



Appeal Decision

Inquiry Held on 17, 18, 19 and 20 November 2020

Site visit made on 24 November 2020

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2021

Appeal Ref: APP/E2205/C/18/3206835

Golan Croft, Cranbrook Road, Tenterden TN30 6UP

- 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 TCPA 1990).
 - The appeal is made by Mrs Sandra Relf against an enforcement notice issued by Ashford Borough Council.
 - The enforcement notice was issued on 6 June 2018.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the erection of a building ('the Building') used as a single dwellinghouse and the carrying out of excavation works to materially alter the levels of the Land to accommodate the Building.'
 - The requirements of the notice are:
 - (i) Cease permanently the residential use of the Building (shown marked hatched in the approximate position on the attached Plan);
 - (ii) Demolish and remove permanently from the Land the Building (shown marked hatched in the approximate position on the attached Plan);
 - (iii) Remove permanently from the Land all cabling and pipework (whether above or below ground level) connected to the Building (shown marked hatched in the approximate position on the attached Plan);
 - (iv) Following compliance with steps 5(i) to 5(iii) (above), restore the area of the Land which has been excavated beneath and around the Building (shown marked hatched in the approximate position on the attached Plan) and where, if applicable, any underground cabling or pipework has been removed, to the levels and contours that existed immediately prior to the carrying out the excavation and cable or pipework installation works, that is to say to the natural slope and contours of the surround Land.
 - (v) Remove permanently from the Land all materials, waste and debris resulting from compliance with steps 5(ii) to 5(iv) above.
 - The periods for compliance with the requirements are:
 - Six months for requirement (i)
 - Nine months for requirement (ii)
 - Ten months for requirement (iii)
 - Eleven months for requirement (iv)
 - Twelve months for requirement (v)
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. It is directed that the enforcement notice be varied by:

- The deletion of the all the words in paragraph 5 (iv) and the substitution thereto of the words 'Restore the land to its condition before the breach took place';
- The deletion of the word 'six' in paragraph 5 (i) and the substitution thereto of the word 'twelve';
- The deletion of the word 'nine' in paragraph 5 (ii) and the substitution thereto of the word 'fifteen'
- The deletion of the word 'ten' in paragraph 5 (iii) and the substitution thereto of the word 'sixteen'
- The deletion of the word 'eleven' in paragraph 5 (iv) and the substitution thereto of the word 'seventeen'
- The deletion of the word 'twelve' in paragraph 5 (v) and the substitution thereto of the word 'eighteen'.

Subject to these 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.

Preliminary Matters

2. All oral evidence, except that given by Mr Barry Martin¹, at the Inquiry was under affirmation

Appeal on ground (b)

3. The appellant originally included a ground (c) appeal i.e. that there had been no breach of planning control. However, the evidence of the appellant sought to demonstrate that the alleged building is in fact a caravan. As such, the evidence is seeking to demonstrate that what is alleged in the Notice has not occurred as a matter of fact. The appellant therefore withdrew the ground (c) appeal at the Inquiry and pursued this argument as a ground (b) appeal i.e. that a building used as a single dwellinghouse has not been erected.
4. The appellant does not pursue either a ground (b) or a ground (c) appeal in relation to the second part of the allegation 'the carrying out of excavation works to materially alter the levels of the Land to accommodate the Building'.
5. The issue in this ground of appeal is whether the residential unit is a caravan rather than a building as alleged.

Is the residential unit a caravan?

6. The term caravan is defined in s.29(1) of the Caravan Sites and Control of Development Act 1960 (1960 Act) as meaning 'any structure designed or adapted for human habitation which is capable of being moved from one place to another whether being towed or by being transported on a motor vehicle or

¹ While it was intended to place all witnesses under oath or affirmation unfortunately Mr Barry Martin was overlooked. All parties were aware of this error on my part at the time and no objections to it were made at the Inquiry.

- trailer) and any motor vehicle so designed or adapted, but does not include (a) any railway rolling stock which is for the time being on rails forming part of a railway system or (b) any tent.
7. In addition, a caravan is only a caravan if it meets the limitations to size laid down in the 1960 Act and the Caravan Sites Act 1968 as amended (1968 Act). The dimensions are absolute. If the residential unit is larger than the stated dimensions, then it cannot be classed as a caravan.
 8. There are therefore, three tests to consider whether or not the residential unit the subject of this appeal is a 'caravan'. These tests are:
 - The Construction test: whether the residential unit is composed of not more than two sections constructed and designed to be assembled on site by means of bolts, clamps or other devices;
 - The Size Test: whether the dimensions exceed the limits set out in s.13(2) of the 1968 Act; and
 - The Mobility test: whether, when assembled, the residential unit is capable of being moved by road from one place to another, whether by being towed, or by being transported on a motor vehicle or trailer.

The Construction Test

9. The appellant considers that because the two halves of the unit were brought together, in her view, as the final act of assembly on site that this complies with the construction test. I will come back to the point about final act later. She states that there is no requirement for the two halves of a caravan in a twin unit caravan to be brought to the site in a finished form. I accept this is not part of the definition of a caravan however neither does it state that the two halves can be built on site and then joined together.
10. The roof was constructed separately for each half, with a mono pitch resting on a separate truss running the length of the unit. After being brought together the trusses were connected using 'tec-screws'. There is a metal ridge at the joint between the two halves.
11. In order for the residential unit to be constructed the materials were brought to the site and two structures were built and then joined together. The submitted photographs show various stages of this process. The various materials were joined together to create the two halves of the unit. In my view, anyone viewing what was taking place on site would have concluded that the structure was being built on site, albeit in two halves. While there are no traditional foundations there were numerous jack pads which appear to rest on the ground, on which a framework for the floor was supported, off which the walls and roof and internal subdivisions were constructed.
12. The appellant relies on an appeal decision APP/H2265/X/18/3204386 (Land at 1 Nutfields) dated 6th June 2019 in which the Inspector states '*The structure is to be built as two section on site and then joined together in the final act of assembly. It is established law that there is no requirement that the process of creating the two separate sections must take place away from the land.*'
13. While the Inspector in that case refers to it as 'established law', I am not satisfied that this point has ever been the subject of a legal judgement. No

- cases were put before me on this point. I accept that the definition of a caravan does not specify where the two sections should be constructed/made.
14. S.13 of the 1968 requires that the structure is composed of not more than two sections separately constructed and designed to be assembled on a site. What has taken place at the appeal site is that the elements of the residential unit were separately constructed from hundreds of pieces of materials, nails, wood, plaster board etc and built on site. The construction and assembly were part and parcel of the same continuous operation. There was an act of development which took place on the appeal site of building the two sections; anyone passing the site or looking at it would have seen materials piled up and the structure being built by builders/skilled tradespeople. The materials formed the floor, sides and roof of the structure and the gap between the two halves was minimal during the construction.
 15. The Council have referred to the appeal decision at Corner House (reference APP/E2205/X/17/3179915) in which the Inspector, in that case, found that the log cabin was a building and not a caravan that satisfied the 1960 Act and the 1968 Act on the evidence before him. Taking both appeal decisions referred to by the parties it is clear that whether or not something is a caravan is fact and evidence specific.
 16. I turn now to what the final act of assembly was. The evidence at the Inquiry did not clearly demonstrate the sequence of events of when the two sections were joined and that this was the final act of assembly. No witness gave a first-hand account of what happened and when it took place. The only person giving evidence with a first-hand knowledge, who was understood to be on site at the time, was the appellant. The evidence given in respect of a timeline of what happened and when was given Mr Vestey, following analysis of photographs. He had no first-hand knowledge.
 17. The timeline stated at the Inquiry was that the 'final act of assembly' took place on Thursday 15 August 2017. The Council produced photographs from a site visit of 10 August 2017. These show the external cover strip fitted, a close up of the external cover strip, parts of joins boarded up on the floor, internal cover strips on internal walls. This in my view indicates that the two sections had been assembled. While the appellant's witness sought to say this was a test run to see if things fitted, he had no first-hand knowledge whether that was correct or not.
 18. On 10 August there were no bathrooms or sanitary ware or kitchen within the two halves of the unit. The photographs clearly show this. The appellant's case is that the bathroom and sanitary ware were fitted between the 10th and 15th August, which included a weekend. There is no substantiated evidence on this point and no oral evidence from anyone present at the site at this time on this point. It was accepted by the appellant that the kitchen had not been fitted by 15 August 2017.
 19. The definition of a caravan requires that the structure is designed or adapted for human habitation. I consider this means that it has to be fit for human habitation to be a caravan and, as such, must include facilities for day to day living. These facilities include bathrooms and a kitchen which must, to my mind, be available within the two halves of the unit, which are then joined together in the final act of assembly. It cannot be a shell that is then fitted out and finished once the two halves are brought together. The unit being

assembled would simply be a shell and not a structure designed for human habitation.

20. I therefore find the construction test is not satisfied in this case.

The Size Test

21. The size limitations set out in the 1968 Act are: length 20m; width 6.8m and overall height of living accommodation 3.05m. Both parties agree that if the porch is excluded from the measurements of the residential unit then it would comply with the size limitations of the 1968 Act. However, if the porch is included it would be too large and would fail the size test as the width of the residential unit would be 8.79m². In relation to the porch the question is whether or not it is part of the residential unit or an appendage. If the porch is seen as an appendage it may amount to operational development but not take the residential unit outside the size limits set out in the statutory definition of a caravan.
22. The appellant has referred to the Government document Model Standards 2008 for Caravan Sites in England to support the exclusion of the porch when measuring the residential unit. This document relates to standards in relation to the layout of provision of facilities, services, and equipment for caravan sites. They are relevant only to deciding what (if any) conditions to attach to a site licence. The appellant relies particularly on the diagram on page 18 which relates to separation distances between caravans and how this should be measured. In my view, the document is not relevant to deciding how to ascertain the size of the residential unit and whether it would conform to the relevant size limitations that I am considering in this case.
23. In the current case the porch was designed as part of the residential unit and is shown on the ground floor plan, elevation plans and the section plan dated October 2016. It was constructed at the same time as the residential unit, as part of one operation, and was in existence when the unit was occupied. It is not a standalone item or a later addition. It cannot be easily detached as it would require some roof covering of the main unit to be removed and it is not simply bolted onto the outside of the main unit. It is part and parcel of the whole residential unit and is integral to the whole and a part of it.
24. I note the plans and elevations also show a roofed area above some raised decking to the rear of the residential unit. This element of the design was not built.
25. The appellant has provided Timberspecs Engineering drawings showing options for relocating the residential unit with or without the canopy attached. These show the addition of braces to stabilise the canopy and allow it to be moved with the unit or, in the alternative, the addition of posts adjacent to the home to allow the canopy to be detached and left behind if the unit is moved. These drawings reinforce my view that the porch was, and is, an integral part of the design of the residential unit and forms a single entity.
26. I therefore conclude that the residential unit dimensions are not within those set out for a twin unit caravan in the 1968 Act. As such it is not a caravan. However, even if I am wrong on this point, the residential unit does not fall

² Paragraph 5.29 of Mr Campbell's proof and measured at the site visit as 8.89m (comprised of 6.79m for the main part of the unit and 2.1m for the porch element)

within the definition of a caravan in any event, for the reasons set out above in relation to the construction test.

The Mobility Test

27. Both parties agreed that the test was that the residential unit, when joined together was capable of being moved from one place to another by being towed or by being transported on a single motor vehicle or trailer.
28. The appellant produced two quotations from a crane company. The first related to a quotation³ of lifting a modular building in two parts from a vehicle (flatbed lorry) or onto it. The second quotation⁴ provided a method statement for lifting a mobile home to enable base repair.
29. The oral evidence at the Inquiry confirmed that the witness had not seen a unit of this size, from this manufacturer, being moved as a single unit onto a vehicle. While I understand that there is a video produced by the company, which I have not seen, of a unit being moved in two halves, this was stated to have been of a different size to the appeal unit in any event. Moreover, there is no evidence I have been made aware of that a unit of this size has ever been moved as a single unit with the two halves fixed together.
30. Exactly what information was provided to the crane company is unclear. It is clear that the crane can lift a significant weight and I accept that it is more likely than not that the unit can be lifted up. However, it is not clear the extent of bracing or other works required and what repair work would be needed to the unit when it was relocated to another place. In relation to the porch either significant bracing or its removal and rebuilding would be required. In my view, the appellant has failed to demonstrate that the unit is physically capable of being moved from one place to another as a single unit. As such, the appellant has failed to demonstrate, on the balance of probabilities, that the residential unit complies with the mobility test.

Other matters

31. No suggestion was made that if I found that the residential unit was not a caravan then it was not a building. However, I will briefly address whether it is a building, for completeness.
32. A 'building' is defined in s.336 of the TCPA 1990 as including any structure or erection and any part of a building, but not plant or machinery comprised within a building. In *Cardiff Rating Authority v Guest Keen Baldwins Iron and Steel Co Ltd* [1949] 1KB 385 endorsed by the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR* (No.2) [2000] JPL 1025) three primary factors were identified as decisive of what was a building:
 - a) That it was of a size to be constructed on site, as opposed to being brought on to the site;
 - b) Permanence; and
 - c) Physical attachment.

No one factor is decisive.

³ Document DV5A

⁴ Document DV5B

33. The photographic evidence provided included photographs from January and May 2017 which shows pallets of materials and piles of wood. Photographs from June 2017 show builders/tradespeople, scaffolding and the roof being built. The residential unit was built/constructed on site. It is of a significant size, with the footprint similar to the footprint of the dwelling known as Golan Croft.
34. In relation to permanence the residential unit has been completed and lived in since August 2018, over two years. It has never been moved, and I have concluded in relation to whether it was a caravan that it has not been demonstrated that it can move position. I consider that its permanence is significant within the planning context and that it is a permanent structure. As with any building it may be removed if circumstances change, but that does not make it impermanent.
35. The structure is not physically attached to the ground, but it is held in place through its own weight. It rests on 'jack pads' which support the floor and hold it off the ground. It does not have wheels.
36. I therefore conclude that the residential unit is a building due to being constructed on site, its permanence and physical attachment through its own weight.

Conclusion on ground (b)

37. For the reasons set out above the residential unit not a caravan and a building used as a single dwellinghouse has been erected. The appeal on ground (b) fails.

Appeal on ground (a)

38. The deemed planning application is for the erection of a building used as a single dwellinghouse and the carrying out of excavation works to materially alter the levels of the land to accommodate the building.

Main Issue

39. The main issue in relation to the ground (a) appeal is whether the development would conserve and enhance the natural beauty of the High Weald Area of Outstanding Natural Beauty (AONB), having regard to national and local policy in respect of development in a valued landscape, the countryside, the principal of a new dwelling and the personal needs of the appellant's parents who reside in Golan Croft.

Planning Policy

40. The development plan includes Ashford Local Plan 2030 (LP)(adopted February 2019). The most relevant policies are LP Policy SP1, SP6, ENV3b and HOU5. However, the appellant has also referred to LP Policy HOU9 and HOU10.
41. LP Policy SP1 seeks to focus development at accessible and sustainable locations, to conserve and enhance the natural environment including designated landscapes. LP Policy SP6 requires development to be of a high quality design and demonstrate a careful consideration to design criteria including the character and distinctiveness and sense of place.

42. LP ENV3b requires development to have regard to the purpose of conserving and enhancing the beauty of the AONB. All the bullet points for development within the AONB are required to be satisfied to comply with the policy.
43. LP HOU5 allows for residential development adjoining or close to existing built up confines of stated settlements, which include Tenterden, and elsewhere restricts residential development to a limited range of purposes, including rural worker housing, development of a heritage asset or to secure the future of a heritage asset, reuse of buildings, replacement dwellings or a dwelling of exceptional quality or innovative design. Within the AONB residential development is required to demonstrate it is justified within the context of the national level of protection and conserves and enhances the AONB's natural beauty.
44. LP HOU9 relates to standalone annexes. The explanatory text to the policy states that standalone annexes can serve a number of functions such as to provide a home for elderly or infirm relatives unable to live independently or for staff accommodation with a real and functional relationship between the occupation of the main dwelling and the annexe. The explanatory text further states that it is unlikely that a standalone annexe located outside the curtilage of the main dwelling would be supported in principle. The policy allows residential annexes subject to a number of criteria, including being clearly ancillary and being sited to achieve a clear dependence between the annexe and main building. Within the AONB such development is required to address the specific sensitivities of the area, including scale and wider impact in the AONB.
45. LP HOU10 permits the complete or partial redevelopment of residential garden land subject to complying with Policy HOU15 and HOU5. Development must not result in significant harm to the character of the area. Neither the explanatory text to the policy or the policy itself requires the residential garden land to be within the curtilage of the dwelling.

Reasons

46. The appeal site sits within a small group of dwellings and is close to a commercial/industrial site. There are other dwellings sporadically along Cranbrook Road. The appeal site is on the south side of Cranbrook Road, to the south of the dwelling Golan Croft, and to the west of a private drive that provides access to a number of properties. The site slopes down from Cranbrook Road. The site is about 3.7km from Tenterden centre, the nearest settlement to the site. There is no bus route in close proximity to the site.
47. The location is within the AONB and in open countryside outside of any settlement defined within the LP and is within an area where development is strictly controlled. The High Weald AONB - Management Plan 2019-2024 sets out five components of character. Settlement is one of the five and a key characteristic of these are the limited palette of local materials comprising clay tiles and brick, timber as weatherboard and framing and some localised instances of stone. In addition, it is noted that the areas relative tranquillity and its intrinsically dark landscape are important qualities and features that are connected to the interaction between the landscape and people which enrich character components.

48. The appeal dwelling is occupied by the daughter and son in law of the occupiers of Golan Croft. It is a self-contained dwelling and provides all the necessary facilities for day to day living. It is not dependent on Golan Croft for any of these facilities, although I note that the appellant does do some laundry within Golan Croft for her parents and her household and vice versa. She has also explained that some cooking, including baking, is done in the appeal dwelling for the occupants of Golan Croft. However, in my view, the laundry and cooking for the other household in either Golan Croft or the appeal dwelling is for convenience rather than necessity, as both dwellings have the necessary facilities for cooking and laundry.

Design, Character and Appearance within the AONB

49. The dwelling has been designed as a log cabin (timber cladding) with a low pitched steel sheeting roof. The design seems to have derived from the aim of producing a residential unit to seek to meet the definition of a caravan, rather than to assimilate it within, or complement, the nearby development or its setting or to be an innovative design. It is a basic single storey, low roofed structure with large glazed areas. Its materials do not reflect the limited palette of local materials within the AONB. It is not a dwelling of exceptional quality or innovative design. It has also required the levelling of the land to provide a suitable base on which to place the dwelling.
50. In short range views along the access track and from adjacent properties, particular the Oast House opposite, it fails to respect the setting, scale layout and design of traditional buildings around it. While there has been a workshop building and garage on this part of the appellant's holding, the appeal dwelling has a significant footprint and is readily visible from the Oast House. Glimpses between dwellings on Cranbrook Road are also possible. While there are long distance views from the footpath at Newbarn Farm (which I walked part of during my site visit), the appeal dwelling is seen within the cluster of dwellings. Its materials and large areas of glazing are seen and appear at odds with the prevailing character and appearance of the area. However, due to the distance the harm is limited.
51. While I accept that other dwellings in the immediate area do not all reflect the limited palette of materials in the AONB, that does not justify a new dwelling in this sensitive, designated landscape continuing the use of inappropriate materials. Development should not only conserve but enhance in the AONB. In particular LP Policy ENV 3b requires, where appropriate development in terms of location form, scale, materials, and design to enhance or restore the character of the landscape. In addition, development is required to enhance the distinctive character and tranquillity of the AONB. The materials and design of the appeal dwelling fails to achieve this.
52. I therefore conclude that the appeal dwelling harms the character and appearance of the area and fails to conserve and enhance the AONB due to the use of inappropriate materials and design of the dwelling. This is contrary to LP Policies SP1, SP6, ENV3b and HOU5.

Dwellings in the Countryside

53. Within the countryside LP Policy HOU5 allows residential development subject to it meeting certain criteria. The appeal dwelling does not comply with any of the criteria as it is not to provide accommodation for a rural worker to live at or

near their place of work, Golan Croft is not a heritage asset, it does not reuse a redundant or disused building and it is not of exceptional quality or innovative design and nor does it replace an existing dwelling.

54. As such, the appeal dwelling fails to comply with LP Policy HOU5. It is also therefore contrary to LP Policies SP1 and HOU10.

Other matters

55. The appellant considers that the appeal dwelling is within the curtilage of Golan Croft and that it should be considered as an annexe to Golan Croft. The appellant clearly set out the way in which she and her husband support her parents who are elderly to live in their own home. The appellant spends a great deal of time supporting her parents, with household help, cooking, laundry, taking them to medical appointments etc. Her husband supports her in this as well. I have no doubt that the appellant spends significant time supporting her parents to continue to live at Golan Croft and it is helpful to them to be able to look up to Golan Croft to check on them and to attend Golan Croft when required and quickly when additional support is required during the day or night.
56. The appellant considers that the level of care provided by her to her parents is only feasible as a result of being 'on site' and that the level of care is akin to a professional cleaner and carer for whom annexe accommodation might commonly be provided. While I fully understand the appellant's desire to live close to her parents to provide support and care, so that they are able to continue to live at Golan Croft, these personal circumstances do not amount to a need or a requirement to live within the appeal dwelling.
57. LP Policy HOU9 permits standalone annexes. Whilst I heard evidence in relation to whether or not the appeal dwelling was within the curtilage of Golan Croft, LP Policy HOU9 does not require a standalone annexe to necessarily be within the curtilage.; the residential planning unit is not always the same as the area regarded as curtilage. In any event, I am not convinced that the appeal dwelling is within the curtilage. Golan Croft and the workshop to the rear were built in 1933. It was part of Park Gate Farm which was predominantly a fruit farm. At the time Golan Croft was built it comprised a house and garden with a single garage. There was then the workshop with land around it. The workshop was used by the appellant's Grandfather as his office.
58. Ownership of Golan Croft was transferred to the appellant's Grandfather in 1962 but he rented it out to other relatives. An area of land beyond the garden was turned into a vegetable patch and this was tended by the Grandfather who did not live in Golan Croft. He also continued to work at the farm and use the workshop where he had his office. This indicates to me that Golan Croft's curtilage comprised the garden land, the dwelling, and the single garage at the front of the plot. The vegetable area and the workshop and surrounding land were being used by the Grandfather who did not live at Golan Croft.
59. There were no formal means of separating the areas of land off; no clear fences or walls are shown on any of the aerial photographs. In my view, the evidence demonstrates that there are three areas within the plot. Firstly, there is Golan Croft the dwelling, its garden and single garage; secondly there is a

change in levels with a step down to what was the vegetable area and then thirdly there was the workshop and land around it. The workshop and land around it were, and the land still is, within a separate land registry title.

60. The appellant considers that the dwelling the subject of this appeal is within the curtilage of Golan Croft and that it should be considered as a standalone annexe. While the three areas of the land are now all in one ownership, I am not convinced that the totality of the holding comprises the curtilage of Golan Croft.
61. LP Policy HOU9 has no requirement within the policy for a standalone annexe to be within the curtilage of the main dwelling. Criteria c and d/e⁵ of the policy require an annexe to be clearly ancillary, visually subordinate to the principal dwelling and achieve a clear dependency between the annexe and the main building. Within the AONB the policy requires standalone annexes to address the specific sensitivities that are prevalent in the AONB and states particular consideration will be given to the scale of development and the wider impact in the AONB.
62. The appeal dwelling is separated by about 35m from the main dwelling. Vehicles to the appeal dwelling can drive up to it via the access track and park in front of it. Both Golan Croft and the appeal dwelling each have all the facilities for day to day living and while, for convenience for the appellant, some cooking/laundry for Golan Croft is carried out in the appeal dwelling and to a lesser extent vice versa, they are clearly both self-contained dwellings and not dependant on each other for any facility. Due to the separation distance between Golan Croft and the appeal dwelling, independent vehicle and pedestrian access along the access drive serving other properties, parking available outside the appeal dwelling, and the facilities within the appeal dwelling, there is no clear dependence on Golan Croft and as such it fails to comply with LP HOU9. It also, for the reasons set out above, fails to address the specific sensitivities of the AONB in terms of settlement.
63. I do not accept the proposition that as more care is provided to the appellant's parents that it will result in the occupation of the appeal dwelling becoming more ancillary to Golan Croft. There are unoccupied bedrooms and other living areas at Golan Croft which, if care becomes necessary throughout the day and night, may be utilised by the appellant. I do, however, appreciate the proximity of the appeal dwelling allows the appellant to be close to her parents while still enabling her to have an independent life with her husband.
64. The appellant has indicated an acceptance of the imposition of a condition which would ensure she and her husband only remained living in the appeal dwelling for as long as her parents were alive and in need of care. However, this would not overcome the planning harm of siting a self-contained dwelling in the countryside and the personal circumstances of the appellant and her relatives do not justify outweigh this harm.
65. The appellant has referred to a decision for the retrospective permission for a detached annexe at Willow Tree House Bromley Green Road. On the evidence available, this permission is distinguishable on its details from the appeal dwelling. In that case the Council concluded that the annexe was compliant with the functions described in LP HOU9 in that it would provide a home for a

⁵ Criterion d is repeated in criterion e.

person unable to live independently. Moreover, the Council were satisfied that separating off the annexe from the main house would be extremely difficult due to the restricted vehicular access. In my view, the way in which the appeal dwelling is located and its use, are materially different from Willow Tree House.

66. A Lawful Development Certificate was granted for a proposed log built mobile home for use ancillary to Golan Croft (reference 15/01349/AS). The Council found it was lawful because it was satisfied that the proposed stationing of the mobile home in the garden of Golan Croft, to serve as ancillary annexe accommodation, would not represent a material change in use of the land. The application details did not indicate any ground works or levelling or use of ground screws were required for the siting of the log built mobile home.
67. The appellant does not dispute that the carrying out of excavation works to materially alter the levels to accommodate the appeal dwelling constituted development. In evidence it was stated by the appellant that significant levelling, more than for the appeal dwelling, would be required to site a mobile home in accordance with the LDC proposal. Such works were not part of the development details in the LDC application. On the evidence before me, it has not been demonstrated that such levelling would be lawful. There has also been reference to 'ground screws' being used to support the LDC proposed log built mobile home; however, it is not clear whether these would amount to development requiring planning permission. Moreover, neither the significant levelling nor the use of ground screws was referred to in the LDC application and the lawfulness of these have not been demonstrated. As such, I am not satisfied that the appellant would lawfully be able to site a log built mobile home to serve as ancillary annexe accommodation that required site levelling or ground screws in the position shown on the LDC plan. I therefore consider that there is no demonstrated fall back for the appellant.

Conclusions

68. In conclusion, the appeal dwelling results in harm to the character and appearance of the area, it fails to conserve and enhance the AONB, and is not ancillary and does not have a clear dependency on Golan Croft. While the personal circumstances of the appellant and her parents are understood this is a desire to live in close proximity, not a need, and as such does not weigh in favour of the development. For the reasons set out above the appeal on ground (a) fails.

Appeal on ground (f)

69. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. The Council confirmed at the Inquiry that the purpose of the Notice was to remedy the breach of planning control.
70. The appellant initially raised concerns about requirement (iv). In my view, in requirement (iv) the Council is seeking to restore the land to its condition prior to the breach of planning control. Both parties accepted that a variation of the requirement to restoration of the land to its condition prior the breach of planning control would achieve the aims of the requirement and not cause any injustice or prejudice to either party. I will therefore vary the requirement to achieve this.

71. In relation to requirements (iii) and varied (iv) the appellant is seeking to retain some cabling or pipe work, capping off and covering over with soil or grass. Subject to the variation of requirement (iv) the appellant maintained that a requirement to remove hardcore, pipework and underground cabling would go beyond what is required to remedy the breach of planning control.
72. The underground cabling etc are part of the development that has been carried out. The appellant has failed to explain why these should be retained or any function they served prior to the development that is the subject of the Notice being carried out or would serve. While I accept the underground cabling etc would not be seen they would serve no purpose. There is, in my view, no justification for retaining such elements and to do so would not remedy, in full, the breach of planning control. As such, I consider requirement (iii) is not excessive and will be retained.
73. The appeal on ground (f) succeeds in relation to requirement (iv) to this limited extent.

Appeal on ground (g)

74. That the period specified in the Enforcement Notice falls short of what should reasonably be allowed. The periods for compliance are between six and twelve months as set out in the header of this decision.
75. The appellant considers that six months is too short a period to cease the residential use due to the consequences this would have on her ability to provide care to her parents at Golan Croft. In addition, the appellant states it would take about 9 months for another mobile home to be commissioned and delivered from the same company who supplied the appeal dwelling. In the appeal evidence a period of 18 months was sought for compliance with requirement (i).
76. In relation to restoration and demolition requirements the appellant, at the Inquiry, stated that this could take 9 months rather than the 12 months before the Inquiry. This would follow on from the period allowed for compliance with requirement (i) resulting in a total of 27 months.
77. I appreciate the appellant's desire to ensure that she continues to be able to provide care to her parents during the compliance period and to allow time to look for an alternative living arrangement that would allow this to continue. However, I consider 12 months would be sufficient time to comply with requirement (i).
78. Other than reference to how long it would take to order and have delivered a mobile home, no substantiated evidence of how long each of the requirements (ii) to (v) would take was provided. The requirements would result in the removal of the appeal dwelling, levelling of the site and removal of all debris and materials associated with that. I see no reason why this could not be achieved in the periods set out in the Notice. However, all the compliance periods will need to be adjusted to allow for the extended period for ceasing the use of the dwelling in relation to requirement (i).
79. I will therefore vary the compliance period of requirement (i) from six months to 12 months for the reasons set out above. This will result in the following variations to the remaining compliance periods:

- For requirement (ii) the compliance period will be varied from nine months to 15 months.
- For requirement (iii) the compliance period will be varied from ten months to 16 months.
- For requirement (iv) the compliance period will be varied from eleven months to 17 months; and
- For requirement (v) the compliance period will be varied from twelve months to 18 months.

80. The appeal on ground (g) succeeds to this limited extent.

Conclusion

81. For the reasons given above I conclude the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission.

Hilda Higenbottam

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Matthew Dale-Harris	Of Counsel, instructed by Ms A Cater of Tozers Solicitors LLP
He called	
Mrs Sandra Relf	Appellant
Mr G Gray MSc Dip TP MRTPI ACI.Arb	Director, Gregory Gray Associates. Consultant acting on behalf of the Appellant
Mr D Vestey BSc (Hons) MRICS	Director, Croft Surveyors Ltd. Consultant acting on behalf of the Appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Ms Emmaline Lambert	Of Counsel, instructed by Ashford Borough Council
She called	
Mr M Campbell MA MRTPI	Principal Planning Consultant, Evans Jones Ltd. Consultant acting on behalf of the Council.

INTERESTED PERSONS:

Mr Barry Martin	Local resident
Mrs H.R Martin	Local resident
Mr Tim Martin	Son of local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 List of appearances submitted by the Appellant
- 2 Opening statement submitted by the Council
- 3 Opening statement submitted by the Appellant and two legal judgements
- 4 Statement and appendices submitted by Mr B Martin (dated 2 January 2020)
- 5 Counsel's Note and judgements submitted by the Appellant
- 6 Judgement submitted by the Council
- 7 Letter from Vic Cooper, Director of Timberspecs UK Ltd submitted by the Appellant
- 8 Extract from The High Weald AONB - Management Plan 2019-2024 submitted by the Council
- 9 Written submission by Mr B Martin
- 10 Written submission by Mr T Martin
- 11 Draft Conditions submitted by the Appellant
- 12 Statement of Common Ground submitted by the Council
- 13 Closing statement submitted by the Council
- 14 Closing statement submitted by the Appellant