



Appeal Decision

Site visit made on 28 February 2022

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal Ref: APP/G2245/C/20/3257341

**Romney Street Mobile Home Park, Romney Street, Knatts Valley, Kent
TN15 6XW**

- 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 Gary Burns against an enforcement notice issued by Sevenoaks District Council.
 - The enforcement notice was issued on 10 July 2020.
 - The breach of planning control as alleged in the notice is: Unauthorised operational development in the form of: a front boundary wall higher than 1 metre in height adjacent to the road and above 2 metres in other parts. Unauthorised engineering works in the form of: the erection of four raised patios; and, the raising of land levels around plot 15 (of the Site Licence Plan).
 - The requirements of the notice are: Remove the front entrance wall and gates (indicated by A and marked with yellow lines on the Site Licence Plan) or reduce the height of the wall so that it is compliant with the criteria laid out in the Town and Country (General Permitted Development) Order 2015 (as amended) and disposal and removal of resultant material from the Land. Remove the raised patio areas marked B, C, D and E on the Site Licence Plan and the disposal of all materials used in its construction including the brickwork and paving slabs and any other resultant material from the Land. Remove all the soil/hardcore/waste material used to raise the ground level over the red hatched areas shown on the Site Licence Plan, so that the former undisturbed ground levels of the land are fully revealed to expose either the vegetated, or topsoil layer or absence, the undisturbed layer of subsoils. This work may involve revealing the original steps (if still in situ). All the hardcore, waste materials and soils in the red hatched area shall be removed from the Land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (c) 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.
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Summary of Decision

1. The appeal succeeds in part and planning permission for those parts are granted, but otherwise the appeal fails, and the enforcement notice is upheld.

The ground (b) appeal

2. For the ground (b) appeal to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that the alleged breach of planning control has not occurred as a matter of fact. To this effect the appellant contends that the raising of land levels around plot 15 has not occurred.

3. The aerial photographs before me do not assist the appellant in demonstrating his case given the viewpoint they afford. However, based on what I observed during my site visit I do not accept that the site was and continues to be generally flat. It is clear the site falls away when walking to the compound area, which I also inspected, and that the north-western end of plot 15 has been raised.
4. This can be seen by the earth bank that was apparent during my site visit. Moreover, the photographs provided by the Council show a metal gate onto Bowers Lane, which is now partially blocked, which I was also able to see during my site visit, by the earth bank/land raising operations that have been undertaken.
5. The declaration provided on behalf of the appellant states that in the absence of a topographical survey the reworking of the land did not result in any significant change of levels as such, and that it is suggested to be the same level as where the concrete base once stood. I accordingly do not find these assertions to be precise or unambiguous.
6. As a matter of fact and degree, the appellant has not demonstrated that the alleged breach of planning control, in respect of the raising of land levels around plot 15, has not occurred as a matter of fact.
7. The appeal on ground (b) therefore fails.

The ground (c) appeal

8. For the appeal to succeed on ground (c) the onus is on the appellant to demonstrate, on the balance of probabilities, that there has not been a breach of planning control. This could be because the matters alleged do not constitute development, planning permission has already been granted for the matters alleged in the enforcement notice or they are permitted development.
9. To this effect the appellant contends that there has been no breach of planning control in respect of the new front boundary wall, erection of four raised patios and raising of land levels around plot 15.

Front boundary wall

10. The wall enforced against is clearly identified on the site licence plan attached to the notice. Whilst parts of the wall, which includes gates, are less than 1m in height, there is very little evidence before me to demonstrate on the balance of probabilities that the wall was constructed as anything other than a single building operation and so in my view is a single structure.
11. Given substantive parts of the wall exceed both 1m and 2m in height, the entirety of the wall contravenes the allowances of Schedule 2, Part 2, Class A of the GPDO 2015 (as amended). The entirety is accordingly not permitted development and is liable to enforcement action as it cannot be disaggregated.
12. The appellant has therefore not demonstrated on the balance of probabilities that there has not been a breach of planning control.

Four raised patios

13. The appellant contends that a Site Licence governing the site requires every unit (mobile home) to have a concrete base or hardstanding and that the

patios are necessary to enable the occupants to enter and leave safely. On this basis the patios constitute permitted development.

14. I was able to see during my site visit that the mobile homes duly have a concrete base or hardstanding which facilitates their stationing at the site. The patios however project beyond the footprint of the mobile homes. The mobile homes are also served by steps or hardstanding's necessary to access their respective front doors. The patios serve rear or secondary accesses, and still consist of steps, and so do not afford easier access. I am therefore not persuaded that the patios are required by the conditions of the Site Licence.
15. Accordingly, the appellant has not demonstrated on the balance of probabilities that there has not been a breach of planning control.

Raising of land levels

16. The appellant contends that the raising of land levels is similarly required by the Site Licence. However, the photographic evidence before me is that there was already a mobile home in a very similar location to where the No.15 mobile home is now stationed.
17. There is very little evidence before me, such as an engineer's report, to demonstrate on the balance of probabilities why land levels needed raising to station a new mobile home in very similar location to its predecessor. I am therefore not persuaded that the works were required merely for the mobile home to be sited on an appropriately constructed concrete base as required by the conditions of the Site Licence. Given the extent of works undertaken, particularly at the north-western end, I do not accept they are de minimus.
18. Accordingly, the appellant has not demonstrated on the balance of probabilities that there has not been a breach of planning control.
19. The appeal on ground (c) therefore fails.

The ground (a) appeal

Main Issues

20. The main issues are:

- whether or not the developments are inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
- the effect of the developments on the landscape and scenic beauty of the Kent Downs AONB;
- the effect of three of the raised patios on the living conditions of adjoining occupiers, having particular regard to overlooking; and,
- If the developments are inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

21. The site is located in the Metropolitan Green Belt. The Council contends that it is only the front boundary wall that is harmful to the openness of the Green Belt. I shall therefore only consider this development here.
22. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 137 of the Framework states that the Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development.
23. The term "building" is defined in Section 336 of the Act to include any structure or erection. Applying this definition means that the wall enforced against will be regarded as a building for the purposes of my assessment.
24. Paragraph 149 of the Framework is concerned with buildings and lists exceptions to inappropriate development. The appellant contends that the wall forms part of a redevelopment of an existing authorised caravan park. This accordingly then requires an assessment on openness.
25. I appreciate there was some walling in the location of the new wall now enforced against and that the height of the wall differs along its length and tapers. The openness of the Green Belt however has a spatial as well as a visual aspect. Spatially, the wall enforced against is of considerable length and has an enclosing effect along the road frontage. It is longer than the previous wall. Visually, the wall is imposing owing to its design and height and that it runs the entirety of the frontage towards the neighbouring property of 'Poldhu'.
26. That there are other examples of walls in the area do not persuade me that the wall enforced against does not have a greater impact on the openness of the Green Belt than the previous wall or does not cause in itself substantial harm to openness. The wall therefore does detract from the purposes of including land within the Green Belt.
27. I therefore conclude the front boundary wall is inappropriate development that is, by definition, harmful and therefore contrary to national and local policy to protect the Green Belt. This is a matter to which I attach substantial weight.

AONB

28. The site is also located within the Kent Downs Area of Outstanding Natural Beauty. In particular, it is within the East Hill Woods Landscape Character area that includes settlements which consist of isolated farmsteads, the mobile home park and residential properties scattered along narrow lanes.

Front boundary wall

29. The site is therefore situated in rural surroundings. Whilst there are other examples of walls in the area, the wall enforced against is particularly stylised and intricate with its brick bond detailing and oversized piers. The materials also appear at-odds with those used elsewhere, which combine to make the

wall very conspicuous within its surroundings. I therefore do not accept that the wall responds or reflects the scale, height and materials in this rural area.

30. It accordingly is not high quality given the distinctive rural character of the AONB and so fails to preserve its landscape and scenic beauty. The use of lighting also adversely affects the tranquillity of the area by means of light pollution along the narrow lane.
31. I conclude the front boundary wall is harmful and neither preserves nor enhances the landscape and scenic beauty of the AONB in contravention of Policies LO8 and SP1 of the Sevenoaks Core Strategy, February 2011 (the CS) and Policies EN1 and EN5 of the Sevenoaks Allocations and Development Management Plan, February 2015 (the ADMP). These policies, amongst other things, require development to conserve the distinctive character of the AONB, be designed to a high quality and respond to the scale, height and materials of an area. This is a matter to which I attach considerable weight.

Four raised patios

32. The patios are situated within the confines of the site. Whilst they are raised, they are no higher than the accommodation within the mobile homes and do not result in excessive support walling. The site has been the subject of extensive redevelopment, and I am then not persuaded that the patios themselves result in the tangible loss of soft landscaping to the detriment of the landscape and scenic beauty of the AONB. The patios and associated means of enclosure are viewed in the context of the large mobile homes. The developments therefore conserve the AONB in these respects. It is therefore not development that contravenes the objectives of the Countryside Act or AONB Management Plan or one that fails to contribute to the quality of the environment.
33. I conclude the four raised patios preserves the landscape and scenic beauty of the AONB and accords with Policy LO8 of the CS and Policies EN1 and EN5 of the ADMP. This is a matter to which I attach neutral weight.

Raising of land levels

34. As I have already noted, the raising of land levels is most prevalent to the north-west of plot 15. Whilst I appreciate this gives the appearance of the replacement mobile home being more prominent, the appellant highlights that the replacement has a higher roof pitch. The evidence before me is that a mobile home could always be readily viewed from the public realm along Bower Lane. I am consequently not persuaded that the raising of the land levels results in a loss of tranquillity or further suburbanises the area, given also the lawful status of the caravan park and previous location of a mobile home. It is therefore not development that contravenes the objectives of the Countryside Act or AONB Management Plan or one that fails to contribute to the quality of the environment.
35. I conclude the raising of land levels preserves the landscape and scenic beauty of the AONB and accords with Policy LO8 of the CS and Policies EN1 and EN5 of the ADMP. This is a matter to which I attach neutral weight.

Living Conditions

36. This matter concerns three patios which are located near to the neighbouring property of 'Poldhu'.
37. I was able to see during my site visit that a new fence had been erected along the boundary of Poldhu albeit this may not have the benefit of a planning permission. Works were also being undertaken to the house.
38. In respect of patio B, it is situated near to the road frontage, when Poldhu is set back considerably in its plot and so this patio is alongside the front driveway and garden area of this property. I therefore do not find that the patio causes overlooking into windows or private amenity areas of that property or generates excessive noise or disturbance activity.
39. In respect of patio C, it is set further away from the boundary. Given also the generally raised land levels in this area, I do not find that the patio itself causes overlooking into windows or private amenity areas of that property or generates excessive noise or disturbance activity.
40. In respect of patio E, it is set in close proximity of the rear boundary shared with Poldhu. However, in my view, the patio does not promote an unacceptable degree of overlooking or excessive noise or disturbance activity.
41. Rather, it is the general proximity of this and the other associated mobile homes that give rise to a perception of the impacts raised by the Council. However, the position of the mobile homes are not before me, and I am not persuaded that the patios then do not safeguard the amenities of neighbouring occupiers, given the presence of the mobile homes means that windows and general activities already exist. In my view, the new fence at Poldhu seeks to protect the occupiers from the wider effects of the mobile home park, not the patios in isolation.
42. I conclude the three raised patios are not harmful to the living conditions of adjoining occupiers, having particular regard to overlooking and so accords with Policy EN2 of the ADMP. This policy, amongst other things, requires development to safeguard the amenities of existing and future occupants of nearby properties.

Other Considerations

43. I appreciate a front boundary wall could be constructed as permitted development. However, the height of the wall and impact would be significantly less than that before me. I therefore afford this consideration only limited weight.

The Green Belt Balance

44. I have found the four raised patios and raising of land levels to not be harmful developments.
45. In respect of the front boundary wall, there are no other considerations in favour that clearly outweigh the presumption against inappropriate development in the Green Belt and the substantial weight that the Framework requires to be attached to such harm. The very special circumstances necessary to justify the wall do not, therefore, exist.

Planning Conditions

46. The Council has suggested that fencing be erected in respect of the patios and landscaping undertaken in respect of the raising of land levels. However, during my site visit I could see that both robust fencing and landscaping had been carried-out and so I do not consider that further measures or the retention thereof, given they are best maintained by those occupying the respective sites and/or neighbouring properties, are necessary.

Conclusion

47. For these reasons and having regard to all other relevant matters raised, I conclude that the ground (a) appeal succeeds in respect of the four raised patios and raising of land levels, but, fails in respect of the front boundary wall.

Overall Conclusion

48. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for part of the matters the subject of the enforcement notice. Accordingly, I will uphold the notice and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of s180 of the Act.

Formal Decision

49. The appeal is allowed in part and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the erection of four raised patios, and, the raising of land levels around plot 15, on land known as Romney Street Mobile Home Park, Romney Street, Knatts Valley, Kent TN15 6XW shown on the plan attached to the notice.
50. In all other respects 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.

Paul T Hocking

INSPECTOR