
Appeal Decisions

Site visit made on 20 November 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 16th December 2025

Appeal A Ref: APP/D5120/C/23/3320982

Appeal B Ref: APP/D5120/C/23/3320983

Land at 17 Ennerdale Road, Bexleyheath, Kent DA7 5DP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
 - The appeals are made by Mr Mark Ager (Appeal A) and Mrs Benita Ager (Appeal B) against an enforcement notice (EN) issued by the Council of the London Borough of Bexley.
 - The EN was issued on 23 March 2023.
 - The breach of planning control as alleged in the EN is: Without planning permission, the installation of closed circuit television cameras on Land at 17 Ennerdale Road, Bexleyheath, Kent, DA7 5DP.
 - The requirement of the EN is: Remove all security cameras and their fixtures and fittings from the side elevation of 17 Ennerdale Road, Bexleyheath, Kent, DA7 5DP.
 - The period for compliance with the requirement is: 1 month.
 - The appeals are proceeding on the grounds set out in section 174(2)(c), (d), (e) and (f) of the 1990 Act.
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Decisions – both appeals

1. It is directed that the enforcement notice is corrected by:
 - the deletion of the words "Land at 17 Ennerdale Road, Bexleyheath, Kent, DA7 5DP" in section 3 of the EN; and
 - the deletion of the words "of 17 Ennerdale Road, Bexleyheath, Kent, DA7 5DP" in section 5 of the EN; and
 - the addition of the wording "the side elevation" after the words "cameras on" in section 3 of the EN; and
 - the deletion of the word "security" and substitute it with the words "closed circuit television" in section 5 of the EN.
2. Subject to the corrections the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters and Background

3. The Council's Statement of Case highlighted that part of the appellants' evidence could be considered as containing a ground (d) appeal. Both parties have had the chance to submit evidence and comments on this matter and therefore, no injustice would be caused to them. I have therefore dealt with the appeals on the basis that they are proceeding on the grounds set out in the banner heading above.

4. The appellants have questioned the expediency of the Council's decision to take enforcement action considering its lack of enforcement action regarding similar installations nearby. However, I have no jurisdiction to determine whether section 172(1)(b) of the 1990 Act was complied with when the Council issued the EN and therefore it is not a matter for consideration through these appeals. Moreover, several points are also made by the appellants about the Council's approach to the dispute with the adjacent owners and its overall conduct regarding contact or lack thereof with the appellants. Should the appellants wish to pursue this, then in the first instance they should follow the Council's complaints procedure, and if they are not satisfied with the response, they could contact the Local Government Ombudsman.
5. The evidence before me refers to the planning merits of the development. However, there is no ground (a) appeal and no deemed planning application. My decisions rest on the facts of the cases, on relevant planning law and judicial authority. The test of evidence is made on the balance of probability. The appellants' evidence does not need to be corroborated by independent evidence for it to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellants' version of events less than probable, there is no good reason to dismiss the appeal, provided the appellants' evidence alone is sufficiently precise and unambiguous.
6. 17 Ennerdale Road (No 17) consists of a semi-detached dwelling that appears to have been significantly extended. Ennerdale Road is a cul-de-sac. Due to the turning head 19 Ennerdale Road's (No 19) front elevation is set back from that turning head and angled towards the side elevation of No 17. There is a relatively complex planning history associated with No 17 and it is apparent that there is an ongoing dispute between the appellants and the occupiers of No 19.

The Notice

7. On an appeal any defect, error, or misdescription in an EN may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant/s or local planning authority. In this case the inclusion of the address within the description of the alleged breach and the requirement is superfluous given that the land affected is cited in section 2 of the EN. Additionally, for the sake of clarity that description should correspond with the requirement and vice versa. The requirement cites "the side elevation" and "security cameras".
8. Therefore, I intend to delete the reference to the address within sections 3 and 5 of the EN. Moreover, after the wording "cameras on" in section 3 I intend to add the wording "the side elevation" and I intend to delete the word "security" and substitute it with the words "closed circuit television" in section 5 of the EN. The corrections are minor errors that do not materially affect the substance of the EN. As such, I consider that I can make these corrections without injustice to the parties, so I shall make them.
9. The appellants have stated that they have been repeatedly assured by the Council that they have no issues with the cameras including in an email in 2017, and visits in 2020 and 2021. They consider that the EN is contrary to previous comments and assurances made by the Council. I consider that this can reasonably be treated as an estoppel argument. Nevertheless, the courts have held that as a

general principle public authorities cannot be estopped from performing their statutory duties. Therefore, any representation as to how an authority will or will not exercise its powers will not give rise to a binding estoppel. This matter cannot therefore be determinative on the outcome of this appeal.

10. In their written submissions, pursuant to a ground (e) appeal, the appellants consider the EN to be invalid. This is because, according to the appellants, the EN fails to meet the statutory requirements for the content of an EN as prescribed in section 173 of the 1990 Act and Part 2, regulation 4 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 (the regulations). Section 173 relates to the contents of an EN and regulation 4 of the regulations states: *An enforcement notice issued under section 172 of the 1990 Act shall specify -*

(a) the reasons why the local planning authority consider it expedient to issue the notice;

(b) all policies and proposals in the development plan which are relevant to the decision to issue an enforcement notice; and

(c) the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.

11. Part (c) of regulation 4 is not relevant in this case. Section 4 of the EN sets out the reasons for issuing it. Reason 1 states what harm the installation of the cameras on the side elevation are considered to result in. Within that reason the Council has cited a number of development plan policies “*Policy ENV39 (Built Environment) Policy H9 (Extensions and Alterations) of the Unitary Development Plan 2004 (UDP), Policy CS01 (Achieving Sustainable Development) of the Council’s Core Strategy 2012 (CS), Policy DP11 (Achieving high quality design) SP5 (Placemaking Through Good Design) and Policy SP1 (Achieving Sustainable Development) of the Emerging Plan 2023*”. In its submitted evidence the Council states that the ‘Emerging Plan 2023’ has now been adopted – Bexley Local Plan 2023 (LP). Policies within the UDP and CS do not form part of the development plan since the adoption of the LP.
12. I acknowledge that reason 1 could have been written with greater clarity with regards to the specific alleged harm to the amenities of neighbouring occupiers but the unacceptable loss of privacy to those occupiers is cited. Therefore, I consider that section 4 of the EN still enables the recipient to understand why the Council considered it expedient to issue the EN. Furthermore, I accept that the relevance of some policies cited in the EN may be arguable but several development plan policies the Council considered were relevant are cited. As a result, I consider that neither part (a) nor (b) of regulation 4 have been breached in this case. As a result, the appellants’ claim that the EN is invalid fails.

The ground (e) appeals

13. The ground of appeal is that copies of the EN were not served as required by sections 172(2) and 172(3) of the 1990 Act. Sections 172(2) and 172(3) concern who the notice is served on and when. The only concern in respect of ground (e) set out by the appellants in their written submission is the invalidity argument raised in respect of section 4 of the EN.

14. This is not a ground (e) matter, and I addressed this argument above, under the heading of 'The Notice'. There is no evidence before me to indicate that copies of the EN were not served as required by sections 172(2) and 172(3) of the 1990 Act and the appeals on ground (e) fail.

The ground (c) appeals

15. This ground of appeal is that those matters (if they occurred) do not constitute a breach of planning control. In an appeal on this ground the onus is on the appellants to show, on the balance of probability, that the matters alleged to have occurred in the EN do not constitute a breach of planning control.
16. Class F (Class F) of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) relates to the installation, alteration or replacement on a building of a closed-circuit television camera (CCTV camera) to be used for security purposes.
17. At the site visit it was agreed that one of the CCTV cameras cited within the EN has been moved since the EN was issued. Yet both main parties agreed, on the site visit, that the measurement between the cameras, in the positions at the date of issue of the EN would have been less than 10 metres. As such, the CCTV cameras installed on the side elevation of No 17 would not have met the limitations of paragraph F.1 (f) of Class F and they were consequently not permitted by that class.
18. It follows that the installation of the CCTV cameras subject to the EN has not been shown to constitute permitted development under Article 3, Schedule 2, Part 2, Class F of the GPDO. I have no evidence before me to indicate that planning permission is not required or is granted for the installation of the CCTV cameras. Accordingly, the appeals on ground (c) fail.

The ground (d) appeals

19. A ground (d) appeal is made on the basis that, at the date when the EN was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. The time limits within which enforcement action must be taken in respect of the breach of planning control is set out in section 171B of the 1990 Act.
20. The EN was issued on 23 March 2023 and at that date the time limit at section 171B(1) of the 1990 Act stated that *"where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed"*. In my judgement the installation of CCTV cameras can be defined as the carrying out of other operations and therefore that is the relevant time limit which applies in this case. Therefore, to succeed on this ground the appellants need to show, on the balance of probability, that the installation of CCTV cameras on the side elevation of No 17 was substantially completed by 23 March 2019.
21. The appellants have stated that the two CCTV cameras which are the subject of the EN replaced, in the same position, two earlier cameras placed there in 2012 and as such they are immune from enforcement action. Nevertheless, there is little

submitted evidence to substantiate that statement. There are still images¹ within the appellants' evidence that are dated 27/10/2012, 20/04/2017 and 05/06/2014 that appear to have been taken from CCTV camera/s. Yet, it is unclear from those images as to where the CCTV camera/s precise location/s was at those times.

22. Moreover, the Council has submitted photographs dated 20 June 2019 that show a CCTV camera adjacent to a first-floor window on the side elevation. That camera is in a different position to the CCTV cameras attacked by the EN. In addition, the Council has stated that No 17 has been extended since 2012 and that one of the CCTV cameras could not have been located in that specific position in 2012 as it is located on the extension. The appellants have not disputed that fact. As such, the Council's evidence contradicts that of the appellants. Additionally, it has not been demonstrated with sufficient precision and unambiguity that the installation of CCTV cameras on the side elevation of No 17 was substantially complete, prior to 23 March 2019. The ground (d) appeal therefore fails.

The ground (f) appeals

23. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
24. Given that the requirement (as corrected) in section 5 of the EN requires the complete removal of the CCTV cameras and their fixtures and fittings, the purpose of the EN is clearly to remedy the breach of planning control. The appellants have advanced no alternative to the requirement set out in the EN. I consider that the requirement of the EN goes no further than remedying the breach of planning control. As such, the requirement is not excessive and the appeal on ground (f) therefore fails.

Conclusion

25. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections.

D Boffin

INSPECTOR

¹ Appendix E5