



Appeal Decisions

Hearing held on 6 February 2024

Site visit made on 6 February 2024

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2024

Appeal A Ref: APP/G2245/C/23/3324922

Moorcroft Place, Mapleton Road, Westerham, Kent TN16 1PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Ms Camilla Fayed against an enforcement notice issued by Sevenoaks District Council.
- The notice was issued on 31 May 2023.
- The breach of planning control as alleged in the notice is without planning permission the erection of a building for the use of a guest house on a raised platform.
- The requirements of the notice are:
 1. Demolish the building and raised platform.
 2. Cease the use of the building as a guest house.
 3. Remove all resultant material and waste 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 (DPA) under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/G2245/W/23/3323012

Moorcroft Place, Mapleton Road, Westerham, Kent TN16 1PS

- 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 Moorcroft Estate against the decision of Sevenoaks District Council.
- The application Ref 22/02683/FUL, dated 28 September 2022, was refused by notice dated 9 March 2023.
- The development proposed is demolition of three outbuildings and replacement with single storey raised platform treehouse (part retrospective).

Summary of Decision: The appeal is allowed.

Preliminary Matters

1. In relation to Appeal B, the description of development on the planning application form, which is shown in the banner heading above, differs from that on the Council's refusal of planning permission, which states, "Demolition of three outbuildings and associated hard landscaping. Replacement with single storey raised platform treehouse". The appellant confirmed it accepted the Council's revised description of development, and that removal of hardstanding was a part of the development. Above ground level, the demolition of the stable building and the erection of the raised platform treehouse elements of the development have been carried out. I note the concerns of an interested

party that the structure is not actually constructed in a tree but, being among the trees, the description is sufficiently clear to describe the development. I have therefore used the agreed revised description of development in my decision.

2. In November 2023 the Kent Downs Area of Outstanding Natural Beauty became the Kent Downs National Landscape, and in December 2023 the National Planning Policy Framework (the Framework) was updated.
3. I have therefore considered the appeals on these bases.

Appeal A: The Notice

4. The Notice identifies the breach as the erection of a building for use as a 'guest house'. The appellant also seeks planning permission for a 'guest house'. However, whilst no appeal is made on ground (b), it is clear that there are differences in how the parties have interpreted the term.
5. Notwithstanding the use of the words 'guest house' by both parties, neither party considers the use to be a guest house in the usual sense of the words, as visitor accommodation akin to a hotel use and in terms of a Class C1 use¹. Neither have I seen any evidence of such a use occurring.
6. On its face, and read as a whole, the Notice alleges the erection of a building used as a guest house, in the sense of a guest dwelling – a dwelling used by guests.
7. The appellant's case is that what has taken place is the erection of guest accommodation ancillary to the main house. In contrast, the Council argues that the breach comprises the erection of a separate independent dwellinghouse for use by guests.
8. Both parties have referred to judgements of the courts with respect to whether or not the 'guest house' is an independent dwelling. There is no definition of a dwelling in the Act, but in *Gravesham*² it was determined that the distinctive characteristic of a dwellinghouse was its ability to afford those who used it the facilities required for day-to-day private domestic existence. In *Uttlesford*³ it was determined that, even where an outbuilding contained the facilities for independent day-to-day living, it may be regarded as part and parcel of the use of the dwellinghouse, rather than a material change of use of the land, and that it was a matter of fact and degree in each case.
9. The planning unit is normally considered to be the unit of occupation, unless a physically and functionally separate smaller area can be identified. The unit of occupation in this case is Moorcroft Place.
10. The appellant advises the structure was erected, and has been used, for overnight guests of the occupier of the main house, and I have seen no evidence to suggest otherwise. It has also been used by members of the family as an ancillary domestic space, but has not been let or used independently from the main dwelling. The appellant advises that independent use as a dwelling has not occurred and is not sought.

¹ Class C1 of Part C of Schedule 1 of the Town and Country Planning (Use Classes) Order 1987

² *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307

³ *Uttlesford DC v SSE & White* [1992] JPL 171

11. The structure has the necessary facilities required for use as an independent dwelling, including a bedroom, bathroom, living room, and kitchen, although I saw no laundry facilities. At the same time, it is a timber structure without the thermal efficiency measures normally employed in a dwelling and, for the purposes of the Building Regulations, it was built as an exempt ancillary building, rather than a dwelling.
12. It's distance from the house is described by the Council to be around 50m. In the context of the estate that is not a substantial distance, and is easily accessible by walking across domestic paths and lawns, even though it is not directly visible from the main house.
13. Vehicular access is from the southern entrance, which runs along the southern boundary, terminating at the structure. The southern access is also used by estate staff and agricultural workers associated with an area of land the appellant uses for farming. Estate security includes high boundary enclosures and gates, and the absence of boundary treatments of any kind associated with the guest structure, or its own curtilage, means physically it remains an integral part of the estate.
14. The Council references an appeal decision⁴, which it considers demonstrates there are cases where the facilities of the building and its physical relationship with the main dwelling can be conclusive. However, the circumstances of that case are very different to those before me, and in that case the Inspector concluded the annex would be likely to become an independent dwelling.
15. With all the evidence before me, I consider the structure is part and parcel of the use of the Land, and ancillary to the use of the house, notwithstanding the facilities it contains for day-to-day living. At the time the notice was issued, the building had not been in use as an independent dwelling. The alleged use of the building, as a guest house, has therefore not occurred.
16. However, considering the information available to the Council at the time the Notice was issued, it was not unreasonable for it to have appeared to the Council that was the case, in terms of being a dwelling used for guests. The appellant understood the term in the way the Council intended it, and has had the opportunity to make her case fully in that respect. There would therefore be no injustice to the appellant or to the Council were I to correct the Notice, for clarity, to remove reference to 'guest house' and replace it with the term 'ancillary guest accommodation'.
17. I will correct the breach of planning control in Section 3 of the Notice, and therefore the description of development for the appeal on ground (a)/DPA, to "Without planning permission, the erection of a building for use as ancillary guest accommodation on a raised platform (marked X on the plan attached to the Notice)". I will also correct Section 5.2 of the Notice to "Cease the use of the building as ancillary guest accommodation".

Appeal A on ground (a)/the DPA and Appeal B

18. Appeals on ground (a) are made on the basis that planning permission should be granted for the development alleged in the Notice. In this case, the land and development are the same for the two appeals, despite the differences in the

⁴ APP/B1930/W/18/3217177

descriptions of the alleged breach of planning control in the Notice and the development for the planning application made to the Council.

19. The Land is the Moorcroft Place estate (the estate), a private residence situated in extensive grounds. It is located within the Green Belt and the Kent Downs National Landscape, and a public footpath along its southern boundary separates it from the National Trust Chartwell estate.
20. Within the estate, land levels rise from its Mapleton Road frontage to wooded higher ground at the rear.
21. The development relates to a timber structure (the structure) on stilts close to the southern boundary near the rear of the estate. It comprises a large circular living room/entertaining space with bedroom, en-suite shower room, and kitchen, with balconies and an external decked area at a high level, within the tree canopy.

Main Issues

22. The main issues are:

- whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- if the development is inappropriate, the effect of the proposed development on the openness of the Green Belt;
- whether the development conserves and enhances the character of the Kent Downs National Landscape; and
- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development in the Green Belt

23. Paragraph 154 of the Framework states the construction of new buildings should be regarded as 'inappropriate development' in the Green Belt. The appellant argues exceptions set out in 154(d) and 154(g) apply to the development.
24. The 154(d) exception relates to the replacement of a building, provided the new building is in the same use and is not materially larger than the one it replaces. I am aware of no reason why more than one building could not be replaced for the purposes of this exception.
25. The appellants propose the demolition of a summerhouse, playhouse and the former stable building on the estate in compensation for the new structure. They also propose the removal of hardstanding in the vicinity of the structure, where the former stable block once stood. Having established that the structure is part and parcel of the use of Moorcroft Place, the new building is in the same use as those it replaces.
26. There is generally agreement between the parties in terms of the floor areas of the proposed structures and those to be removed. There are minor differences

- in relation to the enclosed structure, and further differences depending on whether the decking area, balconies and stairs are included. Nevertheless, whichever area figures are used, the structure is smaller than the three buildings to be replaced. It is also smaller in volume than the former stable building alone, and even if the figures do not account for the supporting posts, it is clear the new structure is not materially larger than the three buildings.
27. However, the Council dispute that the stable building can be counted against the size of the new structure, as it has been demolished. Consideration must also be given to whether the three buildings to be removed have already been accounted for in relation to another development.
28. Above ground elements of the former stable block were demolished in February 2021. Commencement of construction of the new structure followed around 3 weeks later, and the planning application for its demolition of the stable block and construction of the new structure was submitted in September 2022. Despite being carried out by different contractors, it was clearly undertaken as a single development, and that is reflected in the application made. Section 73A of the Act makes express provision for the submission of a planning application retrospectively, and I can see no reason why the stable building should not be accounted for against the size of the new structure.
29. Demolition of the stable building was development which required planning permission, and conditional planning permission (reference 19/01165/HOUSE) (the 2019 planning permission) was granted in July 2019 for the demolition of the same three buildings and their replacement with a guesthouse building (the approved guesthouse building).
30. As a material operation for the purposes of Section 55 of the Act, the demolition of the above-ground elements of the stable building may have amounted to commencement of the works and implementation, in part, of the 2019 planning permission.
31. The Council argues that the 2019 planning permission was subject to conditions precedent which were not discharged prior to the demolition, and that the planning permission has therefore lapsed unimplemented. That may be the case, considering condition 9 in particular, which required a construction environmental management plan to be in place prior to commencement. Even if it is not, the appellants have provided a unilateral undertaking, under Section 106 of the Act (the Obligation) which would prevent further works pursuant to the 2019 planning permission in the event that I allow the appeals and grant planning permission for the new structure.
32. The Obligation is necessary to make the development acceptable in planning terms to ensure there is no double-counting of the three outbuildings, against two different developments, allowing them to be taken into account in considering exception 154(d). It is also directly related to the development, and fairly and reasonably related to it, as only one development may be justified on the basis of removal of those outbuildings, which are reasonably comparable in size to the development. I am therefore satisfied it meets the tests for planning obligations in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.
33. For the reasons above, subject to a condition requiring the removal of the schoolhouse and playhouse buildings, the development therefore meets the

requirements of the exception in paragraph 154(d) of the Framework, and is not inappropriate development in the Green Belt. It is therefore not necessary for me to consider the appellants' case in relation to the exception in paragraph 154(g) of the Framework.

34. Sevenoaks District Council Core Strategy (2011)⁵ (CS) Policy LO1 states that outside defined areas, development will only take place where, among other things, it is compatible with policies for protecting the Green Belt.
35. Sevenoaks District Council Allocations and Development Management Plan (2015) (ADMP) Policy GB3 permits residential outbuildings more than 5m from the dwelling where, cumulatively all extensions and outbuildings would remain ancillary functionally and in terms of design and would not materially harm the openness of the Green Belt through excessive bulk or visual intrusion. In *Lee Valley Regional Park Authority*⁶ the Court of Appeal found that where development is found to be 'not inappropriate', it should not be regarded as harmful either to the openness of the Green Belt. As the effect on openness is implicitly taken into account in the exception in paragraph 154(d), there is no conflict with CS Policy LO1 and ADMP Policy GB3.
36. In conclusion, as a replacement for other buildings, the structure is in the same use and is not materially larger than the buildings it replaces. The development is therefore not inappropriate development in the Green Belt, and accords with CS Policy LO1 and ADMP Policy GB3, which are described above.
37. As the development is not inappropriate development, it is not necessary for me to consider its effect on the openness of the Green Belt further, or whether there are very special circumstances.

The Kent Downs National Landscape:

38. The Kent Downs National Landscape (KDNL) was formerly the Kent Downs Area of Outstanding Natural Beauty (AONB). Section 85 of the Countryside and Rights of Way Act 2000 (the CROW Act) requires me to seek to further the purpose of conserving and enhancing the natural beauty of National Landscapes.
39. The Kent Downs AONB Management Plan 2021-2026 (MP) describes it as being made up of landscape components with special characteristics and qualities. Together these distinguish it as a landscape of national and international importance and underpin its significance and natural beauty.
40. Relevant to this development are its dramatic landform and views (impressive south facing steep 'scarp' slopes), biodiversity rich habitats (ancient woodland), woodland and trees (around 23% of the Kent Downs and framing upper slopes), rich legacy of historic and cultural heritage (stately homes and parks and gardens, and inspiration to artists, scientists and leaders), and tranquillity and remoteness (dark skies, space, beauty and peace).
41. The MP aims to conserve and enhance the character and distinctiveness of buildings, combining the best traditions of the past with the best technologies of the present to create locally enhancing development. To conserve and

⁵ Sevenoaks District Council Local Development Framework Core Strategy Development Plan Document (2011)

⁶ *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor* (Rev 1) [2016] EWCA Civ 404

enhance the comparatively tranquil environment, and to ensure individual and cumulative development and change contribute to conservation and enhancement, rather than detracting from it. Its development principles are similar, and include conserving and enhancing local character, qualities, distinctiveness and natural resources in design, scale, siting, landscaping and materials, and complementary form, siting, scale, contribution to settlement pattern, and materials.

42. Within the wider area, the land lies within an area described in the Sevenoaks Countryside Assessment (2011)⁷ and the Sevenoaks Landscape Character Assessment (2017) as Westerham and Brasted Chart. Those assessments highlight the significance of woodland in the area (much of it ancient), views limited by the woodland enclosure but with long views over the Weald from southern scarp slopes, and the strong ecological network. Among its landscape guidance is the objective to conserve the isolation of existing large properties and their woodland settings.
43. The original stable building was sited significantly closer to the public footpath than the development before me. Although it was only a single storey, it was constructed on a plinth, and its hipped tiled roof, and perhaps parts of its brick front elevation, would have been visible to a degree from stretches of the public footpath and the path adjacent to it in the Chartwell Estate. Of the other buildings to be demolished, the Playhouse is entirely enclosed by woodland, but the Summerhouse has open vistas to the south-west. The Summerhouse is a dark-stained timber building, of unremarkable design, typical in character to many garden sheds or outbuildings, but contributing very little to the special characteristics and qualities of the landscape.
44. The development is located within a clearing in an area of woodland, and is barely visible in the wider landscape. In that respect, it bears some similarities with the treehouse within the Chartwell Estate, albeit on a far larger scale and adjacent to a public footpath. In February, without leaves on the trees, glimpses of light reflecting from the glazed canopy could be seen at my site visit from very limited areas of the informal path from the Chartwell Estate visitor car park towards the development; these would occur only during the winter months and would not be visible when the trees were in leaf, except at very close range.
45. From a short stretch of the public footpath, and a parallel path within the Chartwell Estate, upper parts of the development can be seen above the boundary fence. In these views, the timber walls and railings and Cedar shingle roof lend the structure an air of appropriateness in this wooded setting, and enable it to blend into its surroundings, except at very close range. Although its round central section is broader and lower than those of Oast Houses, which are characteristic of this area, the tiled conical roof is not out of keeping in this location. There is also no doubt that the structure, built to a bespoke design, is interesting and of high quality.
46. The development's glazed canopy reflects light, and therefore increases the development's visibility in the wooded landscape. Its external illumination would have a much greater effect in the hours of darkness, even if used infrequently, but alternative lighting has been proposed, and could be secured by planning condition.

⁷ A Supplementary Planning Document

47. The development is taller than the former stable building and would be higher than the approved guesthouse building. But it would also be a high-quality distinctive design, sited further from the paths, and of materials and design better reflecting its woodland setting than the buildings it would replace or the approved guesthouse building. Without the glazed canopy and subject to conditions requiring alternative lighting, it would have no greater effect on tranquillity, and would have a smaller volume than the buildings it would replace or the approved guesthouse building.
48. In my view, the distinctly different character of the development maintains the sense of isolation of the host dwelling. It also combines the best traditions of the past with the best technologies of the present and, with the removal of the glazed canopy, would create locally enhancing development. Proposed ecological enhancements would result in the replacement of a coniferous hedgerow with native species, the reduction in Rhododendron adjacent to the public footpath, and would contribute to the maintenance of the woodland and the flora and fauna associated with its health in the longer-term. Despite the small scale of the coniferous hedgerow at the present time, in the longer term these measures would result in tangible landscape benefits for users of the public footpath and the ancient woodland in the vicinity. Overall, compared to the buildings to be replaced, it would conserve and enhance the natural beauty of the National Landscape.
49. In the event that the approved guesthouse building were built, it would be constructed closer to the public footpath. Being at the lower end of the scarp slope, the sloping ground would be a significant factor in the extent of its visibility. Although above ground elements of that building would be lower than the development before me, a gap in the existing and proposed landscaping would provide views of that development to those using the paths approaching from the south-west. The building, with a shallow-pitched tile roof with zinc detailing, grey-blue brick walls, arched windows, and a substantial curved brick wall, would appear as a solid structure in a woodland setting, even if no account was taken of the less visible but significantly glazed 2-storey games room block. The development before me would better conserve and enhance the natural beauty of the National Landscape.
50. In conclusion, the development therefore conserves and enhances the character of the Kent Downs National Landscape. It accords with CS Policy LO1, which limits development in this location to that compatible with policies for protecting the Kent Downs AONB. It also accords with ADMP Policy EN5, which permits proposals where the form, scale, materials and design conserve and enhance the character of the landscape and have regard to the management plan and associated guidance.

Other Matters

51. The Land adjoins the Chartwell Estate, being separated by the public footpath between them. Chartwell House is a Grade 1 listed building, and Chartwell Park and Gardens are registered as a Grade II* park and garden. I am required, by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting.
52. Chartwell House was listed primarily for historical reasons, as the home of the former Prime Minister Winston Churchill. Its setting contributes greatly to its

significance, but the primary view from the house is that of open views out of the Kent Wield to the south-east, away from the development before me.

53. Chartwell Park and Gardens is of historic and aesthetic value due to its association with the Churchill family and the influence they had on changes to the gardens and positioning views from the house. It comprises 8ha of formal and ornamental gardens and around 23ha of parkland. The house and garden are some distance from the development, and is enclosed to the west, north-east and south-east by wooded ridges. The parkland extends up to the boundary with the Moorcroft Estate, but the development is not visible from the house or formal gardens, or from all but very close-range views along the northern boundary within woodland.
54. Consequently, the Council and the appellant agree that the development has no adverse effect on the significance of Chartwell House or Chartwell Park and Garden, and preserves them and their settings. I agree, and this matter is therefore neutral in the planning balance.

Conditions

55. Considering the conditions suggested by the Council, I have had regard to the approach in the Framework and the Planning Practice Guidance and have amended the phrasing of certain conditions proposed accordingly, without altering their fundamental aim.
56. I have set out the approved plans for certainty, and required the glazed canopy to be removed and lighting mitigation to be carried out for the reasons given above in relation to the landscape and in the interests of bats and invertebrates. A condition requiring implementation of the Biodiversity Enhancement Strategy is also necessary for landscape and ecological reasons as described above.
57. A condition requiring removal of the playroom and summerhouse buildings is necessary to maintain the openness of the Green Belt.
58. Conditions 2 and 3 are imposed to ensure that details of hard and soft landscaping are submitted, approved and implemented, and that measures required to be taken are implemented, so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of this outstanding matter before the development takes place.
59. Condition 3 will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal. Or if the details are approved but not implemented in accordance with an approved timetable, or the timescales set out in the condition.
60. Being part and parcel of the existing use of Moorcroft Place, it is not necessary to impose a planning condition limiting its use to prevent use as an independent dwelling. Neither is it necessary to require removal of the cooking facilities from the structure. Were its use as an independent dwelling to occur in future, then planning permission would be required for any material change of use of the land.

Conclusion on Appeal A

61. In conclusion, the development is not inappropriate development in the Green Belt, conserves and enhances the character of the Kent Downs National Landscape and, subject to conditions, accords with the relevant development plan policies. Allowing the development would also further the purpose of conserving and enhancing the natural beauty of National Landscapes. There are no other material considerations that require a decision to be made other than in accordance with the development plan.
62. For the reasons above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected.
63. The appeal on ground (g) does not therefore fall to be considered.

Conclusion on Appeal B

64. For the reasons given above the appeal should be allowed.

Formal Decisions

Appeal A

65. It is directed that the enforcement notice is corrected by the deletion of the words, "The erection of a building for the use of a guest house" in Section 3, and their substitution with the words "The erection of a building for use as ancillary guest accommodation";
66. And varied by the deletion of the words, "Cease the use of the building as a guest house" in Section 5, and their substitution with the words " Cease the use of the building as ancillary guest accommodation".
67. Subject to the correction and variation, the appeal is allowed, the enforcement notice is quashed, 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 development already carried out, namely the erection of a building for use as guest accommodation on a raised platform (on the plan attached to the Notice) at Moorcroft Place, Mapleton Road, Westerham, Kent TN16 1PS as shown marked X on the plan attached to the Notice and subject to the following conditions:
1. The development shall be carried out in accordance with the following approved plans and details: Site Location Plan reference KFL 01C; Block Plan reference IL64792/01-001; Floor and Roof Plan reference 105 (also numbered 205); Elevations 1&2 reference 205; Elevations 3&4 reference 206; Biodiversity Enhancement Strategy (Ecology Solutions, reference 10968) and Plan ECO1revA; Ecological Lighting Assessment (Strenger, September 2022) and update letter dated 26 January 2023); and Technical Note: Lighting and Ecology (Ecology Solutions).
 2. The structure hereby permitted shall be removed and all materials resulting from the demolition shall be removed within 6 months of the date of failure to:
 - a) Within 3 months, remove the glazed canopy and its supporting structure, shown on Blue Forest drawings numbered 101revD, 201 and

301, and make the structure accord with Blue Forest drawings numbered 105 (also numbered 205), 205 and 206 dated 06.11.23;

- b) Within 3 months, implement lighting mitigation in full in accordance with Section 6.0 of the Strenger Ecological Lighting Assessment (September 2022) and update letter dated 26 January 2023), and the detailed recommendations contained within the comment from KCC Ecology dated 08/02/2023, including the following measures:
- Changing all exterior wall-mounted luminaires from unshielded marine type fittings to fully shielded down lighters.
 - Limiting the colour temperature of the light sources used to not more than 3000K ('warm-white'), to minimise the UV component of light sources.

The installation of external lighting shall only be carried out in accordance with the approved details. No additional external lighting shall be installed as part of the development. At no time shall the colour temperature of external light sources exceed 3000K ('warm-white').

- c) Within 6 months, implement all Ecological Enhancement Measures specified in the Biodiversity Enhancement Strategy (Ecology Solutions, reference 10968) and Plan ECO1revA – Biodiversity Enhancements, except for season-specific measures, which shall be implemented at the times specified in the Strategy.
- d) Within 6 months, the summerhouse and playroom buildings shown on Block Plan reference IL64792/01-001 and drawing reference KFL 24C shall be demolished, and all resulting materials removed from the land.
3. The structure hereby permitted shall be removed and all materials resulting from the demolition shall be removed within 6 months of the date of failure to meet any one of the requirements set out in i. to iv. below:
- i. Within 3 months of the date of this decision a scheme for both hard and soft landscaping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation, and measures to be taken if any trees or plants die, are removed, or become damaged or diseased.
 - ii. If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii. If an appeal is made in pursuance of ii. above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Appeal B

68. The appeal is allowed, and planning permission is granted for demolition of three outbuildings and associated hard landscaping and replacement with single storey raised platform treehouse at Moorcroft Place, Westerham, Kent TN16 1PS in accordance with the terms of the application, Ref 22/02683/FUL, and the plans submitted with it, subject to the following conditions:

1. The development shall be carried out in accordance with the following approved plans and details: Site Location Plan reference KFL 01C; Block Plan reference IL64792/01-001; Floor and Roof Plan reference 105 (also numbered 205); Elevations 1&2 reference 205; Elevations 3&4 reference 206; Biodiversity Enhancement Strategy (Ecology Solutions, reference 10968) and Plan ECO1revA; Ecological Lighting Assessment (Strenger, September 2022) and update letter dated 26 January 2023); and Technical Note: Lighting and Ecology (Ecology Solutions).
2. The structure hereby permitted shall be removed and all materials resulting from the demolition shall be removed within 6 months of the date of failure to:
 - a) Within 3 months, remove the glazed canopy and its supporting structure, shown on Blue Forest drawings numbered 101revD, 201 and 301, and make the structure accord with Blue Forest drawings numbered 105 (also numbered 205), 205 and 206 dated 06.11.23;
 - b) Within 3 months, implement lighting mitigation in full in accordance with Section 6.0 of the Strenger Ecological Lighting Assessment (September 2022) and update letter dated 26 January 2023), and the detailed recommendations contained within the comment from KCC Ecology dated 08/02/2023, including the following measures:
 - Changing all exterior wall-mounted luminaires from unshielded marine type fittings to fully shielded down lighters.
 - Limiting the colour temperature of the light sources used to not more than 3000K ('warm-white'), to minimise the UV component of light sources.

The installation of external lighting shall only be carried out in accordance with the approved details. No additional external lighting shall be installed as part of the development. At no time shall the colour temperature of external light sources exceed 3000K ('warm-white').

- c) Within 6 months, implement all Ecological Enhancement Measures specified in the Biodiversity Enhancement Strategy (Ecology Solutions, reference 10968) and Plan ECO1revA – Biodiversity Enhancements, except for season-specific measures, which shall be implemented at the time specified in the Strategy.

- d) Within 6 months, the summerhouse and playroom shown on Block Plan reference IL64792/01-001 and drawing reference KFL 24C shall be demolished, and all resulting materials removed from the land.
3. The structure hereby permitted shall be removed and all materials resulting from the demolition shall be removed within 6 months of the date of failure to meet any one of the requirements set out in i. to iv. below:
- i. Within 3 months of the date of this decision a scheme for both hard and soft landscaping shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation, and measures to be taken if any trees or plants die, are removed, or become damaged or diseased.
 - ii. If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii. If an appeal is made in pursuance of ii. above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Peter White

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Owain Nedin MRTPI	Lichfields
Mr Mark Harnett LLB	Solicitor
Ms Camilla Fayed	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Nicola Furlonger MRTPI	Principal Planning Officer
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INTERESTED PARTIES:

Councillor Nick Robson	Westerham Town Council
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DOCUMENTS SUBMITTED AT THE HEARING:

1. Amended drawings excluding the glazed canopy and cooking facilities
2. Photoshop images showing the treehouse without the glazed canopy
3. High Court judgement: Bhandal v SSHCLG & Bromsgrove DC [2020] EWHC 2724 (Admin), 2020 WL 06066213
4. Additional conditions proposed by the appellant without prejudice
5. Appellants' written response re: implementation of permission 19/01165/HOUSE
6. Sevenoaks District Council's written response re: implementation of permission 19/01165/HOUSE