Land at Summerfield Bungalow, Watercress Beds,
Springwell Lane, Harefield, Rickmansworth WD3 8UX

PLANNING STATEMENT

Reuse of a redundant building for residential use with a small curtilage

2022

ASP
Planning and Development Consultancy

Application by Andrew Travers

PLANNING STATEMENT

	Name	Signature	Date
Prepared by	Larissa Brooks		24/05/22
Checked by	Andy Stevens		24/05/22

ASP
Old Bank Chambers
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01892 610408

May 2022

Reuse of a redundant building for residential use with a small curtilage
Land at Summerfield Bungalow, Watercress Beds,
Springwell Lane, Harefield, Rickmansworth WD3 8UX
Planning Statement

INTRODUCTION

1. This statement has been submitted on behalf of our client, Mr. Andrew Travers, to accompany a planning application for the reuse of a redundant building for residential use with a small curtilage at Land at Summerfield Bungalow, Watercress Beds, Springwell Lane, Harefield, Rickmansworth WD3 8UX.

2. Sections 2 and 3 of the statement set out the site context and relevant planning history. Section 4 provides an overview of the application proposals. Sections 5 and 6 set out the planning policy context and an assessment of the proposals against planning policy. Conclusions are provided at Section 7.

SITE AND SURROUNDING AREA

3. Watercress Beds is a former garden nursery site located in the Green Belt to the southwest of Rickmansworth. It is bordered by Springwell Lake to the west, and the River Colne to the east and south. The site is accessed via a private drive leading off Springwell Lane to the North.

4. Mr. Travers purchased the site in November 2013 and lives in the chalet bungalow, which is the northernmost building, close to the site entrance. Adjacent to the chalet bungalow is a former garage which has been converted into a residential annexe. Further to the south-west is a former office, now a residential dwelling, another garage, the former garden nursery building and a parking area.

5. The site is in the Green Belt, with high density residential use to the east and commercial uses to the northeast and south.

RELEVANT PLANNING HISTORY

6. The site has a complex history, including enforcement notices, appeals and refusal notices relating to Lawful Development Certificate applications.

7. The relevant planning history is as follows:

   24597/D/92/1550 - Details of materials, surface water disposal and storage, land filling, access arrangements, landscaping, and boundary fencing in compliance with conditions 2,3,4,6,8,9 and 10 of planning permission ref. 24597A/89/1968 dated 7.8.90; Change of use of watercress beds to garden nursery; erection of associated shop and office building; erection of a bungalow and ancillary parking (Approval)

   24597/APP/2009/2187 - Relocation and part change of use of previously approved nursery building for part use as Class A3 Cafe with patio and seating area (No Further Action)

   24597/APP/2017/109 - Retention of a 3 Bedroom Chalet Style House as Residential Use from Ancillary Offices for a Garden Centre (Refusal)

   24597/APP/2019/263 - Residential dwelling (Application for a Lawful Development Certificate for an Existing use) (Appeal Dismissed)

   74576/APP/2019/435 - Use of former garage building as residential unit for holiday/short-term let (Application for a Certificate of Lawful Development for an Existing Development) (Appeal Dismissed)

   76006/APP/2020/3659 - Change of use from office to residential to create a 3-bed dwelling (Prior Approval) (Refused)

   As well as the above, the site has been subject to three separate enforcement notices (EN) – HS/ENF/017841(A), HS/ENF/01784(B) and HS/ENF/11794(C) (**Appendices 1, 2 and 3**)**.** EN's A and B were appealed and subsequently dismissed. The Appeal Decisions can be found in **Appendix 4**. EN C was appealed and subsequently allowed. The Appeal Decision can be found in **Appendix 5**.

8. This application relates to Building A, the subject of EN HS/ENF/017841(A). The EN was drafted so as to relate to the whole of the land within Mr Travers' ownership – the red line on the EN plan. That is not, however, the planning unit in this case. I would refer the council to the appeal decision dated 16th January 2019, reference APP/R5510/C/17/3184266, relating to EN C, and particularly to

paragraph 19. The inspector said *"Having regard to all of the above I am firmly of the view that the land and buildings have not been put to a mixed use, as alleged in the notice, but that a number of independent uses have been created, resulting in the formation of multiple planning units. The site as a whole may remain under the ownership of the appellant, but ownership is not indicative of use. Each of the uses seemingly takes place independently of any other use and each is in a clearly defined building and/or part of the land."* The inspector therefore allowed the appeal and quashed the notice.

9. Importantly, a second inspector, in determining appeals against refusals to issue Lawful Development Certificates, specifically agreed with that view. In APP/R5510/X/19/3225198, paragraph 8, the inspector recorded

> *"I have read the Inspector's decision (Ref: APP/R5510/C/17/3184266) and note that the EN issued on 15 August 2017 was quashed under S174(2)(b) of the1990 Act because the Inspector found that the matters alleged in the notice had not occurred. This finding was based on the view that the land and buildings had not been put to a mixed use, as alleged in the notice, but that several independent and unrelated uses had been created, resulting in the formation of multiple planning units. I acknowledge the appellant's point that any future enforcement action against the use of the buildings would therefore need to be against the buildings and not the wider site. "*

10. At paragraph 18 he went further, not simply noting what the previous inspector had said, but specifically agreeing with him on the point: -

> *"I accept what the previous Inspector said about the building being a separate planning unit taking account of how the building was being occupied by the appellant's daughter and her family. Whilst they were relatives of the appellant, the Inspector found that they clearly had their own lives meaning that the occupation of the house by the family took place independently of the other uses taking place on the land."*

11. It seems from reading the inspector's approach to 'the land' that the notice defined the whole site ownership of Mr Travers, in the same way as with EN HS/ENF/017841(A) and EN HS/ENF/017841(B), with individual buildings specifically identified without reference to the extent of

the planning unit in each case. With Building A, for instance, the notice identifies only the built structure, in alleging unauthorised residential use. It cannot be, however, that that is the full extent of the planning unit relating to Building A – there are small, grassed areas to the front and rear of the building used in conjunction with it, together with a parking area for a car. The notice was therefore incorrectly prepared, to Mr Travers' significant disbenefit.

12. Furthermore, identifying an overall, red-edged site boundary on the enforcement notice plan with the identification of one building within it, with no private space used in connection with it, was wholly inconsistent with the approach in appeal reference APP/R5510/C/17/3184266. This gave rise to a significant error of interpretation in the inspector's decision in APP/R5510/C/21/3267601, which fundamentally affected his views on the policy circumstances of the case. In dealing with the matter in paragraph 40 on page 9 of the Decision letter dated 17th December 2021 he stated *"…. a large private garden could be demarcated for Building A that would exceed the minimum standard set out in Table 5.3 which relates to policy DMHB18…"* That would not be the case had the council properly identified in the EN a curtilage to the dwelling that is Building A, consistent with the earlier appeal.

13. The fact that the EN itself was inconsistent with that earlier appeal was at the root of the error. What is more surprising, however, is that the inspector who dealt with APP/R5510/C/21/3267601 was the same as the inspector who determined APP/R5510/X/19/3225198, and who acknowledged and agreed that the site should be dealt with on the basis of separate planning units but then went on to make the comment in the paragraph above that specifically contradicted his earlier agreement.

14. The inspector's misunderstanding of the curtilage issue is evident from reading the decision letter. He did not identify the curtilage of Building A (as opposed to the curtilage of the authorised dwelling, for instance). He merely stated in paragraph 24 *"…. residential use is likely to lead to domestication of the land associated with them with the consequent introduction of domestic paraphernalia."* There is no indication in the decision letter that the inspector sought to identify the planning unit to which the notice related, despite his agreement that that was the correct approach to the site.

15. He made assumptions that various items of paraphernalia were associated with Building A, including a shed and various fencing, and that they had an adverse impact on the Green Belt, such that he found the use of Building A inappropriate for that reason alone. Had he properly dealt with the curtilage

issue he may well have reached a different conclusion, given that he had concluded in paragraph 23 that the re use of the building per se would not conflict with Green Belt policy. Since he had acknowledged and agreed with the earlier inspector about the appropriateness of the multiple planning unit approach it is very unclear as to why he would have forgotten that position only a year later. The inappropriate drafting of the EN led the inspector into error on the policy position.

16. Condition 12 of planning permission 24597/A/89/1968 states "*The sales building/office/store shall be used for purposes solely in connection with the garden centre operations".* The inspector in appeal APP/R5510/X/19/3225198 noted the appellant's comment that the previous owners of the site went into administration, and that the previous owners had filed for insolvency in August 2012. The inspector in APP/R5510/C/17/3184266 also recorded in paragraph 5 that the garden nursery business did become operational but had ceased to operate before the site was purchased by Mr Travers. Building A has therefore not been used "solely in connection with the garden centre operation" (condition 12 of 24597/A/89/1968) for a period of at least 9 years, and no application has been made for variation or removal of that condition. As such, the office use effectively ceased when the garden nursery business closed. Building A is not, therefore, an office or a sales building. It has become redundant. The basis on which the inspector considered the issue in the appeal decision is therefore flawed, in that the local plan policies he referred to relating to employment sites and office conversions led him to conclude inappropriateness.

17. The above analysis did not form any part of the submissions made by the applicant's previous planning agent. They were therefore never considered by the inspector (or the council). This meant that it could not form part of the (withdrawn) challenge in the High Court as the topic was never brought to the attention of the inspector. In light of the above submissions, our client is seeking permission to reuse the redundant building as a residential dwelling with a small curtilage. A condition removing permitted development rights for the erection of fencing would beneficially protect the openness of the green belt.

PLANNING POLICY CONTEXT

18. Section 38(6) of the Planning and Compensation Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for Hillingdon Borough Council consists of the Local Plan Part 1 (HLP1) and 2 (HLP2), as well as the London Plan (LP). Relevant policies from the LP 1 and 2 are attached at **Appendix 6**.

19. The key policies for the assessment of this proposal are those relating to development in the Green Belt. The NPPF as amended in 2021 is also a material consideration. Paragraph 150 of the NPPF sets out forms of development that are not considered to be inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. One such form of development which includes the re-use of buildings provided that the buildings are of permanent and substantial construction. As will be considered in detail below the proposals are considered to accord with this criterion.

20. There are inconsistencies between the NPPF and the Green Belt policies set out in the HLP2. The NPPF 2021 sets out several forms of development which are not considered inappropriate in the Green Belt, including the re-use of buildings provided that the buildings are of permanent and substantial construction. Neither Policy DMEI 4 of the HLP2 nor the supporting text at paragraph 6.18 refer to this list, only to extensions and re-development of sites, This inconsistency appears to suggest that in accordance with DMEI 4, all other forms of development are inappropriate unless there are very special circumstances. Less weight can therefore be attributed to Policy DMEI 4 than to the NPPF.

21. Policy DMHB 18 of the HLP2 - Development Management Policies - deals with Private Outdoor Amenity Space. All new residential development and conversions will be required to provide good quality and useable private outdoor amenity space. Amenity space should be provided in accordance with the standards set out in Table 5.3. For the development to which this application relates the standard requires 100m2, which is very considerably in excess of the standard set out in the Housing Design Quality and Standards SPG. That is what is provided in the application. It would be inequitable for the council to require the provision of that amount of open space to comply with the policy and then

to claim that use of that amount of space as domestic curtilage would result in an unacceptable reduction in the openness of the green belt. The application is therefore submitted on the basis of the policy. Concern as to the enclosure of that space could be dealt with by conditions on a permission to reduce what limited impacts there might be.

22. In the event that the council considers the requirement to meet the minimum standard nevertheless creates an adverse effect on the openness of the green belt the applicant will consider a reduction to overcome the problem.

23. Overall, it is considered that the proposals accord with the development plan and the planning permission should be granted.

24. In view of the manner of consideration of the Ground A appeal against enforcement notice HS/ENF/017841(A) in relation to the present application building, it must be noted that policies DMH3 and DME2 are not relevant to the application. What is proposed is neither the demolition and redevelopment of an office building nor the loss of employment floorspace, as has been explained above.

PLANNING POLICY ASSESSMENT

25. As referred to above, paragraph 150 of the NPPF allows for the re-use of buildings of permanent and substantial construction in the Green Belt where they preserve its openness and do not conflict with the purposes of including land within it. It has already been determined that the garden nursery business is no longer operational, and that the building previously in office use in connection with the nursery became redundant when the nursery use ceased by virtue of a planning condition that prevented its use for office purposes in any other context.

26. The building to which the attached application relates is a substantial and permanent structure and there are no plans to extend its footprint. This ensures compliance with Policy G2 of the LP, which states that permanence is an essential characteristic of the Green Belt. When the applicant bought the site in 2013, although in office use, the property already had a residential layout with a fitted kitchen, bathroom and three bedrooms - no internal changes were therefore required. A small

residential curtilage has been defined in order to provide the applicant with an adequate amount of garden space and car parking. In order to maintain the openness of the Green Belt, the applicant would be happy to forsake his Permitted Development rights, so he is unable to install fences, walls, gates etc. or extend the building without seeking planning permission first.

27. In respect of the purposes of Green Belt land as outlined in paragraph 138 of the NPPF the proposal is not considered to conflict with any of these purposes, relating to an existing building. In particular the proposal to reuse the existing redundant building will not result in encroachment.

28. As stated above, the NPPF states that when considering any planning application, substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations. It has already been established that the reuse of buildings within the Green Belt is not inappropriate development as long as certain criteria are met, and that less weight can be attributed to Policy DMEI 4 for not being consistent with the NPPF.

29. In addition to these green belt planning policy considerations, the reuse of the redundant building provides a significant benefit to the family, and although the reuse proposed is not inappropriate development the council is nonetheless urged to consider the particular circumstances that characterise the background to this case, in terms of the needs of the applicant and his family. These have been set out previously but are summarised below.

- The family need to live close to the grandparents, who provide childcare for the five children so that the parents can work. There is no affordable house providing similar accommodation within X miles. If the family was able to relocate further away they would therefore not only lose the free childcare from the grandparents (which they could not afford to replace with paid childcare) the children would have to be moved from their schools.
- The property provides an affordable home for a larger family.
- The family have resided in the property for 7 years and 2 months and have paid Council Tax continuously. The five children all attend school locally. One of the twin boys aged 5 has one-to-one school support in place for autism and the eldest daughter is under CAMHS mental health

support for anxiety. The eviction of the family would cause severe disruption and would be contrary to their welfare.

30. These matters add additional weight to the planning balance in favour of granting planning permission.

CONCLUSION

31. The proposal to which this statement relates is significantly different to the previous proposal considered in relation to a Ground A appeal. The description of development is different, such that the policy considerations are changed, and the application site is very significantly different.

32. Overall, the proposed re-use of the redundant office as a residential dwelling is not inappropriate and therefore policy compliant with Policy DME14 and the NPPF. In any event, the very special circumstances listed above outweigh any harm to the green belt. In both cases the proposal preserves the openness of the Green Belt.

33. The principle of development has been established by paragraph 150 of the NPPF, which states that the reuse of buildings within the Green Belt would not be inappropriate provided the openness of the Green Belt is maintained.

34. In order to control the small curtilage and further protect the openness of the Green Belt from domestic paraphernalia, the applicant is happy to forsake his Permitted Development rights.

35. Accordingly, it is requested that planning permission is granted.

APPENDIX 1

Enforcement Notice

HS/ENF/017841(A)

HILLINGDON
LONDON

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE
MATERIAL CHANGE OF USE

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

RE: Land at Summerfield Bungalow, Springwell Lane, Rickmansworth, WD3 8UX

REF: HS/ENF/017841(A)

ISSUED BY: The Council of the London Borough of Hillingdon ("the Council")

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. **THE LAND AFFECTED**

   Land at Summerfield Bungalow, Springwell Lane, Rickmansworth, WD3 8UX, as shown edged red on the attached plan ("the Land").

3. **THE BREACHES OF PLANNING CONTROL ALLEGED**

   Without planning permission the material change of use of the building marked A and hatched in blue on the attached plan as a self-contained residential unit ("the breach").

4. **REASONS FOR ISSUING THIS NOTICE**

   (a) It appears to the Council that the breach of planning control is not immune from enforcement action.

   (b) The material change of use of the building marked A and hatched in blue on the attached plan as a self-contained residential unit represents inappropriate development within the Green Belt in terms of the guidance contained in the National Planning Policy Framework (NPPF) (2019) which is harmful by definition to its open character and appearance. Furthermore, the site is in the metropolitan green belt wherein there is a general presumption against any development other than that appropriate facilities for agriculture, forestry, outdoor sport, outdoor recreation and for cemeteries as set out in policy DMEI 4 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020). The unauthorised development does not accord with those policies, it does not fall within any of the exceptions contained therein, nor are there any special circumstances or reasons which either singularly or cumulatively justify overriding the policies. The development is

therefore considered to be contrary to Policy 7.16 of the London Plan (March 2016) and Policy DMEI 4 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

(c) Satisfactory evidence that the use of the building for office and/or storage purposes (which would support the rural economy) is redundant has not been provided. In the absence of such evidence, the development is considered to be contrary to the requirements of Policies DMH3 and DMEI 4 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

(d) The material change of use of the building marked A and hatched in blue on the attached plan, by virtue of its failure to provide usable private outdoor amenity space for the self-contained residential unit, results in an over-development of the site which is considered detrimental to the residential amenity of existing and future occupiers of the one lawful dwellinghouse on the site and is therefore contrary to Policy DMHB 18 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

(e) The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

(i) Cease the use of the property as a separate self-contained residential unit;

(ii) Revert building A (internal layout and externally) to accord with the approved plans in Planning Decision Reference 24597/A/89/1968 granted on 07 August 1990;

(iii) Remove from the land the debris, items, fixtures and fittings, furniture, building materials, plant and machinery resulting from the works listed above.

TIME FOR COMPLIANCE: Five (5) months after this Notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

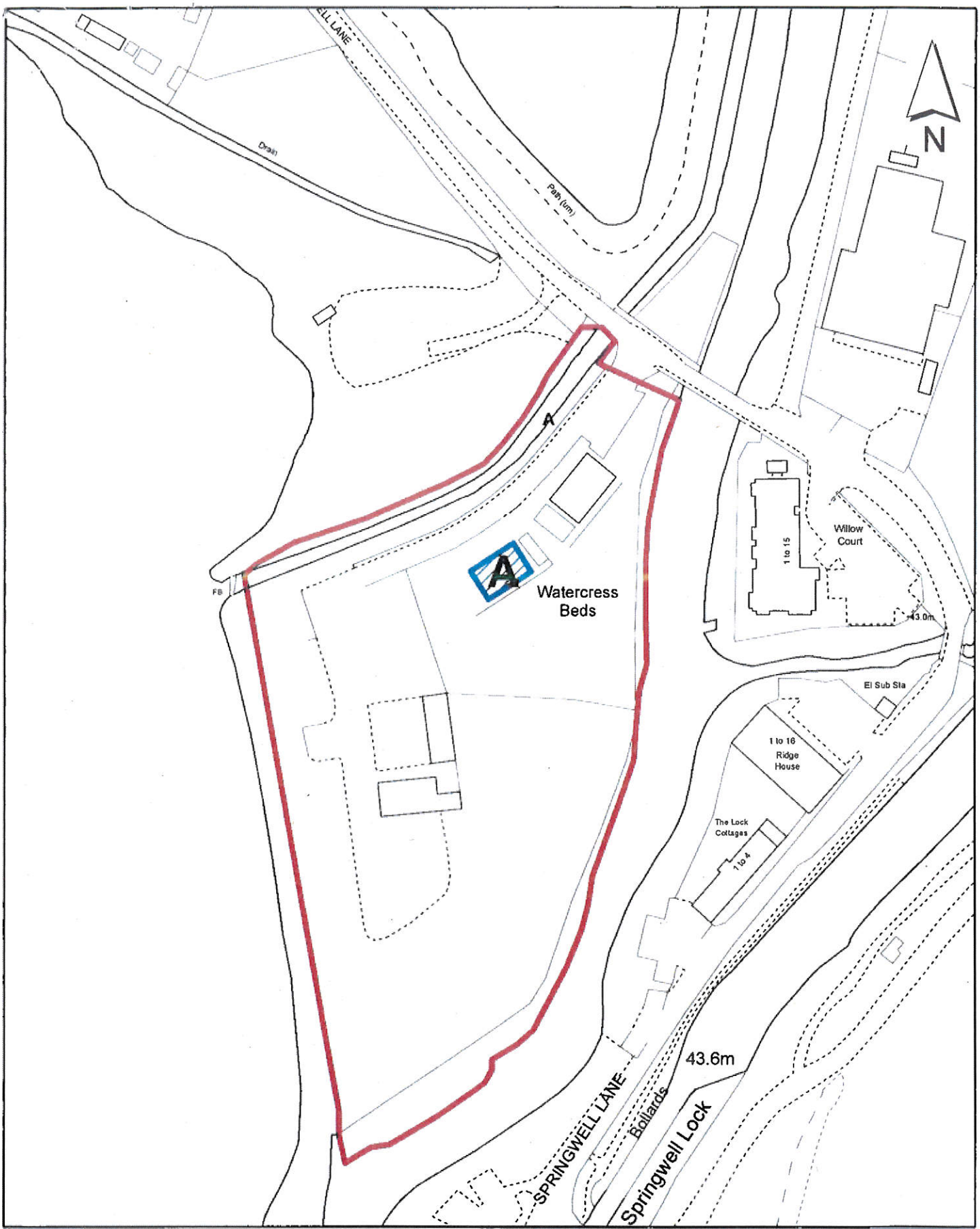
This Notice takes effect on **27 January 2021** unless an appeal is made against it beforehand.

DATED: **16 December 2020**

Signed: .....

RAJESH ALAGH
Borough Solicitor
THE COUNCIL'S AUTHORISED OFFICER

On behalf of: London Borough of Hillingdon
Civic Centre
Uxbridge
UB8 1UW



Notes

Site Boundary

Scale 1:1,250

Site Address **Land at Summerfield Bungalow, Springwell Lane, Rickmansworth, WD3 8UX**

Description	Date
ENF/1306/15	**November 2020**

Residents Services Planning Section

APPENDIX 2

Enforcement Notice

HS/ENF/01784(B)

HILLINGDON
LONDON

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE
MATERIAL CHANGE OF USE

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

RE: Land at Summerfield Bungalow, Springwell Lane, Rickmansworth, WD3 8UX

REF: HS/ENF/017841(B)

ISSUED BY: The Council of the London Borough of Hillingdon ("the Council")

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. **THE LAND AFFECTED**

   Land at Summerfield Bungalow, Springwell Lane, Rickmansworth, WD3 8UX, as shown edged red on the attached plan ("the Land").

3. **THE BREACHES OF PLANNING CONTROL ALLEGED**

   Without planning permission the material change of use of the building marked B and hatched in purple on the attached plan as a self-contained residential unit ("the breach").

4. **REASONS FOR ISSUING THIS NOTICE**

   (a) It appears to the Council that the breach of planning control is not immune from enforcement action.

   (b) The material change of use of the building marked B and hatched in purple on the attached plan as a self-contained residential unit represents inappropriate development within the Green Belt in terms of the guidance contained in the National Planning Policy Framework (NPPF) (2019) which is harmful by definition to its open character and appearance. Furthermore, the site is in the metropolitan green belt wherein there is a general presumption against any development other than that appropriate facilities for agriculture, forestry, outdoor sport, outdoor recreation and for cemeteries as set out in policy DMEI 4 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020). The unauthorised development does not accord with those policies, it does not fall within any of the exceptions contained therein, nor are there any special circumstances or reasons which either singularly or cumulatively justify overriding the

policies. The development is therefore considered to be contrary to Policy 7.16 of the London Plan (March 2016) and Policy DMEI 4 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

(c) The material change of use of the building marked B and hatched in purple on the attached plan, by virtue of its failure to provide usable private outdoor amenity space for the self-contained residential unit, results in an over-development of the site which is considered detrimental to the residential amenity of existing and future occupiers of the one lawful dwellinghouse on the site and is therefore contrary to Policy DMHB 18 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

(d) The material change of use of the building marked B and hatched in purple on the attached plan, by reason of the restricted internal floor area of the residential unit, gives rise to a substandard form of living accommodation to the detriment of the amenities of existing and future occupiers, contrary to Policy 3.5 and Table 3.3 of the London Plan (2016), Housing Standards Minor Alterations to the London Plan (March 2016), Policy DMHB 16 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020), the Mayor of London's adopted Supplementary Planning Guidance - Housing (March 2016) and the Technical Housing Standards - Nationally Described Space Standard (March 2015).

(e) The material change of use of the building marked B and hatched in purple on the attached plan, via the provision of a kitchen, bedroom and bathroom is considered contrary to the requirements of Policy DMHD 2 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

(f) The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

(i) Cease the use of the property as a separate self-contained residential unit;

(ii) Dismantle and remove from building B the "fitted kitchen", including the oven, hob, extractor unit, sink, worksurfaces and kitchen style cupboards and hot and cold water supply;

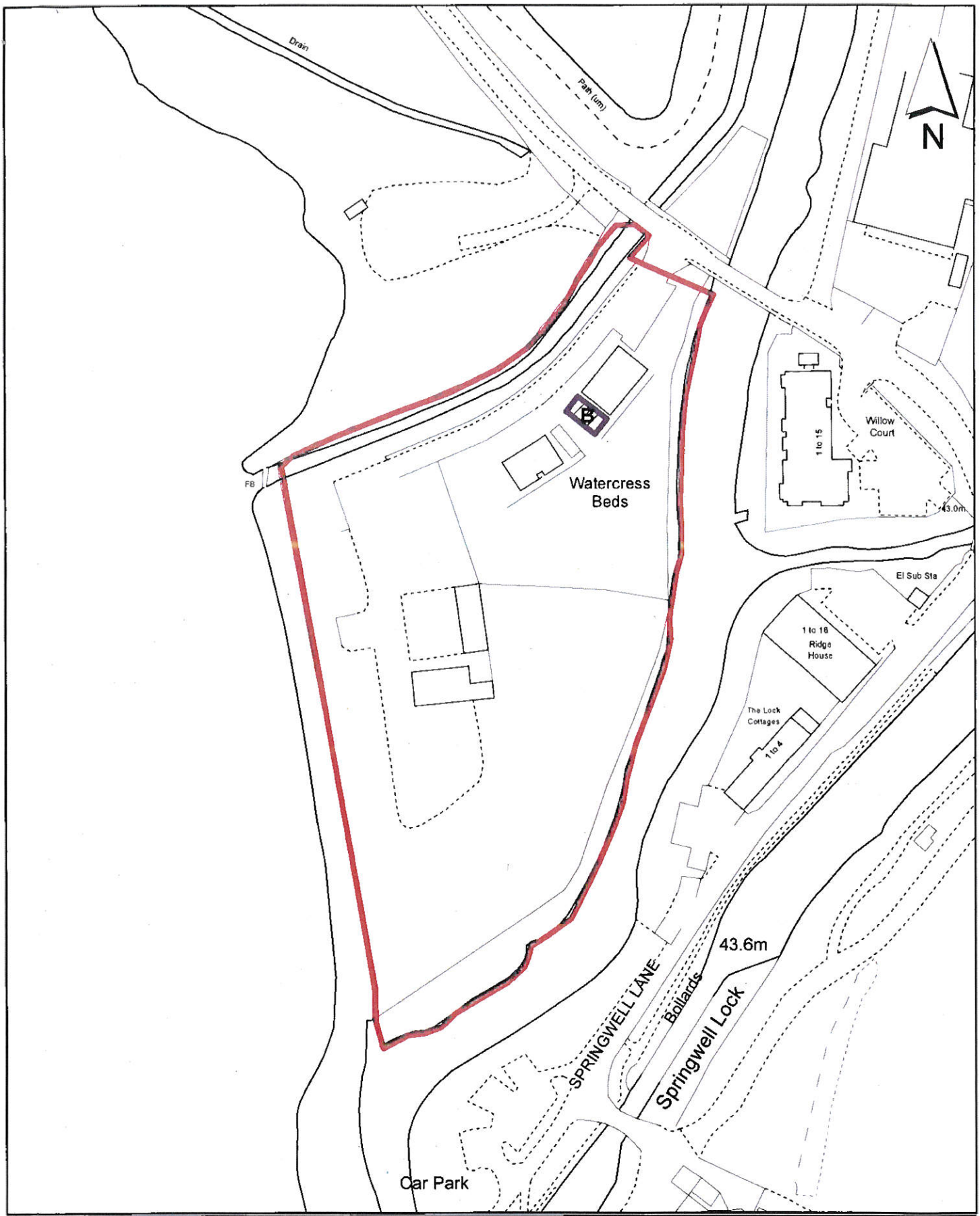
(iii) Dismantle and remove from Building B the bathroom, including the shower and associated plumbing, the sink unit and associated plumbing and the toilet pan and toilet cistern;

(iv) Revert the use of Building B to garage and store as approved in Planning Decision Reference 24597/A/89/1968 granted on 07 August 1990;

(v) Alter building B to accord with the plans as approved in Planning Decision Reference 24597/A/89/1968 granted on 07 August 1990;

(vi) Remove from the land the debris, items, fixtures and fittings, furniture, building materials, plant and machinery resulting from the works listed above.

TIME FOR COMPLIANCE: Five (5) months after this Notice takes effect.



Notes

Site Boundary

Scale 1:1,250

Site Address: **Land at Summerfield Bungalow, Springwell Lane, Rickmansworth, WD3 8UX**

Description	Date
ENF/1306/15	**November 2020**

Residents Services Planning Section

HILLINGDON LONDON

HILLINGDON
LONDON

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on **27 January 2021** unless an appeal is made against it beforehand.

DATED: **16 December 2020**

Signed: .....
RAJESH ALAGH
Borough Solicitor
THE COUNCIL'S AUTHORISED OFFICER

On behalf of: London Borough of Hillingdon
Civic Centre
Uxbridge
UB8 1UW

APPENDIX 3

Enforcement Notice

HS/ENF/11794(C)

HILLINGDON
LONDON

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE
Material Change of Use

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

RE: Summerfield Bungalow, Watercress Beds, Springwell Lane, Harefield, Rickmansworth WD3 8UX

REF: HS/ENF/11794(C)

ISSUED BY: The Council of the London Borough of Hillingdon

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. THE LAND AFFECTED

Land at Summerfield Bungalow, Watercress Beds, Springwell Lane, Harefield, Rickmansworth WD3 8UX shown edged red on the attached plan ("the Land").

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without the benefit of planning permission, the material change of use of the land to a mixed used including:

(1) The use of the building marked A on the attached plan as a self-contained residential unit;
(2) The use of the building marked B on the attached plan as a commercial photography studio;
(3) The use of the hardsurfaced area crosshatched in blue on the attached plan for commercial vehicle parking and general commercial storage;
(4) The use of the building marked C on the attached plan as a dwellinghouse;
(5) The use of the building marked D on the attached plan as a commercial furniture manufacturing workshop.

4. REASONS FOR ISSUING THIS NOTICE

a) It appears to the Council that the above breach of planning control has occurred within the last 10 years.

b) The material change of use of the Land to a mixed use comprising residential use and various commercial uses, comprising a photography studio, the parking of commercial vehicles and general commercial storage, furniture manufacturing and short let accommodation, represents inappropriate development within the Green Belt in terms of the guidance contained in the National Planning Policy Framework which is harmful by definition to its open character and appearance. Furthermore, there are no very special circumstances provided or which are evident which either singularly or cumulatively justify the unauthorised use of the Land. It is considered that the unauthorised use of the Land adversely affects the amenity of the area and is harmful to the Green Belt. The development is therefore contrary to Policy 7.16 of the London Plan (July 2011), Policy EM2 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) and Policy OL1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

c) The unauthorised mixed use introduces additional residential and commercial uses to the Land which are detrimental to the character and appearance of the Springwell Lock Conservation Area contrary to the NPPF (March 2012), Policy 7.8 of the London Plan (March 2012) and Policy BE4 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012).

d) The land is designated as Flood Zone 3 and the Local Planning Authority consider insufficient evidence has been submitted to demonstrate that the flood risk sequential test has been applied and that there are no alternative sites with a lower probability of flooding that could accommodate the development. The development is therefore contrary to Policy EM6 of the Hillingdon Local Plan Part 1 -Strategic Policies (November 2012), the National Planning Policy Framework (March 2012), National Planning Practice Guidance (March 2014) and Policy 5.12 of the London Plan.

e) The Council does not consider that planning permission should be given because planning conditions could not overcome these objections.

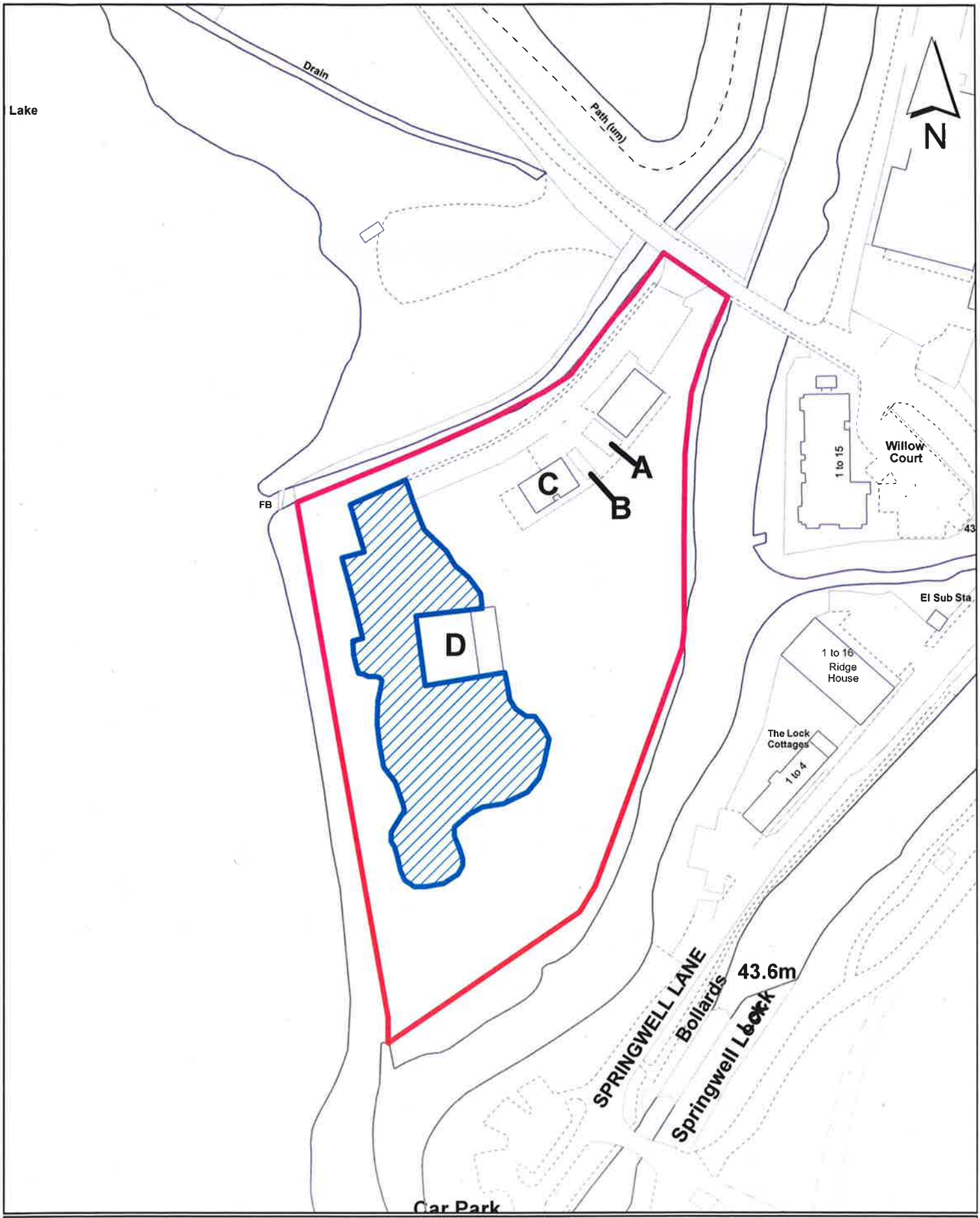
5. WHAT YOU ARE REQUIRED TO DO

(i) Cease the use of the building marked A on the attached plan as a separate self-contained residential unit;

(ii) Remove from the building marked A on the attached plan all kitchen facilities to include worktops, cupboards, cooker/hob and sink;

(iii) Cease the use of the building marked B on the attached plan as a commercial photography studio;

(iv) Remove from the building marked B on the attached plan all commercial photography equipment to include lighting, screens and cameras;



Notes

Site Boundary

Scale 1:1,250

Site Address

Watercress Beds
Springwell Lane

Description	Date
ENF/1306/15	**June 2017**

Residents Services
Planning Section

HILLINGDON
LONDON

(v) Cease the use of the hardsurfaced area crosshatched in blue on the attached plan for commercial vehicle parking and general commercial storage;

(vi) Cease the use of the building marked C on the attached plan as a dwellinghouse;

(vii) Remove from the building marked C on the attached plan all beds and associated furniture;

(viii) Cease the use of the building marked D on the attached plan as a commercial furniture manufacturing workshop;

(ix) Remove from the building marked D on the attached plan all equipment and associated materials used in connection with the manufacturing of furniture.

(x) Remove from the Land all materials, debris, plant and equipment associated with requirements (i) to (ix) above.

Time for compliance: Six (6) calendar months after this Notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on **15 September 2017**, *unless an appeal is made against it beforehand.*

Dated : **15 August 2017**

Signed : .....

RAJESH ALAGH
Borough Solicitor
THE COUNCIL'S AUTHORISED OFFICER

On behalf of: London Borough of Hillingdon
Civic Centre
Uxbridge
UB8 1UW

IMPORTANT - APPEAL & FEE NOTE

Summerfield Bungalow, Watercress Beds, Springwell Lane, Harefield, Rickmansworth WD3 8UX

YOUR RIGHT OF APPEAL

You have a right of appeal against this Enforcement Notice, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate before **15 September 2017.** If you want to appeal against the notice then you can obtain the necessary appeal form either:-

- On-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or
- By contacting the Planning Inspectorate directly on 0303 444 5000 or by e-mailing them at enquiries@pins.gsi.gov.uk

The appeal form must include a statement of the grounds of appeal and the facts upon which it is based.

DEEMED PLANNING APPLICATIONS

If you appeal against an enforcement notice under section 174 (2) (a) of the Town and Country Planning Act 1990 – namely that planning permission ought to be granted – the mechanism for resolving the issue is a 'deemed application'.

This is an application deemed to have been made for planning permission to carry out whatever activity or change of land-use had earlier been found unlawful by the local planning authority. If you want to make a deemed application for planning permission the total fee payable is set out in the Fee Schedule, which is attached to this note. The payment must be paid directly to the London Borough of Hillingdon.

As with any other types of application, there is likely to be significant work involved in processing and determining a deemed application, so a fee is normally payable. The fee is double that which would be payable for a corresponding planning application made at the time the enforcement notice was issued. Therefore, please ensure when you are considering the attached Fee Schedule to double the amount listed for these reasons.

If you are paying by cheque then please make it payable to the 'London Borough of Hillingdon' and send to:

London Borough of Hillingdon
Planning Department
Civic Centre
High Street
Uxbridge. UB8 1UW

Alternatively, if you choose to pay by debit or credit card then please call our contact centre on 01895 250230, quoting the Council's reference number and address in which the alleged breach has taken place. For further information on the fee payable please contact Planning Services on 01895 250230 or by emailing us at planning@hillingdon.gov.uk

If you formally withdraw your appeal at least 21 days before the date set for an inquiry, hearing or (in the case of appeals determined by written representations) a site visit by the planning inspectorate any fee you have paid will be refunded. If you withdraw your appeal later than this your fee will not be refunded. The date that your appeal will be deemed to have been withdrawn will be the date that written notice of withdrawal is received by the Planning Inspectorate.

HILLINGDON
LONDON

Should the Inspector decline jurisdiction, dismiss the relevant appeal or allow the relevant appeal and quash the relevant enforcement notice any fee paid in respect of the deemed application may be refunded to you.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on **15 September 2017** and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in the Notice. Failure to comply with an Enforcement Notice which has taken effect can result in prosecution and/or remedial action by the Council.

THIS NOTICE HAS BEEN SERVED ON:

1. Owner/Occupier of Summerfield Bungalow ,Watercress Beds, Springwell Lane, Harefield, Rickmansworth WD3 8UX
2. Blenheim Bedrooms Limited (Co. Regn. No. 05119337) of Summerfield Bungalow, Springwell Lane, Rickmansworth WD3 8UX
3. Close Brothers Limited (Co. Regn. No. 195626) of 10 Crown Place London EC2A 4FT
4. Andrew Travers of Summerfield Bungalow, Watercress Beds, Springwell Lane, Harefield, Rickmansworth WD3 8UX

APPENDIX 4

Appeal Decisions Against Enforcement Notices

HS/ENF/017841(A) and HS/ENF/01784(B)

The Planning Inspectorate

Appeal Decisions

Site visit made on 30 November 2021

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2021

Appeal A: APP/R5510/C/21/3267601
Land at Summerfield Bungalow, Springwell Lane, Rickmansworth WD3 8UX

- 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 Andrew Travers against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice was issued on 16 December 2020.
- The breach of planning control as alleged in the notice is: The material change of use of the building marked A and hatched in blue on the attached plan as a self-contained residential unit.
- The requirements of the notice are: (i) cease the use of the property as a self-contained residential unit; (ii) Revert building A (internal layout and externally) to accord with the approved plans in Planning Decision Reference 24597/A/89/1968 granted on 07 August 1990; (iii) Remove from the land the debris, items, fixtures and fittings, furniture, building materials, plant and machinery resulting from the works listed above.
- The period for compliance with the requirements is: 5 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 as amended.

Appeal B: APP/R5510/C/21/3267589
Land at Summerfield Bungalow, Springwell Lane, Rickmansworth WD3 8UX

- 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 Andrew Travers against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice was issued on 16 December 2020.
- The breach of planning control as alleged in the notice is: The material change of use of the building marked B and hatched in purple on the attached plan as a self-contained residential unit.
- The requirements of the notice are: (i) Cease the use of the property as a separate self-contained residential unit; (ii) Dismantle and remove from building B the "fitted kitchen", including the oven, hob, extractor unit, sink, worksurfaces and kitchen style cupboards and hot and cold water supply; (iii) Dismantle and remove from building B the bathroom, including the shower and associated plumbing, the sink unit and associated plumbing and the toilet pan and toilet cistern; (iv) Revert the use of building B to garage and store as approved in Planning Decision Reference 24597/A/89/1968 granted on 07 August 1990; (v) Alter building B to accord with the plans as approved in Planning Decision Reference 24597/A/89/1968 granted on 07 August 1990; (vi) Remove from the land the debris, items, fixtures and fittings, furniture, building materials, plant and machinery resulting from the works listed above.
- The period for compliance with the requirements is: 5 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) of the

Town and Country Planning Act 1990 as amended.

Decisions

Appeal A: APP/R5510/C/21/3267601

1. The appeal is dismissed, the Enforcement Notice (EN) 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.

Appeal B: APP/R5510/C/21/3267589

2. It is directed that the EN is varied by:

    - Deleting requirements (iv) and (v) from section 5 and renumbering requirement (vi) to become (iv).

3. Subject to these variations, the appeal is dismissed, the EN 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.

Applications for Costs

4. Applications for costs made by Mr Travers against the Council of the London Borough of Hillingdon, for both appeals, are the subjects of separate decisions.

Procedural Matters

5. The appeals are against two different ENs related to two different buildings. However, the buildings are on the same overall site, the alleged breaches of planning control are the same, as are the appellant and the agent for both appeals, and some of the issues to be considered under each ground (a) appeal are similar, primarily arising from both buildings being in the Green Belt (GB). I have therefore found it appropriate to write one decision letter that covers both appeals. Nevertheless, the evidence for the ground (a) appeals differs when it comes to, in particular, the personal circumstances in each case and how they could affect the overall GB balance. I have, therefore, been careful to consider such matters separately as they relate to the specific circumstances of each appeal as can be seen below.

6. Both buildings were the subject of appeals determined in 2020 (Refs: APP/R5510/X/19/3225198 and APP/R5510/X/19/3226599). These related to applications for Lawful Development Certificates (LDC) for residential uses in each building. I determined those appeals, and they were dismissed. The determination of the earlier appeals was based solely on considering whether the existing uses of the buildings were lawful under s191(1)(a) of the 1990 Act. That is a consideration separate and different to the evidence I shall consider under the cases made in these appeals. Therefore, while both sides have referred to the earlier appeals and I shall take that evidence into account accordingly where necessary, I shall determine the current appeals based on the submitted evidence with an open mind unfettered by my previous involvement with the appeals on this site.

7. In legal grounds of appeal, such as under s174(2)(b) and (c) of the 1990 Act, the burden to make out the case rests with the appellant and the appropriate test of the evidence is the balance of probabilities.

Appeal A - ground (c)

8. On 9th November 2020 an application was made for Prior Approval (PA) (Council ref: 76006/APP/2020/3659) for change of use of building A from office to residential to create a 3 bed dwelling under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The appellant asserts that the Council did not notify the applicant of its decision on the PA application within the relevant 56 days from when the Council received the application and, as such, PA has been deemed to be granted. Consequently, planning permission for the change of use to a Class C3 dwellinghouse already exists by way of it being Permitted Development (PD) and there has thus been no breach of planning control.

9. Before looking at the 56 days issue, where PA is deemed to be or expressly granted, the development subsequently undertaken is only lawful if it is carried out in accordance with the submitted plans and it is in fact PD. Relevant to this appeal, and raised by the Council when it issued its decision on the PA application, is that development under Class O is not permitted if the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order (i) on 29th May 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use. I shall hereafter refer to 29 May 2013 as the material date.

10. The sales brochure for the appeal site, relied upon as part of the case that the building had an office use on the material date, was submitted with the PA application referred to above and is dated 19 June 2013. I accept that the estate agent would have visited the site and been inside building 'A' before the material date to prepare the sales information. However, while I note the description of building A as 'Detached Office Premises', the detailed description under the subheading 'Office' sets out that the building had several rooms over two floors that included a bathroom/WC, wet room/WC and a kitchen with a range of eye and base level units, oven and hob. Only one room is described as an office. Moreover, whilst the details are factual about the layout and content of the building, they do not confirm that the building was being used as an office on the material date. A photograph showing office furniture is not dated and when it was taken is also imprecise. Also, it does not confirm whether this was the room identified as an office in the estate agent details.

11. The Council has also drawn attention to what I considered in the previous LDC appeals dismissed last year. Paragraph 14 is particularly relevant:

    "The estate agent appointed to sell the site around June 2013 refers to inspecting the site several times prior to this date. He describes that the slightly larger of the two dwellings was the primary residence of the previous owner, but due to the recent separation from his wife, the second building (the appeal building) showed clear indications of habitation. There was apparently a kitchen clearly in use and there were soft furnishings throughout and beds in the upstairs rooms. The appellant's daughter also refers to visiting the site during the summer of 2013 and describes the property as having 3 bedrooms and it was already set up as a family home".

12. In the previous appeals I went on to find I was not satisfied about the residential use occurring before 15 August 2013 (the material date in the LDC appeals). I also acknowledge that the material date in these appeals is

different from the material date in the last appeals where I also considered other evidence that might have indicated an office use before the date of another previous PA application made in October 2013. Nevertheless, the appellant is this time around seeking to rely on very similar estate agent circumstances, in particular visits by the agent, to show that the building was in office use on 29 May 2013 but at around the same time in the previous appeals, I was being asked to find that they showed the building was in residential use. As a matter of fact and degree, this paints a confused and contradictory picture, even if the building could have been identified as a separate planning unit from the rest of the overall site.

13. Given the above, the appellant has not shown on the balance of probability that the appeal building was in Class B1(a) Office use on the material date or that if not in use on that date, that it was in use as an office when last in use. The PA change of use to a Class C3 dwellinghouse is therefore not permitted and even if the PA application has been deemed to be granted, it would not be lawful. Consequently, I do not need to consider the 56 days issue.

14. The material change of use of a building to a self-contained dwellinghouse as alleged in the EN is development. Planning permission has not been granted by the GPDO. Without planning permission for the development, there has been a breach of planning control. The ground (c) appeal must therefore fail.

Appeal B – ground (b)

15. For success on this ground, the appellant must show that the matters alleged in the EN have not occurred. I have read all the evidence about the kitchen in the building being removed and that the Valuation Office accepts that the building is not a self-contained residential unit. However, the outcome under this ground of appeal does not hinge on when facilities such as the kitchen, the oven, hob, all units, and worktops were removed, even if the Council was informed about this before the EN was issued. The 'test' is whether the matters occurred, which in this case is a 'self-contained residential unit'.

16. The evidence points very strongly to the fact that the building had all the means of self-contained living. For example, the appellant advises that "the building, when originally converted, contained a bedroom, kitchen and bathroom". It is also clear that what the appellant suggests could now be a 'dining area/study' is the room where the kitchen used to be, and the rest of the layout shows what is currently there which includes a bathroom and a bedroom. Moreover, in the earlier dismissed LDC appeal (Ref: APP/R5510/X/19/3226599), the appellant asserted on the LDC application form that the dwellinghouse use started on 5 September 2014. The Council has also drawn attention to a further claim made on the LDC application form that "the existing use as a single dwelling house began more than four years before the date of the application". The unit has also previously been advertised for short term lets as a newly converted 2-person apartment on Airbnb.

17. The building may have been occupied sometimes by members of the appellant's family meaning that there was an ancillary/annex link to the residents of the main dwelling next door. Nevertheless, as a matter of fact and degree, there is very little doubt that the building had all the means of self-contained living and that is the way it had been used. Although the appellant says that it has not been used since the end of 2018, the last use was the

unauthorised use that is subject to the EN, and the breach has therefore occurred as a matter of fact. The ground (b) appeal fails.

Appeals A and B – ground (a) planning merits

Procedural Matters

18. Following on from the above, the appellant has suggested that in Appeal B planning permission should be granted for a change of use from a garage to a residential annex, with a condition to prevent the building being used as a separate self-contained dwelling. The annex could have just a bedroom and a bathroom. However, the terms of the deemed planning application under the ground (a) appeal derive directly from the alleged breach of planning control. In my judgement a self-contained residential unit is materially different from rooms that may be occupied for overspill accommodation to an existing host property or for occupation by family of the residents of the main dwelling. Therefore, what is suggested is not part of the matters in the EN and I shall consider the planning merits of a self-contained residential unit in the GB.

19. This is not to say I have not considered the appellant's suggestion carefully because of the reasons behind it. I shall have regard to the personal circumstances advanced in support of the building being occupied under the 'Other Considerations' section below.

20. Regarding planning policy, since the ENs were issued, the National Planning Policy Framework (NPPF) has been revised. The parties were asked to comment on the changes and where necessary I have had regard to comments made. The London Plan 2021 has also been published. It is clear from the evidence that both sides are aware of this and I have taken account of the new London Plan policies as appropriate. In this context, neither side has been caused injustice to their cases.

Main Issues

21. The main issues are:

- For both appeals, whether the developments are inappropriate development in the GB having regard to the NPPF and any relevant development plan policies;
- For Appeal A, whether it has been shown that the building is redundant as there is no realistic prospect of it being reused for employment purposes;
- For Appeal B, whether the internal floor area of building would provide a suitable standard of living accommodation and whether it would comply with the Council's development plan policy on 'Outbuildings';
- For both appeals, whether the residential units would have an appropriate usable outdoor private amenity space;
- For both appeals, whether the character or appearance of the Springwell Lock Conservation Area (CA) has been preserved or enhanced;
- For both appeals, whether any 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.

Inappropriate development – both appeals

22. Paragraph 150 of the NPPF sets out that certain forms of development are not inappropriate in the GB provided they preserve its openness and do not conflict with the purposes of including land within it. Those include at (d) the re-use of buildings provided that the buildings are of permanent and substantial construction. The Council asserts that a material change of use as alleged to have occurred is not a re-use of a building and that re-use means putting an unused building back into its previous use.

23. I do not agree. A plain on the face reading of the NPPF does not prevent a building being re-used for another purpose and it allows for development to occur in certain circumstances. There is no preclusion to that development being constituted by a material change of use as defined under s55(1) of the 1990 Act. In principle, therefore, paragraph 150 does allow for changes of use and in this case the buildings would not be extended, and they are permanently and substantially constructed. However, that is not the end of the matter. The re-use of buildings must also preserve the openness of the GB and not conflict with the purposes of including land within it.

24. The fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of GBs are their openness and their permanence. With both buildings, their residential use is likely to lead to domestication of the land associated with them with the consequent introduction of domestic paraphernalia. There are photographs showing, particularly related to Building A, items such as a gazebo, trampoline, bench, chairs, flowerpots, and a child's toy. I also saw a shed at my site visit. Although for building B the use has ceased and there is nothing specifically related to it domestically outdoors, to my mind dwellings with gardens invariably leads to associated accoutrements.

25. Moreover, defining gardens with fences adds to the domestic appearance of land and they adversely affect the openness of the GB. At the front of building A there is a low fence that encloses the lawn and down one side there is a much taller solid fence about 2m high that appears to have been recently erected, and which sections off building A from the rest of the site to the west. The tall fence and the domestication of the land are visible from the highway that runs past the site. There are currently no similar enclosing fences for building B. However, I am considering an application for the change of use to a self-contained residential unit that could be occupied separate from the main house next door. It is therefore reasonable to find that the occupiers of the dwelling would wish to have at least a small area of enclosed private outdoor space, particularly because of its closeness to the appellant's house. I shall return to the issue of outdoor space below.

26. Consequently, the adverse effects on the openness of the GB are/would be spatial and visual. There is no evidence showing how the appeal developments might compare with the impact on the GB of any lawful use of the land, which it seems very unlikely would reoccur anyway given the planning history of the site over the last 8 years or so. I have therefore assessed the scheme related to the current appearance of the site.

27. Against this background, I am of the view that in both appeals the developments would fail to prevent urban sprawl by failing to counteract the inappropriate introduction of new domestic uses into the GB. They would also

not preserve the openness of the GB and conflict with its purpose to assist in safeguarding the countryside from encroachment. For both appeals, the schemes are inappropriate development.

28. In relation to Appeal A, the appellant has argued that the development is not inappropriate because it would meet the exception in paragraph 145(g) (now paragraph 149) from the NPPF because it would represent limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would……. contribute to meeting an identified affordable housing need within the area of the local planning authority. However, that exception is for the construction of new buildings and because Appeal A involves the change of use of an existing building, paragraph 149 from the NPPF is not relevant.

29. Inappropriate development is, by definition, harmful to the GB. There is also harm to the openness of the GB. The NPPF requires that substantial weight is given to any harm to the GB.

Office/Storage space – Appeal A

30. The planning permission in 1990 for "change of use of watercress beds to garden nursery; erection of associated shop and office building; erection of a bungalow and ancillary parking", showed building A marked as a shop/office.

31. Policy DMH3 'Office Conversions' from the LP supports the demolition and redevelopment of office accommodation where they are found to be redundant. I note the letter dated 3 August 2018 from a person who was employed by the agent who handled the sale of the site in June 2013. The letter sets out reservations about focussing the sale on the commercial element of the site with the office building, as there would be unlikely to be any commercial appetite for such an office space given its remote location. However, there is little to back up this opinion and it does not give any current view about whether the office could be considered redundant. The view given is also in a letter from over three years ago and it reflects on advice given in 2013. It is therefore not an up-to-date market assessment. I note the layout back in 2013 did not have an overall office layout. However, decisions presumably taken to have such an internal layout at that time should not in my view detract from the fact that the lawful use of the building was/is as an office/shop.

32. Policy DME2 from the LP also allows for the loss of employment floorspace or land outside of designated employment areas subject to meeting various criteria which include showing that the: *ii) the site is unsuitable for employment re-use or development because of its size, shape, location or unsuitability of access; iii) sufficient evidence has been provided to demonstrate that there is no realistic prospect of land being reused for employment; iv) the new use will not adversely affect the functioning of any adjoining employment land*.

33. Criteria (iii) has a footnote that states: *Note that sufficient evidence should include details of marketing of the site for a minimum period of 12 months.* In this case, there is no such evidence. I have read the letter from an agent who was contacted by the appellant to give a view on the commercial/office potential of Building A. However, there is nothing to show on what basis the agent was instructed, and it appears that the agency is a residential one. I

give this letter limited weight. Also, despite what has been said about the site's location, it clearly was considered suitable for employment use in the past and unless specific evidence such as failed marketing shows that any potential office use has fallen away, there is a clear conflict with this policy.

34. I accept that the current covid-19 pandemic, which has been accompanied at times by policies to work from home, has had an immediate impact on the way and where people work. Those effects may also have longer term consequences and make the buoyancy of the office market situation uncertain. Nevertheless, in the absence of realistic evidence to show what those effects might be on the appeal site, I give generalised reports and comments little weight. The fact that other nearby businesses are not offices, does not show that there is no demand for the office use of building A.

35. The appeal development conflicts with the office and employment floorspace protection aims of policies DMH3 and DME2 from the LP.

Standard of living accommodation and policy on 'Outbuildings' – Appeal B

36. The appellant asserts that because the building is an annex it does not need to meet any set internal space standard. I disagree because I am considering an application for a self-contained residential unit. Nevertheless, as a studio for 1 person (with a shower room), it is further argued that the internal floorspace of the building would exceed what is needed to comply with table 5.1 'Minimum Floorspace Standards' from the Hillingdon Local Plan Part 2 – Development Management Policies (LP). The table relates to policy DMHB16 from the LP which seeks all housing development to have adequate internal space to provide an appropriate living environment. Table 5.1 reflects table 3.1 relevant to policy D6 'Housing quality and standards' from The London Plan 2021.

37. However, given the way the accommodation has been advertised as referred to above in ground (b), with photographs showing a double bed, it was clearly converted not for a studio but as a two-person/bed spaces one storey dwelling which requires a minimum gross internal area of 50 sqm to accord with table 5.1. Whether the existing gross internal space is 40 sqm as advertised, or at 43.45 sqm as stated in this appeal, either way there is a significant shortfall in the minimum space required needed to provide an acceptable living environment. It may be the case that the lack of built-in storage would also mean the living space is substandard, but it is the overall lack of internal space that is the prevailing concern.

38. Whilst I have been clear that I am considering a self-contained residential unit, based on the plans for the original planning permission for a garden nursery, it appears that Building B was the garage associated with the new house granted on the site which is now occupied by the appellant. It is therefore an outbuilding and notwithstanding that the kitchen has been removed and its use has ceased, it did have primary living accommodation in it. Under policy DMHD2: 'Outbuildings' from the LP, the Council seeks to strongly resist proposals for detached outbuildings which are capable of independent occupation from the main dwelling, and which effectively constitute a separate dwelling in a position where such a dwelling would not be accepted.

39. The appeal development conflicts with policies DMHB16 and DMHB2 from the LP, and policy D6 from The London Plan insofar as they seek to ensure

acceptable standards of internal living space and resist the use of outbuildings as independent residential accommodation.

Outdoor private amenity space – both appeals

40. Notwithstanding concerns about the effects of defining areas of outdoor amenity space on the GB, a large private garden could be demarcated for building A that would exceed the minimum standard set out in table 5.3 which relates to policy DMHB18 'Private Outdoor Amenity Space from the LP. For building B, the situation is less clear because the appellant suggests that the residential occupation should be considered as an annex to the host property and any outdoor amenity area could be shared with the ample space already associated with the lawful dwelling. However, given that building B would have one bedroom, the amount of space required to meet the standard in table 5.3 could also be provided. Had the appeals been allowed, these matters could have been dealt with by planning conditions.

41. The appeal schemes would accord with policy DMHB18 from the LP which aims to ensure outdoor space would be well located and usable for the private enjoyment of the occupiers of new residential development.

Springwell Lock Conservation Area

42. The Council has not identified any harm to the character or appearance of the CA and the appellant has not touched on this issue either. However, there is a statutory duty to pay to special attention to the desirability of preserving or enhancing the character or appearance of that area. Despite my concerns related to the harm to the GB, given that the CA contains other residential uses, the changes of use would preserve the significance of the designated heritage asset.

Other Considerations

43. For Building A, the property is a family home for parents and their children. It would not be appropriate to go into the details of the family circumstances in this decision, but I can assure the appellant that I have read very carefully the information submitted about the family. I recognise the closeness of the property to grandparents also means there is further childcare support that allows the parents to work. The property is also an affordable place for the family to live and they have been there for a significant time. It must, notwithstanding the fact that the occupation is unauthorised, by now be a settled base and I am acutely aware of my responsibility to have regard to what could be the consequences of Appeal A being dismissed. Nothing should be more important as a primary consideration than the best interests' of children and here that could involve the loss of their home and possible disruption to family life and their schooling.

44. However, it seems only natural to me that the grandparents would wish to continue caring and supporting the family even if that had to adapt to the family not living so immediately close. Furthermore, there is nothing to show that the attendance of the children at their current school could not continue or that the additional school and local authority care and support would stop. That said, I recognise that potential disruption to home life and education can cause uncertain times.

45. Nevertheless, a public authority may interfere with qualified rights to private and family lives, and their homes, where there is a clear legal basis for doing so and the action is necessary in a democratic society. It has been held that interference may be justified if it relates to the regulation of land use using development control measures that are recognised as an important function of Government. In this case, there are several development control planning policies that the change of use of building A conflict with, most notably in this appeal are those related to protection of the GB to which the Government attaches great importance. In my view, therefore, the interference with this home and the family lives concerned would be a justified and proportionate response. I shall though, still attach significant weight to the personal circumstances when it comes to the GB balance below, particularly so in the exercise of my duty to have due regard to the circumstances of the persons affected by this decision.

46. Regarding building B, I have again carefully read the background to why the residential use of the building would be required. I shall go into no more detail than is necessary to support my reasoning. I can understand the wish for the appellant's son to live in building B. The desire to provide him with support from family either side of what could be his place of residence is understandable. I am left with the view that this is a caring family trying to do their best for a member of that family.

47. Whilst, in Appeal B my decision is not directly interfering with the home of the person in mind as the building is unoccupied and that person already lives elsewhere, there is an interference with private and family lives. Nevertheless, for the same reasons as given above, these are qualified rights, and the interference is proportionate and justified. The planning system can sometimes resolve concerns about where someone is living, but in this case, they should be resolved away from this appeal. Having due regard to the personal circumstances cited in Appeal B, I attach them moderate weight, but that is not to denigrate the laudable intentions of the family.

48. I have noted that the building was occupied by other persons, including the appellant's brother. However, there is nothing to support a current need for such accommodation. This background has very little weight.

49. I note the planning permission granted by the Council for a single storey gym/office/store at another property along Springwell Lane. However, having read the Council officer report, whether the planning policy context has changed or not, the other site is not in the GB and therefore not subject to the tight GB restrictions relevant in these appeals. Moreover, the other development was not for a self-contained residential unit. The other planning permission has very little relevance and as such has very little weight.

50. I saw the block of flats opposite the appeal site that are also in the GB. There is very limited detail to show the considerations that led to the flats being granted planning permission in 1998 and so I cannot draw any meaningful comparisons with the developments I am considering. They are also a materially different form of development to buildings A and B. The 1998 planning permission for the flats has very little weight. The proposed scheme nearby in 2015 for up to 122 residential units was never determined. The absence of a planning permission means this formerly proposed scheme also has very little weight.

51. I note other considerations raised about the background to the PA applications made related to Building A and matters of flood risk and condition 12 on the 1990 planning permission for the garden nursey use. However, based on the cases made in these appeals, these are not determinative matters and as such I have not had to consider them. These points have very little weight. Concerns about how the Council has handled the enforcement investigations and engaged with the appellant, and what happened when Council officers visited the site in August 2020, are separate to considering the planning merits of the appeals. They too have very little weight.

Green Belt Balance

Appeal A

52. I have identified harm to the GB by way of inappropriateness and to its openness. Substantial weight must be given to any harm to the GB. I have also found harm related to conflicts with development plan policies that seek to safeguard the loss of office/employment land. I attach substantial weight to this harm as well. On the other side of the balance, I have attached significant weight to the personal circumstances cited, but for the other considerations I have attached very little weight for the reasons given. Findings of no harm related to the lack of identified outdoor amenity space and to the CA are neutral considerations with no weight either way.

53. Even though the family situation has significant weight, that, along with the totality of the weights arising from the other considerations, does not clearly outweigh the harm so as to amount to the very special circumstances required to justify the proposal. As such, the development conflicts with the GB protection aims of policy DMEI4 from the LP and policy G2 from the London Plan 2021. There are further conflicts with policies DMH3 and DME2 from the LP for the reasons already given. The development does not accord with the development plan taken as a whole.

Appeal B

54. I have identified harm to the GB by way of inappropriateness and to its openness. Substantial weight must be given to any harm to the GB. I have also found harm related to conflicts with development plan policies that seek to provide appropriate standards of living space and seek to resist the use of detached outbuildings which are capable of independent occupation from the main dwelling, and which effectively constitute a separate dwelling in a position where such a dwelling would not be accepted. I attach substantial weight to these harms as well. As with Appeal A, no harm related to the lack of identified outdoor amenity space and to the CA are neutral considerations with no weight either way.

55. For the reasons given, the cumulative weight of the other considerations does not clearly outweigh the harm so as to amount to the very special circumstances required to justify the proposal. As such, the development conflicts with the GB protection aims of policy DMEI4 from the LP and policy G2 from the London Plan 2021. There are further conflicts with policies DMHB16 and DMHB2 from the LP, and policy D6 from The London Plan for the reasons already given. The development does not accord with the development plan taken as a whole.

Further GB balance

56. It is apparent that although the appeals are separate and against two ENs, the family circumstances between Buildings A and B, and with the appellant's property, are intertwined. For the avoidance of doubt, I wish to make it clear that even if I took all the other considerations into account from both appeals, their cumulative weight would still not outweigh the harm to the GB and any other harm, for both appeals. Thus, the very special circumstances required to justify the developments would still not be demonstrated.

Ground (a) Conclusions – both appeals

57. For the reasons given, the ground (a) appeals fail, and I shall refuse to grant planning permission for the applications deemed to have been made under s177(5) of the 1990 Act.

Appeal B - ground (f)

58. The EN alleges a material change of use to a self-contained residential unit. In broad terms it then requires the fixtures and fittings installed to facilitate that use to be removed and taken away. Thus, the EN is setting out to have the building back to its condition before the breach took place. On this basis, the purpose of the EN is that under s173(4)(a) of the 1990 Act which is to remedy the breach of planning control. This sets the context for considering whether the steps the EN require to be taken exceed what is necessary to remedy the breach of planning control. Furthermore, whilst I am aware of works already undertaken to remove the kitchen facilities, for example, that has no bearing on whether this requirement is excessive. It just means that some steps might have already been complied with.

59. Step (i) requires the use to cease. The unit has not been occupied for a few years. Nevertheless, it must be a requirement in an EN alleging a material change of use for that use to cease. This is not an excessive requirement. Step (ii) relates to removing the kitchen facilities. It is not excessive in material change of use cases for items installed that facilitated the use for them to be removed. Although the appellant states that the garage had a butler sink and hot and cold water prior to the kitchen being fitted, it has not been shown that the hot and cold supply was not installed to facilitate a self-contained residential use. Accordingly, step (ii) is also not excessive.

60. An essential part of self-contained living would be bathroom and WC facilities. For them to be removed is also not therefore excessive. Step (iii) should remain unchanged. Any future arrangements such as the wish to have a bedroom and a bathroom in the building is a matter for discussion with the Council away from this appeal.

61. There is no scope under s173(4)(a) to require reversion to the lawful use. Thus, the EN should not require the use to be back to a garage and store and step (iv) should be deleted. Regarding step (v) it appears that the garage building differs from the appearance of what was granted planning permission in 1990. However, it seems to me that if I consider what is the minimum necessary to remedy the breach, requirements (i) to (iii) do that in a proportionate way without putting more burden on the appellant. I therefore consider that requirement (v) is excessive, and I shall delete it from the EN.

Step (vi) is not excessive as part of restoring the land back to its condition before the breach took place.

62. In view of the above, there is partial success under this ground of appeal, and I shall vary the requirements of the EN accordingly.

Conclusions

Appeal A

63. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

64. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Gareth Symons

INSPECTOR

APPENDIX 5

Appeal Decision Against Enforcement Notice

HS/ENF/11794(C)

Appeal Decision

Hearing Held on 11 December 2018
Site visit made on 11 December 2018

by Chris Preston BA(Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2019

Appeal Ref: APP/R5510/C/17/3184266
Land at Summerfield Bungalow, Watercress Beds, Springwell Lane, Harefield, Rickmansworth WD3 8UX

- 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 Andrew Travers against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice, numbered HS/ENF/11794(C), was issued on 15 August 2017.
- The breach of planning control as alleged in the notice is: Without the benefit of planning permission, the material change of use of the land to a mixed use including:
  (1) The use of the building marked A on the attached plan as a self-contained residential unit;
  (2) The use of the building marked B on the attached plan as a commercial photography studio;
  (3) The use of the hard-surfaced area crosshatched in blue on the attached plan for commercial vehicle parking and general commercial storage;
  (4) The use of the building marked C on the attached plan as a dwellinghouse;
  (5) The use of the building marked D on the attached plan as a commercial furniture manufacturing workshop.
- The requirements of the notice are:
  (i) Cease the use of the building marked A on the attached plan as a self-contained residential unit;
  (ii) Remove from the building marked A on the attached plan all kitchen facilities to include worktops, cupboards, cooker/hob and sink;
  (iii) Cease the use of the building marked B on the attached plan as a commercial photography studio;
  (iv) Remove from the building marked B on the attached plan all commercial photography equipment to include lighting, screens and cameras;
  (v) Cease the use of the hard-surfaced area crosshatched in blue on the attached plan for commercial vehicle parking and general commercial storage;
  (vi) Cease the use of the building marked C on the attached plan as a dwellinghouse;
  (vii) Remove from the building marked C on the attached plan all beds and associated furniture;
  (viii) Cease the use of the building marked D on the attached plan as a commercial furniture manufacturing workshop;
  (ix) Remove from the building marked D on the attached plan all equipment and associated materials used in connection with the manufacturing of furniture; and
  (x) Remove from the Land all materials, debris, plant and equipment associated with requirements (i) to (ix) above.
- The period for compliance with the requirements is six calendar months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (d), (f) 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 under section 177(5) of the Act.

Decision

1. The enforcement notice is quashed.

The Appeal on Ground (b)

2. The enforcement notice alleges a material change of use of the land to a "mixed use" comprising a number of different elements, including the creation of a self-contained residential unit, the use of a building as a photography studio, the use of an area of hardstanding for commercial vehicle parking, the use of a building as a dwellinghouse and the use of a further building for the manufacturing of furniture.

3. The disputes that certain elements have occurred at all, for example, whether building A has been used as a separate residential unit. However, more fundamentally, he disputes that the land had a "mixed use", as described in the notice and contends that a number of separate breaches have occurred resulting in the formation of separate planning units. The Council maintains that a material change of use to a mixed use, as described in the notice has occurred on the basis that the site is served by a single access and its view that there is no physical and functional separation between the different uses[1].

4. In terms of the history of the site, a planning application was submitted in 1968 for the change of use of the land to a garden nursery and for the erection of an associated shop and office building, a parking area and a 4 bedroom bungalow. A significant period of time elapsed before the application was approved in 1990 and work on the scheme commenced in 1993. There is no dispute that the permission was lawfully implemented. The buildings referred to as A, B, C and D on the enforcement notice were all constructed as part of that consent for various purposes associated with the permitted use.

5. From the discussion at the Hearing it appears that the garden nursery business did become operational but that the use had ceased to operate before the site was purchased by the appellant. Nonetheless, at that point in time it would appear that there was a single unit of occupation and that the lawful use was that of a garden nursery and various other uses that were ancillary to that use, including a shop and offices. The bungalow would seem to have been intended for occupation by those working in the garden nursery but it does not appear that a restrictive condition tying occupation to those involved in the operation of the nursery was imposed. Certainly, the Council does not seek the cessation of the residential use of the bungalow as part of the enforcement proceedings.

6. In cases where there is a dispute as to whether a material change of use has occurred, it is first necessary to ascertain the correct planning unit. The leading judgement on the subject is *Burdle*[2] and that case established useful criteria for determining the correct planning unit. Whenever it is possible to identify a single main purpose of an occupier's use of land to which secondary activities are incidental or ancillary, the whole unit of occupation should be considered. That would be the case for the garden nursery described above

[1] As set out in the email from Mr Volley, dated 03 July 2018, submitted in response to my pre-hearing query, sent via the case officer in a letter dated 15 June.
[2] Burdle and Williams v SSE and New Forest DC [1972] 1 WLR 1207

but is not apt to describe the alleged use in the enforcement notice which refers to a number of different uses, none of which would appear to be ancillary or incidental to a given primary use.

7. Secondly, the judgement identified that it may be appropriate to consider the entire unit of occupation in the case of a composite or mixed use where an occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another and where those uses are not confined within distinct and separate parts of the site. Thirdly, it may frequently occur that on a single unit of occupation two or more physically separate and distinct areas of land are occupied for substantially different and unrelated purposes. In such a case each area used for a different main purpose, together with its incidental and ancillary activities ought to be considered as a separate planning unit.

8. In my view, that third scenario is precisely what is described in the enforcement notice which identifies a number of unrelated uses in distinct parts of the site. There is no dispute that some of the alleged components of the breach have occurred[3]. Building B is a photography studio that is used for business purposes by the appellant's son in law who has a photography business. Clients come to have photographs taken in the building and it is also used as a small office in relation to the business. It is a distinct use in a clearly defined part of the site.

9. Building C is in use as a dwellinghouse with a fully equipped kitchen, living and dining areas, bathroom and three bedrooms. It is occupied by the appellant's daughter, her husband and their children. Whilst they may be relatives of the appellant they clearly have their own lives. The appellant's daughter travels to work each day and the children no doubt continue a range of school and other activities. In other words, the occupation of the house by the family takes place independently of the other uses that are taking place on the land. A small area to the front of the dwelling is fenced off and a parking area is available which appears to serve the house. Notwithstanding that the land to the rear is open and not fenced in it is very clear that the way in which the building is occupied represents a separate dwellinghouse and that a new planning unit was formed when that house was created.

10. The Council has referred to an appeal decision in which an Inspector found that a dwellinghouse was part of a wider planning unit comprising a mix of uses. However, that case related to a dwelling and associated farmland. From reading the decision it appears that part of the unit was being used as a campsite. The functional relationship between dwellings and associated farmland is often complex and there is a direct relationship between the use of the farmhouse and the use of the land. I find no such connection in this instance between the residential use of Building C and the other uses taking place on the land.

11. The hard-surfaced area hatched in blue on the plan attached to the notice was used for commercial vehicle parking and general commercial storage by a local building company. The use took place on a specific area of land to the west of the site and was unconnected with any other activity that was taking place.

12. There is some dispute as to whether Building D has been used for furniture manufacture. The appellant accepts that he has used part of the building for

[3] Section 5 of the Statement of Common Ground

the assembly of flat-pack furniture in connection with his business of installing pre-manufactured bedroom furniture. Thus, he argues that furniture is assembled rather than manufactured. Whatever the nuances between those terms may be has little bearing on whether the building is occupied as a separate unit. However the use is described it took place in a separate building in a specific part of the site with no functional connection between the other uses that were taking place.

13. I should also stress that, at the time of my visit, part of the building had been let to a local building/ joinery firm for the storage of materials and equipment. It is not clear if it was being used for that purpose at the time the notice was served and limited evidence on that point has been provided by either party. Whatever the precise use was, there is no suggestion that it was in any way connected with any other activity that was taking place at the site. The building is at the western end of the land and is separated from the buildings in residential use and the photography studio by a line of fencing.

14. Building A is described in the enforcement notice as a "self-contained residential unit". By its nature, that description indicates that the Council considers that the building is used independently and not for a purpose that is ancillary to any other use that is taking place on the site. The Council has referred to advertisements placed on the internet offering the property on a short term let and they would indicate that the building has all of the facilities required for day to day living and that, at the very least, the appellant has furnished it and attempted to let it on that basis.

15. The appellant contends that the accommodation was formed by converting the garage associated with the lawful dwellinghouse which is directly adjacent and that the use has been ancillary to the use of the dwellinghouse. The ultimate intention is for the appellant's son to live in the building but future intentions are not relevant in establishing whether a breach of planning control has occurred. The question is whether the breach had occurred at the time the notice was served. The onus rests with an appellant to demonstrate his case.

16. From what I heard at the Hearing the building has been used by family members, including those staying whilst visiting relatives in a local hospital. Visits by family members could be said to be ancillary to the use of the adjacent dwelling but the fact that the property was advertised for rent indicates a likelihood that it may well have been occupied independently. It is difficult to form a definite conclusion on the limited evidence presented.

17. If the building had been used as a separate dwellinghouse it is likely that a new planning unit would have been created. If the use was ancillary to the adjacent dwelling it would have remained as part of a planning unit associated with that property. In either case, I can see little or no connection with the other uses that have taken place.

18. At paragraph 3.18 of its statement of case the Council states that; "none of the breaches alleged in the notice are ancillary or incidental to the approved dwellinghouse because they represent a primary use / or are being used by a third party not associated with the appellant". I note the reference to "breaches" in the plural and acknowledgement that the Council considers each element to be a primary use.

19. Having regard to all of the above I am firmly of the view that the land and buildings have not been put to a mixed use, as alleged in the notice, but that a number of independent and unrelated uses have been created, resulting in the formation of multiple planning units. The site as a whole may remain under the ownership of the appellant but ownership is not indicative of use. The fact that there is a single point of access does not alter my conclusion. Whilst one a smaller scale, the situation is no different to a business or retail park, where a single access and car park may serve multiple different units or shops, each which would continue to be recognised as a separate planning unit. Each of the uses seemingly takes place independently of any other use and each is in a clearly defined building and/or part of the land.

20. I find it unnecessary to draw a firm conclusion on whether Building A was used as an independent dwelling or as an annex to the lawful dwellinghouse. A conclusion on that question would affect the number of individual planning units that have been created but, fundamentally, would not alter my conclusion that the development that has taken place is not a mixed use, as described in the enforcement notice.

21. For the reasons set out I conclude that the breach of planning control, as described in the notice, has not occurred as a matter of fact. Consequently, the appeal on ground (b) succeeds. I have considered whether it would be possible to correct the notice but I would not be able to do so without causing injustice to the parties for a variety of reasons.

22. In relation to any appeal on ground (a), an assessment of the planning merits may be different if one was looking at the use as a single mixed use, with multiple component parts, as opposed to assessing a number of separate breaches of control. For example, compliance or otherwise with Green Belt policy may be affected by that approach and the parties would no doubt wish to make representations.

23. Similarly, in relation to the time limits for taking enforcement action, set out at section 171B of the Town and Country Planning Act, the relevant period for taking enforcement action against a material change of use to a mixed use would be 10 years, as is stated in the notice. However, the time period for taking enforcement action against a material change of use of a building to use as a dwellinghouse is 4 years. The appellant contends that the dwellinghouse at building C has been used for that purpose for at least 4 years prior to the service of the enforcement notice. I make no assessment of that claim but it is clear that the definition of the correct planning unit has direct implications for any appeal on ground (d) and the parties would no doubt wish to make representations based on the correct time limit.

24. Those reasons spell out the importance of defining the correct planning unit and defining the breach correctly in the first instance.

25. On a practical level, the plan attached to the notice would also need to be amended to reflect the boundary of each planning unit and to unilaterally do so without the opportunity to comment could cause prejudice. For all of those reasons, the most appropriate course of action is to quash the notice. It would be for the Council to decide if it wished to issue further notices in relation to the specific components of the alleged breach. I make no comment on the merits of that approach or on the legality or planning merits of any of the

individual components. My conclusion is simply that the breach, as presently alleged, has not occurred.

26. In view of the success on ground (b) the enforcement notice will be quashed. In these circumstances the appeal under the various grounds set out in section 174(2) to the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not need to be considered.

Chris Preston

INSPECTOR

APPENDIX 6

Relevant Planning Policies

Relevant Planning Policies

Hillingdon Borough Council Local Plan Part 1 – Strategic Policies

Policy EM2- Green Belt, Metropolitan Open Land and Green Chains

The Council will seek to maintain the current extent, hierarchy and strategic functions of the Green Belt, Metropolitan Open Land and Green Chains. Notwithstanding this, Green Chains will be reviewed for designation as Metropolitan Open Land in the Hillingdon Local Plan: Part 2- Site Specific Allocations LDD and in accordance with the London Plan policies.

Minor adjustments to Green Belt and Metropolitan Open Land will be undertaken in the Hillingdon Local Plan: Part 2- Site Specific Allocations LDD.

Any proposals for development in Green Belt and Metropolitan Open Land will be assessed against national and London Plan policies, including the very special circumstances test.

Any proposals for development in Green Chains will be firmly resisted unless they maintain the positive contribution of the Green Chain in providing a visual and physical break in the built-up area; conserve and enhance the visual amenity and nature conservation value of the landscape; encourage appropriate public access and recreational facilities where they are compatible with the conservation value of the area and retain the openness of the Green Chain.

Hillingdon Borough Council Local Plan Part 2 – Development Management Policies

Policy DMEI 4- Development in the Green Belt or on Metropolitan Open Land

A) Inappropriate development in the Green Belt and Metropolitan Open Land will not be permitted unless there are very special circumstances.
B) Extensions and redevelopment on sites in the Green Belt and Metropolitan Open Land will be permitted only where the proposal would not have a greater impact on the openness of the Green Belt and Metropolitan Open Land, and the purposes of including land within it, than the existing development, having regard to:

i) the height and bulk of the existing building on the site; ii) the proportion of the site that is already developed;
ii) the footprint, distribution and character of the existing buildings on the site;
iii) the relationship of the proposal with any development on the site that is to be retained; and
iv) the visual amenity and character of the Green Belt and Metropolitan Open Land.

Policy DMHB 18- Private Outdoor Amenity Space

A) All new residential development and conversions will be required to provide good quality and useable private outdoor amenity space. Amenity space should be provided in accordance with the standards set out in Table 5.3.
B) Balconies should have a depth of not less than 1.5 metres and a width of not less than 2 metres.
C) Any ground floor and/or basement floor unit that is non-street facing should have a defensible space of not less than 3 metres in depth in front of any window to a bedroom or habitable room. However, for new developments in Conservation Areas, Areas of Special Local Character or for developments, which include Listed Buildings, the provision of private open space will be required to enhance the street scene and the character of the buildings on the site.
D) The design, materials and height of any front boundary must be in keeping with the character of the area to ensure harmonisation with the existing street scene.

London Plan

Policy G2- London's Green Belt

A) The Green Belt should be protected from inappropriate development:
    1) development proposals that would harm the Green Belt should be refused except where very special circumstances exist,
    2) subject to national planning policy tests, the enhancement of the Green Belt to provide appropriate multi-functional beneficial uses for Londoners should be supported.

B) Exceptional circumstances are required to justify either the extension or designation of the Green Belt through the preparation or review of a Local Plan.