



Appeal Decisions

Site visit made on 13 June 2022

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 1 July 2022

2 appeals at The Tally Ho, Main Road, Knockholt, SEVENOAKS TN14 7NT

- The appeals are made by Mr Tom Barnshaw against the decisions of Sevenoaks District Council.
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Appeal A: APP/G2245/X/21/3279545

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal in part to grant a certificate of lawful use or development (LDC). The application ref 21/01711/LDCPR, dated 14 April 2021, was refused in part by the Council by notice dated 19 July 2021.
- The application was made under section s192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is extensions to a residential home.

Appeal B: APP/G2245/W/21/3274302

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The application Ref 21/00076/HOUSE, dated 11 January 2021, was refused by notice dated 12 April 2021.
 - The development proposed is the erection of 2 metre high chain link fencing.
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Decisions

Appeal A: APP/G2245/X/21/3279545

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Appeal B: APP/G2245/W/21/3274302

2. The appeal is allowed and planning permission is granted for the erection of 2 metre high chain link fencing at Tally Ho, Main Road, Sevenoaks, TN14 7NT in accordance with the terms of the application, Ref 21/00076/HOUSE, dated 11 January 2021, subject to the conditions attached as Annex A to these Decisions.

Main Issues

3. I consider the main issues in these cases are:

Appeal A:

whether the decision of the Council to refuse the application for an LDC was well founded;

Appeal B:

(i) whether the proposed development represents inappropriate development within the Green Belt and, if so, whether there are any material considerations that outweigh the harm caused by such development, and any other harm, and are sufficient to justify the proposal on the grounds of very special circumstances and

(ii) the effect of the development on the character and appearance of the surrounding area.

Site and surroundings

4. The site is a former public house in a rural situation that has now been converted into a single dwelling house. It lies within the Metropolitan Green belt and stands in extensive grounds, now used as a private garden.
5. The appeals seek a Certificate of Lawful Development (LDC) for a 2 storey extension to the rear of the building and a single storey extension to each side (Appeal A) and planning permission for a section of chain link fencing around the property boundary (Appeal B). The length of boundary along which the fence is proposed fronts the roads along the south west and part of the south east boundary where there is extensive planting, including mature trees.

Reasons

Appeal A

6. The original application for a change of use from a public house to a residential property showed the north eastern boundary of the land less than 2m away from part of the side wall of the building. This boundary was again shown on the plan that accompanied the first application for an LDC (ref:21/00435). Based on this information, the Council refused the application because the proposal was for an extension, part of which would have 2 storeys and be over 3m high. This would exceed the size limits set by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO).
7. The appellant then revised the application to show a different boundary line, set further away from the building, stating that the original shown on the 2 previous applications was incorrect. The Council refused this second application, considering that no explanation had been given for the change in boundary line.
8. At the site visit, I inspected the point at which the boundary is closest to the part of the building that would have 2 storeys if the LDC were granted and the measurement from there to the wall was agreed by the parties to exceed 2 metres, being at least 2.33m and increasing further towards the rear of the house.
9. The post from which the measurements were taken appears to have been in the same position for some considerable time with no visible evidence that it had ever been moved. Similarly, there was nothing on the neighbouring land (a field) to indicate that the boundary line had altered since the first application was submitted. The vegetation and fencing on this part of the boundary also appears well established.

10. I therefore consider that it is reasonable to assume that the established boundary is over 2m from the 2 storey part of the proposed extension. As the Council had no concerns about the single storey sections, which are within the size limits of the GPDO, the application will be granted.

Appeal B

11. The Council does not consider that the proposed fencing would be harmful to the openness of the Green Belt in either spatial or visual terms. It notes that it would be of a typical height and would be constructed of chain link steel, allowing some visibility through it into the vegetation that borders the site. However, it considers that the fencing would appear visually prominent in the street scene and would conflict with the rural and the verdant nature of the surrounding area. This would harm its character and there would also be harm in principle from the fencing being inappropriate development in the Green Belt.
12. The Council also notes that the plans do not show whether the trees and vegetation alongside Burlings Lane would be maintained and that no details of soft landscaping have been being proposed to soften the visual impact of the fencing. It considers there is limited opportunity for this due to the location of the fencing immediately next to the highway.
13. However, at my site inspection I saw that the boundary is well planted with mainly deciduous vegetation. Nevertheless, there is still plenty of scope for any fencing to be positioned so that it would avoid the existing mature trees and cause the minimum of disruption to the existing under-storey planting.
14. I also saw some fencing on the opposite side of the road, similar to that proposed at the appeal site which was coated in green plastic that ensured it blended well with the surrounding vegetation, leaving it barely visible. It seems to me that, if the Council were to be provided with specific details of the post type and positions, the materials to be used and the proposed line of the fence, together with any vegetation to be removed, it would be possible to ensure that the proposal had no harmful impact on the character and appearance of the surroundings. Such details, together with a landscaping scheme, could be required by conditions attached to any planning permission.
15. The fence would still be inappropriate development within the Green Belt, but with no other harm caused I consider that the benefits of securing the boundary to what is a large plot of land attached to the former public house outweighs any harm in principle.

Conditions

16. As noted above, I consider the conditions discussed above, as well as the standard commencement condition, are required to ensure the development is carried out in a manner that does not harm the character of the surroundings. I will therefore impose these on the grant of planning permission.

Conclusions

Appeal A

17. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of extensions to a residential home was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Appeal B

18. For the reasons given I conclude that the appeal should succeed.

Katie Peerless

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 14 April 2021 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown on plans PD 101-P3 and PD 107 – P3 accompanying application 21/01711/LD would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development meets the criteria for permitted development set by Class A of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) Order 2015 (as amended).

Signed

Katie Peerless

Inspector

Date: 1 July 2022

Reference: APP/G2245/X/21/3279545

First Schedule

Extensions to a residential dwelling

Second Schedule

Land at the former Tally Ho Public House, Main Road, Knockholt, TN14 7NT

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Annex A

Conditions to be attached to planning permission 21/00076/HOUSE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No development shall commence until a scheme of landscaping has been submitted to, and approved in writing by, the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 3) The landscaping works shall be carried out in accordance with the approved details in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) No development shall commence until full details of the proposed boundary fence have been submitted to and approved in writing by the local planning authority. These details shall include details of post type and positions, the materials to be used and the proposed line of the fence. The development shall be completed in accordance with the approved details.