



Appeal Decisions

Site visit made on 15 July 2025

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 July 2025

Appeal A Ref: APP/G5180/C/23/3332053

Appeal B Ref: APP/G5180/C/23/3332054

Rear of Old Farmhouse, Luxted Road, Downe, Kent BR6 7JS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Rob De Pascalis and appeal B is made by Ms Deborah Jeff against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 25 October 2023.
- The breach of planning control as alleged in the notice is without the required planning permission, the material change of use of the land from agriculture to residential.
- The requirements of the notice are to:
 - (a) Cease using the land for residential purposes
 - (b) Remove the fence enclosing the land
 - (c) Restore the land to its condition before the breach of planning control took place
- The period for compliance with the requirements is: two months.
- The appeal is proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. My attention has been drawn to policies of the Bromley Local Plan, the London Plan and the National Planning Policy Framework. However, in the absence of an appeal on ground (a) and an application for planning permission deemed to have been made under section 177(5) of the Act, I am unable to consider granting planning permission for the development.

The Appeal on Ground (b)

2. An appeal on this ground is that the matters described in the notice have not occurred. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
3. The garden at Old Farmhouse extends past the house and outbuilding to an open area at the rear. The end of the garden is grass with a border of plants that extends further than the rear garden of Parkside to one side, although the gardens of the houses to the other side are in line with this boundary. The boundary comprises a close boarded fence.
4. It appears that the original boundary of the property was in line with the rear boundary of Parkside and that the garden of Old Farmhouse has been extended to the rear.
5. It is unclear how this land was used prior to the garden being extended. The appellant suggests the land beyond is a wildflower meadow and meadow grass, with some logs and a fence within it. That indicates use for agriculture, which is

defined at section 336 of the Town and Country Planning Act 1990 to include meadow land. It is likely that the land subject of the enforcement notice was in the same use prior to incorporation into the garden.

6. It is not necessary for an enforcement notice to recite the previous use as the Council have sought to do in this case. However, it is clearer to do so to show that there has been a material change of use. Given the above, on the balance of probability I consider that the last use of the land was for agriculture and that it is correct for the notice to refer to that.
7. For these reasons, I conclude that the appeal under ground (b) should fail.

Formal Decision

8. The appeal is dismissed and the enforcement notice is upheld.

AJ Steen

INSPECTOR