

APPENDIX A: PLANNING HISTORY OF SITE

A.1 The site has a long and somewhat complicated planning history. However, the Planning Inspector's decision notice (paragraphs 6 and 7) for the Enforcement Notice appeals provides a useful summary:

Para.6

"...The single-storey building from which the terrace has been formed dates back to the 1930s. An approval given by the then local Council in 1935 was for the "re-building of a laboratory building"...In the 1960s, it was converted to provide three flats. In the 1980s, in the flat corresponding to the dwelling now known as "Woodside", the roof space was converted to provide rooms at first floor level".

Para.7

"...Threefields and its attendant land and outbuildings were sold in lots in 2006. The building was described in the sales particulars as "the cottages". It was purchased, along with Threefields and other land and buildings, by Thorne Barton Estates Ltd..."
The Enforcement Investigation

A.2 On 12 June 2007, the Council received a complaint that building works were taking place without the benefit of planning permission. A site visit took place on 13 June 2007 to ascertain if any development was taking place.

A.3 Subsequent to this initial action Planning Enforcement proceeded to investigate the construction works in an effort to gain a greater understanding of what the buildings looked like previously, what works had taken place, and how the works had taken place and by whom.

A.4 This involved lengthy correspondence between the Council and Thorne Barton Estates (TBE), contacting the owners / occupiers of the five dwellings in 2009, serving Planning Contravention Notices, further site visits, measuring the buildings, researching the history of the site, going through aerial photographs, and looking at land registry and local land charges details.

A.5 This investigation concluded that substantial alterations had been carried out at the site without the required planning permission or building regulations. Most notably three bungalows with a single storey garage at the southern end and an open sided storage area on the northern side had been converted into five two-storey dwellings. A diagrammatic representation of the five dwellings is shown below:

GABLE END	MEADOW VIEW	APRIL COTTAGE	WOODSIDE	BIRCH COTTAGE
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A.6 Further works undertaken to the buildings at the site comprise the following:

- The height of the row of properties had been significantly increased, by at least 1.5 metres, allowing them to become two-storey.
- A new roof had been provided, introducing 9 dormer windows on the western elevation and 12 dormer windows on the eastern elevation.
- Canopy porches had been introduced to the eastern elevation.
- The hipped roof at the southern end of the building had been changed to a gable end.
- The exterior of the building had been re-clad with timber weather boarding.

A.7 In addition to the above building works, the development incorporated agricultural land on either side into the residential curtilage of the new dwellings. On the western side a large area of agricultural pasture became the rear gardens for the five properties, while on the eastern side a significant area of hard paving was laid to create a large parking area in land that was not previously used for residential purposes.

A.8 Finally, boundary walls, gates and fencing associated with the above works had been constructed / erected.

A.9 As a result of all these works Officers concluded that significant harm had been caused to the Green Belt, and that it would serve no purpose to invite the occupiers to submit planning applications to retain the development as built as they would have to be refused, thereby serving only to delay the enforcement process.

The Enforcement Notice

A.10 Enforcement Notices were served on the five dwellings on 26 February 2010. With respect to Gable End the breaches of planning control were:

1. The construction and erection of a new dwelling and creation of hard standing.
2. The construction and erection of a boundary wall, exceeding two metres in height.
3. The material change of use of the land from agricultural land to a residential garden.

A.11 The Enforcement Notice required the following to be undertaken:

- (i) Demolish the dwelling / hard standing and remove all materials used in their construction from the land.
- (ii) Demolish the boundary wall and remove all materials used in their construction from the land.
- (iii) Cease using the land as a residential garden.
- (iv) Cease mowing the land as residential garden.
- (v) Remove all residential items and paraphernalia from the land.

A.12 Similar enforcement notices were served on the four other properties that form this development.

The Appeal

A.13 The Council received notification of the appeal against the Gable End Enforcement Notice on 20 April 2012 (DBC ref: 4/00615/10/ENA). The other four enforcement notices were equally appealed and all five cases were conjoined for the purpose of the appeal.

A.14 This appeal took place in the Civic Centre and on site in the form of a Hearing on 14 and 15 September 2010. All the appellants were jointly represented by a planning consultant. None of the appellants attended the Hearing, though Mr Pitblado was in attendance during the site visits.

A.15 The Planning Inspector's decision letter was issued on 1 October 2010. In brief the Inspector considered that the middle three dwellings did not amount to the '*construction of a new dwelling*' as alleged in their respective Enforcement Notices because original brickwork had been revealed by removing the new cladding during the appeal site visit. Rather the middle three dwellings had been '*extended and converted into two-storey dwellings*'. Therefore, these three enforcement notices required correction and they were quashed.

A.16 Conversely, with regards to the outer two dwellings (Gable End and Birch Cottage) the Inspector agreed with the Council that they are newly built dwellings, that they represent inappropriate development in the Green Belt, that the development causes harm to the openness to the Green Belt, that the development gives rise to harm to the character and appearance of the area, and that there were no very special circumstances put forward that would outweigh the harm to the Green Belt and any other harm.

A.17 As such the appeals against the Gable End and Birch Cottage were dismissed.

A.18 On 11 May 2011 the owner of Gable End and the tenant of Birch Cottage made an application to the High Court for permission to appeal under s.289 of the Town and Country Planning Act 1990. Permission to appeal was granted.

A.19 On 21 December 2012 the High Court dismissed the appeal. As such, the Enforcement Notices relating to these two dwellings took effect. The dwellings known as Gable End and Birch Cottage had to be demolished and the gardens returned to agricultural land by 21 December 2013. It should be noted that Birch Cottage has been demolished and no longer exists.

Enforcement work post appeal decision

A.20 On 17 January 2014 the Council wrote to Mr & Mrs Pitblado (Gable End) and Thorne Barton Estates (Birch Cottage) for an interview under caution as the period for compliance had passed.

A.21 Mr Pitblado attended an interview under caution on 12 February 2014. During this interview Mr Pitblado:

- Acknowledged that he had the Enforcement Notice requiring the premises to be demolished and the boundary wall removed.

- Understood all the requirements of the Enforcement Notice.
- Understood that he should have complied by December 2013.
- Admitted that he had complied with no requirement within the Enforcement Notice.
- Stated that his legal team have told him to carry on as normal.
- Stated that he had moved out of the property in October 2012.

A.22 During the interview Mr Pitblado described his grievance against the actions of Dacorum Borough Council.

A.23 On 17 March 2014 Mr Pitblado called the Case Officer for an update. Both parties' next steps in this matter were discussed. In addition, when asked why Gable End was being advertised for rent, Mr Pitblado said he had been advised to do this.

A.24 A second interview under caution was undertaken at the Council's offices on 17 November 2014. Mr Pitblado repeated the points he made criticising the actions of his solicitor at the time of the purchase and the Council's immediate enforcement investigations. Mr Pitblado stated that court proceedings would cost all parties a lot of money and that if he were forced to demolish his property and Santander asked for their money back, then he would go bankrupt.

Court Hearings

A.25 On 16 March 2018 before the District Judge (at Stevenage Magistrates Court) Craig and Lorraine Pitblado were convicted for the offence of failing to comply with the requirements of the Enforcement Notice relating to their property, Gable End.

A.26 Mr & Mrs Pitblado appealed this conviction and a Hearing took place at St. Albans Crown Court on 16-17 & 30 May and 7 June 2019. For the first time the Pitblados introduced the argument that they had a defence under s.179(3) of the TCPA 1990 in that they could not afford to undertake the works required by the Enforcement Notice.

A.27 The Judge ruled that the elements of the offence had been made out. However, the Judge ruled that, on the balance of probabilities, the Pitblados had established a s.179(3) defence in respect of step (i) of the Enforcement Notice. In other words, the Judge accepted that they were incapable of meeting the requirement to demolish the house and hardstanding due to lack of funds. Consequently, the Judge found Mr & Mrs Pitblado not guilty in respect of step (i) (as well as step (v), which was considered ancillary to the dwelling). Paragraph 4.11 above refers to explains the steps the owners were required to take.

A.28 In respect of step (ii) the Judge ruled that there was insufficient evidence to be sure that the Mr & Mrs Pitblado owned the boundary wall. In those circumstances the Judge ruled that the Pitblados were not guilty of the breaching the Enforcement Notice in respect of this step also.

A.29 Conversely, the Judge found Mr & Mrs Pitblado guilty in respect of the offence of failing to comply with steps (iii) and (iv) of the Enforcement Notice. The Judge

ruled that it was plainly in the power of the Pitblados to cease using the land as a residential garden and to stop mowing it, but that they did not do so.

A.30 The Judge reiterated in the ruling that the outcome of the Crown Court hearing related exclusively to the alleged offence of failing to comply with steps contained within the Enforcement Notice. The Judge confirmed that the outcome of the hearing does not affect or challenge the validity of the notice nor the enduring nature of its terms.

A.31 A sentencing hearing took place on 04 September 2019. Mr Pitblado was given a fine of £120 and Mrs Pitblado given a complete discharge. The Judge ruled that the fines and costs incurred by the Pitblados in the Magistrates Hearing still stood.