



Appeal Decision

Site visit made on 16 July 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Appeal Ref: APP/Z1510/W/19/3224599

Newberries House, High Street Green, Sible Hedingham CO9 3LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs Simpson against the decision of Braintree District Council.
 - The application Ref 18/01845/FUL, dated 11 October 2018, was approved on 13 February 2019 and planning permission was granted subject to conditions.
 - The development permitted is a replacement detached garage building with hobbies and storage accommodation above.
 - The condition in dispute is No 6 which states that: *"Notwithstanding the details contained within the drawings submitted as part of the application there shall be no windows or other openings to the upper floor to the southern elevation of the proposed garage/hobbies & storage building."*
 - The reason given for the condition is: *"In order to safeguard the privacy of adjoining occupiers."*
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Decision

1. The appeal is allowed and the planning permission Ref 18/01845/FUL for a replacement detached garage building with hobbies and storage accommodation above at Newberries House, High Street Green, Sible Hedingham CO9 3LG granted on 13 February 2019 by Braintree District Council is varied, by deleting condition No 6.

Procedural Matter

2. The application form describes the development as a 'Replacement of existing garage with storey and a half garage building with storage above'. However, for the sake of precision, the appellant agreed to alter this description during the course of the determination of the application to include 'hobby space and storage'. I have therefore used the description given in both the appeal form and the Council's decision notice which includes such wording in my formal decision.

Application for Costs

3. An application for the award of costs was made by Mr and Mrs Simpson against Braintree District Council. This application will be the subject of a separate decision.

Background and Main Issue

4. Application Ref 18/01845/FUL was originally recommended for approval by the Council's Officer subject to five conditions. This scheme was then subsequently

granted at a Planning Committee on 12 February 2019. However, plans for the approved garage show French doors and a Juliet balcony within its southern elevation. From the evidence before me, it would appear that Members of the Committee were concerned that this fenestration would harm the privacy of a nearby residential property known as Carters Barns. Consequently, they imposed an additional sixth condition which, notwithstanding the details shown on the submitted drawings, restricts the insertion of any windows or openings at the upper floor of the southern elevation of the garage. This condition is the subject of this appeal.

5. The main issue is therefore whether or not the condition is reasonable and necessary in the interests of the living conditions of the occupants at Carters Barns, with particular regard to privacy.

Reasons

6. The appeal site is located on the north eastern side of a narrow country lane, within a small pocket of built form on the edge of the hamlet of High Street Green. It accommodates a detached dwelling known as Newberries House and an associated detached garage set in generous grounds. Facing the appeal site, on the opposite side of the lane, is Carters Barns. This is a two storey property which is set back from the carriageway in another large plot.
7. Whilst the replacement garage would be taller than the existing garage, the Council's Officer report shows that it would be a significant distance (in excess of 40 metres) away from the fully glazed section at the front of Carters Barns. In addition, the French doors and Juliet balcony at first floor level in the southern elevation would only afford oblique views towards this neighbouring property. In my view, such fenestration is not an unreasonable requirement and would allow for, amongst other things, ventilation and access to daylight. Taking all of the above into account, I find that it would not allow for close distance or direct views into Carters Barns.
8. Furthermore, windows in the southern elevation of the garage would not overlook the private primary external amenity space at Carters Barns. I also have no evidence to suggest that the established high level hedging along the front boundary of Newberries House would be removed. This would screen the new garage to a degree and reduce the perception of overlooking from this proposed building.
9. I therefore conclude that the condition imposed is not required to make the proposed development acceptable, with regard to the living conditions of the occupants at Carters Barns in terms of privacy. It is therefore not reasonable and necessary with regard to the tests set out at paragraph 55 of the National Planning Policy Framework.
10. Without the condition, the proposal would accord with saved Policy RLP90 of the Braintree District Local Plan Review, which seeks to ensure that developments do not result in an unacceptable impact upon the amenity of any nearby residential properties. It would also accord with emerging Policy LPP 55 of the Braintree District Publication Draft Local Plan (DLP). However, this emerging policy does not significantly change the approach from that in the adopted plan. Accordingly, it does not have a significant bearing on my decision.

Other Matters

11. I note concerns from a neighbour that features such as the toilet could facilitate a separate residential or office use. However, the ancillary residential use of the garage would be suitably managed through condition 5 on the Council's decision notice. This condition would remain unaffected by this appeal decision, which is to be read together with the original planning permission.
12. In addition, the proposal does not appear to be within a Conservation Area. I also note the Council's assessment in terms of its impact on the character and appearance of the area and see no reason to take a different view in this case.

Conclusion

13. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition. The remaining conditions in the Council's decision notice remain in force, and hence are not repeated.

M Heron

INSPECTOR