



Appeal Decision

Site visit made on 23 January 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16.02.2024

Appeal Ref: APP/G2245/W/23/3318386

Summerhill, Seal Hollow Road, Sevenoaks, Kent TN13 3SH

- 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 Brentfield Homes Ltd against the decision of Sevenoaks District Council.
- The application Ref 22/03345/MMA, dated 1 December 2022, was granted approval by notice dated 7 February 2023 subject to conditions.
- The application sought planning permission for "demolition of existing dwelling; erection of two detached dwellings with garaging and associated works incorporating minor revisions following consents under application references SE/18/00158/OUT and SE/18/02903/CONVAR" by varying conditions 2, 3, 6, 8, 9, 10, 11 and 12 attached to planning permission Ref 20/01075/FUL.
- The conditions in dispute are (1) No. 2 which states that "The development hereby permitted shall be carried out in accordance with the following approved plans: PL/552/101 Rev H, PL/552/102 Rev E, PL/552/103 Rev E, PL/552/104 Rev E, PL/552/105 Rev B, PL/552/106 Rev B, PL/552/107 Rev C, PL/552/108 Rev F, PL/552/109 Rev C, PL/552/110, PL/552/112, PL/552/113 Rev C, PL/552/115 Electric Vehicle Charging Points, PL/552/116 Materials Schedule, PL/552/111 Method Statement and Construction Management Plan, SH/TPP/1679-02 Tree Protection Plan", (2) No. 14 which states that "The turning area shall be kept free with no additional gates, fencing or other boundaries erected without prior consent from the local planning authority" and (3) No. 15 which states that "The hedge on the boundary between Summerhill and Dawnings/Levenhurst (conditioned in 20/01075/FUL) shall be maintained and any parts of that hedge damaged or lost in the process of the development shall be replaced."
- The reasons given for the conditions are: "For the avoidance of doubt and in the interests of proper planning" (No. 2), "In the interest of highway safety" (No. 14) and "To preserve the visual and residential amenity in accordance with policies EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan" (No. 15)

Decision

1. The appeal is allowed and the planning permission Ref 22/03345/MMA (for the demolition of existing dwelling; erection of two detached dwellings with garaging and associated works incorporating minor revisions following consents under application references SE/18/00158/OUT and SE/18/02903/CONVAR at Summerhill, Seal Hollow Road, Sevenoaks, Kent TN13 3SH by varying conditions 2, 3, 6, 8, 9, 10, 11 and 12 attached to planning permission Ref 20/01075/FUL, granted on 7 February 2023 by Sevenoaks District Council), is varied by deleting conditions 14 and 15 and by deleting conditions 2, 11 and 12 and substituting the following conditions 2, 11 and 12:
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL/552/101 Rev H, PL/552/102 Rev E, PL/552/103 Rev E, PL/552/104 Rev E, PL/552/105 Rev B,

PL/552/106 Rev B, PL/552/107 Rev C, PL/552/108 Rev F, PL/552/109 Rev C, PL/552/110, PL/552/112, PL/552/113 Rev C, PL/552/115 Rev D Electric Vehicle Charging Points, PL/552/116 Materials Schedule, PL/552/111 Rev C Method Statement and Construction Management Plan, SH/TPP/1679-02 Tree Protection Plan.

- 11) Prior to occupation of the dwellings hereby approved the electric vehicle charging facilities shall be installed in accordance with the details as indicated on Drawing PL/552/108 Rev F and PL/552/115 Rev D Electric Vehicle Charging Points and retained and maintained in accordance with the approved details thereafter.
- 12) The development shall be carried out in accordance with Method Statement and Construction Management Plan as detailed in Drawing PL/552/109 Rev C and PL/552/111 Rev C.

Application for costs

2. An application for costs was made by Brentfield Homes Ltd against Sevenoaks District Council. This is the subject of a separate decision.

Preliminary Matters

3. The appellant has confirmed that the scheme which has been implemented for plot 1 is application ref 23/01880/MMA and that all conditions relating to this permission have been discharged. Nevertheless, I must determine the appeal based on the submitted plans and information considered by the Council.
4. The parties agree that there are some errors in the plans listed in condition 2 of the decision notice which does not accurately reflect those submitted with the application and on which the Council made its decision. For the avoidance of doubt, I have had regard to correct plans PL/552/111 Rev C and PL/552/115 Rev D instead of plans PL/552/111 and PL/552/115, and to all other plans referred to in condition 2.
5. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Background and Main Issues

6. Planning permission was originally granted¹ for the demolition of a dwelling and the erection of two dwellings. A subsequent application² gained approval for amendments to the approved scheme, involving the addition of a single storey side extension in place of the proposed single bay attached garage, and resulting in the substitution of drawings for conditions 2, 3, 6, 8, 9, 10, 11 and 12. The current permission includes conditions 14 and 15 as set out in the banner heading above relating to a turning area and a boundary hedge. The conditions were imposed 'in the interest of highway safety' and 'to preserve the visual and residential amenity in accordance with policies EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan (ADMP)' respectively.

¹ Application ref 20/01075/FUL, the 'original permission', granted 8 July 2020.

² Application ref 22/03345/MMA, the 'current permission', granted 7 February 2023.

7. Therefore, the main issues are:

- whether condition 14 is necessary and reasonable with regard to highway safety; and
- whether condition 15 is necessary and reasonable with regard to the living conditions of adjacent occupiers and the character and appearance of the area.

Reasons

Condition 14

8. The appeal site includes a long, shared driveway from Seal Hollow Road. The approved plans show the provision of access gates and a large area for vehicles in front of each plot and a replacement garage for plot 2.
9. The Council indicates that the condition requiring a turning area to be kept free was imposed because there are discrepancies between the plans submitted for the building control consent and the planning application. It states that the building control application makes provision for a turning circle to allow larger fire vehicles to leave the site in a forward gear, avoiding having to reverse along the access to Seal Hollow Road. This issue was raised by local members, building control, the Town Council, and neighbouring residents.
10. The Framework and the Planning Practice Guidance state that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.
11. The approved plans do not show a turning area, so it is unclear which area needs to be kept free to comply with this planning condition. In addition, the Council's Planning Officer's report does not identify any highway safety issues and there is little evidence to justify the restrictions the condition places on permitted development rights relating to boundary treatments. Further, these requirements were not imposed on previous permissions for development of the site.
12. In any event, approved plan PL/552/108 Rev F shows that each plot will be laid with adequate space for vehicles to turn within it. While it is possible that a future occupier might make changes that could restrict or even prevent such turning, the consequence would be that they would have to reverse a vehicle the full length of the shared driveway. I have been given no reason to believe that a future occupier would make that choice, which therefore seems unlikely.
13. For these reasons, the condition requiring the turning area to be kept free is not necessary. It is also not enforceable or precise as the turning circle is not shown on the approved plans. Further, the requirement for prior consent from the local planning authority for gates, fencing or other boundaries places an unreasonable and unjustified restriction on future development at the property. Therefore, it fails the policy tests for conditions outlined in paragraph 56 of the Framework.
14. Consequently, I conclude that condition 14 is not necessary and reasonable with regard to highway safety.

Condition 15

15. The appeal site lies in a predominantly residential area, with the dwellings "Dawning House" and "Levenhurst" located immediately east of it and north of the access road. These neighbouring houses have rear windows facing the site and rear gardens adjoining it. Despite concerns about previous damage to boundary landscaping, on my site visit I observed that there is established planting along the boundary between the site and these properties which did not appear to be damaged. This is identified on the landscaping plan as thuja brabant and a yew hedge.
16. The Council states that the condition requiring the maintenance of the hedge on the boundary between the appeal site and Dawning House/ Levenhurst is required to bolster existing conditions relating to landscaping to ensure that it is replaced in the event of any loss. The Council considers that this addresses concerns raised about damage to the boundary as a result of works on the site.
17. Policy EN1 of the ADMP requires proposals to respect the character of the area and sensitively incorporate natural features such as hedges within the site, whilst Policy EN2 requires development to avoid an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties, amongst other things.
18. There is no reference to a boundary hedge in the conditions on the original permission or other permissions for the site. However, conditions 6 and 7 of the original permission require landscaping to be carried out in accordance with the landscaping plan and make provision for its replacement with similar size and species if it fails within five years of the development being completed. These conditions are repeated in the current permission.
19. Whilst the two versions of condition 6 cite different landscaping plan numbers, both show an existing yew hedge to the north of the access road and existing thuja brabant on the eastern boundary, with the design aims for the latter being upto 3.5m high with bushy 4-5ft planting in 15L pots at 2ft centres. Conditions 6 and 7 ensure that the development complies with Policy EN1 of the ADMP. As the hedge is already protected by existing landscaping conditions, the proposed condition is not necessary and reasonable to protect the character and appearance of the area.
20. The proposal is for a side extension instead of a garage attached to a house previously approved on plot 1. As it would have no side windows, the extension would not result in overlooking of the rear gardens and windows of Dawning House and Levenhurst by the occupiers of plot 1. Further, given its single storey height, the retention of a gap to the side of the extension and the separation distance between the structure and the neighbouring dwellings, the proposed development would not cause harmful loss of light for the occupiers of Dawning House and Levenhurst. As such, the proposal without the condition would not conflict with Policy EN2 of the ADMP. Thus, the condition requiring the maintenance of the boundary hedge and its replacement in the event of damage or loss during development is not necessary to protect the living conditions for occupiers of neighbouring properties.
21. There are also references to Policy L4 of the Sevenoaks Town Neighbourhood Plan (NP) though the Council does not allude to this. Policy L4 requires existing trees and hedgerows to be retained and protected as part of development proposals, as well as requiring replacement of any trees/hedgerows to be lost as part of development proposals within or in close proximity to the site. For

the same reasons outlined above, the proposal without the condition would not conflict with Policy L4 of the NP.

22. Therefore, I conclude that condition 15 is not necessary and reasonable with regard to the living conditions of adjacent occupiers and the character and appearance of the area.

Other Matters

23. The proposed extension would increase the width of the house on plot 1 and extend along much of the side of the property. Although there is not a similar side extension on plot 2, due to its single storey height, set back from the front gable and design to match the proposed house, the extension would not be overly dominant in relation to the host dwelling or plot 2. As the sizeable rear garden and front driveway would remain and there would be a gap between the building and the eastern boundary, the proposal would not be overdevelopment.
24. The amended scheme would result in the loss of a proposed single bay garage. However, as the local highway authority does not count single bay garages towards parking space numbers and the large front driveway could accommodate multiple vehicles, sufficient parking space would be provided.
25. There are some concerns about the complex site planning history and potential subdivision of the property, but these have not had any bearing on my decision which is based on the merits of the proposal before me.

Conditions

26. The drawing numbers in conditions 11 and 12 have been corrected to accurately reflect those which were submitted with the application and on which the Council made its decision. I have also corrected another typo in condition 12.

Conclusion

27. For the reasons given above, I conclude that the appeal should be allowed, and I shall vary the planning permission by deleting conditions 14 and 15 and by deleting conditions 2, 11 and 12 and substituting revised conditions 2, 11 and 12.

A Wright

INSPECTOR