

23/503967/FULL Change of Use of residential garden land to permit the siting and all-year occupation of a mobile home (Retrospective).  
Courtenay Gardens (formerly Deja View) London Road Dunkirk Kent ME13 9LF

At an extraordinary meeting of Dunkirk Parish Council (DPC), it was agreed unanimously to **object** to the above application.

Many members of the public expressed their objections to the application citing numerous 'grounds' including issues of misdirection, wrong dates on the application, requests for accommodation address in Courtenay House, other issues that they felt SBC should enforce against, queries as to why enforcement had not been done already, statement that Ms Eissfeldt had only occupied the hut in 2022, and not 2012 as stated in the application. Concerns about the application being retrospective and why a shepherd's hut with a sauna was being classed as a permanent dwelling. DPC noted their comments and explained they should make their comments to SBC, but that many of their thoughts were not planning matters. They were advised to take legal advice or contact Kent Police if they felt they have evidence of wrong doing, but it wasn't a matter for DPC. There was confusion over what the hut is, and it was explained that the definition of a mobile home is:

'The terms mobile home and caravan are used interchangeably in the law. **A caravan is a structure which is designed or adapted for human habitation and is capable of being moved from one place to another.** They are intended for use **ancillary to** a main residence, not for permanent dwelling'.

This application appears to be a speculative one and validated (allegedly against process) after enforcement notice 22/500755/CHANGE. The enforcement notice was served on the 11th July and 6 calendar months from 15th August 2023 were given to comply.

The application was validated on the 5<sup>th</sup> September. However, SBC states 'an appeal has been submitted and we must therefore await the outcome of the appeal', yet there is no information, no appeal reference available nor the MK Planning site. Objection documents must have been registered with the Planning Inspectorate before 15<sup>th</sup> August 2023 or the appeal will not be entertained. SBC Enforcement team to confirm.

Please note that Ms Ingrid Gabriele Eissfeldt (the applicant) had sold her Whitstable property before the enforcement notice was issued.

The applicant states an address in Whitstable on the title K552103 but '22 The Heath, Whitstable CT5 3HJ' was sold to Elizabeth Kate Norcott on 14 May 2021 in title K747544

The applicant seems to be under a misapprehension that she has access rights to Courtenay House driveway. Please see appendix 1 - title deed and map where clearly no access is shown or detailed in the register (as transferred by Mr. and Mrs. Datlen). The only access the site has benefit of is a pedestrian one onto London Road (formerly Canterbury Road) an SBC designated Rural Lane (DM26).

There are a number of **material considerations** that Dunkirk Parish Council found to weigh heavily against the application.

### **1. Planning and appeal decisions.**

SW/87/0741 | ERECTION OF DETACHED BUNGALOW | Land Adjacent To Courtney House Dunkirk Refused.

SW/07/0168 was refused and appeal decision APP/2056925 dismissed.

The inspector stated: *That the design has merit, it nevertheless would be a new dwelling in a relatively isolated location where many day to day activities would be carried out using a car. That would be contrary to a central thrust of national policy which resists new housing development in countryside outside settlements. Together with a new drive visible from the road, the proposed house and garage would largely fill the existing gap between Courtenay House and Dunkirk Farmhouse. The strong sense of loosening of built development that I observed at the edge of the hamlet would be eroded.*

16/507038/OUT Outline application for the erection of a single dwelling with associated access and parking. (Access only being sought). Courtenay House London Road Dunkirk ME13 9LF Refused. Appeal Decision APP/V2255/W/17/3172403

*Taking everything together, the benefits would not outweigh the harm that I have identified in terms of the conflict with the settlement strategy, harm to the character and appearance of the area and the harm to the significance of a **non-designated heritage asset**. The proposal would not accord with an up to date development plan and as such would not represent sustainable development.*

### **2. Overlooking and loss of privacy, noise and disturbance from use to other gardens**

The site is close to the gardens used by a number of flat owners in Courtenay House and adjacent to Dunkirk farmhouse garden. There is considered to be loss of outlook (but not loss of view) from adjoining properties.

### **3. Effect on trees + adverse impact on nature conservation interests & biodiversity opportunities.**

Many trees have already been removed to make this an open area. This has had an impact on both flora and fauna. Biodiversity has been ignored (see B&DNP later in this document).

### **4. Effect on Scheduled Monument area.**

Dunkirk radar station, part of the WWII chain, is adjacent to the site. Much of the archaeology on the site still hasn't been found, so concerns regarding this site are high.

### **5. Incompatible or unacceptable use.**

The site and use are incompatible with the area generally and local and national policies (see further in this document).

### **6. Layout and density of building design, visual appearance and finishing materials.**

The caravan as shown in the application is not in keeping with the local housing and detracts from the non-designated heritage asset.

### **7. Impact on countryside.**

See policy references further in this document.

## 8. Risk of flooding.

Local knowledge has concerns as the area is London clay. Local football team collapsed as they could not play home games at the top of the hill due to flooded pitch.

### General and policy concerns.

The application is outside the Dunkirk built-up area boundary, in the countryside and in an area where new residential development is unacceptable as a matter of principle (SBC and B&DNP). It is therefore, contrary to Bearing Fruits and B&DNP policies.

It is also contrary to the Swale Settlement Strategy, which seeks to restrict development in the countryside other than in exceptional circumstances [Dunkirk is the lowest tier so only minor infill and redevelopment sites **within the built-up area boundaries**] and to protect the countryside for its own sake.

Residential development in this location does not constitute sustainable development and is considered contrary to policies ST1, ST3, ST7, CP3, DM14, DM24 and DM26 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017, The National Planning Policy Framework 2021 (as amended), together with National Planning Policy Guidance

ST3. Specifically:

*ST3.4. Other villages with built-up area boundaries. [Dunkirk] as shown on the Proposals Map, will provide development on minor infill and redevelopment sites within the built up area boundaries where compatible with the settlement's character, amenity, landscape setting, heritage or biodiversity value and;*

*ST3.5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy **and** able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.*

The site does not support a net biodiversity gain as required by the Boughton and Dunkirk (made) Neighbourhood Plan [B&DNP] E8. Many trees on the site have been cut down in recent years, reducing the current on-site biodiversity dramatically, not 'enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities' as SBC ST3 suggests.

The land is in designation 'Land of High Landscape Value (Kent Level) DM24' and presents an unacceptable intrusion in the landscape.

The site is adjacent to Courtenay House, which DPC has requested to be, at the very least, a non-designated heritage asset. Thought to have been built 1870 – 1890. The caravan already on site is not in keeping and distracts from the elegance of the imposing Courtenay House.

The site is adjacent to a scheduled monument, WWII radar station Dunkirk, and will distract from its setting.

It is contrary to B&DNP policies:

E1, E2, E3 protection of the countryside and the non-designated heritage asset surroundings of Courtenay House.

E4, E5 within high value landscape area and proximity to pond with great crested newts.

E9, E10 the proposal does not show high-quality design with suitable layout and access (the only access to the site is pedestrian – see title deed). This access is onto SBC Rural Lane DM26.

In view of the above, DPC would ask for the application to be **refused**.

If it is not refused, we would request that it is at least deferred until the enforcement appeal is determined. If, as we expect, the enforcement notice [See Appendix 2. Enforcement notice] is upheld, the caravan would be removed from the site and the garden returned to leisure use.

Appendix 1. Over page:

## Appendix 1.



Search for land and property information

### Title register for:

**LAND ON THE NORTH SIDE OF Canterbury Road, Dunkirk, Faversham  
(Freehold)**

**Title number: K552103**

Accessed on 28 September 2023 at 13:23:33

This information can change if we receive an application. This service can not tell you if HM Land Registry are dealing with an application.



This is not an official copy. It does not take into account if there's a pending application with HM Land Registry. If you need to prove property ownership, for example, for a court case, you'll need to order an official copy of the register.

### Register summary

Title number	K552103
Registered owners	Ingrid Gabriele Eissfeldt 22 The Heath, Whitstable CT5 3HJ
Last sold for	£120,000 on 08 March 2021

### A: Property Register

This register describes the land and estates comprised in this title.

Entry number	Entry date	
1	1959-02-04	KENT : SWALE

The Freehold land shown edged with red on the

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plan of the above Title filed at the Registry and being LAND ON THE NORTH SIDE OF Canterbury Road, Dunkirk, Faversham.

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2 The land has the benefit of the rights granted by but is subject to the rights reserved by the Transfer dated 14 July 1982 referred to in the Charges Register.

### **B: Proprietorship Register**

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Class of Title: Title absolute

Entry number	Entry date	
1	2021-03-08	PROPRIETOR: INGRID GABRIELE EISSFELDT of 22 The Heath, Whitstable CT5 3HJ.
2	2021-03-08	The price stated to have been paid on 8 March 2021 was £120,000.

### **C: Charges Register**

This register contains any charges and other matters that affect the land.

Class of Title: Title absolute

Entry number	Entry date	
1		A Transfer of the land in this title dated 14 July 1982 made between (1) Robert Edward Overton and (2) Celia Florence Overton and Joan Edith Overton contains restrictive covenants.

NOTE: Copy filed.

# H. M. LAND REGISTRY

NATIONAL GRID PLAN TR 0759 SECTION C  
KENT  
SWALE DISTRICT

Scale 1/1250  
Enlarged from 1/2500  
DUNKIRK PARISH



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## TITLE No. K 552103



## Appendix 2. Enforcement notice.

### **IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

#### **TOWN AND COUNTRY PLANNING ACT 1990**

**(as amended by the Planning and Compensation Act 1991)**

#### **ENFORCEMENT NOTICE**

#### **MATERIAL CHANGE OF USE**

**ISSUED BY: SWALE BOROUGH COUNCIL (“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. The Annex at the end of this Notice and the enclosures to which it refers contain important additional information.

#### **2. THE LAND AFFECTED**

Land East to Courtenay House London Road Dunkirk Kent ME13 9LF shown edged red on the attached plan (“the Land”)

#### **3. THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission the material change of use from residential garden to Land for the stationing of a mobile home for residential purposes.

**4. REASONS FOR ISSUING THIS NOTICE 4.1.1** It appears to the Council that the above breach of planning control has occurred within the last ten years. (Section 171B(3)).

**4.1.2** The unauthorised development is outside of any Local Plan defined built-up area boundary, in an area where new residential development is unacceptable as a matter of principle. The stationing of a caravan for residential use harms the character and appearance of the countryside without any overriding justification. It is therefore contrary to the Swale Settlement Strategy, which seeks to restrict development in the countryside other than in exceptional circumstances and to protect the countryside for its own sake. Residential development in this location does not constitute sustainable development and is considered contrary to policies ST1, ST3, ST7, CP3, DM14, DM24 and DM26 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017, The National Planning Policy Framework 2021 (as amended) , together with National Planning Policy Guidance.



## **5. WHAT YOU ARE REQUIRED TO DO**

1. Cease the residential use of the Land.
2. Cease the use of the Land for the stationing of mobile homes or caravans for residential use.
3. Remove from the Land the mobile home shown in its approximate position marked "A" on the attached plan.
4. Remove from the Land all materials, rubbish, waste and domestic paraphernalia associated with compliance with steps 1-3 above.

## **6. TIME FOR COMPLIANCE**

Six (6) calendar months after this Notice takes effect.

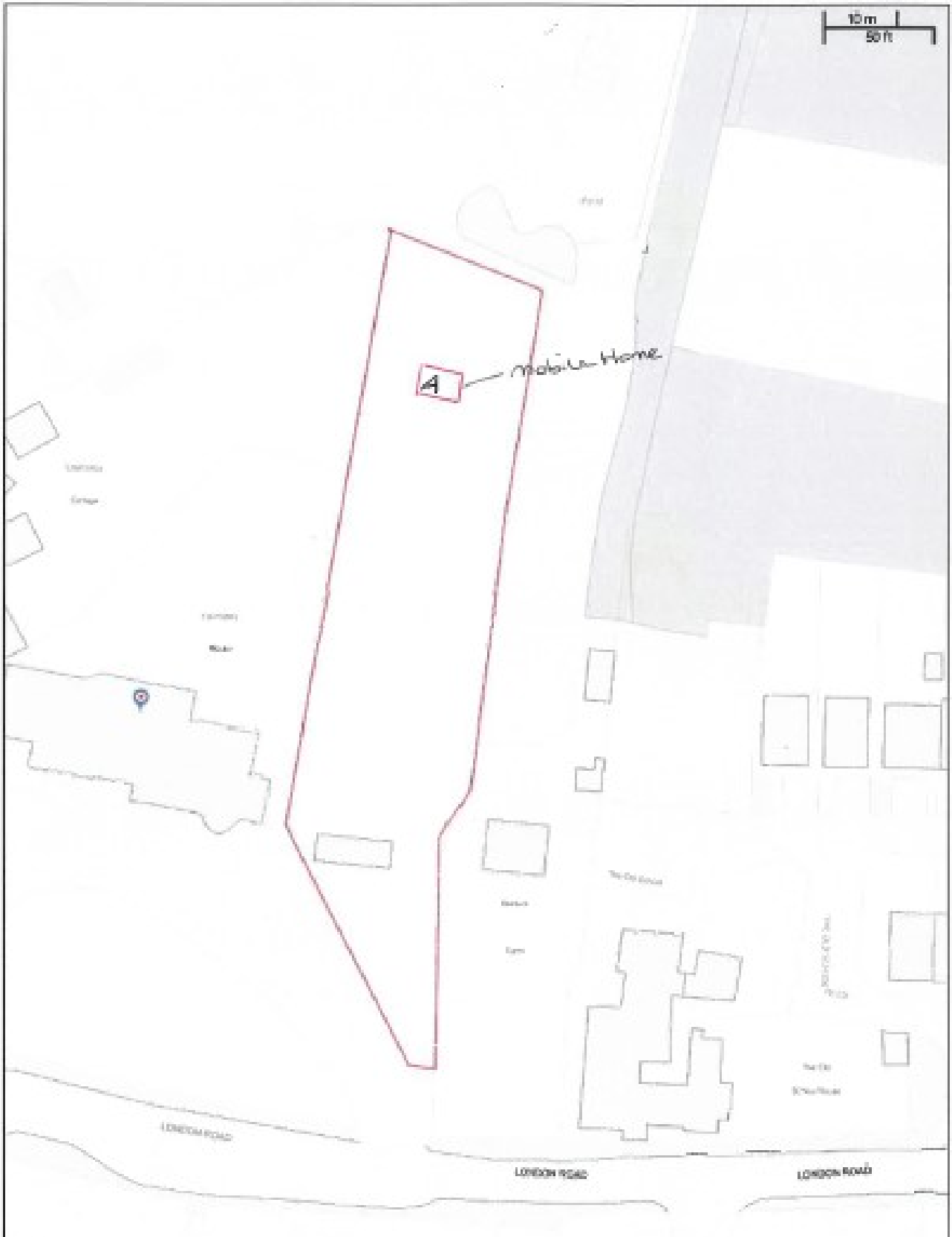
## **7. WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on **15th August 2023** unless an appeal is made against it beforehand.

**ISSUED: 11th July 2023**

### **SIGNED:**

Joanne Johnson  
Interim Head of Planning Services  
On behalf of Swale Borough Council  
Swale House  
East Street  
Sittingbourne  
Kent  
ME10 3HT  
Ref : PF/S014011.1 3



Ordnance Survey - data derived from OS Premium

Enter map title  
Scale: 1:709  
Printed on: 4/10/2023 at 11:39 AM by LauraB

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## **YOUR RIGHT OF APPEAL**

You can appeal against this Notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the Notice.

### **FEE PAYABLE FOR THE DEEMED APPLICATION**

If you make an appeal against this Notice under ground (a) 'that planning permission should be granted' the deemed application fee is £924.00 (being twice the amount of the usual fee payable in respect of an application for planning permission).

The fee must be payable by way of a cheque made to Swale Borough Council. The fee can be sent with your appeal form.

Please see the enclosed notes for guidance from the Planning Inspectorate.

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required step(s) for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the Notice. Failure to comply with an Enforcement Notice which has taken effect can result in prosecution and/or remedial action by the Council. CST Room 3/13



The Planning Inspectorate

CST Room 3/13  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Direct Line

0303-444 5000

## THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>); or
- by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us at [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**You MUST make sure that we receive your appeal before the effective date on the enforcement notice.**

In exceptional circumstances you may give notice of appeal by letter. You should include:-

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms. 4

## Enforcement Notice

**Land East to Courtenay House London Road Dunkirk Kent ME13 9LF**

### Material Change of Use

<b>List of Persons Served</b>	Address 1	Address 2
Name Ingrid Gabriele Eissfeldt	22 The Heath Whitstable Kent CT5 3HJ	Mobile Home Land East to Courtenay House London Road Dunkirk Kent ME13 9LF
The Occupier(s)	Mobile Home Land East to Courtenay House London Road Dunkirk Kent ME13 9LF	
The Owner(s)	Mobile Home Land East to Courtenay House London Road Dunkirk Kent ME13 9LF	
Any other person known to have an interest in	Mobile Home Land East to Courtenay House London Road Dunkirk Kent ME13 9LF	