

PLANNING STATEMENT

CONSTRUCTION OF GREENHOUSE (RESUBMISSION OF 23/P/00987)

**EAST COURT
BEECH AVENUE
EFFINGHAM
LEATHERHEAD
KT24 5PN**

Submitted on behalf of
Mr and Mrs Wyatt

November 2023

1. INTRODUCTION

- 1.1 This statement has been prepared to accompany a householder planning application for a detached greenhouse at East Court. The submission is made on behalf of the owners, Mr and Mrs Wyatt.
- 1.2 This submission follows the recent refusal of application 23/P/00987 and provides the necessary very special circumstances to justify a new building in the Green Belt. In short, the LPA recently granted a Certificate of Lawfulness under application 23/P/01521 for a large detached incidental outbuilding in a more open part of the site. The applicants are prepared not to construct this incidental outbuilding if they can instead secure planning permission for this greenhouse (i.e., an alternative incidental outbuilding). The construction of this permitted development outbuilding can be prohibited by planning condition.
- 1.3 The design details are set out within this statement, in addition to the principal policy considerations pertinent to the determination of this application and an explanation of the very special circumstances that exist to allow the LPA to grant permission.
- 1.4 In addition to this statement, this householder application includes the following:
- Site location plan
 - Proposed site (block) plan
 - Proposed floor plans, elevations and roof plan
 - Growing area and greenhouse layout
- 1.5 The remainder of this statement will cover:
2. Application site and planning history
 3. Proposed development
 4. Policy considerations and planning assessment

2. APPLICATION SITE AND PLANNING HISTORY

2.1 The site is located between Beech Avenue to the West and High Barn Lane to the East:



Site location (source: Surrey Interactive Map)

2.2 The site is within the Green Belt, outside of any identified settlement. It is also located within an Area of Outstanding Natural Beauty (AONB) and an Area of Great Landscape Value (AGLV). Green Court is a detached two-storey dwelling set in a large plot.

2.4 The site has been subject to a number of planning applications, with the following considered to be relevant to this application:

Reference	Description	Decision
23/P/01521	Certificate of Lawfulness for a proposed development to establish whether the erection of a detached outbuilding would be lawful	Granted 13/10/2023
23/P/00987	Replacement of tennis court fencing & surfacing in revised location, construction of greenhouse & productive garden	Refused 15/08/2023 (greenhouse only)
20/P/01225	Construction of a new detached two-storey dwelling and outbuildings following demolition of existing dwelling and outbuildings, creation of a new pond, entrance gates and associated landscaping	Approved 20/10/2020

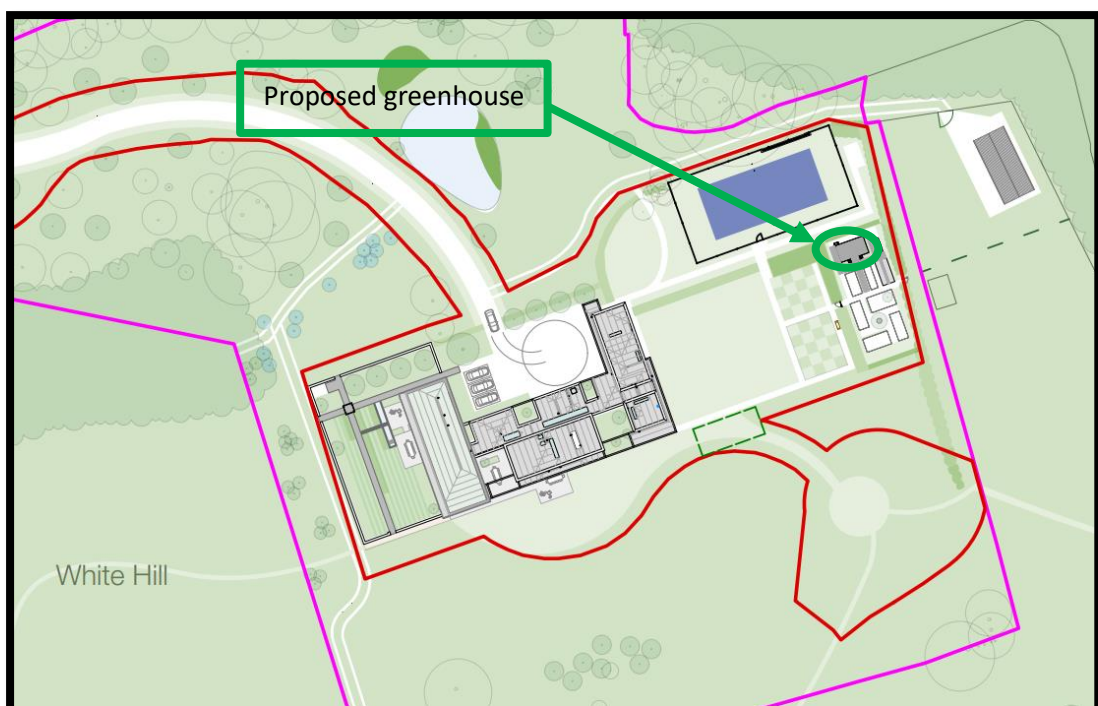
2.5 Application 23/P/00987 was refused for the following reason:

“The proposed greenhouse, as a new building, would constitute inappropriate development in the Green Belt. No very special circumstances have been demonstrated which would clearly outweigh the inherent harm to the Green Belt. The development therefore fails to accord with Chapter 13 of the National Planning Policy Framework (as revised on 20 July 2021) and policy P2 of the Guildford Borough Local Plan: Strategy and Sites (adopted by Council on 25 April 2019).”

2.6 Following this refusal, the applicants secured a Certificate of Lawfulness for a detached incidental outbuilding under application 23/P/01521. This represents a permitted development fallback position, and the case for very special circumstances to overcome the reason for refusal set out above is discussed within this statement.

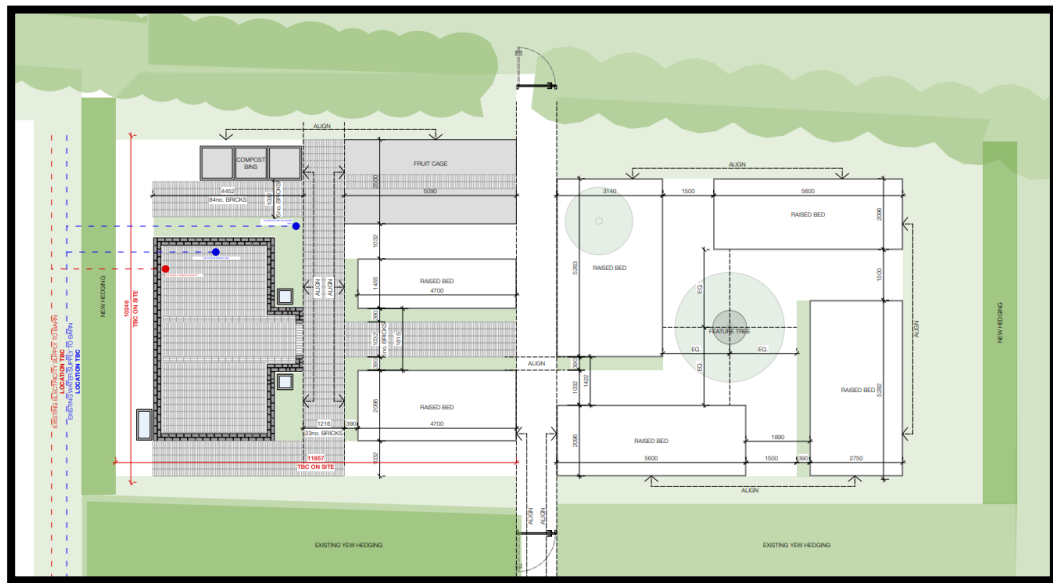
3. **PROPOSED DEVELOPMENT**

3.1 This application proposes the construction of a greenhouse and this submission includes additional information to address the LPA’s reason for refusal of 23/P/00987. The greenhouse will be located in the NE part of the property’s garden, which has been recognised by previous applications as forming part of the dwelling’s curtilage.



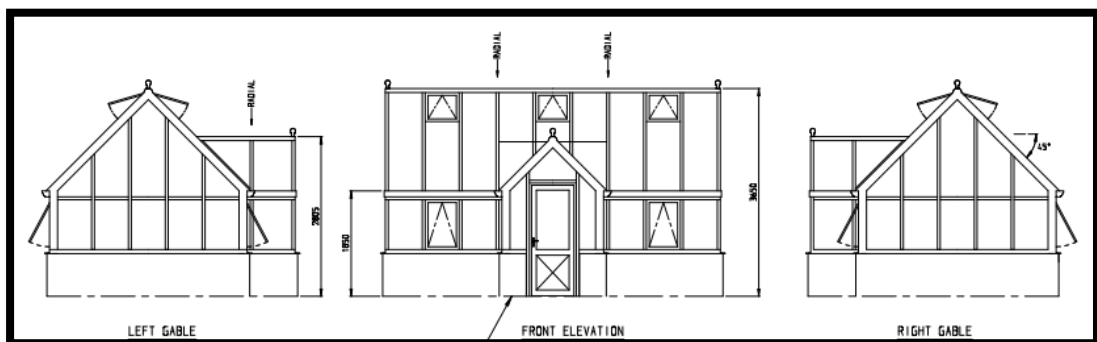
Proposed block plan

3.2 The location for the greenhouse is surrounded by hedging and raised beds:



Extract of growing area plan showing layout and surrounding hedges

3.3 The following drawing extracts show the proposed elevations:



Proposed elevations

4. POLICY CONSIDERATIONS AND PLANNING ASSESSMENT

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 require all applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

4.2 The development plan comprises:

- Guildford Local Plan: Strategy and Sites 2015 - 2034 (Part 1) - adopted 25/4/19
- Guildford Local Plan: Development Management Policies (Part 2) - adopted 22/3/23

Local Plan Part 1: strategy and sites

4.3 The following policies are relevant for this proposal:

- Policy P1: Surrey Hills Area of Outstanding Natural Beauty and Area of Great Landscape Value
- Policy P2: Green Belt
- Policy D2: Climate change, sustainable design, construction and energy

Local Plan Part 2: Development Management Policies

4.4 The following policies are applicable:

- Policy H4: Housing Extensions and Alterations including Annexes
- Policy D4: Achieving High Quality Design and Respecting Local Distinctiveness
- Policy D5: Protection of Amenity and Provision of Amenity Space

National Planning Policy Framework (NPPF) (2023)

4.5 The NPPF is a material consideration in the determination of this application, and the following chapters are relevant:

- Chapter 12: Achieving well designed places
- Chapter 13: Protecting Green Belt land
- Chapter 15: Conserving and enhancing the natural environment

Planning assessment:

4.6 This application has been submitted to address the LPA's reason for refusal of application 23/P/00987.

4.7 In refusing permission, the officer report concluded:

“the proposed greenhouse is considered to be a new building, rather than a replacement building, within the Green Belt, and would therefore be considered inappropriate development. The proposed green house would be situated approximately 43 metres from the dwelling and therefore, due to the separation distance, would not be considered to be an extension to the dwelling.

Whilst permitted development rights were not removed under applications 20/P/01225 and 21/P/01115, it is considered that no 'fallback position' exists as

the greenhouse would not be permitted development as it would be situated in excess of 20 metres from the main dwelling and would exceed 10 sqm in floor area. Therefore, it is considered that no fallback position exists and no 'very special circumstances' have been demonstrated which clearly outweigh the harm to the Green Belt."

4.8 As the LPA's report alludes to, case law shows that a fallback position must be taken into account in the determination of planning applications and can represent the very special circumstances necessary to outweigh harm to the Green Belt.

4.9 In the case of refused application 23/P/00987, the greenhouse was deemed to constitute inappropriate development and was therefore harmful by definition. No assessment was made in respect of Green Belt openness, although the LPA concluded that *"proposed green house and tennis court would be subordinate in size to the existing dwelling and would be screened from views by existing vegetation and the main dwelling"*.

4.10 We contend that the impact on Green Belt openness is acceptable. The following photograph has been taken from the position of the proposed greenhouse, looking south:



View from site of proposed greenhouse looking South

- 4.11 The site is enclosed by a 2-3 metre high Leylandii to the East and 2-metre high Yew to the West. It is the applicants' intention to plant a further Yew hedge to the South once the greenhouse is in place, thus creating a natural walled garden.



View from 1st floor window of house looking East

- 4.12 The correct methodology for assessing any likely impact on Green Belt openness has been explored at appeal, with the leading court cases of Turner [2016] and Samuel Smith [2020] confirming that Green Belt openness has a spatial dimension and a visual dimension. Public perception of Green Belt openness is an important and relevant material consideration when considering the visual dimension.
- 4.13 It is recognised that the introduction of a new greenhouse onto an open area will have an impact on spatial openness. However, appeal decisions have confirmed that this alone is not sufficient justification to conclude harm to openness; visual perception is a factor which can reduce spatial harm.
- 4.14 In this case, the perceived effect upon openness is limited because the site is extremely well-screened and forms part of the garden. The introduction of a new greenhouse would therefore have a limited effect upon people's perception of openness from beyond the boundary of the site. The inherent visual effects arising from the development would not harm the overriding sense of openness. As such, the proposal would preserve the openness of the Green Belt.

- 4.15 This application therefore seeks to address the LPA's concern regarding the appropriateness of the development in the Green Belt, i.e., the principle of a new building.
- 4.16 Since application 23/P/00987 was refused, there has been a material change in circumstances at the site - a Certificate of Lawfulness for a detached outbuilding has been granted under application 23/P/01521.
- 4.17 This is a significant, material consideration as a permitted development fallback position. We contend that this represents a very special circumstance in the determination of this current application.
- 4.18 In the High Court case [2012] EWHC 3708 (Admin) the judge said that the prospect of the fallback position does not have to be probable or "*even have a high chance of occurring*". It only has to be "*more than a merely theoretical prospect*" he said. He continues "*Where the possibility of the fallback position happening is "very slight indeed" or merely an "outside chance", that is sufficient to make the position a material consideration*".
- 4.19 The amount of weight that can be attached to the fallback position, and whether it represents the necessary 'very special circumstances' to justify overriding normal Green Belt policy, depends on:
- would the fallback position be more harmful than the application proposal?
 - is there is a realistic possibility that the fallback position will be implemented?

Would the fallback position be more harmful than the application proposal?

- 4.20 The detached outbuilding granted under 23/P/01521:
- Is significantly larger than the proposed greenhouse, measuring 75 sq.m. compared to the greenhouse measurement of 23.07 sq.m.
 - Will be located in a more open part of the site where it will be more visually prominent
 - Will have solid elevations compared to the entirely glazed greenhouse
- 4.21 The construction of the fallback position would be more harmful than the greenhouse currently proposed.

Is there is a realistic possibility that the fallback position will be implemented?

- 4.22 The applicants' preferred scheme is the one shown in this current application, because the objective is to create a natural (hedged) walled garden. However, the applicants' primary objective is to grow their own fruit and vegetables. If this application is refused, the fallback option will be implemented. Part of the incidental outbuilding approved under 23/P/01521 will be finished with glazing and the greenhouse will be provided closer to the house.

Very special circumstances – conclusion:

- 4.23 It has been demonstrated that this application proposal will be significantly less harmful to the Green Belt than the fallback position, being (i) considerably smaller in both floor area and volume terms; (ii) better located on a naturally enclosed part of the site; and (iii) entirely glazed.
- 4.24 A suitably worded condition can ensure that the greenhouse cannot be constructed in addition to the scheme granted a Certificate under 23/P/01521. For example, the following condition was added by a Planning Inspector for a scheme in Guildford (Appeal Ref: APP/Y3615/D/11/2159660 - Inglehurst, Outdowns, Effingham, Leatherhead, Surrey KT24 5QR):

“The development hereby permitted shall not be carried out in addition to that described in Certificate of Lawfulness reference 10/P/00823. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no further extension or addition to the premises shall be erected other than those expressly authorised by this permission.

- 4.25 In conclusion, whilst the proposal represents inappropriate development, this in-principle harm is clearly outweighed by the fallback position. It is contended that 'very special circumstances' exist to fully overcome the reason for refusal of application 23/P/00987.
- 4.26 We trust that the local planning authority will agree and view this application as acceptable.