



Appeal Decision

Site visit made on 11 February 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2020

Appeal Ref: APP/L2820/W/19/3241209

Veritas, 13 Ironwood Avenue, Desborough, Northamptonshire, England NN14 2JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission due to, as the appeal form states, a dispute over provision of local list documentation.
 - The appeal is made by Mr & Mrs Paul & Fernanda Meurisse & Van Raepenbusch against Kettering Borough Council.
 - The application Ref: KET/2019/0521 is dated 23 July 2019.
 - The development proposed is described on the application form as follows: "This box 3 can obviously not contain a full description of our planning application. As such, our planning application in 12 parts has been further detailed in Chapter 1.A (pp 15-30/106) of our textual document. Overall, we apply for a two storey extension of our existing corner house with double garage, as complemented by a series of required related improvements as well as a series of safety and security upgrades, so that we can accommodate wheelchair access throughout, as well as a lift and a third bedroom (for nurse/carer). The extension, improvements and upgrades additionally aim to provide us with a more comfortable and more flexible as well as more healthy and secure living during retirement. We also aim to achieve a zero carbon emission property in two stages. The pitched roof will be replaced by a flat roof with glass barrier as well as lift and staircase access. A double garage will also be added to satisfy an apparently existing planning condition on the property. The property will for security and safety reasons be surrounded by a 2.3 m wall, which among others requires to increase any existing wall of 2 m to 2.3 m, additionally requires to replace any other border materials such as wooden fences by brick. The property will have at its rear, but fully within its private border, what can be called a canopy."
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Procedural Matters

1. Although the appeal form states that the Council failed to give notice of its decision within the appropriate period because of a dispute over provision of local list documentation, the Council contends that the information it required to make the planning application valid was not related to any local requirements. In addition, the appellant considers that, although they submitted a validation dispute notice under Article 12 of the Town and Country Planning (Development Procedure) (England) Order 2015 (DMPO), which the Council advised, this is not the correct procedure to resolve the dispute, as it does not relate to a local requirement. I consider that the dispute is not one related to a local list requirement and I have therefore determined the appeal on this basis.

2. The description of development provided in the header above includes reference to further details of the proposal being provided in a supporting document (Chapter 1.A (pp 15-30/106) of the textual document submitted – which I shall refer to from here on as a ‘supporting document’. From the description provided on the application form along with the additional information provided in the supporting document referred to, I consider that the works proposed can be summarised as follows:
- Replace pitched roof over main house with flat roof, to include raising the height of existing elevations. Roof to be used as an outdoor amenity area.
 - Enclosure on roof to accommodate lift and stair access.
 - Three-storey side and rear extensions.
 - Single-storey front garage extension with flat roof, used as an outdoor amenity area.
 - Opaque glazed screens around perimeters of both flat roofs, some screens having photovoltaic cells incorporated within them.
 - Replace existing, and install additional, boundary treatments comprising of brick walls, metal gates and hedges.
 - Attach canopy to northern facing elevation of proposed rear boundary wall.
 - Install metal poles at front and rear with CCTV cameras, external lights and signage attached.
 - Lower the kerb on Mulberry Close.
 - Alterations to fenestration, including installing Juliette balconies.
 - Alterations to materials used on elevations.
 - Erect covered structure over garden path.
 - Internal alterations.
 - Alterations to hard and soft landscaping, including installing water features and garden lights.
3. I acknowledge that some of the works listed above may not constitute ‘development’ that requires planning permission¹, eg water features and garden lights. Nonetheless, the works listed provide a comprehensive account of the works proposed and as such aid understanding. I have borne this list of works in mind in reaching my decision.
4. I note that an initial version of the proposals was submitted to the Council on 23/7/2019 and that a second version was submitted on 20/08/2019. I have not been provided with details of these versions. However, it is clear from the appeal documents that revision 3 is the proposal that I am considering in the appeal. I have therefore made my decision on this basis.

Decision

3. The appeal is dismissed.

Main Issues

4. The main issue is whether the planning application is valid, with particular regard to the requirements of the national list.

¹ As defined in s55 of the Town and Country Planning Act 1990

Reasons

5. Section 62(3) of the Town and Country Planning Act 1990 (TCPA), 'applications for planning permission' was replaced by s42 of the Planning and Compulsory Purchase Act 2004 (PCPA), which states (s42(3)) that:
 - The local planning authority may require that an application for planning permission must include-
 - (a) such particulars as they think necessary;
 - (b) such evidence in support of anything in or relating to the application as they think necessary.
6. The general requirements for planning applications submitted to Local Planning Authorities (LPAs) is outlined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO)². The 'validation requirements' section of the Planning Practice Guidance (PPG)³ outlines what is required to make an application valid. At minimum, an application must comply with national information requirements.
7. The national requirements can vary according to type of application. For the purposes of a householder application, to which the appeal relates, in summary the requirements are:
 - A completed application form;
 - Plans and drawings;
 - Ownership Certificate and Agricultural Land Declaration;
 - Payment of the appropriate fee.
8. Section 7(1)(a) of the DMPO states that an application for planning permission must "be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the same effect)"; s7(1)(b) states that this must "include the particulars specified or referred to in the form". In respect of plans and drawings, s7(1)(c)(i) states that the application must be accompanied by "a plan which identifies the land to which the application relates", ie a 'location plan'. In addition, s7(1)(c)(ii) states that the application must be accompanied by "any other plans, drawings and information necessary to describe the proposed development which is the subject of the application". Any plans and drawings required by s7(1)(c)(i) or (ii) must be drawn to an identified scale, and in the case of plans, must show a direction of north (s7(2) DMPO).
9. The key areas of contention regarding the validity of the application relate to a) the description of development and b) the plans, drawings and additional information provided to further describe the proposed development.
10. I appreciate the Council sought to clarify the description of development provided on the application form in an attempt to understand the proposal which they were being asked to appraise/decide upon, and to make it easier for members of the public to also understand/appreciate the proposal. However, I

² Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015

³ Paragraph 016 Reference ID:14-016-20140306 Revision date 06 03 2014

consider the Council's latest suggested alterations to the description of development (letter dated 29 October 2019) does not accurately describe the proposed development.

11. Notwithstanding, I consider that the description of development provided on the application form also does not adequately describe the development proposed. This is evident when one compares the description of development provided on the application form with the list of what I consider to be the works proposed. The appellant considers that a description of proposed development cannot fit in the space provided on the application form, as well as proposing that the description on the application form and the further description in the accompanying supporting document, should be taken together to constitute the description of proposed development.
12. However, I consider that a satisfactory description of development could be provided on an application form. I note that the description provided on the application form and the continuation of it in the supporting document, contain a lot of information describing why the appellants wish to carry out their proposals. Such statements do not describe the proposals and contribute to the lengthy descriptions provided. The description of proposed works as listed above consists of fewer words, characters and characters with spaces than the description provided in box 3 of the planning application form. I have checked via the Planning Portal, and the proposed works as listed would fit on the relevant application form. Furthermore, as noted above, s7(1)(a) of the DMPO states that the application must be made in writing on an appropriate form; it does not say on an appropriate form and accompanied by another document that is required to provide part of the description of development.
13. I consider that any additional information submitted with the application, such as plans/drawings and supporting documents, in accordance with s7(1)(c)(ii) of the DMPO, should accompany the application form to aid understanding, rather than act as an additional, essential part of the application form. In addition, for accuracy, it follows that any additional information should correspond with the description of proposed development as provided on the application form.
14. Excluding the location and block plans, I consider the additional drawings (labelled as plans) do not adequately depict the proposals. Thus
 - Plans 11, 13 and 15 state that everything internal is indicative. Works that affect only the interior of a property are not 'development' as defined in s55 of the Town and Country Planning Act 1990 (TCPA 90). However, the proposed works would not "affect only the interior of the building", they would also substantially affect the exterior of the building. The effects would not only be in relation to the external appearance of the building. The proposals would, for example, also affect the relationship between the property and neighbouring properties. Thus, without being certain about what the internal layout of the resultant property would be, it is not possible to adequately understand the relationship the property would have with neighbouring properties. Therefore, it would not be possible to adequately appraise the effect the proposal would have on the living conditions of occupiers of neighbouring properties.
 - The plans/drawings do not include: i) elevations of the proposed boundary treatments or canopy; ii) plans or elevations of the proposed covered

- structure over garden path; iii) precise locations, plans or elevations of the proposed poles (for CCTV cameras, lights and signage).
- Some plans/drawings are inconsistent. For example, plan 12 is labelled as an external first-floor floorplan and plan 13 is labelled as an internal first-floor floorplan. Plan 12 includes external windows and 3 external French doors; plan 13 does not show any external windows but it does show external French doors, though only 2, as opposed to 3 shown on plan 12. I appreciate the appellant considers that the 2 plans serve 2 different purposes. However, as plan 13 does include external French doors it is not therefore confined solely to internal aspects. In addition, the French doors that provide access to the flat roof at the front of the house are shown as opening outwards on plan 12 and inwards on plan 13.
 - The supporting information does not provide: i) sufficient details of the proposed glazed opaque screens or the photovoltaic cells to be incorporated within them; ii) sufficient details of the proposed CCTV cameras, security lights or signage; iii) sufficient details of the proposed Juliette balconies.
 - In addition, the supporting information refers to the proposed poles being between 4-5 m high, the number of CCTV cameras being 2 or 3 and the number of flood lights being 2 or 3. There is also a request to have a tolerance of 30 cm on all horizontal and vertical measures.
15. Bearing the above factors in mind, I consider that it is not possible to fully understand the proposed development. Consequently, it is not possible to satisfactorily appraise the proposals and their impact in respect of key relevant planning matters such as character and appearance of the area, living conditions of occupiers of neighbouring properties and highway safety.
16. Furthermore, as the description of development and supporting information do not accurately describe, depict or illustrate the proposals, it would not be possible to issue a decision regarding the proposals. Whether allowing or dismissing, with no clear description, a set of plans/drawings with key details omitted (and, on occasions, inconsistent), insufficient information regarding certain aspects of the proposal, and a request for a 30 cm tolerance on all horizontal and vertical measures, it would not be possible to be clear about what the decision relates to. Nor would it be possible for an LPA to take enforcement action, should it be deemed necessary.

Other Matters

17. The appellant has requested the Planning Inspectorate (PI) provide remedies to other matters, namely that the PI
- informs the LPA to refund a pre application fee;
 - informs the LPA to provide the appellant with access to all applications related to the appeal site, and
 - requests the LPA to provide the PI and appellants with details of planning conditions related to the appeal site.
18. These matters concern the appellant and the LPA and are outside the scope of what is to be dealt with as part of this s78 appeal.

Conclusion

18. In light of all the above, I conclude that the application does not satisfy the national requirements, having particular regard to the description of development and the accompanying plans/drawings. As such, the application is not valid. Having concluded this, it is not possible for me to appraise the proposal. For the above reasons, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR