



Appeal Decision

Site visit made on 28 August 2024

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/G2245/D/24/3345556

16 Knole Road, Sevenoaks, Kent TN13 3XH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Oscar Kulibaev against the decision of Sevenoaks District Council.
 - The application Ref. is 23/03677/HOUSE.
 - The development sought is "raised patio and new landscape in the rear garden, new retaining walls".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Some development including the partial creation of patios has already taken place in the rear garden of the appeal site. I noted on my site visit that what has taken place does not wholly accord with the plans which have been submitted as part of the planning application. For example, the timber fencing which has been erected on the common boundary with no.15 Knole Road does not match the fencing on the submitted drawing. Consequently, I treat the appeal as being one seeking planning permission for development in accordance with the submitted drawings.

Main Issue

3. The main issue in the appeal is the effect of the development on the living conditions of the occupants of 15 Knole Road in relation to sense of enclosure.

Reasons

4. The appeal site is a two storey detached house located on the east side of Knole Road in the urban area of Sevenoaks. To its south east is 15 Knole Road which is also a two storey detached house but it is situated on lower land. Knole Road slopes downhill in a southerly direction.
5. Both houses have well vegetated gardens which, at the rear, generally slope or terrace downwards in a north easterly direction.
6. The appeal site obtained planning permission for demolition of a garage, erection of a single storey side extension with pitched roof and a two storey rear extension, in March 2022 (ref. 22/00112/HOUSE). The permission was implemented. At first patio level at the rear there are two three pane patio

doors, one serving the kitchen. The first patio is at door level. The appellant asserts that the first patio obtained planning permission as part of the March 2022 permission. However, no evidence to support that assertion is provided. No approved plans are provided. The description of development pursuant to 22/00112/HOUSE contains no reference to the construction of a patio or terrace. In the circumstances and on the evidence before me I am not persuaded that any of the patios/terraces as shown on the submitted plans have the benefit of planning permission.

7. On my site visit I had access both to the rear garden of the appeal site and to the rear garden of 15 Knole Road. When on the first patio at the appeal site (which currently has not been constructed out to the common boundary and down the flank elevation) it is possible to look back from its current north eastern corner and view the entire rear elevation of no.15 and a sizeable proportion of its rear garden closest to no.15's rear elevation.
8. The development sought includes a first patio, a second lower patio accessed via a flight of steps from the first patio, and a third lower patio further to the north east accessed by steps from the second patio. The proposed first patio is shown on the plans as extending out to the common boundary with no.15 and extending partially along the south eastern flank of no.16. Also shown on the submitted plans is a high fence on the common boundary with no.15 which extends the depth of the first patio. The annotation on drawing no.PL004 is "New 1.8m fence above 1m wall". A further fence on the common boundary above a rendered wall is proposed and this extends the depth of the second patio. The third and lowest patio is shown as having a graduated rendered wall on the common boundary with no.15.
9. The rear garden levels at no.15 are considerably lower than the height of the first patio and the top of the proposed first fence. The proposed boundary treatment for that first patio would loom over no.15 given its significant height above the ground level of no.15 at its immediate rear and beyond. It would result in a very oppressive and overbearing boundary arrangement resulting in an undue sense of enclosure for the occupants of no.15 when seeking to enjoy that part of their rear garden closest to the house. Whilst I acknowledge that the boundary treatment is a way of protecting neighbour privacy (and implementing drawing PL0004 would do so), the result would cause other unacceptable harm to residential amenity.
10. In relation to the second and third terraces which step down from the first, I consider that the proposed fencing and wall arrangements on the common boundary with no.15, coupled with the volume of mature vegetation on that part of the boundary, would be sufficient to avoid any undue loss of privacy for the occupants and would not be of a height or depth to cause an unacceptable loss of outlook or sense of enclosure for them.
11. In relation to no.17 Knole Road (which is a detached property with rear garden), this is situated on higher ground than the appeal site. The submitted plan shows a rendered wall and a new fence on part of the common boundary with no.17. There is also some intermittent vegetation on the boundary. I consider that the boundary treatment as proposed, would protect the occupants of no.17 from an unacceptable loss of privacy when any of the three proposed patios were in use. They would not be of a height or depth which would create an unacceptable loss of outlook or undue sense of enclosure for them.

12.I conclude therefore that the proposed development would be unacceptably detrimental to the living conditions of the occupants of no.15 Knole Road by reason of loss of outlook and undue sense of enclosure. The proposal would be contrary to policy EN2 of the Sevenoaks Allocations and Development Management Plan (adopted 2015).

Conclusion

13.Having considered all representations, for the reasons given above, I dismiss the appeal.

Megan Thomas K.C.

INSPECTOR