



Appeal Decision

Site visit made on 8 June 2021

by Cullum J A Parker BA(Hons) MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 9th June 2021

Appeal Ref: APP/G2245/W/20/3260737

St Lawrence, London Road, West Kingsdown TN15 6EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (TCPA) against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Jean Andrews against the decision of Sevenoaks District Council.
 - The application Ref 20/01685/HOUSE, dated 16 June 2020, was approved on 8 September 2020 and planning permission was granted subject to conditions.
 - The development permitted is *Proposed addition to the first floor, porch to dwelling, proposed detached garage/workshop, new driveway, alterations to fenestration, roof lights, removal of chimneys and bathroom window restrictor a triple restrictor locking devise* (sic).
 - The condition in dispute is No 6 which states that: *Within 3 months of this decision, the mobile home located in the rear garden to the west of the dwelling known as St Lawrence shall be removed from the site in its entirety.*
 - The reason given for the condition is: *In the interests of visual and neighbouring amenity in accordance with Policy EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan.*
-

Decision

1. The appeal is allowed and the planning permission Ref 20/01685/HOUSE for *Proposed addition to the first floor, porch to dwelling, proposed detached garage/workshop, new driveway, alterations to fenestration, roof lights, removal of chimneys and bathroom window restrictor a triple restrictor locking devise* at St Lawrence, London Road, West Kingsdown TN15 6EU granted on 8 September 2020 by Sevenoaks District Council, is varied by deleting Condition 6.

Preliminary Matters

2. Section 79(1) of the TCPA allows the Inspector to allow or dismiss the appeal or reverse or vary any part of the decision of the LPA. Put another way, to deal with the application as though it had been made to me in the first instance. I have carefully considered the information submitted by the main and interested parties at the application and appeal stages. In this case, I do not consider that they raise matters which require a reversal of the original grant of permission and have therefore focussed primarily on the disputed condition.
3. For the avoidance of doubt, the allowing of this appeal does not create a new permission, but rather requires the reading of the original planning permission and this decision together.

Background and Reasons

4. The history of the appeal site is well documented in the evidence submitted by the main parties. Put simply, planning permission was granted by the Council under 17/04051/HOUSE in 2018. In 2019 an application to remove condition 6 of that permission was refused by the local planning authority under reference 19/01172/CONVAR. In 2020, a further application for planning permission was submitted. This was similar to that permitted under the 2018 application and as such the Council imposed similarly worded conditions. It is condition 6 of the 2020 permission which is the subject of this appeal.
5. As indicated in the header of this decision, the condition requires the removal of a mobile home situated within the rear garden of the property known as St Lawrence. I saw during my site inspection that there continues to be a mobile home situated to the rear of St Lawrence and the rear garden area is sub-divided by an internal close-boarded fence: although I note that these are omitted on the drawings before me. The written submissions of the main parties indicate that the mobile home building is occupied by family members as 'ancillary living accommodation'.
6. No floorplans have been submitted which show the inter-relationship between the occupiers of the mobile home and the main dwelling and what services are shared. Moreover it is unclear as to what permission, if any, is required for the storing, stationing or use of the mobile home at the end of the garden at St Lawrence. There certainly appears to be little evidence that planning permission has been granted for it or any lawful development certificate to clarify such matters. Nonetheless, those are separate matters between the LPA and Appellant to resolve.
7. To be clear, planning permission was sought for 'Proposed addition to the first floor, porch to dwelling, proposed detached garage/workshop, new driveway, alterations to fenestration, roof lights, removal of chimneys and bathroom window restrictor a triple restrictor locking devise' (sic). No structures or any boundary treatment referred to by the main parties are shown on the approved drawings.
8. My remit is to consider whether Condition 6 imposed in this case meets what are generally known as the 'six tests' as set out in Paragraph 55 of the *National Planning Policy Framework* (the Framework) and as supported by the national *Planning Practice Guidance* (PPG) and in particular PPG paragraph 21a-003-20190723¹. These are:
 - i) necessary; ii) relevant to planning; iii) relevant to the development to be permitted; iv) enforceable; v) precise; and, vi) reasonable in all other respects.
9. In this respect, I am not convinced that the condition would satisfy the tests of being necessary and/or relevant to the permission to be permitted.
10. To elaborate further, conditions may only be imposed where doing so is necessary to avoid a refusal of planning permission. In this case, the mobile home is not within the description for which planning permission was sought for, nor was it shown on the submitted drawings. It is, therefore, unclear as to why the condition is necessary to avoid a refusal of permission. It has also not

¹ <https://www.gov.uk/guidance/use-of-planning-conditions>

been clarified in the evidence before me the purpose of the mobile home being situated on the land in relation to the grant of planning permission.

11. In terms of relevant to the permission to be permitted, it is not sufficient for a condition to merely relate to planning objectives – as is the case here in terms of reference to the development plan and ‘interests of visual and neighbouring amenity’. It should be justified by the nature of the development proposed or its impact. Planning permission has not been sought for the mobile home under this specific planning permission so the condition would not meet this test. Moreover, a condition cannot be imposed to remedy a pre-existing problem which was not created and would not be exacerbated by the development before me. Regardless of the lawful status of the mobile home, it appears from the written evidence before me to have been in place before the 2020 permission was granted and rectification of its planning status is a separate matter for the main parties to resolve distinct from that in this case.

Conclusion

12. The PPG advises that any condition which fails to meet one of six tests should not be used. In this case I find that Condition 6 imposed on planning application ref 20/01685/HOUSE would fail to meet, at the very least, the tests of necessity and relevance to development to be permitted. Accordingly, I find that the aforesaid condition is unnecessary.
13. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

Cullum J A Parker

INSPECTOR