



---

## Appeal Decision

Site Visit made on 13 December 2021

**by B Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> December 2021**

---

**Appeal Ref: APP/H2835/W/21/3279318**

**22 Fullwell Road, BOZEAT NN29 7LY**

- 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 Gordon Betts against the decision of Wellingborough Borough Council.
  - The application Ref NW/21/00355/FUL, dated 22 April 2021, was approved on 16 June 2021 and planning permission was granted subject to conditions.
  - The development permitted is the demolition of an existing single storey conservatory and outbuilding and the erection of a two-storey attached 3 bedroom house and on-site parking for the existing and new dwelling.
  - The conditions in dispute are Nos 16 and 17. Condition 16 states that - Notwithstanding the provisions of Classes A-D (inc) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no enlargement, alteration or improvement of the new dwellinghouse shall be undertaken at any time without the prior planning permission of the local planning authority. Condition 17 states that - Notwithstanding the provisions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no building or structure shall be erected or placed within the curtilage of the new dwelling hereby permitted without the prior planning permission of the local planning authority.
  - The reasons given for the conditions are: Condition 16 - Taking into account the density of the site it is considered to be in the public interest to ensure the merits of future proposals can be assessed by the local planning authority so that the amenities of the adjoining occupiers are not adversely affected in accordance with policy 8(e)(i) of the North Northamptonshire Joint Core Strategy, and Condition 17 - Having regard to the density, character and layout of the development the local planning authority consider such structures would be likely to adversely affect the amenity of neighbouring occupiers and consider it is in the public interest to require an application to enable the merits of any proposal to be assessed in accordance with policy 8(e)(i) of the North Northamptonshire Joint Core Strategy.
- 

### Decision

1. The appeal is allowed and the approval Ref NW/21/00355/FUL, given on 16 June 2021, is varied by deleting condition No's 16 and 17.

### Background and Main Issue

2. The approved development includes two conditions that remove Permitted Development (PD) rights. These relate to extensions and alterations to the new dwelling and curtilage buildings. The Council's reasons given for these, on the

decision notice, are the need to safeguard the amenities of neighbouring occupiers against the likely adverse effect of such development.

3. Consequently, the main issue is whether conditions 16 and 17 are reasonable and necessary in the interests of living conditions of neighbouring occupiers.

### **Reasons**

4. The appeal site is the side garden of an existing dwelling within a suburban area. The area has a diverse range of house types within a relatively close-knit pattern of development. Fullwell Road is on a gradual gradient. As a result, the ground floor of 24 Fullwell Road is around one metre higher than the appeal site and plot of the existing dwelling. The approved dwelling is a semi-detached property that, at the time of my visit, appeared to be substantially complete. Its rear garden is similar in length, width and overall size to the majority of neighbouring properties. As a result, the dwelling and the space around it, have characteristics that are common with the local pattern of development.
5. The National Planning Policy Framework (The Framework) at paragraph 56 states that conditions should only be imposed when they are necessary, relevant, enforceable, precise and reasonable in all other respects. More specifically, paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear reason to do so. Planning Practice Guidance states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness.
6. The rear elevation, of the new dwelling, projects out to the rear by around two metres. This creates a small staggered rear building line with No 22. However, the side passageway forms a gap between these dwellings at ground floor. Due to this separation gap, and the kitchen/diner of No 22 being served by two windows, the impact of future PD development would be limited. This relationship would be similar to the common effect of PD extensions between semi-detached dwellings. As such, PD development in this context would have a negligible and acceptable effect on the neighbouring occupier's access to daylight and sunlight.
7. Furthermore, due to the level change with No 24, the effect of any PD extensions or curtilage buildings close to this property, would also be limited. The site is not constrained to any greater extent than local existing development. As a result, considering the overall context of the site, there is no compelling reason to withhold PD rights.
8. Accordingly, I conclude that the imposed PD restrictions are neither reasonable nor necessary in the interests of the living conditions of neighbouring occupiers. Consequently, removing the conditions would not conflict with policy 8 of the North Northampton Joint Core Strategy (2016) or the Framework. These seek development that creates a high standard of amenity for users and to not result in unacceptable impacts.
9. As such, clear justification for imposing the condition, as required by the paragraph 54 of the Framework, has not been provided.

## **Conclusion**

10. For the reasons set out above, I conclude that the appeal should be allowed, and the planning permission should be varied by the deletion of Conditions 16 and 17.

*B Plenty*

INSPECTOR

