

Enforcement Delegated Report

Receipt date:

Officer

John Sheehy

Enforcement Case

EN17/1284

Breach AddressSouth Fairground Site,
Vale Of Health,
London NW3 1AU**Photos & Other material****PO 3/4****Area Team Signature****C&UD****Authorised Officer Signature**14th December 2017**Alleged Breach**

Construction of a one-storey dwellinghouse.

Recommendation:**Issue an enforcement notice****Priority:****Site Description**

The Vale of Health is an enclave of houses located within Hampstead Heath.

The South Fairground Site is located at the end of the Vale of Health where the made road becomes a dirt surface leading onto Hampstead Heath. It is a rectangular plot of land with a number of trees around the edges; the ground is flat but drops vertically where it meets the water of the Hampstead Pond.

Apart from the recently-constructed dwellinghouse, there is a trailer and caravan which are both connected to the house. There is also a low shed in the southwest corner; this lean-to brick structure has a corrugated iron roof

The entire Vale of Health is within the Hampstead Conservation Area: this includes the South Fairground Site and the larger North Fairground Site opposite.

The authorised use of the site as an ancillary fairground site which falls within the Sui Generis use class.

The surrounding properties are mainly period villas and cottages dating from the 19th century, most of which are built of brick with timber windows and traditional details. Many of these are listed.

There are also a number of twentieth-century apartment buildings in the Vale of Health including the six storey Spencer House, the tall side wall of which forms the eastern boundary of the South Fairground Site.

The site is designated Metropolitan Open Land as "Gardens Adjacent to Hampstead Ponds".

Investigation History and Relevant Planning History**Investigation History**

May 2017 Complaint received that concrete structures had been located between the South Fairground Site and the North Fairground Site on the unmade roadway leading from the Vale of Health onto the Heath, blocking the vehicular right of way.

July 2017 Following officer advice, the concrete structures were relocated to the side of the roadway, reinstating the right of way.

June-July 2017 Numerous neighbour reports received that construction works were under way to construct a building at the South Fairground Site.

July 2017 Notice of Intended entry served on the owner. However, access was not provided on the specified date (17-7-2017). Officers did, however, view the South Fairground Site from neighbouring sites and noted that works to create a new permanent structure were being carried out. This partially-completed building was joined to a trailer; a black wire from this trailer was connected to Spencer House (possibly a electricity connection).

5 September 2017 Officer site visit; access secured to the site. A single storey dwellinghouse was completed internally and externally. The inner and out walls are made of timber, and the roof of felt.

The black wire was still attached to the trailer, leading to the gable of Spencer House. Drainage and soil pipes were attached to the house, serving internal plumbing. A boiler had been added. There was evidence that a trench had been recently sunk and then covered over on the street outside the site, linking the property with a BT cabinet.

Relevant Planning History

April 2004 Planning permission refused for the erection at the site of a three storey single dwelling house with parking for 2 cars plus hard landscaping adjoining the pond.

There were five reasons for refusal:

- The proposal involves inappropriate development on Open Land;
- The proposal involves inappropriate development on a site designated entirely as Private Open Space and Metropolitan Open Land,
- The proposed development, by reason of its location, bulk and form, would be detrimental to the character and setting of the adjoining open spaces, particularly the north fairground site, classified as Private Open Space and Metropolitan Open Land, and of the surrounding Hampstead Heath Area of Special Character;
- The proposed new house, by reason of its proportions, bulk, form, footprint, layout, detailed design and use of materials, would be detrimental to the character and appearance of the local townscape and conservation area in the Vale of Health and to the setting of the adjoining open spaces
- The proposed landscape design of the site, by reason of its extensive hard surfaces, planting species, changed levels, boundary treatment, and loss of trees, would be detrimental to the character and appearance of the conservation area and the setting of the adjoining Heath and pond.

Relevant policies

Camden Local Plan (adopted June 2017)

G1 Delivery and location of growth
H1 Maximising Housing Supply
A1 Managing the impact of development
A2 Open Space
D1 Design
D2 Heritage

Camden Planning Guidance 2011

CPG6 – Amenity (2011) – Section 12 Planning for Healthy Communities

Assessment

Works in breach:

The erection of a single storey dwellinghouse at the centre of the site.

Previous situation at the site

During the investigation, the owner stated that the works were repairs to structures that were previously located at the site and that no permission is required for the permanent dwelling house that has been erected.

This site (unlike the north fairground site) has not been used by travelling show people for many years. It has been in a semi vacant state although squatters have lived there recently. Caravans were located on the property and temporary structures made of tarpaulin, timber, ropes and wooden pallets were in place. Photographs provided to officers indicate that these structures could be quickly and easily dismantled.

The Council's investigations indicate that, before the site was sold in early 2017, it was semi-vacant and used by squatters, mostly on a seasonal basis, with little occupation during the winter. The temporary structures were clearly legible as such and did not detract from the openness of the designated open space classified as Metropolitan Open Land.

Photographic evidence provided to officers makes it clear there was no degree of permanence to any of these structures. There are no traces of any foundations or masonry elements. The owner was quickly able to clear the site and no elements of the previous temporary structures were visible during the officer site visit on 5th of September 2017.

In addition to the points made above, the evidence of recent connection to services such as electricity and telephone/ broadband indicates that these are new requirements associated with permanent residential use (Class C3).

Assessment:

Land Use

The designation of the site as Metropolitan Open Space is the principal issue in the land use policy assessment of this case.

As noted above the site is described as Gardens Adjacent to Hampstead Ponds and in the Policies Map is described as "Private Open Space comprising the gardens of various properties clearly visible from the edge of Hampstead Heath pond in the Vale of Health. The site is designated as Metropolitan Open Land".

Policy A2 'Protecting Our Parks and Open Space' states that the Council will protect and improve Camden's parks and open spaces.

The supporting text to policy A2 highlights the key importance of Metropolitan Open Land stating that it "provides attractive, visual breaks to the built-up area, keeping land permanently open. This designation is broadly equivalent to the Green Belt, meaning development is only permitted in very special circumstances." (para 6.28).

Policy A2 states that the Council will protect, enhance and improve access to Camden's parks. In

order to protect open spaces the Council will:

- a. protect all designated public and private open spaces as shown on the Policies Map and in the accompanying schedule unless equivalent or better provision of open space in terms of quality and quantity is provided within the local catchment area;
- f. conserve and enhance the heritage value of designated open spaces and other elements of open space which make a significant contribution to the character and appearance of conservation areas or to the setting of heritage assets;
- g. give strong protection to maintaining the openness and character of Metropolitan Open Land (MOL);
- j. preserve and enhance Hampstead Heath through working with partners and by taking into account the impact on the Heath when considering relevant planning applications, including any impacts on views to and from the Heath.

There are circumstances in which the Council will grant planning permission for development on public and private open space. However, policy A2 is clear that these are “exceptional”. The Council will;

- d. exceptionally, and where it meets a demonstrable need, support small-scale development which is associated with the use of the land as open space and contributes to its use and enjoyment by the public;

The dwellinghouse that has been erected at the site is a permanent structure. It represents a very different type of development to the previous temporary structures and caravans associated with non-permanent occupation of the site.

Because of the permanent nature of the building that has been constructed, the works fail to comply with policy A2 as they undermine the openness and character of the open space. Because of its scale and location, it causes clear and serious harm to the designated open space.

In terms of fact and degree permanent residential use (Class C3) is not ancillary to the authorised use of the site as an ancillary fairground site (Sui Generis). The permanent residential use does not contribute to the use and enjoyment of the site by the public; and the dwellinghouse in question is not small in scale. In addition, no demonstrable need for this development has been shown. As a result, the exceptional circumstances required for a development to be acceptable on Metropolitan Open Land have not been demonstrated.

Change of Use to residential

Officers are of the view that the use of the site for permanent residential purposes is unacceptable in principle in the context of policy A2 (d). Permanent residential use is not consistent with retention of the land as open space and does not contribute to its use and enjoyment by the public.

In addition to this, for permanent residential use to be acceptable, the accommodation would need to meet minimum size standards which are set out in Camden Planning Guidance and the London Plan. Within these policy documents, the minimum size for the smallest type of unit, a one-person unit, is set out at 37 square meters.

The size and bulk of a building which would provide enough residential accommodation to meet minimum size standards would inevitably undermine the open character of the space, in contravention of policy A2.

Design and Appearance

In the above section officers have identified significant harm to the Metropolitan Open Land from the unauthorised works; officers are of the view that permanent residential use of the site is unacceptable

in principle.

The Council is of the view that the dwellinghouse at the site is also in breach of adopted policies and guidance in relation to design and visual appearance.

Policy D1 of the Local Plan states that the Council expects development to be of the highest architectural and urban design quality. In para. (b) the policy states that the Council expects development to respect local context and character and to conserve or enhance the historic environment and heritage assets.

Policy D2 states that the Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, and will

- take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas;
- require that development within conservation areas preserves or enhances the character or appearance of the area;

The unauthorised dwellinghouse is located on the otherwise unbuilt South Fairground Site and is incongruously located in the centre of the space. The previous open nature of the site reflected the historic development pattern of the respective land holdings and contributed to the legibility of the townscape. The unauthorised dwellinghouse ruptures this established pattern and is unacceptable. In terms of detailed design, the works are unacceptable for the following reasons:

- the layout and scale of the property: the building on the site does not relate to any established building lines in the surrounding area: not its front or rear building lines or its roofline;
- form and appearance: the building form is as a bungalow on an open site rather than the typical terraced house or cottage found in the surrounding area, with open space to front and rear. The bungalow also has an irregular roofline which is unsightly;
- materials; the unauthorised works do not reflect the colour, texture, age or style of materials used in the surrounding area.

The works are not of a high architectural or urban design quality and therefore contravene policy D1. They also fail to consider their setting and cause significant harm to the surrounding Conservation Area and the setting of Hampstead Heath and Pond in breach of policies D1, D2 and A2.

Recommendation: that the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended to secure the removal of the unauthorised works and to pursue any legal action necessary to secure compliance. Officers be authorised in the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breach of planning control:

Construction of a one-storey dwellinghouse.

WHAT ARE YOU REQUIRED TO DO:

1. Completely remove the one-storey dwellinghouse from the site;
2. Make good the site following the completion of the above works.

PERIOD OF COMPLIANCE:

Four months.

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

1. The dwellinghouse that has been built, by reason of its scale, location and use as permanent residential accommodation undermine the openness and character of the land and represent inappropriate development on Metropolitan Open Land. As such, the works are contrary to Policy A2 Open Space Camden Local Plan 2017.
2. The dwellinghouse that has been constructed, by reason of its location, bulk, footprint, layout, detailed design and materials forms a discordant and incongruous development that causes harm to the appearance and character and surrounding Hampstead Conservation Area and Hampstead Heath. As such, the works are contrary to Policy D1 (Design), D2 (Heritage) and A2 (Open Space) of the Camden Local Plan 2017.