
Appeal Decision

Hearing Held on 1 December 2020

Site visit made on 4 December 2020

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Appeal Ref: APP/D5120/C/18/3214680
57 North Cray Road, Sidcup, Kent DA14 5EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Adam Stuart against an enforcement notice issued by the Council of the London Borough of Bexley.
 - The enforcement notice was issued on 26 September 2018.
 - The breach of planning control as alleged in the notice is without planning permission:
 - (i) The erection of a dwellinghouse as shown on the plan attached to the notice in the approximate position marked 'X';
 - (ii) The laying of hardstanding;
 - (iii) The erection of a fence.
 - The requirements of the notice are:
 - (i) Demolish the dwellinghouse and remove all materials and debris arising from the demolition of the dwellinghouse;
 - (ii) Remove the hardstanding and remove materials and debris arising from the removal of the hardstanding; and
 - (iii) Demolish the fence and remove all materials and debris arising from the demolition of the fence.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by:
 - The deletion of the words in the allegation and the substitution of the words 'Without planning permission, (i) The erection of a dwellinghouse as shown on the Plan in the approximate position marked 'X'; (ii) the laying of hardstanding as highlighted in the photograph attached to the notice; (iii) The erection of a fence as highlighted in the photograph attached to the notice.';
 - The insertion of the words 'It appears to the Council that the above breach of planning control has occurred within the last four years' after the allegation; and
 - Varied by the deletion of six months and the substitution of 12 months as the period of compliance.

Subject to these corrections and variations the appeal is dismissed and 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.

Procedural Matters

2. The appellant submits that the notice is a nullity, having regard to the reasons for issuing the notice in terms of openness and visual harm. For the notice to be a nullity though the errors must be more than a technicality. Section 173 of the Town and Country Planning Act 1990 (the 1990 Act) and the Town and Country Planning (Enforcement notices and Appeals)(England) Regulations 2002 (the Regulations) state that a notice should contain certain matters. Examples of a nullity are where the notice does not have some of those matters such as: a date for when it takes effect; where there is no period for compliance; or there are no reasons at all for issuing the notice.
3. For the notice to be a nullity the whole notice needs to be hopelessly ambiguous and uncertain. I find that is not the case here. The reason for issuing the notice may not be expressed in the manner that the appellant refers to but it is clear that the Council are concerned about inappropriate development in the Green Belt and they refer to the relevant policies in the reason for issuing the notice. It therefore accords with section 173 of the 1990 Act as well as the Regulations. For these reasons I consider the notice is not a nullity in relation to this point.
4. There are, however, some details about the notice that need to be put in order before I can proceed. The notice omits to refer to the relevant time period under section 171B of the 1990 Act. I shall therefore direct that the words 'It appears to the Council that the above breach of planning control has occurred within the last four years' be inserted after the allegation. There would be no injustice caused to the appellant in relation to any ground (d) appeal as he has already stated that the operational development was substantially complete less than four years before the notice was issued.
5. The appellant is also concerned about the phrasing of the allegation. The notice alleges three different acts of operational development and with regard to the first, the erection of a dwellinghouse, it is identified with reference to a plan. The position of the other operational development, namely the hardstanding and fence, is not clear either in the wording of the allegation or in the steps required to be taken. The Council subsequently submitted photographs which identify the positions of the hardstanding and fence to the front of the dwelling and I consider that the notice could be corrected to make reference to these photographs. The appellant found these to be helpful and made no objection. I find that there would be no injustice to the appellant in accepting these photographs and I shall therefore direct that the allegation is corrected to 'Without planning permission, (i) The erection of a dwellinghouse as shown on the Plan in the approximate position marked 'X'; (ii) the laying of hardstanding as highlighted in the photograph attached to the notice; (iii) The erection of a fence as highlighted in the photograph attached to the notice.' I will also direct that the notice be corrected by attaching the photographs.
6. The appellant raised an additional ground of appeal, namely ground (c), in relation to the laying of the hardstanding and the erection of the fence. This was set out in the appellant's 27 November 2020 response to my Pre-Hearing Note. At the Hearing, the ground (c) appeal was changed to just refer to the fence. In addition, the appellant also withdrew the ground (f) appeal. The

Council were content to address the ground (c) appeal at the Hearing and, as such, I find there would be no injustice caused by accepting the late introduction of a new ground of appeal. The appeal is therefore proceeding on grounds (a), (c) and (g) only.

7. In relation to the ground (a) appeal, the Council confirmed that it would no longer be relying on Policies G12, ENV2, ENV3 and ENV13 of the Bexley Unitary Development Plan 2004 (UDP). Policies G12 and ENV13 were not saved after 27 September 2007 and the remaining policies have been replaced by Bexley's Core Strategy 2012¹ (CS) policies, referred to in the reasons for issuing the notice. The appellant raised no concerns about this change and I see no reason to differ.

The ground (c) appeal

8. Under a ground (c) appeal the onus of proof is on the appellant to show that there has not been a breach of planning control, which in this case is in relation to the fence. The parties agree that the erection of the fence amounts to operational development within the meaning of section 55 of the 1990 Act.
9. The appellant submits that the operational development of installing the fence was done with the benefit of permitted development (PD) under Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The fence was installed, on the evidence before me, at the same time as the building works were taking place to erect the dwelling. It has the same weatherboarded finish as the external appearance of the house. It comprises a single line of fencing attached to and perpendicular to the front elevation of the new dwelling and it divides the hardstanding area, where the cars are parked, from a private area of the woodland used for outdoor relaxation.
10. Article 3 of the GPDO grants planning permission for various developments set out in the Schedules and Class A, Part 2 states that it is PD to erect a fence as a means of enclosure. This is provided the height of the fence would not exceed 2m and it would not be adjacent to a highway used by vehicular traffic. In this case the parties agree the height of the fence is less than 2m and it is positioned at right angles to the private drive leading to the dwelling within the site. It does not lie adjacent to any highway used by vehicular traffic.
11. Unlike other parts of the GPDO, the exercise of this PD right is not linked to the use of a dwelling, as is the case with hardstandings, and it is not necessary for there to be anything built first before the right is exercised. The Council submit that the erection of the fence is part and parcel of the development as a whole and facilitates the use of the building. However, there is nothing in the allegation to suggest that each act of development relies on the other to facilitate it. Similarly, there is nothing within the reasons for issuing the notice to suggest that the allegation should be read as the erection of a dwelling with a fence and hardstanding facilitating the use of the building.
12. Notwithstanding this, I find that the line of fencing would not be a means of enclosure without the new dwelling. It only exists as there is a need to separate an open hardstanding area and create an element of private space. The new dwelling is within a wooded area to the north of The Farmhouse. The

¹ Bexley's Core Strategy adopted February 2012

appellant confirmed that prior to the erection of the new dwelling, the land to the north of The Farmhouse was kept as a lawn up to the edge of the trees. There was no fence separating the lawn from the trees, it was all open to view. Without the new dwelling, it is considered that the short line of fencing in the woodland would not be a means of enclosure as it would not form an enclosure of land and would simply be a line of fencing. It would not be enclosing the lawn and it would not provide a total separation between the lawn and the trees.

13. It is therefore concluded that without the new dwelling, the fence would not form a means of enclosure. The fence and the new dwelling are therefore interdependent. It is only PD to erect the fence as a means of enclosure but without the new dwelling it would not create a means of enclosure.
14. As such, the operational development of erecting the fence does not benefit from the PD set out in Class A, Part 2, Schedule 2 of the GPDO, a breach of planning control has occurred and the ground (c) appeal fails.

The ground (a) appeal and the deemed planning application

Main Issues

15. The appeal site is situated within the Green Belt (GB) and therefore the main issues are:
 - Whether the development represents inappropriate development in the GB for the purposes of the National Planning Policy Framework (the Framework) and development plan policy; and the effect of the development on the openness of the GB;
 - the effect of the development on the character and appearance of the area; and
 - if the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development and openness

16. The appeal site comprises a parcel of land forming part of a larger development known as Bexley Garden Centre. The commercial use largely fronts, and sits above, North Cray Road. The new dwelling and the three existing dwellings on the site are situated behind the commercial use on higher land. Vehicular access for both the residential and commercial uses is from the same point on North Cray Road. The address of the whole site is No 57 North Cray Road but the Council have outlined a triangular area on the plan accompanying the notice, where all the dwellings are situated, and a separate field to the north, as being the focus for the notice.²
17. To the east of the appeal site lie the buildings of Home Close Farm, to the north and south there is open land and to the west, the garden centre and another open parcel of land. Within the triangular area there is the original

² It is believed the field to the north was included with the triangular area as it and the triangular area are registered separately from the commercial land at The Land Registry.

dwelling known as The Farmhouse. This is occupied by the appellant's older brother and his family. It was subdivided into two dwellings in the past (now known as Units 1 and 2) and a tenant now occupies the smaller unit, where the appellant used to live until August 2016. To the south of The Farmhouse lies a dwelling known as The Shed occupied by the appellant's younger brother and his family. The new dwelling is to the north of The Farmhouse situated within an area of woodland that is protected, in part, by a Tree Preservation Order (TPO). The woodland area is rather like a belt and sweeps around from the north to the southern boundary of the garden centre and, to a certain extent, separates the residential area from the commercial area.

18. There are no public rights of way (PROW) bordering the residential part of the land but there is a PROW along the southern boundary of the field to the south. North Cray Road is a busy dual carriage-way along the western boundary of the garden centre and is separated from the site by fencing and a bank of trees.
19. The new dwelling was erected by the appellant over the course of two years and was substantially complete in 2016. It was built from materials available within the garden centre. Only internal fittings and windows were purchased from elsewhere. Its two storey, flat roof, design is clad in black weatherboarding.
20. The Framework states that a local planning authority should regard the construction of new buildings as inappropriate development in the GB. The term 'building' refers to any structure or erection and it therefore includes not only the new dwelling but also the fencing. The laying of the hardstanding amounts to an engineering operation. Paragraphs 145 and 146 of the Framework set out what is inappropriate and not inappropriate development in the GB. Policies CS01 and CS17 of the CS and Policy 7.16 of The London Plan³ accord with national policy on GBs in that they seek to protect the GB and resist inappropriate development.
21. The appellant submits that the development falls to be considered under paragraph 145(g) of the Framework. He makes no distinction between the new dwelling, the fencing and the hardstanding, which are set out separately in the notice but I will deal with the hardstanding in due course. The exception to inappropriate development in paragraph 145(g) sets out that limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use, is not inappropriate. This is on the basis that it would not have a greater impact on the openness of the GB than the existing development.
22. The gist of the appellant's case is that the new dwelling and fencing are an exception to inappropriate development because they are within the curtilage of a permanent structure, namely The Farmhouse. The appellant relies on the concept of curtilage as the Framework's definition of PDL is land which is, or was, occupied by a permanent structure, including the curtilage of the developed land.
23. Before this is considered, it is necessary, firstly, to consider in what way the new dwelling and fencing amount to partial or complete redevelopment. This is because the exception set out in paragraph 145(g) of the Framework relies on

³ The London Plan: The Spatial Development Strategy for London, Consolidated with alterations since 2011, March 2016

this action. There is no definition of redevelopment in the Framework but dictionaries generally say it is the action or process of developing something again or differently, such as the construction of a new building after demolishing an existing building. I find redevelopment must mean this otherwise the first bullet point of paragraph 145(g) does not make sense. This states that redevelopment would 'not have a greater impact on openness than *the existing* (my emphasis) development'.

24. The appellant refers to a former stable block which was situated in the woodland area and was used by the appellant's father as a workshop. Although the appellant stated he came across part of the footings to this building when he was building his dwelling, no information has been submitted regarding its exact location, size or scale. The Council submit historic Google Earth satellite images to demonstrate that if there was a building, it has long gone. However, these do not assist as the tree canopy is so extensive, nothing can be seen at ground level. The Ordnance Survey (OS) plan submitted with the 1988 planning application for the use of the site as a garden centre shows a rectangular building within the woodland but this appears to be in a different location from the new dwelling. Furthermore, I note from the 1981 OS plan and the ownership plan accompanying the draft unilateral undertaking that this building lay outside the appellant's ownership. It is therefore concluded that the appellant is unable to rely on the redevelopment of the stables/workshop building to support his argument on paragraph 145(g) of the Framework.
25. The appellant submits that the 'existing development' for the purposes of 'redevelopment' comprises the demolition of the two storey extension to The Farmhouse and the submission that a garden centre building, which received planning permission in 1997, would not be completed⁴. In addition, the appellant undertakes to not implement the construction of outbuildings⁵ for Units 1 and 2 and to accept a condition to remove PD rights for these dwellings. I will refer to this 'offer package' again in my discussion on openness.
26. The definition of PDL includes the curtilage of the developed land but no other land. Although it is proposed to remove an extension which currently sits within the curtilage of Unit 2, I find that the replacement built form is outside that curtilage, as discussed next. The proposed demolition therefore does not assist the appellant's case in respect of whether the development is inappropriate or not.
27. The definition of PDL also does not include future approved development yet to be built as 'existing development', as it has not occurred. This also applies to the proposed outbuildings and any future extensions to Units 1 and 2. The appellant's submissions on what counts as 'existing development' whilst imaginative, ignore the definition of PDL which states that it is 'land which *is or was* occupied by a permanent structure'.
28. Turning now to curtilage, the appellant refers to the case of *Challenge Fencing Ltd v SSHCLG [2019] EWHC 553 (Admin)*, which he states is the most recent case to discuss curtilage. However, he did not provide a copy with his submissions. There is no authoritative definition of the term curtilage and it is not a matter of law; it is therefore a matter of fact and degree. Over the

⁴ The permission has been implemented in part in that one 'bay' of the building has been built.

⁵ These have recently been the subject of favourable LDC applications.

years the Courts have made a number of findings and reiterated their findings regarding curtilage including that curtilage must serve the purpose of a building in some necessary or useful manner but need not be marked off or enclosed in any way.

29. When planning permission was granted for the erection of The Farmhouse, the drawings showed two locations for it within a triangular shaped wooded area, which is similar to the plan accompanying the notice, excluding the field to the north. The annotation on the OS plan shows this woodland area to be planted with non-coniferous and coniferous trees. The applicant specified that position B marked on the plan was preferred as the location of The Farmhouse and that one tree needed to be removed. Position A was to the north of B but in the end The Farmhouse was built at position B. The plans give no indication of what land would be included within the curtilage of the property.
30. The OS plan accompanying the application for the change of use of the site to a garden centre in 1988 does not show The Farmhouse, even though it had been built by then. The triangular area where it was built is annotated with coniferous trees on the southern and eastern boundaries, with land being more open to the south than the north. Significantly, the triangular area is shown as being differentiated from the area of the appellant's dwelling by a dotted line.
31. Once The Farmhouse was built and occupied by the family, the appellant confirmed that the area around the building was kept as a lawn. It was mown up to the wall on the eastern boundary with Home Close Farm and northwards and westwards up to, what I saw at the site visit as, the edge of a discernible tree line. Following the subdivision of The Farmhouse into two units, fencing was erected to separate the open area around the building into two distinct private areas. The larger of these two areas surrounds Unit 1 and this area is further subdivided into an area for recreation and an area for keeping sheep.
32. The area around Unit 2 is open with a lawn separating this area from the woodland area to the north. Near Unit 2 there is play equipment and a small parking area. The lawn is still mown to the edge of the tree line. There are one or two smaller trees within the middle of the lawned area but their canopies are small and the grass grows around them. The lawn tapers out once it reaches the edge of the woodland due to the shade cast by the spread of the woodland canopy.
33. It seems to me that the extent of the curtilage for Unit 2 does not include the woodland the location of the new dwelling. For the land to form part of the curtilage of Unit 2 there needs to be an intimate association between Unit 2 and the land. Although the appellant stated as a child he played and camped overnight in the woodland area, this is insufficient to establish it as part of the curtilage of Unit 2. It is telling that the 1988 layout plan for the garden centre application does not include the woodland as being part and parcel of The Farmhouse area, which is separately demarcated. The curtilage area, namely the lawn and parking areas, only exist due to the existence of The Farmhouse, whereas the use of the woodland area has always been as woodland.
34. For land to be regarded as curtilage it must have a close spatial and functional relationship with the building. The parking area is next to Unit 2 and serves a useful purpose and is no doubt in daily use. The lawned area also serves the purpose of Unit 2, it is regularly maintained and it is intimately associated with the dwelling due to its proximity. However, the woodland area is not used in

the same way or to the same degree, it is also further away from Unit 2. Although it is owned by the appellant, it is the spatial and functional relationship with Unit 2 that is decisive.

35. As such, I find that the new dwelling and fencing have not been built within the curtilage of Unit 2. Their location is therefore not on PDL. This, together with my finding on redevelopment, means that the new dwelling and fencing are inappropriate development within the GB as they do not accord with the exception in paragraph 145(g) of the Framework. Inappropriate development is harmful by definition and the development is also contrary to Policies CS01 and CS17 of the CS and Policy 7.16 of The London Plan.
36. Moving on to openness, this is an essential characteristic of the GB. The Supreme Court held in *Samuel Smith Old Brewery*⁶ that visual impact as a necessary part of analysis is not expressly referred to in the Framework nor is it made so by implication. How to take account of the visual effects in any particular case is a matter of planning judgement.
37. The appellant accepts, and I concur, that the new development has resulted in a loss of openness. However, he submits that his 'offer package' off-sets or, more than compensates, for this harm and, in particular, that the new development is in a less sensitive part of the overall site. The 'offer package' comprises built and non-built form. The removal of the two storey extension would restore some openness to that part of the site and the undertakings in respect of the non-built form would preserve openness. However, the location of all these elements is within the developed part of the site whereas the new development comprises an encroachment into a more sensitive area of natural woodland supplemented with specimen trees. As such, I find that the 'offer package' would not balance the significant loss of openness caused by the development.
38. Turning now to the hardstanding, this comprised a hardcore surface when the notice was issued. At the site visit I saw that a layer of gravel had been added but it is the development as it was at the time when the notice was issued that is before me. The hardstanding falls to be considered under paragraph 146(b) of the Framework as one of a number of forms of development not inappropriate in the GB. This is provided it preserves the openness of the GB and does not conflict with the purposes of including land within it.
39. It is considered whilst the hardstanding does not result in a loss of openness, as the depth is minimal, it does conflict with one of the purposes of including land within the GB, which is to safeguard the countryside from encroachment. This is because the hardstanding has resulted in the introduction of an extensive area of man-made surfacing within a natural woodland setting. As such, the hardstanding is therefore also inappropriate development within the GB, which is harmful by definition and is contrary to Policies CS01 and CS17 of the CS and Policy 7.16 of The London Plan.

Character and appearance

40. The appeal site is situated in an elevated position on the eastern side of the River Cray Valley. The surrounding area is largely rural in character with open

⁶ R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

fields and hedgerows but given its proximity to the urban area of Old Bexley also has an 'urban fringe' character in part. This can be seen from the presence of riding stables and a number of other garden centres and nurseries in the area. Within the larger Bexley Garden Centre site the area is divided into developed and undeveloped areas with the open fields to the north and south and the tree belt and woodland area falling into the latter.

41. The new development is sited just within the woodland and is flanked by trees on three sides. The branches of two ash trees stretch almost across the front elevation of the dwelling. The appellant submits that the backdrop of the trees together with the black weatherboarding means that the new dwelling blends into the woodland. It is accepted that the external treatment of the building helps to assimilate the development into the surrounding area. However, its elevated location means it is visible from the entrance to the Bexley Garden Centre. It is also visible from North Cray Road where there is an area of thinner tree cover, but for some of the year, when the trees are in leaf, this view would not be available. It is not visible from the PROW running along the southern boundary of the Garden Centre.
42. Notwithstanding this, it is the large expanse of glazing on the west elevation that catches the eye and the appearance of the glazing together with the residential use of the site, is at odds with the undeveloped woodland setting. At night, indoor lighting would also be seen from a distance and together with the parking and movement of vehicles in front of the west elevation results in significant harm to the rural character and appearance of the area.
43. The Council raise no concerns about the design of the building other than its location, which means there is the potential for trees to be required to be trimmed back. At the site visit I saw that most of the habitable rooms face west and south. Nevertheless, as noted already with the ash trees, there could come a point when their shading in summer becomes unacceptable and they would be cut back or even removed as they are not protected by the TPO. This would diminish the extent or natural appearance of the woodland to some degree and would not accord with Policy CS17 of the CS or Policy ENV35 of the UDP, which seek to protect Bexley's green infrastructure.

Other considerations

44. During the Hearing the appellant offered to surrender the use of a parcel of land adjacent to the southern boundary of the wider site amounting to 0.13ha in area. This lies adjacent to the PROW and is near to other buildings and uses on the site. It is occupied by six different companies and there are two portable office buildings on site together with eight shipping containers. The Council found that the use of this area was lawful for storage and parking and recently issued a lawful development certificate to that effect. The appellant would replace this development with meadowland. I accept this would improve the appearance of the site from the PROW and the GB in general.
45. Whilst the offer is welcome, I find the visual improvement gained by surrendering the mixed use would not overcome the harm caused by the siting of the new dwelling, fencing and the laying of a large expanse of hardstanding. These are in an elevated position, on the edge of a wood and at some distance from other built form within the site.

46. It is also submitted that consideration should be given to a grant of planning permission for a temporary period of three years. The appellant considers that this would allow the wider family time to put in place measures to accommodate difficult personal circumstances, which involve returning Units 1 and 2 into one unit to accommodate part of a family group. The wider family also need to resolve their business interests, dispose of the site and retire. To that end they have signed an 'option/promotion agreement' for 3-4 years.
47. Unit 2, the former home of the appellant, was never designed as a separate dwelling but came about through the conversion of an extension. The internal layout is therefore not conducive to family life. The appellant regards the construction of the new dwelling as a stop gap measure. He was born and raised on the site and all his financial interests are tied to the site. He was unable to obtain a loan and he is unable to dispose of the site in smaller lots. He felt his only choice was to build a home on the site where he did not have to buy the land or most of the materials. He finds all his circumstances are not ideal but he just needs time to see a way forward.
48. The Planning Practice Guidance (the Guidance) sets out that the imposition of conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. However, the Guidance states in respect of a temporary planning permission that circumstances where a temporary permission may be appropriate include where a trial run is needed, in order to assess the effect of the development on an area. A temporary permission may also be appropriate to enable the temporary use of a vacant building. However, a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness.
49. Although the appellant stated that he regards the dwelling as being a temporary construction, it is in fact a permanent building. I also saw at the site visit that he has continued to improve it following the issue of the notice. He has added a timber balcony to the front elevation, laid gravel on the hardcore surface of the hardstanding and erected gabion walls around the drive and hardstanding. It would appear that these actions conflict with his stated intentions. In any event, I find it would not be appropriate to impose the requested conditions having regard to the advice in the Guidance.
50. It is now Government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The Written Ministerial Statement announcing this policy stated that it applied to all new planning applications and appeals received since 31 August 2015.
51. The development of the appeal site was clearly done in the knowledge that planning permission was required. However, there was no attempt to hide the new dwelling. The building was covered in tarpaulin and scaffolding as it took the appellant two years to build it in his spare time. When the breach of planning control was discovered by the Council, the appellant co-operated with the Council, responded to the Planning Contravention Notice and offered to submit a retrospective application, but this was declined. Nevertheless, it was intentional unauthorised development which must therefore weigh against the grant of planning permission.

Conclusion on the main issues

52. In conclusion, the erection of the dwelling, fencing and the laying of the hardstanding are inappropriate development in the GB. Substantial weight must be attached to any harm to the GB and, for the reasons given, the new dwelling and the fencing result in a significant loss of openness. The hardstanding also conflicts with one of the purposes of including land within the GB. All three developments result in significant harm to the character and appearance of the area added to which, there is also the weight against a grant of planning permission resulting from the intentional unauthorised development. The other considerations viewed above do not clearly outweigh these objections. Consequently, no very special circumstances exist and all three developments are contrary to the Council's policies. Therefore, for the reasons given, I conclude that the development on ground (a) should fail.

The ground (g) appeal

53. This ground of appeal is the period given to comply with the requirements of the notice is too short and the appellant submits that he needs 18 months. It is therefore limited in scope to a consideration of the time necessary to carry out those requirements.

54. The appellant submits he needs more than six months because:

- He needs to find a new home for his family, housing for sale in the area is expensive and even renting requires a large deposit, in addition there are the costs associated with buying a house and furniture removal;
- prior to demolishing the development, he needs to get quotes, demolition is a specialist job and he needs to find the money to pay for it; and
- there is a need to carefully remove the development having regard to the proximity of the trees, the dwelling needs to be dismantled and what can be salvaged stored and sold, all of that is very time consuming.

55. A large part of the appellant's case relates to the time before the works can commence. In my view six months is a reasonable period to carry out the necessary physical actions to comply with the notice, even allowing for careful dismantling and salvaging. The notice requires that the development is demolished but the appellant submits that he wishes to dismantle and salvage what he can so that he loses less money. This is not necessary to comply with the requirements of the notice but it is understandable in the circumstances. The appellant is unable to get a mortgage due to his age. The development is also the appellant's home and although the Council had previously suggested the appellant could return to Unit 2, the wider family's extenuating personal circumstances mean that this would not be possible.

56. In addition, the country has been coping with the effects of a global pandemic. Although the Government has prioritised and supported the continued operation of the building industry, business activities are taking longer and many peoples' personal financial circumstances have suffered, as indicated by the appellant, who is unable to get a loan. The government has also had regard to peoples' housing needs. If the appellant were a private tenant, six months is now needed to issue a notice of intent to seek possession. This indicates that the Government recognises that currently finding a new home to rent takes longer.

57. Whilst the appellant is currently not a private tenant, nevertheless, I find it is reasonable, in the circumstances of this case, to extend the compliance period to allow for the orderly vacation of the property. As such, I find that 12 months would be a reasonable period for compliance and, for these specific reasons, the appeal on ground (g) succeeds to this extent.

Conclusion

58. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the deemed application.

D Fleming

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr P Nicholls BA Hons DipTP
MRTPI
Mr A Stuart

Agent, Graham Simpkin Planning Ltd

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms F Bradley BTP RTPI

Attwells Solicitors and Planning Consultants

INTERESTED PERSONS:

Mr K Courtney

Local resident



Plan

These are the photographs referred to in my decision dated:

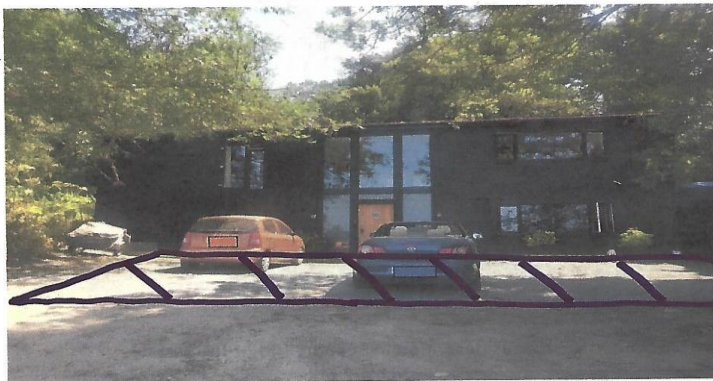
by D Fleming BA (Hons) MRTPI

Land at: 57 North Cray Road, Sidcup, Kent DA14 5EU

Reference: APP/D5120/C/18/3214680

Scale: nts

Photographs of hardstanding and fence



Photograph 1 - Hardstanding, outlined and hatched



Photograph 2 - Fence, outlined and hatched