

Appeal Ref: APP/Z3635/C/23/3320593, APP/Z3635/C/23/3320594, APP/Z3635/C/23/3320595

Address: Riverbank, 1 The Creek, Sunbury-on-Thames, TW16 6BY

Appellant: Mr Anthony Brindley, Mrs Zorana McDermott, TW16 Ltd

Local Planning Authority: Spelthorne Borough Council

PRE-INQUIRY NOTE

Enforcement Notice

1. The appeal concerns an Enforcement Notice, reference 19/00015/ENF and dated 16 March 2023, which alleged "*Without planning permission the unlawful development of a new dwelling house, garage, boathouse, associated terracing and planters, steps, walls, pillars and hardstanding*".

Venue, Date and Time

2. The inquiry will open on Wednesday 7 February 2024 and is expected to last for two days.
3. The Inspector appointed to determine the appeal is:
Mr J Blackwell LLB (Hons) PGDip, Solicitor
4. The inquiry will be held at Council Offices, Knowle Green, Staines TW18 1XB.
5. The inquiry will open at 1000 hours. It is currently anticipated that the inquiry will finish no later than 1700 each day. There will be regular breaks, including longer breaks over lunchtime.
6. Please can the Council ensure that a retiring room and a parking space is provided for the Inspector.

Grounds of Appeal

7. The appeal is proceeding on grounds (b), (c), (d), (a), (f) and (g). In respect of the legal grounds of appeal (grounds (b), (c) and (d)), the burden of proof lies with the appellants to demonstrate their case, on the balance of probability.

8. In terms of the ground (a) appeal, being that planning permission should be granted for the matters alleged in the notice, the main issues, informed by the reasoning for the enforcement notice, are:
- whether the development constitutes inappropriate development in the Green Belt, including consideration of its effect on openness;
 - the effect of the development on flood risk, with reference to the development plan;
 - the effect of the development on the character and appearance of the area; and
 - 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.

Other Issues

9. Planning permission, reference 17/01464/FUL, granted consent for the *erection of a 4 bedroom detached dwelling following demolition of the existing building. Erection of a detached garage, brick boundary walls and extension of the existing concrete retaining wall and platform along the south-eastern site boundary.*
10. Whether or not this planning permission was implemented is relevant to several of the grounds of appeal. The Inspector therefore proposes a round table discussion on this issue, before formal evidence/examination takes place.

Inquiry Procedure

11. The procedure at the inquiry will generally follow the 2002 Enforcement Inquiry Procedure Rules.

Statement of Common Ground (SoCG)

12. If the parties intend to submit a Statement of Common Ground, the Inspector would be grateful if it could incorporate the following:
- an agreed list of conditions in the event the appeal on ground (a) is allowed.
 - confirmation of the floorspace figures of the original dwelling, the approved dwelling (under permission 17/01464/FUL) and the as-built dwelling.
- Note: In Diane Aldridge's Proof of Evidence, these are said to be 257sqm (original dwelling), 258sqm (approved dwelling) and 264sqm (as-built dwelling). However, it then appears to be suggested that the difference between the floorspace of the original dwelling and the as-built dwelling is 18%, which does not appear to reflect these figures.*
- a final list of as-built plans.

Note: whilst as-built plans have been provided, there are differences in the plan/revision number of some of these, so a final list is requested for certainty.

13. If a SoCG has already been finalised (or will not be provided), then please can this information be provided to the Inspector in advance of the inquiry.

Enforcement Notice Plan

14. Requirement 6 of the enforcement notice requires the appellants to demolish the walls, gates and pillars, by reference to Plan 5, item F, hatched in brown. The Council has highlighted that a small section of the perimeter wall, located between the entrance gate and the north-eastern boundary, benefits from planning permission (19/00758/FUL). It has therefore been suggested that the relevant plan should be updated to exclude this section of the boundary wall.
15. Please can the Council provide a replacement plan to address this point.

Opening and Closing Statements

16. Openings statements: All main parties will be permitted to make an opening statement at the beginning of the inquiry. These should not exceed 10 minutes in length.
17. Closing statements: Similarly, all main parties will be permitted to make a closing statement before the close of the inquiry, which should provide a summary of the case to be put to the Inspector. If possible, the Inspector requests that parties provide a written copy of their closing statements to the Planning Inspectorate.

Evidence

18. Evidence will be taken on oath (or affirmation). If any party wishes to swear on a Holy Book, then this must be brought along with them.

Programming and Inquiry Timetable

19. Now that Proofs of Evidence have been exchanged, please can advocates provide an updated estimate of the time they expect to take in evidence in chief and cross-examination. This information should be sent to the Planning Inspectorate by 4pm on Friday 2nd February 2024.
20. In terms of structure, the Inspector proposes that the running order for the inquiry will be as follows:
 - Inspector's opening
 - Opening statements
 - Round table discussion: implementation of 17/01464/FUL
 - Formal evidence/examination of each witness:
 - Appellant's witnesses
 - Council's witnesses

- Interested parties (if applicable)
 - Round table discussion: conditions
 - Closing submissions
 - Costs applications (if applicable)
21. If some other running order is preferred, then the Inspector is open to alternative suggestions from the parties. Wherever possible, the Inspector will also try to accommodate any particular witness availability.

Site Visit

22. The Inspector will need to carry out an accompanied site visit during the inquiry. Whilst arrangements can be made during the event, the Inspector would propose carrying out the visit at the end of the first day. One person from each of the main parties should be available to attend this visit.