



Appeal Decisions

Site Visit made on 12 October 2021

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal A Ref: APP/D5120/C/21/3269261

45 Sidcup Hill, Sidcup DA14 6HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Mark Hendy of Shanly Homes Limited against an enforcement notice issued by Council of the London Borough of Bexley.
- The notice was issued on 25 January 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of an electrical substation shown in the approximate location outlined in blue on the attached Plan.
- The requirements of the notice are to:
 1. Remove the electricity substation from the Land as shown in the approximate location marked in blue on the attached plan.
 2. Remove all resultant materials from the Land.
- The period for compliance with the requirements is: 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Appeal B Ref: APP/D5120/W/21/3269272

45 Sidcup Hill, Sidcup DA14 6HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Mark Hendy of Shanly Homes Limited against the decision of the Council of the London Borough of Bexley.
- The application Ref 20/01901/FUL, dated 4 August 2020, was refused by notice dated 21 January 2021.
- The development proposed was described as "Retention of Electrical Substation".

Summary Decision: The appeal is dismissed.

Application for Costs

1. An application for costs was made by Shanly Homes Limited against London Borough of Bexley. This application is the subject of a separate Decision.

Preliminary Matters

2. The development subject of the enforcement notice under appeal A is the same as that subject of the planning application under appeal B. For clarity, retention is not a form of development, so I have dealt with the proposed development under appeal B as an electrical substation.
3. The site forms part of a larger development currently under construction. The development fronts Sidcup Hill but extends along Cross Road to its junction

with Rectory Lane. The address of the site is, therefore, Sidcup Hill. However, the electrical substation fronts Rectory Lane adjacent to the junction with Cross Road.

4. The post code for the site given on the planning application form is DA14 6HJ and that on the enforcement notice is DA14 6HU. The Council and appellant agree that the correct post code should be DA14 6HJ. I will correct the enforcement notice to that effect.
5. The London Plan was published during the course of the appeal and replaces the previous London Plan. The Council and the appellant have had the opportunity to make comments in light of the new London Plan. I have taken the new London Plan into account in coming to my decision.

Appeal A on Ground (a) and the Deemed Planning Application Appeal B

Main issue

6. The effect of the electrical substation on the character and appearance of the surrounding area with particular regard to the setting of the Old Forge Conservation Area.

Reasons

7. The Old Forge Conservation Area comprises a small development around Old Forge Way. It is formed of a mix of terraced, detached and semi-detached houses fronting Old Forge Way, along with the pair of semi-detached houses fronting Rectory Lane between the junction with Old Forge Way and the appeal site. The semi-detached houses fronting Rectory Lane can be experienced in views along the road on the approach from the centre of Sidcup. The houses in the Conservation Area were designed in the Arts and Crafts style and are a modest development that has a peaceful, intimate village style character within the wider suburban development of Sidcup.
8. The significance of the Conservation Area to this case is the modest scale of the houses with large front gardens neighbouring the electrical substation, and their relationship with Rectory Lane.
9. The electrical substation is a small, single storey brick building with a flat roof and wide, green painted doors fronting Rectory Lane. It is of simple and modest appearance that reflects its function. Given this appearance and character, it needs to be located in a position that is not prominent or easily visible.
10. The electrical substation has been constructed to serve the substantial development of flats fronting Cross Road and Sidcup Hill and other surrounding properties. That development of flats is currently under construction. Planning permission was granted under reference 18/00203/FULM for that development and included an electrical substation beside the main building and set back further from the road than that constructed.
11. The electrical substation is located on the outside of a bend in Rectory Lane. It is directly in view on the approach from the centre of Sidcup, with the side of the neighbouring house that is in the Conservation Area within the backdrop. That affects how the Conservation Area is experienced in views from this

direction. It is close to, and with access from, the pavement. As such, landscaping would not materially restrict views of the building from that direction. The development under construction will be hidden from view to a significant extent by other development fronting Rectory Lane. Consequently, the electrical substation as constructed is prominent in views from this direction.

12. In views along Cross Road the electrical substation is currently hidden by the hoarding around the construction site and is likely to be largely hidden by landscaping once that has been planted and established. Similarly, it is largely hidden by planting and a fence in views along Rectory Lane on the approach toward the centre of Sidcup. Nevertheless, it is located forward of other built development on Cross Road and Rectory Lane and visible in closer views along those roads.
13. For these reasons, the building appears incongruous in the street scene.
14. Taking all the above into account, the electrical substation also affects the setting of the Conservation Area. That harms the significance of the Conservation Area as a heritage asset.
15. As a result, the electrical substation harms the character and appearance of the surrounding area with particular regard to the setting of the Old Forge Conservation Area. As such, it is contrary to policies CS01 and CS19 of the London Borough of Bexley Core Strategy, Policy ENV39 of the Unitary Development Plan (UDP), Policy HC1 of the London Plan and the National Planning Policy Framework (the Framework). These policies seek development to be sympathetic to the heritage asset's significance and appreciation with its surroundings. They seek to protect Bexley's suburban character, including the historic environment, by protecting and enhancing the quality of the built environment and conserving and enhancing the significance of heritage assets and their setting.
16. In my judgement, the harm to the significance of the Conservation Area is less than substantial. Paragraph 202 of the Framework requires that any harm should be weighed against the public benefits of the proposal. In this case, the electricity substation serves a much wider area than the adjacent development currently under construction. As such, it does provide a public benefit. Nevertheless, an electricity substation was approved adjacent to its current location, further from the pavement. It would be possible to construct that electricity substation. Taking this into account, the public benefit does not outweigh harm to the significance of the heritage asset that I have identified.

Other matters

17. My attention has been drawn to Policy ENV46 of the UDP that relates to development within Conservation Areas but does not refer to their setting. As the location of the site is not within the Conservation Area, the electrical substation does not conflict with this policy.
18. I note the preference of the electricity undertaker to locate their equipment on the edge of developments in order to provide better access and, by being clearly visible, discourage vandalism. However, the approved location would remain visible from the road, albeit further from it. As such, this benefit would

not outweigh the harm I have found to the significance of the heritage asset or character and appearance of the surrounding area.

19. I understand that the approved location of the electricity substation is very close to the oriel window of a proposed flat within the building under construction. That may affect the security of this flat. However, I note the electricity substation would be visible from the road and there may be other forms of mitigation to restrict any security implications. As such, this would not outweigh my conclusions on the main issue.

Conclusion

20. For the reasons set out above, I conclude that on balance the development does not accord with the development plan. The appeal on ground (a) therefore fails, appeal B should be dismissed and planning permission should be refused.

The Appeal on Ground (g)

21. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed.
22. The enforcement notice requires compliance within 6 months from the date the notice takes effect. The appellant accepts that it would be possible to comply with that timetable, but it may be possible that works to decommission, demolish and replace the substation would overrun, for example due to inclement weather. They suggest a period of up to 8 months would ensure greater certainty of compliance.
23. There is no requirement within the notice to provide a replacement electricity substation. Nevertheless, I note that the electrical substation serves the local area and that any works would need to avoid interruption in electricity supply. I note that there is planning permission for an alternative location within the development under construction adjacent. On this basis, I understand that a replacement will need to be constructed prior to the decommissioning of the existing substation. I have taken this into account in coming to my decision.
24. Ownership of the land for the replacement substation also needs to be transferred to the electricity undertaker. The appellant indicates that this should be capable of completion within the 6 months specified on the notice.
25. Taking these factors into account, I consider that 6 months is a reasonable time to allow for the works required by the enforcement notice.
26. For these reasons, I conclude that the appeal under ground (g) should fail.

Formal Decision

Appeal A

27. It is directed that the enforcement notice is corrected by the deletion of "DA14 6HU" and the substitution of "DA14 6HJ" in section 2 of the enforcement notice, Land To Which This Notice Relates.
28. Subject to the correction, the appeal is dismissed, 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.

Appeal B

29.The appeal is dismissed.

AJ Steen

INSPECTOR