

Response to your written enquiry of 06/09/2011 & personal chaser visit to reception on 12/09/2011 from Ms Z Jeffers for history search on Windyridge, Oak Road, Crays Hill,

Dear Ms Jeffers

**RE – WINDYRIDGE, OAK ROAD, CRAYS HILL, BILLERICAY, ESSEX**

I refer to your written enquiry of 6<sup>th</sup> September 2011 & personal visit to Customers Services reception on 12<sup>th</sup> September 2011 chasing up a response, in which you asked the Council's Planning Services to carry out a full history search of the property mentioned above. Thank you for your payment of £57.00 for said search, paid on Monday 12<sup>th</sup> September 2011

Our records go back as far as 1948, when the first Town and Country Planning Act became effective. We have no records of planning permission for the original construction of the property. The indications are that it was built pre-war & therefore did not require planning permission. Please find attached in a table format the planning applications for the above-mentioned property.

<b>WINDYRIDGE, OAK ROAD, CRAYS HILL, BILLERICAY, ESSEX</b>			
<b>Planning Entries</b>			
<b>Application Ref</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
R/1142/73	Extension (Building Regulation only)		
ENF/24/87	Three enforcement notices were issued in May 1986 against the unauthorised erection of buildings, the stationing of residentially used caravans and the change in the use of a building for residential purposes. Appeal were lodged against the notices and a Local Public Inquiry was held in June 1987	The Inspector's decision letter was issued in July 1987. It was a split decision see decision letter.	
BAS/979/88	Single Storey Rear Extension	<b>Granted</b>	<b>17.08.1988</b>
BAS/1331/89	Demolish Part Existing & Re-Build Front Extension	<b>Granted</b>	<b>10.11.1989</b>

I hope the above information satisfactorily addresses your enquiry and close with the request that you contact me on 01268 294154 if you have any queries regarding this email.

With regards

Sandra M Hulme  
Planning Administration Manager  
19/09/2011

BW



Department of the Environment and  
Department of Transport

Common Services

Room 1410 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218915

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GTN 2074

Council ref: TH/72/86

RECEIVED  
LEGAL DIVISION  
6 3 AUG 1987

Messrs E Edwards, Son & Noice  
Three Horseshoes House  
139 High Street  
BILLERICAY  
Essex  
CM12 9AF

Your reference  
50/1f/34456  
Our reference  
T/APP/V1505/C/86/1896,98,1900/P6  
Date

29 JUL 87

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 SECTION 88 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
APPEALS BY MR A G GRIDLEY  
LAND AT WINDY RIDGE, OAK ROAD, CRAYS HILL, BILLERICAY

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeals against 3 enforcement notices issued by the Basildon District Council concerning the above mentioned land. After adjournments on 3 February and 22 April, I held an inquiry into the appeals on 3 June 1987.

NOTICE 1

- 2. a. The notice was issued on 2 May 1986.
- b. The breach of planning control alleged in the notice is the carrying out on land at Windy Ridge, Oak Road, Crays Hill, Billericay, shown edged red on Plan A attached to the notice, of building, engineering, mining or other operations, namely:
  - i. the construction of a building for use as a dwelling house (coloured blue) and
  - ii. the erection of buildings (coloured pink)
 both shown on Plan B attached to the notice, without the grant of planning permission required for that development.
- c. The requirements of the notice are the removal of the buildings referred to at 2b above.
- d. The period for compliance with the notice is \_ months.
- e. The appeal was made on the grounds set out in Section 88(2) (a), (b), (c), (d), (e), (g) and (h) of the 1971 Act, as amended.

NOTICE 2

- 3. a. The notice was issued on 2 May 1986.
- b. The breach of planning control alleged in the notice is the making of a material change in the use of land at Windy Ridge, Oak Road, Crays Hill,

Billericay, shown edged red on the plan attached to the notice, to use for the stationing of a mobile home for residential purposes and the stationing of a touring caravan, without the grant of planning permission required for that development.

- c. The requirements of the notice are the removal of the mobile home and touring caravan.
- d. The period for compliance with the notice is 2 months.
- e. The appeal was made on the grounds set out in Section 88(2) (a), (b), (c), (d), (e), (g) and (h) of the 1971 Act, as amended, but at the inquiry grounds (c), (d) and (e) were withdrawn.

#### NOTICE 3

- 4. a. The notice was issued on 2 May 1986.
  - b. The breach of planning control alleged in the notice is the making of a material change in the use of land at Windy Ridge, Oak Road, Crays Hill, Billericay, shown edged red on Plan A attached to the notice, to use as a dwellinghouse of a building shown coloured blue on Plan B attached to the notice, without the grant of planning permission required for that development.
  - c. The requirements of the notice are to cease the use specified at 4b above.
  - d. The period for compliance with the notice is 2 months.
  - e. The appeal was made on the grounds set out in Section 88(2) (a), (b), (c), (d), (e), (g) and (h) of the 1971 Act, as amended.
5. The evidence was taken on oath.
6. The appeal site is a rectangular plot of land lying on the south side of Oak Road within an area of sporadic development at Crays Hill. The main building on the site is a single storey dwelling, with an overall size (excluding the attached conservatory/green house) confirmed at my site inspection to be some 23 ft by 20 ft. It is this dwelling which is referred to in both Notice 1 and Notice 3 and, whilst there is no dispute as to the present use, there is at issue the question of how and when the dwelling came into existence. In the circumstances I find it convenient to consider Notices 1 and 3 together.

#### THE APPEALS AGAINST NOTICES 1 AND 3

7. Turning first to the appeals on ground (b). I accept that there has been a building on the site for some considerable time, but I do not find any evidence sufficient to persuade me that the building was constructed as a dwelling; or that the current building relates to the building on the site in the 1940's; or that residential occupation commenced before 1 July 1948. Furthermore, in respect of the building coloured blue on Plan B attached to the notices, I see no other basis to conclude that the matters alleged in the notices do not constitute a breach of control and consequently your client's appeals on ground (b) must fail. I shall also need to consider the ground (b) argument in relation to the various other buildings included in Notice 1, but find it more convenient to first reach a conclusion on the building coloured blue.

8. The development in question concerns a single dwellinghouse. Therefore, by virtue of Section 88(4) (paragraphs (a) and (c)) of the 1971 Act, as amended, it seems to me that ground (d) rather than ground (e) is the appropriate defence in respect of both notices. The key date is thus 2 May 1982. I see no reason to deal at length with the testimony concerning the earlier years, but intend to concentrate upon the evidence relating to the period between 1978 and 1986.

9. It is appropriate to take 1978 as a starting point as there was broad agreement that the physical circumstances at that time were, with one exception, generally as recorded in the photographs and notes submitted by the council. At that time the property was unused, in a poor state of repair and the surroundings overgrown. The difference between the parties concerns the size of the building in 1978. I shall return to that point later but, ignoring for the moment the actual dimensions, I have no reason to doubt that the present building occupies substantially the same position as the building in 1978.

10. For the council it is submitted that the building recorded in 1978 did not amount to a dwelling; that the aerial photograph of 2 April 1980 does not show any activity on the site; that the yearly Register of Electors does not record any residential occupation of Windy Ridge until 1986; that the property was not rated until November 1983, and then as a "caravan and pitch"; and that the content of correspondence relating to the site indicates that the building had not been reconstructed as recently as 1 April 1975. However, there was apparently no specific visit to the site by officers of the council between 1978 and 1985 and I do not believe that the deductions that the council seek to make from the documents to which they refer is to be preferred to the first-hand testimony of Mrs Allnutt, Mr Allnutt and Mr Selway. There was some uncertainty as to the precise date that the work on the building was completed, but Mr Selway - who explained that he did the work himself over a matter of weeks while living in a caravan on the site - related it to the date of his marriage and put it before the end of 1981. Moreover, Mr Allnutt recalled that the work had been undertaken before a Miss Pat Hunter lived at Windy Ridge, and by reference to the records for the Mixed Pairs Darts Team at the Prince of Wales public house, was sure that the renovation was completed prior to 6 June 1981.

11. According to Mr Selway, after renovating the property he bought Windy Ridge from his father (the owner since about 1978) and his occupation of the appeal property lasted around 18 months, at which point he acquired and moved into the neighbouring property. He then let the appeal property to a succession of tenants until late 1983/1984 when he moved back into Windy Ridge for about 8 months while rebuilding the next door house which had been damaged by fire. There then followed a further 6 to 8 months of renting before he sold the property back to his father. Some 2 months later Windy Ridge was sold to Mr and Mrs Gridley.

12. On balance it is my conclusion that the dwelling presently upon the appeal site has existed in substantially the same form and has been continuously occupied as a dwelling since before May 1982. However, to resolve the ground (d) appeals I must further decide whether it derived from the change of use of an existing building or whether it amounts to a new construction. There is a direct conflict of evidence between the measurements of the former building taken in 1978 by the council and Mr Selway's evidence that the position of the outer walls after refurbishment was not significantly changed and is essentially the same as the situation now at the site.

13. I set no store by the admitted error in one of the internal dimensions recorded by the council, neither am I able to draw any firm conclusion from the geometry of the facade of the building displayed in the photographs. I find no corroboration to support either view. In practice not much may turn upon my judgment in this particular matter, but bearing in mind the evidence of Mr Selway as to the scale and nature of the works carried out - the retention of much of the original, the replacement

of defective timber, the fitting of a new corrugated iron roof with a more balanced pitch, and the rendering of the walls on expanded metal lathing - and the short time taken, it is my opinion, on the basis of probability, that the present dwelling-house is to a substantial extent the same building as was at the site in 1978 and before. However, notwithstanding the testimony concerning the occupation by Mr and Mrs Knight in the early 1960's, evidence as to the origins of the residential use at the site is scant and I do not see any convincing reason to conclude that the appeal residence was erected as a dwelling.

14. Thus, as far as the dwelling is concerned, I find that the correct allegation is the making of a material change of use. Consequently, I do not consider that the allegation of operational development contained in Notice 1 is applicable to the circumstances of this case. Neither do I see any foundation for seeking to correct this notice as the alternative allegation of change of use is already the subject of Notice 3. Your client's appeal on ground (d) against Notice 3 therefore succeeds, as does his appeal on ground (c) against Notice 1 insofar as it relates to the building coloured blue on the notice plan. My further consideration is therefore limited to the part of Notice 1 concerning the buildings coloured pink on the notice plan.

15. I shall first return to the additional ground (b) point which I mentioned in paragraph 7. On behalf of your client, you argue that there is no dispute that the main building now at the site is a dwelling, so it therefore follows that the appellant is entitled to enjoy the permitted development provisions contained within Class I of the Schedule I to the Town and Country Planning General Development Order 1977, as amended. I am unable to accept that argument. Your client's dwelling has been created on the site in breach of planning control. Even though success on ground (d) against Notice 3 will provide immunity against enforcement action, it nevertheless remains that the dwelling at the site is an unlawful development and as such is not, in my judgement, entitled to benefit from the permitted development provisions of the General Development Order. Your client's appeal on ground (b) against this part of Notice 1 therefore fails.

16. Turning next to the ground (a) appeal. From my inspection of the site and its surroundings, and from the representations made, it is my opinion that the principal issue is whether or not the retention of the various sheds in question would conflict unacceptably with green belt policy and detract unduly from the visual amenities of this locality.

17. I have considered the policies referred to by the council and the advice contained in Circular 14/84. In my opinion this is a sensitive part of the green belt where the general presumption against development is properly applied, and I would not expect planning permission to be granted for a dwelling at the appeal site without some special justification. Moreover you accept that the green belt restrictions should apply to the appeal site and agree that your client has no special claim for exceptional treatment.

18. In view of my conclusion in respect of the appeal against Notice 3 your client can continue the residential use at the site, but I do not regard that, in itself, as any good reason to grant planning permission for the sheds to remain. Although I acknowledge that the dwelling will remain and continue to be occupied and I accept that sheds are commonly found within the curtilages of dwellings, I believe that the 3 buildings at the appeal site, in addition to the mobile home and caravan, emphasise the residential use of the site and tend to reduce its semi-rural character. It is therefore my conclusion that they have a material impact by detracting from the appearance of the area and adversely affecting the character of this part of the green belt, which I believe has already been diminished by the residential use at the appeal site. In my opinion the 3 sheds the subject of the notice represent a

sizeable addition to the development which might otherwise be expected at the appeal site and I am not convinced that they are necessary to support the reasonable residential use of the site or warranted in the face of the objection I see to development in this section of the green belt.

19. Thus, notwithstanding the residential development elsewhere in this vicinity, it is my conclusion that, on its merits, the particular development in question is unacceptable in this location. Your client's appeal on ground (a) fails.

20. The appeals on ground (g) and (h) are similarly confined to the part of Notice 1 concerning the 3 sheds. I do not believe that any lesser requirement would provide a satisfactory remedy and neither do I consider the period for compliance to be unreasonable. On these grounds your client's appeal therefore fails.

#### NOTICE 2

21. The council do not dispute that the mobile home and touring caravan at the site are used in connection with the domestic use of Windy Ridge by your client's family. As far as the mobile home is concerned it would appear that this is being used solely as sleeping accommodation by your son who otherwise shares the household facilities and could, it seems to me, be said to be serving as part of the primary use of the land. In the circumstances I find that no development is involved. Also, in my opinion, the touring caravan is being kept within the curtilage of the dwellinghouse in a manner which is incidental to the enjoyment of the dwelling and that by virtue of Section 22(2) (d) no development is involved.

22. Your client's appeal on ground (b) therefore succeeds.

23. In the circumstances the other grounds of appeal do not fall to be considered.

24. In reaching my conclusions on these appeals I have taken into account all the other matters raised, including the Judgment in the case of *Emmins v Secretary of State for the Environment and Basildon DC* (QBD 8 December 1980), but find they do not affect my decision.

#### FORMAL DECISION

##### Notice 1

25. For the above reasons, and in exercise of the powers transferred to me, your client's appeal succeeds to the extent I have indicated and I hereby direct that the Notice be corrected (a) by the deletion of the words "(i) the construction of a building for use as a dwelling house (coloured blue) and (ii)" and the word "both" from Schedule 2 to the Notice and (b) by the deletion of the words "referred to in Schedule 2" from Schedule 3 and the substitution therefor of the words "the buildings shown coloured pink on Plan B attached to the Notice." Otherwise your client's appeal fails and, subject to the above corrections, I hereby uphold the notice and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the 1971 Act, as amended.

##### Notice 2

26. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your client's appeal and direct that the Notice be quashed.

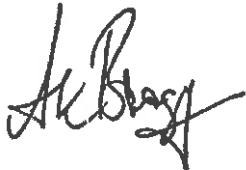
Notice 3

27. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your client's appeal and direct that the Notice be quashed.

RIGHT OF APPEAL AGAINST DECISION

28. This letter is issued as the determination of the appeals before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Gentlemen  
Your obedient Servant

A handwritten signature in cursive script, appearing to read 'A K Bragg'.

A K BRAGG FRICS MRTPI  
Inspector

ENC



APPEARANCES

FOR THE APPELLANT

Mr M Haynes

- Solicitor and partner in the firm of Messrs E Edwards, Son and Noice, Billericay, Essex.

He called:

Mrs A E Allnut

- of Louisa Lodge, Oak Road, Crays Hill

Mr K Allnut

- of 108 Latimer Drive, Laindon, Essex.

Mr T Selway

- of The Coach House, Woodward Heights, Grays, Essex.

Mr A Gridley

- Appellant

FOR THE PLANNING AUTHORITY

Mr C C Norrington

- Senior Administrative Assistant, Basildon District Council.

He called:

Mr M R East

- Senior Planning Assistant, Basildon District Council.

DOCUMENTS

Document 1 - Lists of persons present at the inquiry.

" 2 - Letters of notification and list of persons notified.

" 3 - Letters of representation.

" 4 - General rate demand for Windy Ridge dated 8 June 1985.

" 5 - Extract from Darts Team records for 17 June 1981.

" 6 - Essex County Council Development Plan Review (1976).

" 7 - Extract from Essex Structure Plan (Approved 1982).

" 8 - Draft Wickford District Plan and Proposals Map.

" 9 - Notes of site inspection undertaken on 3 March 1978.

" 10 - Copy of letter from council to Mr W Selway dated 23 March 1978.

" 11 - Bundle of planning appeal decision letters.

" 12 - Copy of photographic records referred to by council.

" 13 - Copy letter from B R J Williams

" 14 - Copy of aerial photograph dated 2 April 1980.

DOCUMENTS (Continued)

Document 15 - Copy letter from Gregson Owles and Roach of 1 April 1985.

" 16 - Reply by council dated 11 April 1985.

" 17 - Report of site visit and photographs dated 30 August 1985.

PLANS

Plan A - Notice Plan "A".

" B - Notice Plan "B".

" C - Plan 1:2500 showing appeal site in relation to other appeal sites.

" D - Extract from County Development Plan.

DEPARTMENT OF THE ENVIRONMENT  
TOLLGATE HOUSE  
HOULTON STREET  
BRISTOL  
BS2 9DJ

RIGHTS OF APPEAL

- (a) On an enforcement appeal (except any decision to grant planning permission on the deemed application under section 88B(3) of the Act)

An appeal against the decision given in the accompanying letter on the enforcement notice appeal may be made to the High Court on a point of law under the provisions of section 246 of the Town and Country Planning Act 1971. Any appeal must be made within a period of 28 days of the date of receipt of this letter (unless the period is extended by the Court).

- (b) i. On a decision to grant planning permission on the deemed application under section 88B(3) of the Act  
ii. On any appeal under section 36 of the Act

Section 245 of the Town and Country Planning Act 1971 provides that a person who is aggrieved by the decision given in the accompanying letter (on the appeal made under section 36 of the Act/to grant planning permission on the deemed application), may challenge its validity by an application to the High Court within 6 weeks from the date of this letter. The grounds upon which an application may be made to the Court under section 245 are that:-

1. the decision is not within the powers of the Act (that is, the Inspector appointed by the Secretary of State has exceeded his powers); or
2. any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

The "relevant requirements" are defined in section 245 of the Act: they are the requirements of that Act, the Tribunals and Inquiries Act 1971 (or any other enactment replaced thereby) and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. This includes the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No 420); the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1981 (SI 1981 No 1743); and the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 (SI 1981 No 1742).

A person who thinks there may be grounds for challenging the decision should first seek legal advice.

INSPECTION OF DOCUMENTS - Only on appeals decided following a local inquiry.

Under the provisions of rule 16(2) of the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974, and rule 16(5) of the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1981, any person entitled to be notified of the decision given in the accompanying letter may apply to the Secretary of State, in writing, within 6 weeks of the notification of decision, for an opportunity of inspecting any documents, photographs and plans listed in the notification. Any application under this provision should be sent to the address from which the decision was issued quoting the Department's reference number shown on the decision letter and stating the proposed date and time (in normal office hours) for the inspection. At least 3 days' notice should be given, if possible.

