The Planning Inspectorate

# Appeal Decision

Site visit made on 14 February 2017

**by Thomas Hatfield BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10th April 2017**

**Appeal Ref: APP/Y0435/W/16/3161348**
**Park House, Filgrave to Gayhurst Road, Tyringham, Milton Keynes, MK16 9ES**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Edward Broadway against the decision of Milton Keynes Council.
- The application Ref 15/00081/FUL, dated 15 January 2015, was refused by notice dated 9 May 2016.
- The development proposed is a single storey extension to provide an additional 9 bedrooms and ancillary accommodation to existing care home.

## Decision

1. The appeal is allowed and planning permission is granted for a single storey extension to provide an additional 13 bedrooms (net increase of 10) and ancillary accommodation to existing care home at Park House, Filgrave to Gayhurst Road, Tyringham, Milton Keynes, MK16 9ES in accordance with the terms of the application, Ref 15/00081/FUL, dated 15 January 2015, and the plans submitted with it, subject to the conditions set out in the attached schedule.

## Procedural Matter

2. The description of development given in my formal decision, above, is taken from the appeal form and the decision notice. This change of wording was agreed between the Council and the appellant, and reflects alterations made to the scheme at the planning application stage. The development was determined on that basis.

## Main Issues

3. The main issues are, firstly, whether the location of the proposed development would be in accordance with the development plan and, secondly, the effect of the development on the character and appearance of both the host building and the surrounding area.

## Reasons

*Countryside location*

4. The appeal site is in an area that is designated as open countryside in the development plan. Saved Policy S10 of the Milton Keynes Local Plan (2005)

states that, within the open countryside, permission will only be granted for development that is essential for agriculture, forestry, countryside recreation or other development which is wholly appropriate to a rural area and cannot be located within a settlement.

5. The proposed extension would not be essential for any of the uses specified in Policy S10. In addition, no assessment has been provided to demonstrate that the development could not be located within a settlement.

6. However, Policy S10 was adopted in 2005, prior to the publication of the National Planning Policy Framework ('the Framework'). Paragraph 215 of the Framework states that due weight should be given to relevant policies in earlier plans according to their degree of consistency with the Framework. In this regard, Policy S10 only permits "essential" development to take place for a narrow range of uses, and it implies a sequential approach to restrict development outside of the urban area.

7. Whilst the Framework recognises the intrinsic character and beauty of the countryside, it does not support such a restrictive approach in relation to extensions to existing buildings. Policy S10 is therefore not consistent with the Framework as it is more restrictive than it. It is therefore out of date.

8. I conclude that the development would be contrary to Policy S10 of the Milton Keynes Local Plan (2005). However, insofar as this policy relates to the appeal proposal, it is inconsistent with the Framework and I attach only limited weight to it. I return to this matter in my conclusion, below.

*Character and appearance*

9. The appeal property is a large country house that is set in open countryside and is currently in use as a care home. The original property has already been significantly extended to the north.

10. The development comprises a large extension to the existing building that would significantly increase its floorspace. It would connect to the previous extension and would be positioned away from the original country house. The site is enclosed by a tall conifer hedge to the north, an existing brick wall to the east, and trees and planting to the west. These features would visually contain the development and would limit its visibility in the surrounding area. Whilst it would be visible from the grounds of the property to the north, views of the extension would otherwise be restricted. This containment would prevent any significant harm to the open rural character of the area.

11. Turning to the host building, the extension would be single storey in height which would be subservient to the original country house. It would read as a continuation of the existing single storey extension to which it would connect. Despite its size, it would be largely hidden from view from the front of the property, including the driveway and existing car park. Its height and restricted visibility would limit any impact on the host property in my view.

12. I conclude that the development would not significantly harm the character and appearance of either the host building or the surrounding area. It would therefore accord with Policy CS13 of the Milton Keynes Core Strategy (2013) and Policy D2 of the Milton Keynes Local Plan (2005). These policies seek to ensure, amongst other things, that new development is of high design quality and contributes to the character of the area.

## Other Matters

13. The proposed extension would bring the existing building closer to Park Cottage, which is located to the north west. However, the development would be single storey in height and would be partly screened from Park Cottage by an existing outbuilding close to the boundary. It would not be overbearing in my view. The existing boundary hedge would also preserve the privacy of the rear garden to Park Cottage. Whilst part of this hedge appears to be in poor health, the erection of an additional fence / screen could be secured by condition.

14. The care home is an established use. Whilst the extension may lead to an increase in occasional noise, this would not be significant. The majority of the development would also be orientated inwards towards the courtyard garden. Whilst the resident's lounge would have outward facing doors, there would only be a small area of outdoor space in this location, which would discourage its use.

15. Two mature oak trees are located within the grounds of Park Cottage, and are subject to Tree Preservation Orders. However, they are unlikely to be negatively affected by the development due to their distance from it. The protection of these trees, and other trees and hedges, during the construction process could be controlled by condition.

16. The previous permission to extend the care home was granted some time ago, and has now been fully constructed. It does not set a precedent for the current proposal, and I have determined the appeal on its own merits.

17. I do not consider that the development would unacceptably harm the historic character of either Park Cottage or Park House. In this regard, I note that the Council's Conservation Officer did not object to the development on these grounds.

18. It is not within my remit to direct the appellant to consider alternative land for the proposed extension.

19. An interested party has questioned the accuracy of the submitted plans in relation to the hedge along the northern boundary of the site. However, even if the hedge is inaccurately drawn it has no bearing on my assessment of the proposal. A number of additional discrepancies have been identified in the appeal statement. However, these are minor in nature and are not reflected in the submitted plans.

20. Whilst staff and visitors are likely to travel by car, that is similarly the case for the existing care home. I do not consider that any increase in traffic associated with the extension would be significant.

## Conditions

21. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary for clarity and to ensure a satisfactory development. Conditions requiring the submission and approval of a scheme for the protection of the retained trees and hedges are necessary to ensure that these are not damaged during the construction process. These are pre-

commencement conditions, as any preparatory works could affect the root systems of the trees.

22. A condition requiring the submission and approval of external construction materials is necessary in order to preserve the character and appearance of the host building and the wider area. A condition requiring the parking area to be constructed prior to occupation is necessary to ensure that this facility is available for staff and visitors to use. A final condition requiring the submission and approval of details of a fence / screen are necessary to protect the privacy of occupiers of Park Cottage in the event that the existing hedge, part of which is in poor health, were to be removed.

**Conclusion**

23. I have found that the development would be contrary to Policy S10 of the Milton Keynes Local Plan (2005). However, insofar as this policy relates to the appeal proposal, it is inconsistent with the Framework and is therefore out of date. Paragraph 14 of the Framework states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

24. I have found that the development would not significantly harm the character and appearance of area, and there would be no unacceptable environmental harm arising from the development. Furthermore, it would provide specialist accommodation for older people, and would create employment opportunities and investment.

25. Overall there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the development. It would therefore constitute sustainable development as set out in the Framework.

26. For the reasons given above I conclude that the appeal should be allowed.

*Thomas Hatfield*

INSPECTOR

## Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2717/02 Rev A; 2717/02 Rev C; 2171/04 Rev C; 2717/05 Rev C; 2717/06 Rev C; 2717/07 Rev C; 2717/08 Rev C.

3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and hedges (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

   [In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

4) The details submitted in accordance with condition 3 above shall include:
   i) a plan showing the position of every tree and hedge on the site and on land adjacent to the site that could influence or be affected by the development, indicating which trees are to be removed;
   ii) in relation to every existing tree and hedge identified to be retained on the plan referred to in i) above, details of:
      - any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,
      - all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);
   iii) areas of existing landscaping to be protected from construction operations and the method of protection.

   [In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

5) No development shall take place above slab level until samples of the external materials to be used in the construction of the development have been submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

6) Prior to the first occupation of the development, the car parking area shown on the approved drawings shall be constructed, surfaced, and marked out. The car parking area so provided shall thereafter be kept available at all times for the parking of vehicles.

7) Prior to the first occupation of the development, details of a fence or screen along the northern boundary with Park Cottage, of at least 1.8

metres in height, shall be submitted and approved in writing by the local planning authority. The fence or screen shall be erected in accordance with the approved details prior to the occupation of the development.