



Appeal Decision

Site visit made on 25 January 2023

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2023

Appeal Ref: APP/G2245/W/22/3301963

1 Harrow Road, Knockholt, SEVENOAKS, TN14 7JT

- 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 L Rae against the decision of Sevenoaks District Council.
 - The application Ref 22/00783/HOUSE, dated 21 March 2022, was approved on 16 May 2022 and planning permission was granted subject to conditions.
 - The development permitted is the 'demolition of existing garage and workshop. Erection of part single part two storey extension with basement. New front porch and alterations to fenestration.'
 - The condition in dispute is No 5 which states that: 'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting those Orders) no development falling within Classes A, AA, B, C, D and E of Part 1 of Schedule 2 to the said Order shall be carried out.'
 - The reason given for the condition is: 'In order to safeguard the residential amenities of existing and future occupiers of the development and surrounding properties in accordance with policy EN2 of the Sevenoaks Allocations and Development Management Plan.'
-

Decision

1. The appeal is allowed and the planning permission Ref 22/00783/HOUSE for the 'demolition of existing garage and workshop. Erection of part single part two storey extension with basement. New front porch and alterations to fenestration' at 1 Harrow Road, Knockholt, SEVENOAKS, TN14 7JT, granted on 16 May 2022 by Sevenoaks District Council, is varied by deleting condition 5.

Application for costs

2. An application for costs was made by Mr L Rae against Sevenoaks District Council (the Council). This application is the subject of a separate Decision.

Main issue

3. The main issue is whether condition 5 is necessary and reasonable to protect the living conditions of occupiers of neighbouring properties.

Reasons

4. No 1 Harrow Road is a detached house with a single storey garage/workshop attached at the side. The house, which has been extensively extended and altered, is located on a large plot, set back from the road behind a front garden and linked by its garage to a similar property to the west. To the east is a newly erected pair of semi-detached houses, 1A and 1B Harrow Road, built on

the site of the former Antique House, which was demolished after a being extensively fire damaged. The new houses are set further forward and at a lower level. There is a small tapering courtyard to the rear, enclosed by a retaining wall with a timber fence above, running along the boundary with the appeal property.

5. In May 2022, the Council granted planning permission (the 2022 permission) for a proposal at the appeal property that would entail the demolition of the existing garage/workshop and the construction of a single storey side/rear extension with games room and patio at basement level, front porch and alterations to the fenestration of the house.
6. The proposed development under the 2022 permission would be essentially the same as a previously permitted scheme which was allowed on appeal in September 2019¹ (the 2019 appeal decision), but seemingly not implemented. In granting the 2022 permission, the Council imposed² the 4 conditions that appeared in the 2019 appeal decision, but also included an additional condition (No 5) which would have the effect of removing a wide range of permitted development rights from the property.
7. The 2019 appeal decision had addressed this very matter. In response to the Council's suggestion at that time that permitted development rights should be removed by a condition, the Inspector stated³ that '... in light of my findings, it is not considered necessary, given that the proposal is acceptable on its own merits. There are no exceptional circumstances that would justify the removal of permitted development rights that are reasonable and necessary to make the development acceptable.'
8. Whilst I have noted the Council's officer report, which says that 'significant weight' should be given to the removal of permitted development rights, paragraph 54 of the National Planning Policy Framework specifically counsels against restricting national permitted development rights unless there is clear justification to do so. The Guidance⁴ also explains that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.
9. I note that there has been some change in circumstances since the 2019 appeal decision, in that Nos 1A and 1B have been erected to the east of the site and that these do change the site context compared to that when *Antique House* was still present. However, the Council has judged the appeal development to be acceptable on its own merits, including its relationship to these new properties. I noted on my site inspection that the development would be a comfortable distance from the boundary with the nearest new dwelling. In any event, the fact that the adjacent new house is set at a lower level, and sits on a compact plot, is not altogether unusual or exceptional.
10. In my assessment, there is no clear justification for the removal of all permitted development rights in this case, and I therefore have no reason to depart from the similar reasoning of the 2019 appeal Inspector.

¹ APP/G2245/D/19/3232951

² There is some minor variation in the wording of condition 4 but the conditions are essentially the same.

³ APP/G2245/D/19/3232951 – Paragraph 14

⁴ Planning Practice Guidance – Use of Planning Conditions

11. For the above reasons, I conclude that condition 5 would not be reasonable and necessary to make the development acceptable. The appeal is allowed and the permission granted under Ref 22/00783/HOUSE is varied by the deletion of condition 5.

P. Staddon

INSPECTOR