



# North Cray Residents Association

[www.northcrayresidents.org.uk](http://www.northcrayresidents.org.uk)

FROM: Jean Gammons, Secretary

TO: Gareth Clegg, Development Management

Dear Mr Clegg

DATE: 25 January 2018

**Ref 17/02770/FUL 139 North Cray Road – Demolition of all existing buildings and erection of 3 x 3 bed and three x 2 bed detached dwellings with associated parking and amenity space.**

This is to formally register our OBJECTION to the above application. Our reasons are given below.

## 1. STATUS OF SITE

The several detached buildings/sheds in the garden/grounds of Janina House are buildings ancillary to the main house. The owner is a builder and the use he has made of them includes the storage of building materials etc. This led to the issuing of an Enforcement Notice in March 2007 (01/00433/ENF) and to a Public Inquiry, when the Inspector ruled in January 2008 that this use was without planning permission; but that he found it acceptable in planning terms. However, he directed that this use should cease unless approved by the local planning authority.

*We have found no evidence of any Change of Use having been applied for or granted for any of these detached buildings/sheds.*

In 2012 (12/00198/FUL) planning permission was given for the demolition of one of these outbuildings and the erection of a replacement unit for office use (Class B1). *This permission was not acted upon.*

Again in 2012 (01/881/FUL), planning permission was given for the demolition of existing detached buildings/sheds and for the erection of two detached single storey office units. *This permission was not acted upon.*

Conclusion: Change of use to B1 status\_of any of the outbuildings in the garden of Janina House was not given then, nor at any later date. The same is true of B2 status. Nor can the site be regarded as “previously developed land”, since none of the permissions cited above – or any given since – have been acted upon

## 2. CHARACTER OF SITE

The site is a wooded one in an open landscape of Green Belt and Heritage Land to its north and to its east; and it adjoins a Grade 11 Listed Building (Cray Hall) with its many acres of open grazing land. This building (originally named Honeyden) dates from 1816. It holds a very special place in North Cray's history and forms an important part of its street scene. Its Lodge, now divided from it by the dual carriageway, is No. 77 St James Way, a Locally Listed building bordering the High Beeches Conservation Area.

The creation of a housing estate in such a location would have a harmful impact on the character and appearance of the very special area of which it is a part and introduce 'suburbanisation' (including street lighting, with 12 cars parked or coming and going) to an area where it is inappropriate and unwanted by local people. This would also be contrary to the views of the two planning inspectors who, in 2015 and 2016, expressed their opposition to the 'suburbanisation' and changes in local character of other parts of North Cray's Green Belt and Heritage Land (15/00760/FUL Forest View Stables and 16/00290/FUL Manor Freehold Farm). This view was upheld as recently as 14 December 2017, when the Planning Committee refused to approve a housing development at Orchard View Farm (17/02176/FUL), see webcast.

## 3 PREVIOUS APPLICATIONS FOR HOUSING DEVELOPMENT

In May 2013 an application was made for planning permission for the demolition of existing detached buildings/sheds and the erection of two x 2 bedroom single storey detached dwellings and detached garages (13/00595/FUL). An executive decision to approve was made by the then Head of Development Control without referral to the Planning Committee. **We believe this decision to be unsound as we have explained in Appendix D.**

Following this decision, a further application (13/01779/FUL) was submitted in March 2014 for the demolition of all existing buildings and the erection of five x 2 bedroom detached single storey and 10 parking spaces, which was then increased to three x two bedroom and three x three-bedroom houses, with the provision of 12 parking spaces.

The decision was delegated to the Planning Committee on 25 September 2014, with a Recommendation that permission be granted. **However, as we point out in Appendix D, this was based on the unsound decision made in 2013 and the precedent this had set for development on this site.**

So the question has to be asked: would Planning have recommended that the application be approved had it known that (a) the site was not previously developed land and (b) the planning permission granted in 2013 for two houses was unsound?

Note: I was present at that meeting and distinctly recall one of the Members (Cllr Alan Downing?) saying that had the earlier application to build two houses on the site been

delegated to the Planning Committee he would have opposed it, but that now the precedent had been set, and the current application would tidy-up the site, he was minded to support the Recommendation. This was echoed by other Members.

The Recommendation was approved by the Planning Committee.

*This permission was not acted upon.*

#### 4. THE CURRENT APPLICATION (17/02770/FUL)

First, this has elements that make it different from the one approved in 2014, see references to the Application forms of each in Appendix B. For example, in Section 15 (where it now states that there are trees) and Section 18 (where it gives an additional amount of floor space being demolished).

Secondly, we have been assured that this new application will be considered afresh and that any changes in planning policy that have been made since 2014 will be taken into account.

If looked at afresh, we suggest that Policy CS17 applies to Janina House, with its garden/grounds containing detached buildings ancillary to the house itself, since any development of the kind proposed would constitute backland development contrary to this Policy.

Policy CS19 is also relevant here – this is intended to protect heritage assets from development that is likely to adversely impact on the character or appearance of an asset - *or its setting*.

We also point to Policy ENV22 , which is to protect the quality and character of Heritage Land, land within which the application site is situated.

Also relevant is para.132 of the NPPF. A Judicial Review leading to a Judgement in the High Court in May 2017 squashed the Planning Inspector's decision to allow a housing development adjacent to a Listed building that had been refused by the local planning authority. The latter's refusal was on the grounds of the harm that would be caused to the setting of the heritage assets, including the landscape character. Whether or not a development is screened by trees or hedges from the view of a Grade 11 Listed building is immaterial. This Judgement can be found in: *approved-judgment-steer-v-ssclg-&-ors* (copy attached). Its paras 23 and 27 seem particularly relevant.

The proposed housing development would be highly visible from the highway where it would not be fully screened by trees. The large entrance gates, the new internal road with probable street lighting, and the dwellings themselves would dominate the street scene and adversely affect the character of the area. The applicant himself described the site as being situated in a high profile location when he attempted to sell it in 2016, see Appendix A.

The applicant's *Planning, Design and Access Statement* (para 1.6) argues that in approving both the original application and a subsequent amendment to it, “the Council was satisfied that the land comprised a partially redeveloped site within the Green Belt...”. But we say that the land is not a previously developed site since none of the previously proposed and approved developments were carried out.

We also point out that the previous decision was not completely in accordance with para 89 of the NPPF as the proposed new buildings (dwellings) were not in the same use as the ones they were to replace, and the existing approved use of the latter was certainly not B1. Nor was it B2. See para 1 above.

Thirdly, the applicant's *Planning, Design and Access Statement* also states (para 5) that there have been no material changes in planning policy since 2014; but this is not the case, see para 5 below.

In our view only the replacement of Janina House itself by a new house – one with no significant increase in size of footprint – should be regarded as an appropriate and acceptable development on this site.

## 5. CHANGES IN PLANNING POLICY SINCE 2014

As stated in para 2 above, in 2015 and 2016 planning inspectors decided against the 'suburbanisation' and changes in local character of other parts of North Cray's Green Belt and Heritage Land.

Over the past year or so the government has increasingly made public statements to the effect that the Green Belt must be protected from housing development – the most recent being the answer given by the Prime Minister in December 2017 in PMQs.

The MP for Old Bexley and Sidcup recently confirmed this by giving us the assurance that the government has reconfirmed its commitment to protecting the Green Belt from inappropriate development and to tell us about the ambitious programme to bring brownfield land back into use – thereby ensuring that development is prioritised on brownfield sites rather than at the expense of our countryside.

This government commitment to the protection of the Green Belt from housing development has been reinforced by the recent formation of an All Party Parliamentary Group for London's Green Belt.

The Growth Strategy team has given us an assurance that no sites in the Green Belt will be put on Bexley's brownfield register and that the focus for housing development will be on 'true' brownfield land, ie land that is suitable for developers to use for housing.

See Appendix C.

The promise was also given to us in July 2017 by the Cabinet Member for Finance & Corporate Services and Deputy Leader of the council that Bexley's proposals for new houses were mainly in the north of the borough, and *none would be on Green Belt land*.

We say that all this, even if written planning policy documents and guidance remain as yet unaltered, represents a change in planning *policy* since 2014 – both at the national level and at the local level.

## SUMMARY

We recognise it could be difficult for Planning to reverse a previous decision, even though that original decision was unsound. But there have been a number of statements issued along with various other activities since the original decision was taken. These now need to be considered with this new application. These include:-

1. Policy statements that confirm that the Government is firmly against housing development in the Green Belt.

2. Formation of an All Party Parliamentary Group for London's Green Belt to protect the capital's Green Belt.

3. Support for the protection of the Green Belt in the Mayor of London's draft London Plan, encouraging boroughs to improve the quality of these areas and not to develop on them.

4. Dismissal of appeals by planning inspectors concerning two applications for similar development in the Green Belt close to this location because of 'suburbanisation' and similar changes in local character of other parts of North Cray's Green Belt and Heritage Land. Refusal of the Planning Committee to allow a housing development at Orchard View Farm. Also the High Court Judgement of May 2017.

5. Assurance from Bexley's Growth Strategy team that no sites in the Green Belt will be put on Bexley's brownfield register and that the focus for housing development will be on 'true' brownfield land, ie land that is suitable for developers to use for housing.

Other specific points that are pertinent to this application are:-

No Change of Use to B1, or B2 status, for the several detached buildings/sheds has ever been granted. The site is not previously developed (brownfield) as none of planning approved referred to above were ever implemented. The site still contains the original undeveloped outbuildings.

The proposed replacement buildings (dwellings) would not be in the same use and so not in line with para 89 of the NPPF. There are no special circumstances required by para 87 of the NPPF to permit this development.

Several Bexley Planning Policies apply to this site, but have not been implemented.

In conclusion, given the increased focus and clarity on protecting the Green Belt from development since the original permission was granted in 2014 and the current situation at this site, we sincerely urge that you take this opportunity to reflect current policy direction and refuse this application. The situation surrounding your decision is different today from what it was back in 2014. Then, a planning permission for two dwellings was still extant. Today, the planning permission for six dwellings given in 2014 is no longer extant. The site is not previously developed land as was believed at the time. Added to all this, is today's clear Government policy that the Green Belt should be protected from housing development and the clear guidance given by two planning inspectors that 'suburbanisation' and a change of character of the adjoining area is unacceptable.

We do appreciate that asking you to make a decision this time around different from the one given in 2014 is asking a lot of you, and that this would be difficult for you; but we appeal to you to do this for the sake of probity and fairness as regards the people of North Cray

Yours sincerely

Jean Gammons  
Secretary

See also:-

Appendix A Planning history of site

- “ B Changes in new planning application
- “ C Statements from MPs etc.
- “ D Validity of 2013 decision

Attached separately is the High Court Judgement of 2017

**PLANNING HISTORY OF SITE**

- 1988 88/01727/FUL Retention of buildings and continued use as livery stables  
Permitted, with Conditions
- 2002 02/01305/FUL Continued use of two self-contained flats at ground floor level  
and offices use at first floor level  
Application withdrawn by Bexley
- 2004 04/05044/LDCE Cert. Of Lawfulness for use of building as two self-contained  
flats at ground floor level and office use at first floor level.  
Application withdrawn by Bexley
- 2007 07/10083/LDCE Use of building as two self-contained flats at ground floor  
level, and office use at first floor level.  
Grant of Lawful Dev. Cert.
- 2011 11/01190/FUL Demolition of four existing derelict stables and the construction  
of one stable block  
Application withdrawn by applicant
- 2012 12/00196/FUL Change of use from office uses (Class B1) to residential use  
(Class C3)  
Permitted, with Conditions
- “ 12/00197/LDCE Cert. Of Lawfulness for continued use of land for stabling  
and grazing area for 13 horses  
Application withdrawn by applicant
- “ 12/00198/FUL Demolition of existing detached unit and erection of a  
replacement unit for office use (Class B1) with five parking spaces  
Permitted, with Conditions
- “ 12/01566/LDCE Cert of Lawfulness for the continued use of land for  
grazing and stabling of 12 horses  
Grant of Lawful Dev Cert
- “ 12/01881/FUL Demolition of existing units and erection of two detached  
single storey office units  
Permitted, with Conditions

- 2013 13/00595/FUL Demolition of existing units and erection of two 2x2 bedroom single storey detached dwellings and detached garages  
Permitted, with Conditions
- 2013 13/01021/FUL Demolition of four existing derelict stable blocks and construction of one stable block  
Permitted, with Conditions
- “ 13/01779/FUL .Demolition of all existing buildings including the 2-storey building Janina House, comprising two flats and an office, four commercial units on land at rear of Janina House, and four stable blocks on land to the north of Janina House, and the erection of five x 2 bedroom detached single-storey and 10 parking spaces. There followed an application to increase the number of dwellings from five to six, comprising three two bedroom and three three-bedroom houses, with the provision of 12 parking spaces, with amended access from North Cray Road.  
Permitted, subject to a Section 106 Agreement
- 2014 14/02263/FUL Demolition of all existing stables on the site and erection of a stable block comprising of three stables with associated tack room and WC  
Permitted, with Conditions
- 2015 15/00358/FULMIN Minor amendments relating to 13/01779/FUL being changes to the design of the new dwellings including improved external appearance and new chimney stacks, changes to fenestration, further landscaping and new curved wall at site entrance.  
Application permitted
- 2016 *In 2016 the applicant put the site on the market for £4.2m, advertising it as one acre of brownfield development site with full planning permission for the construction of six properties. The site was described as being “surrounded by metropolitan greenbelt and is situated in a sustainable, high profile location”.*
- 2017 17/02770/FUL Demolition of all existing buildings and erection of 3 x 3 bed and three x 2 bed detached dwellings with associated parking and amenity space  
**Current position:** with Case Officer pending determination.
- 2017 17/03050/FUL Continued use of land for storage of motor vehicles in association with local car dealership (temporary, for one year). Note: this unauthorised use has been taking place since 1 October 2017 (the alleged **Current position:** with Case Officer pending determination

## **CHANGES IN THE NEW PLANNING APPLICATION**

There are several differences between the planning application that was granted on 30 December 2014 (13/01779/FUL) – now lapsed – and the fresh planning application that was submitted in December 2017 (17/02770/FUL).

These are:-

Section 5 Pre-application advice. The new application states that pre-application advice has been sought with details, whereas the previous application stated none.

Section 6 Pedestrian and Vehicle access, Roads and Rights of Way: would there be a new or altered vehicle access from the public highway? The new application states No, whereas it it said Yes in 2014.

Section 10 Vehicle parking. The new application states that the existing number of spaces is 15, whereas the previous application stated 14.

Section 11 Foul Sewage. The new application states yes, whereas the previous application stated Unknown

Section 15 Trees and hedges. The new application states that there are trees on the proposed development site, whereas the former application stated no.

Section 17 Residential units. The new application states there are 2 x 2 bedroom flats/maisonettes existing, whereas the former application stated 1 x 1 bedroom and 1 x 2 bedroom flats/maisonettes.

Section 18 All types of development: non residential floor space. The new application states that there is 648.8m<sup>2</sup> of floor space being demolished for the proposed development, whereas the former application stated 395.8m<sup>2</sup>. This is from an additional 262m<sup>2</sup> of B2 General industrial space stated on the new application

Section 19 Employment. No employees are stated on the new application, whereas two were stated on the former application.

**RECENT STATEMENTS ON THE IMPORTANCE OF THE GREEN BELT**

On 1 November 2017 a press statement by the office of Crispin Blunt MP stated:-

*PARLIAMENTARY GROUP FOR LONDON'S GREEN BELT LAUNCHED*

*As the threat from development of the London Metropolitan Green Belt continues to increase, a new All Party Parliamentary Group (APPG) for London's Green Belt was launched in Parliament yesterday.*

*The parliamentary group held its inaugural meeting, agreeing to develop policy thinking and a plan to influence the debate on housing and planning policy, with the objective of protecting the capital's precious Green Belt and achieving sustainable development...*

*Crispin Blunt (APPG's Chair) said:-*

*"I am delighted we have formed the APPG for London's Green Belt. With the number of Green Belt sites around London under threat from development more than doubling over the past year, we urgently need to review our approach to housing policy across the region. The Group will inform the debate and develop recommendations for Green Belt-friendly planning policy."*

*Lord Rogers said:-*

*"There is an abundance of brownfield land which can and should be developed. Land-banking is threatening both the provision of affordable homes for key workers and the protection of the Green Belt..."*

*Richard Knox-Johnson, Chair of the London Green Belt Council, said:-*

*The establishment of the APPG is an important move in the protection of London's Green Belt. There is far too much unhelpful propaganda being used to force encroachment into this important national resource, which provides health and well-being to the people of London and surrounding communities".*

On 14 November 2017 the NCRA Secretary spoke to Jennie Paterson, Team Leader, Planning Strategy, and asked her things like "How could we keep North Cray's Green Belt & Heritage Land off Bexley's Register of Brownfield land?"

Her very reassuring answer was that 'it would not be put on the Register- no Green Belt land will be included. We will be focusing on 'true' brownfield land, ie land that is suitable for developers to use for housing, eg large-scale developers/development.'

/On

On 19 December 2017, in an email to the NCRA Secretary, James Brokenshire MP wrote:-

*“Thank you for contacting me about development on the Green Belt and your concerns about potential risk of housing development.*

*I am encouraged that the Government reconfirmed its commitment to protecting the Green Belt in the Autumn Budget. While it is up to local authorities to determine the development of new homes through local plans, I would like to reassure you that steps have been taken to protect the Green Belt from inappropriate development.*

*The Housing White Paper, published in early 2017, emphasised a continued commitment to protecting the Green Belt.... “*

## **VALIDITY OF 2013 PLANNING PERMISSION FOR TWO DETACHED DWELLINGS**

In May 2013 an application was made for planning permission for the demolition of existing detached buildings/sheds and the erection of two 2 x 2 bedroom single storey detached dwellings and detached garages (13/00595/FUL).

The relevant Case Sheet, in referring to para 89 of the NPPF, acknowledged that the proposed residential use would not be the same as the existing use, which should “probably” be considered B2 or mixed uses, and that the proposal would not therefore exactly meet the terms of the NPPF exception; but, provided the existing structures were removed before development commenced on the two new dwellings, it was concluded that the proposal satisfied the terms of the NPPF exception.

Note: The statement that the existing use of the detached buildings/sheds was “probably” B2 was an assumption, not a certainty. We have found no evidence that these buildings were ever granted this status, see para 1 of our covering letter.

The Case Sheet also pointed to the relevance of Policies ENV4 (requiring that a development must not detract from the appearance of the land) and H8 (which required that there be no adverse effect on the character of the area).

On 19 July 2013 planning permission was given for the demolition of existing detached buildings/sheds and the erection of two 2 x 2 bedroom single storey detached dwellings and detached garages. This was an executive decision made by the then Head of Development Control.

Her decision was made despite the fact that (a) the site was not “previously developed land”, see para 1 above (b) the replacement buildings (dwellings) would not be in the same use as the ones they would replace and so contrary to para 89 of the NPPF (c) there was no evidence that these two outbuildings had B1 status (d) even if they had possessed this, they had not been in existence, ie in use as Offices, immediately before 30 May 2013 when the relaxed permitted development rights set out in Statutory Instrument 1101 came into force and (e) the replacement of a house with several outbuildings by two new dwellings with garages was a change in the appearance of the land and upon the character of the area.

*This permission was not acted upon.*

Note: It was this ill-advised and unsound decision that, within weeks, led to the applicant submitting an application to increase the number of new houses from two to five, then from five to six (13/01779/FUL). This time, the decision was delegated to the Planning Committee.