proof it with the provision of live-in carer's accommodation. However, in my view there is inadequate medical or other justification to demonstrate that the dwelling could not have been internally modified or reconfigured; or that the extensions were expressly needed for their son's care; or that they had to be designed and of the size they are; or that smaller extensions were not possible. For these reasons I give limited weight to the appellants' personal circumstances.

69. I therefore find the other considerations advanced in this case do not clearly outweigh the totality of the harm I have identified to the Green Belt, the AONB and the character and appearance of the dwelling. Consequently, the very special circumstances necessary to justify the development do not exist.

70. For these reasons, and with regard to all other matters, I conclude that the appeal development conflicts with saved Policy G5 of the old Local Plan, Policies P1, P2 and D1 of the new Local Plan, and Policy P-NE1 of the PNP. It would also be contrary to the advice in the Council's design SPD, the Surrey Hills AONB Management Plan and the Guildford LCAG.

Conclusion on Ground (a) Appeals and the Deemed Planning Applications

71. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010[7], which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality

[7] This has replaced the Disability Discrimination Act 1995

of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appellants' son is disabled and shares a protected characteristic for the purposes of the PSED. The appeal development is intended to meet the health and welfare of the son. However, the PSED duty does not mean that the appeal must succeed.

72. As noted above, the appellants have not demonstrated how or why it is essential to allow any or all of the extensions in order to care for their son at home and give him a fulfilling life. I find that dismissing this appeal would not amount to unlawful discrimination. Furthermore, a refusal of planning permission for this unacceptable development, which causes harm to the Green Belt, AONB and the dwelling, would be essential to advance equality of opportunity and foster good relations between people who share a protected characteristic, and people who do not share it.

73. Similarly, I have considered the rights of the appellants and their son under Article 8 of the Human Rights Act 1998 (HRA), which affords the right to respect for private and family life, home and correspondence. This is a qualified right whereby interference may be justified if it is in the public interest; the concept of proportionality is crucial.

74. A refusal of permission would interfere with the appellants' and their son's rights under Article 8. However, the interference would be in accordance with the law and in pursuance of well-established and legitimate public interest aims of protecting the Green Belt, conserving and enhancing the landscape and scenic beauty of the AONB, and protecting the character and appearance of the building. I therefore find, in this case, that the interference would be proportionate and necessary and it would not amount to a violation of the appellants' rights.

75. The PSED and HRA add weight to my conclusion that the appeals on ground (a) should fail and the deemed planning applications should be refused.

The Appeals on Ground (f) and whether to grant permission for part only

76. The appeals on ground (f) are that the requirements of the notice exceed what is necessary to remedy any breach of planning control or injury to amenity that has been caused. At the Hearing, the appellants agreed that the purpose of the notice is to remedy the breach of planning control.

77. The notice requires that the three extensions are removed in their entirety, the affected walls and roof are reinstated as per plan SHA 1359/3 Rev A of planning application 05/P/00377, and all resulting materials, rubble, rubbish and debris are removed from the site. Accordingly, the appeals on ground (f) could only succeed if the appellants can show that the requirements of the notice are excessive to remedy the breach to put the property back to its condition before the breach took place, and 'lesser steps' would achieve the same end.

78. The appellants consider that not all the extensions need to be removed. Extensions B and C should be allowed as they are policy compliant. Extension B is deemed fundamental to the shared and accessible living accommodation and functioning of the kitchen. If only one extension is allowed it should be

Extension A, as it is of utmost importance because it includes the accommodation for a future live-in carer.

79. There is a ground (a) appeal that allows me to consider whether to grant planning permission for 'part of the matters' alleged[8], namely a smaller development comprising one of the extensions or any two extensions in combination. There would invariably be additional works required to remove some of the extensions and make good any parts affected. In itself, that does not prevent the grant of planning permission. The Wheatcroft principle does not apply to enforcement ground (a) appeals.

80. Whilst I have found that the single storey Extension B in isolation would not harm the character and appearance of the dwelling, it is integrated into and forms part and parcel of the open-plan kitchen/dining/living area as part of Extension A, and which has the carer's living room and son's bathroom above. In my judgement, Extension B is not severable from Extension A in order for permission to be granted for that part only.

81. On the face of it, Extension B and part of Extension A together could be severed from the carer's wing at the link. The two-storey part of Extension A that would remain is not on its own unduly harmful to the character and appearance of the dwelling. However, I have found the extensions harm the Green Belt and AONB. The carer's wing, the most important to the appellants, could be severed at the link. However, I have found this extension to be tantamount to a separate dwelling and harmful to the character and appearance of the dwelling. Indeed, any combination of extensions that includes the carer's wing would be similarly harmful.

82. Extension C is severable as it extends the end wall of the property and its rooms are discrete from the rest of the house. However, I find this extension harmful to the character and appearance of the dwelling and so cannot grant planning permission for it.

83. Extensions B and C together could not be granted planning permission because of how B is internally integrated into Extension A, as already described. In any event, I have already found Extension C is harmful to the character and appearance of the dwelling.

84. In addition to the above assessments, any extension or combination of them would still constitute inappropriate development in the Green Belt and cause harm to it, as already described. Moreover, there are no plans before me to indicate how any of the extensions or combination of them could be made smaller. Furthermore, the retention of any part of the appeal extensions would not remedy the breach of planning control.

85. I therefore find that no lesser steps have been put forward that would remedy the breach. To that end, it is essential and not excessive to require that the extensions are removed and the property is made good. The appeals on ground (f) must fail.

The Appeals on Ground (g)

86. An appeal on ground (g) is that the period specified for compliance with the notice falls short of what is reasonable. The notice requires all steps of the

[8] *Ioannou v SSCLG* [2014] EWCA Civ 1432..

Notice to be complied with within 6 months. The appellants regard this time period to be unrealistic and unachievable and instead want 5 years for practical and financial reasons.

87. In all cases the test remains whether the compliance period is reasonable, which needs consideration of what must be done in practice to carry out the remedial steps, and how much time is reasonable to allow for that purpose. It also involves balancing the public and private interests in the case.

88. The appellants have sought advice from a local house builder/developer who suggests that removing the extensions and making good the dwelling would need 24-30 months. This would include a minimum of 7 months and up to 10 months for actually doing the building work, with the remainder of the time for undertaking surveys, drawing plans, going out to tender and allowing contingency time for delays. As all the services to the property (water, electricity, oil) have been located in the carer's wing, they would now need to be relocated back into the main house. Due to the disruption, the builder advises that the appellants would need to move out for some of the time.

89. The builder has also provided a guide cost for the works, although he considers there are still many unknowns. The appellants have provided evidence of their financial situation with details of income, mortgage and other limitations. At the Hearing I heard that the appellants would need more than 2 years to source or raise the funds before any works could be instructed or commenced. In addition, they would need to manage their son's needs while works are undertaken or move into alternative accommodation. A compliance period of 5 years would allow them the flexibility for these various practical and financial reasons.

90. Taking into the account the number of extensions, their size, their degree of integration with the main dwelling, the need for a team of professional builders and managing their son's needs, I consider that 6 months would not be appropriate or realistic.

91. There is a substantial difference between the Council's 6 month compliance period and the appellants' 5 years. As I have found the development causes harm, I need to balance that harm against the needs of the appellants and their disabled son. I must also have due regard to the reasons for issuing the notice and that effective enforcement is important to maintain public confidence in the planning system.

92. There are no other quotes or comments from any other builders to verify the timescale or estimated costs of the works. At the Hearing I heard that the appellants' agent had worked with the builder and had no reason to doubt him.

93. At the Hearing the Council advised that their own building surveyor regarded 7-10 months too long, although there was no written evidence to support this. At the Hearing the Council advanced a revised compliance period of 10 months, in line with the 7-10 months the builder suggested for actually doing the works.

94. There is a condition on the planning permission for the replacement dwelling that removes residential permitted development rights. This clearly indicates

that any extensions or alterations to the [replacement] dwelling, alterations or additions to the roof, erection of porches, or the provision of a building in the grounds[9] would need planning permission. The appellants built three large extensions, including a porch, without planning permission and with that comes a risk, including financial. Any effect of the works on the value of the property is not a matter I need consider.

95. The requirements of the Notice will not make the appellants homeless. However, there will be disruption and possibly the need to find alternative accommodation while some of the works are undertaken. I am mindful of the inconvenience this may cause and how this may be disruptive and upsetting for the appellants' son. In arriving at a decision I have considered the HRA and PSED as already outlined above.

96. To allow more time to put measures and arrangements in place to safeguard the appellants' son during the building works, I will extend the Council's suggested 10 months by a further 2 months and grant a 12 month compliance period. This strikes a proportionate and reasonable balance between the public and private interests in this case. I shall vary the notice accordingly. The appeals on ground (g) therefore succeed in part.

Overall Conclusion

97. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with variation and refuse to grant planning permission on the deemed applications.

K Stephens
INSPECTOR

[9] Paraphrased from Schedule 2, Part 1, Classes A, B, C, D and E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

APPEARANCES:

FOR THE APPELLANTS:

Melanie Boag	Appellant
Nicholas Cobbold BSc, Dip TP, MRTPI	Agent (Bell Cornwall Charted Town Planners)

FOR THE LOCAL PLANNING AUTHORITY:

Esther Drabkin-Reiter	Counsel acting for the LPA
Kate Longley	Senior Enforcement Officer
Margarita Romanovich BSc (Hons), MSc	Senior Planning Officer
Adam Lambert BSc (Hons)	Occupational Therapist

Documents submitted at the Hearing:

Additional planning condition from the LPA