



Appeal Decision

Site visit made on 6 August 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2019

Appeal Ref: APP/M5450/W/19/3229658

446 Eastcote Lane, South Harrow, London HA2 9AN

- 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 Bhachu against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4063/18, dated 10 September 2018, was approved on 26 November 2018 and planning permission was granted subject to conditions.
 - The development permitted is the conversion of single dwellinghouse into two dwellings (2 x 2 beds); front entrance canopy; parking; bin storage; extended vehicle access; external alterations.
 - The condition in dispute is No9 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development which would otherwise fall within Classes A, B, C, D and E in Part 1 of Schedule 2 to that Order shall be carried out without the prior written permission of the local planning authority. This applies to both houses.
 - The reason given for the condition is: To safeguard the character of the area by restricting the amount of site coverage and size of dwelling in relation to the size of the plot and availability of amenity space and to safeguard the amenity of neighbouring residents.
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Decision

1. The appeal is allowed and the planning permission Ref P/4063/18 for the conversion of single dwellinghouse into two dwellings (2 x 2 beds); front entrance canopy; parking; bin storage; extended vehicle access; external alterations at 446 Eastcote Lane, South Harrow, London HA2 9AN granted on 10 September 2018 by the Council of the London Borough of Harrow, is varied by deleting condition 9 and substituting it for the the following condition:
 9. Notwithstanding the provisions of Classes A, D and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within these classed shall be carried out without the prior express planning permission of the local planning authority.

Procedural Matter

2. The Appellant has outlined that there are no objections to conditions 1-8 of the original permission and I have no reason to disagree with that view.

Main Issue

3. The main issue is whether condition 9 is necessary.

Reasons

4. Paragraph 53 of the National Planning Policy Framework sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance also states that such conditions may also fail to pass the test of reasonableness or necessity.
5. Condition 9 of permission P/4063/18 seeks to remove permitted development rights for future alterations to both properties for development in Classes A, B, C, D and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (2015) (as amended) (the GPDO). The Appellant has outlined that there is no objection to the removal of the rights contained within classes A, D and E. Given the small rear garden areas and the design of the properties where there are external doors I agree that these elements should be restricted to ensure that sufficient private amenity space remains for the occupiers of the dwellings and to protect the character and appearance of the area.
6. In respect of the rights contained within Classes B and C, these relate to alterations or additions to the roof of a dwellinghouse. The Council has provided little justification for the removal of these permitted development rights with the reason for the condition focusing on site coverage and the size of the dwelling.
7. Clearly, alterations to the roof would not have any implications for site coverage but could have an impact in relation to the overall size of the dwelling. However, I consider that there are not any exceptional circumstances that would justify the removal of these permitted development rights particularly given the characteristics of the appeal property and the surrounding area.
8. For the above reasons I consider that it is not necessary restrict permitted development rights contained within classes B and C of Part 1 of Schedule 2 of the GPDO.

Conclusion

9. For the reasons set out above, I allow the appeal and vary condition 9 of planning permission P/4063/18 so that any future works permitted under Classes B and C of Part 1 of Schedule 2 of the GPDO can proceed without any further permission from the Council.

Chris Forrett

INSPECTOR