



Appeal Decisions

Site visit made on 28 March 2023

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 05 April 2023

Appeal A Ref: APP/D5120/W/21/3271095

Janina House, 139 North Cray Road, Sidcup DA14 5HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Knapman and Sons (Builders) Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/02664/FUL, dated 16 October 2020, was refused by notice dated 14 December 2020.
 - The application sought planning permission for 'Demolition of all existing buildings and erection of 3 x 3 bed and 3 x 2 bed detached dwellings and associated parking and amenity space' without complying with a condition attached to planning permission Ref 17/02770/FUL, dated 7 June 2018.
 - The condition in dispute is No 6 which states that: Prior to commencement of construction of the dwellings hereby permitted, all the existing buildings on the site and the resulting demolition materials together with any other material related to the commercial use of the site shall be completely removed from the site.
 - The reason given for the condition is: In order to minimise the impact on the Metropolitan Green Belt.
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Appeal B Ref: APP/D5120/W/21/3271097

Janina House, 139 North Cray Road, Sidcup DA14 5HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Knapman and Sons (Builders) Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/03394/FUL, dated 23 December 2020, was refused by notice dated 22 February 2021.
 - The application sought planning permission for 'Demolition of all existing buildings and erection of 3 x 3 bed and 3 x 2 bed detached dwellings and associated parking and amenity space' without complying with a condition attached to planning permission Ref 17/02770/FUL, dated 7 June 2018.
 - The condition in dispute is No 6 which states that: Prior to commencement of construction of the dwellings hereby permitted, all the existing buildings on the site and the resulting demolition materials together with any other material related to the commercial use of the site shall be completely removed from the site.
 - The reason given for the condition is: In order to minimise the impact on the Metropolitan Green Belt.
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Decision

Appeal A Ref: APP/D5120/W/21/3271095

1. The appeal is allowed and planning permission is granted for 'Demolition of all existing buildings and erection of 3 x 3 bed and 3 x 2 bed detached dwellings and associated parking and amenity space' at Janina House, 139 North Cray Road, Sidcup in accordance with the application Ref 20/02664/FUL, dated 16 October 2020, without compliance with condition number 6 previously imposed on planning permission Ref 17/02770/FUL, dated 7 June 2018, and subject to the following condition:

1. Prior to the occupation of the dwellings hereby permitted, all the existing buildings on the site and the resulting demolition materials together with any other material related to the commercial use of the site shall be completely removed from the site.

Appeal B Ref: APP/D5120/W/21/3271097

2. The appeal is dismissed.

Reasons

Appeal A

3. Condition 6 of planning permission 17/02770/FUL for the redevelopment of the site requires all existing buildings to be removed from the site before development commences, whereas the proposed replacement condition would require the removal of all existing buildings before the proposed six dwellings are occupied. The principal building on the site is Janina House, which has two flats at ground floor level and offices of the Appellant Company at first floor level. This building would have to be removed before construction of two of the three proposed dwellings at the front of the site could be commenced. Furthermore, construction of two of the three proposed dwellings at the rear of the site could not be commenced before the removal of existing sheds.

4. The Appellant has put forward plausible and reasonable arguments for retention of Janina House whilst the three proposed dwellings at the rear of the site are under construction. Crucially, at no time, with the proposed replacement condition in place and before full implementation of planning permission 17/02770/FUL would there be, on the site, buildings with a combined volume greater than that which would exist on completion of the development. At no time during implementation of the planning permission would there be any greater loss of spatial openness of the Metropolitan Green Belt, within which the site is located, than would result on completion of the development. There would be no consequences for, or effect on, the visual openness or character of the Green Belt.

5. The replacement of condition 6 as proposed would not result in any form of inappropriate development in, or any harm to, the Green Belt. It would not conflict with policies CS01 and CS17 of the Bexley Core Strategy or with policy 7.16 of the London Plan. The appeal has thus been allowed and permission granted for implementation of planning permission 17/02770/FUL without compliance with condition 6 but subject to compliance with a replacement condition.

Appeal B

6. In this appeal the proposed replacement condition, for condition 6 of planning permission 17/02770/FUL, would require development to proceed in accordance with a 'Proposed Development Phasing' drawing submitted with the application. Compliance with such a condition would be, in effect, no different to compliance with the replacement condition in Appeal A. Furthermore, allowing this appeal would result in two alternative replacement conditions which would introduce confusion where none would exist if only Appeal A is allowed. There is no justifiable reason to allow the appeal, which has thus been dismissed.

John Braithwaite

Inspector