
Appeal Decision

Site visit made on 17 December 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 07 January 2020

Appeal Ref: APP/Y9507/W/19/3237052
39 Tilmore Road, Petersfield GU32 2HJ

- 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 I Pruden against the decision of South Downs National Park Authority.
 - The application Ref SDNP/19/01844/HOUS, dated 12 April 2019, was approved on 25 June 2019 and planning permission was granted subject to conditions.
 - The development permitted is the alterations and extension to roof to create additional bedrooms (alternative to SDNP/17/06485).
 - The condition in dispute is No 1 which states that: *"Within four months of the permission hereby granted works shall be substantially completed in accordance with Plan Numbers TIL2-PR-02, TIL-PR-03, TIL-PR-04 and TIL-PR-06."*
 - The reason given for the condition is: *"To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended) and to ensure that the development is substantially completed within the timescales previously agreed between the EHDC Planning Compliance Team and the applicant."*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal property is a semi-detached dwelling located on the eastern side of Tilmore Road. The dwelling has been altered to include a substantial dormer extension at the rear of the property. The dormer extension was the subject of enforcement action.
3. Following dismissal of an appeal¹ in relation to the retention of the dormer extension, an amended scheme of works was approved by the Council in March 2018. The evidence before me indicates that completion of the approved scheme was delayed and that, further to discussions between the Appellant and the Council, it was agreed that further enforcement action would be put on hold in order for the Appellant to complete the approved works within an agreed period of time.
4. Subsequent to the above, a further scheme was approved by the Council in June 2019, which provided a timescale of four months for completion of the required works. The Appellant maintains that the timescale included within the condition is unreasonable due to unexpected issues arising since the planning permission was granted and the condition imposed.

¹ Appeal Reference: APP/Y9507/D/17/3180896

5. Paragraph 55 of the National Planning Policy Framework February 2019 (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
6. In light of the above, the main issue in this appeal is whether the disputed condition is reasonable with regards to the timescale imposed by the disputed condition.

Reasons

7. The Appellant has put it to me that the timescale included within the disputed condition is no longer reasonable as a result of unforeseen circumstances that have arisen since the date on which the Council approved the scheme of works. The Appellant has indicated that, due to a number of factors in relation to the Appellant's appointed surveyor and by reason of annual leave commitments, it is no longer possible to complete the works within the required timescale.
8. The Appellant maintains that, given the circumstances, the condition imposed by the planning permission should be amended to provide a timescale of nine months to complete the necessary works.
9. However, there is no evidence before me which demonstrates or indicates why nine months would be required in order to complete the approved scheme. Indeed, the Appellant has indicated that factors which delayed the start of the works, have now been overcome and that works on the development as approved by the Council have already commenced. From observations made on my site visit, it could be seen that scaffolding was being constructed and it appeared that works had commenced.
10. Further to the above, the submissions made in this appeal indicate that the imposition of a four month timescale within the disputed condition, was agreed during correspondence between the main parties. There does not appear to be any evidence before me which shows that the Appellant considered that the timescale was not appropriate and, in my view, it would have been reasonable for the Council to conclude that the Appellant's agreement to this timescale was on the basis that all necessary arrangements were in place.
11. Whilst I sympathise with the Appellant's position, it would not be reasonable to extend the timescale provided in the disputed condition under the current circumstances. There is no evidence before me which demonstrates that nine months would be required to reasonably complete the works and, consequently, it would not be possible to determine whether this extended period would be necessary in order to complete the works.
12. Furthermore, the timescale imposed within the disputed condition is reasonable given that deemed consent for the unauthorised alterations to the roof space could be obtained once the four year period for enforcement has elapsed. I acknowledge that the evidence indicates that the four year period would not have elapsed if the extended timescale was provided. However, in the event that the condition was varied to provide the requested timescale and that works were not complete at expiry of that period, the Council would have an unacceptably short and unreasonable period of time in which to consider enforcement action before immunity from that procedure arose.

13. For the above reasons, I conclude that the disputed condition is reasonable and necessary in its current form. The condition is required and would accord with the provisions of paragraph 55 of the Framework. Furthermore, given the planning history regarding the site, I find that the Council have acted proportionately in relation to this matter, having previously worked with the Appellant in agreeing a substantial period of extension in order to complete the necessary works following earlier delays and unforeseen circumstances. The dismissal of this appeal would therefore accord with paragraph 58 of the Framework.

Other Matters

14. Further to the above, the Appellant maintains that an enforcement notice dated 28 November 2019 has been incorrectly served and is administratively flawed. However, this appeal concerns the disputed condition and whether such a condition would accord with the provisions of paragraph 55 of the Framework. Consequently, this appeal has been determined in relation to the disputed condition only and has not considered whether or not the aforementioned enforcement notice has been correctly served.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR