



Appeal Decision

Site visit made on 3 July 2019

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2019

Appeal Ref: APP/P1615/W/19/3226025

Hill Crest, Stag Hill, Yorkley, Lydney GL15 4TA

- 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 Alan Jones against the decision of Forest of Dean District Council.
 - The application Ref P1652/18/FUL, dated 18 October 2018, was refused by notice dated 10 December 2018.
 - The development proposed is erection of a single storey dwelling and associated works (amended scheme).
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single storey dwelling and associated works (amended scheme) at Hill Crest, Stag Hill, Yorkley, Lydney GL15 4TA in accordance with the terms of the application, Ref P1652/18/FUL, dated 18 October 2018, subject to the conditions in the attached Annex.

Application for costs

2. An application for costs was made by Mr Alan Jones against Forest of Dean District Council. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of the appeal process, following another appeal decision for a different development of the site, Ref APP/P1615/W/19/3220230, that was allowed, the Council has confirmed that it would not be contesting the appeal. Although that other decision is a material consideration, and represents a fall-back position, I do not have the full details of that proposal to enable a full and proper comparison. I have determined the appeal on its merits based on all of the evidence before me.
4. The Council, in its decision notice, refers to its Residential Design Guide (the Design Guide). Although originally published some time ago, I have afforded that document some weight due to its support of the relevant development plan policy.

Main Issue

5. The main issue is whether or not the proposed development would provide acceptable living conditions for future occupants in respect of daylight and provision for outdoor amenity space.

Reasons

6. The proposed east facing bedroom window would be close to the side boundary. Due to the proposed reduced site levels, combined with the height of the boundary screen fence, this would be likely to restrict the amount of daylight reaching the room concerned. Nevertheless, the gap between the window and fence, whilst small, would be likely to allow some daylight into that room and I have received insufficient evidence to indicate that it would not be enough to provide an adequate living environment. This is also in the context of the other proposed rooms, including another bedroom, having no such similar restrictions.
7. The proposed garden would extend to the front boundary and so would not have much protection from the dwelling itself from overlooking from the street. However, the existing front boundary hedge would be likely to restrict a significant amount of street level overlooking and the proposals also include provision for additional supplementary planting, including alongside the access drive. Furthermore, the proposed dwelling would be likely to provide a significant amount of screening from overlooking to the garden from neighbouring dwellings to the side and rear of the site.
8. In respect of the amount of proposed amenity space, the main garden area would not be large. Nevertheless, its dimensions would be likely to provide for a good degree of useable and open space, receiving an adequate level of sunlight and daylight particularly due to the proposed dwelling alongside it only being single storey height. Although the actual amount of proposed amenity space is disputed by the parties, excluding the parking area it would be less than the average size of 100 square metres set out in the Design Guide and not to the rear of the plot. However, that size set out in the Design Guide is an average and does not preclude smaller gardens for individual plots such as this. As such, and despite the garden not being to the rear of the plot, for the reasons referred to above, and also in the context of varying existing gardens sizes in the vicinity, that proposed would be appropriate in this case.
9. For the above reasons, the proposed development would provide acceptable living conditions for future occupants in respect of daylight and provision for outdoor amenity space. As such, in respect of this issue, it would accord with policy AP.4 of the Forest of Dean District Council Allocations Plan (the Allocations Plan), and would not be at odds with the Design Guide, which together, amongst other things, seek to ensure that new development respects the amenity of residents. It would also accord with the National Planning Policy Framework (the Framework) which in paragraph 127, amongst other things, states that decisions should ensure that developments create places with a high standard of amenity for future users.
10. The Council, in its decision notice, also refers to policies CSP.1 and CSP.4 of the Forest of Dean District Council Core Strategy and to policy AP.1 of the Allocations Plan. However those policies relate respectively to design and environmental protection issues, strategic development principles, and sustainable development in general, and not specifically to the issue at hand. Those policies are not therefore directly relevant to this issue in this case.

Other matters

11. I have had regard to the visibility of drivers exiting the site and also in respect of exiting any new parking area via City Lane serving the existing dwelling, necessitated by the use of the existing parking provision for the proposed new dwelling. In respect of that proposed for the new dwelling, in making use of the existing access, albeit altered to improve visibility, the situation would not be materially different to that current position. The proposed realignments of the existing front wall would improve that situation.
12. In respect of any new access for the existing dwelling off City Lane, that lane only serves a very small number of dwellings thereby minimising any potential conflict between vehicles. Furthermore, the egress out onto the main road is an existing situation, unlikely to be materially worsened in highway safety terms with additional vehicles from just a single dwelling utilising it. In any case, I have received insufficient substantive evidence to demonstrate that the levels of visibility would be such as to be likely to pose a risk to highway safety. I also note that my colleague, relating to that recent appeal decision for the site referred to previously, came to similar conclusions, that extant planning permission representing a fall-back position. In terms of additional traffic locally, that relating to a single dwelling would be unlikely to materially alter the existing situation.
13. I have also had regard to concerns about delivery vehicles being parked on the road close to the proposed pedestrian access to the new dwelling's front door. However, I have no substantive basis to consider that this would be likely to pose a risk to highway or pedestrian safety, albeit that it would cause other vehicles to pull out in order to manoeuvre past them.
14. Concern is raised about damage to existing fencing at the boundary with No 9 Deer Park and to an existing sewage/waste water pipe running from the garden of that property. I have no substantive basis to consider that the proposal would cause such damage. Furthermore, these would be matters between the parties concerned were damage to occur.
15. There would be window or door openings close to neighbouring gardens in terms of the potential to overhear conversations in those gardens. However, in the context of the existing fairly close relationships between properties in this vicinity, that proposed would be unlikely to cause a material additional intrusion in this respect. It is therefore unlikely that the privacy of neighbouring residents in this respect would be materially harmed as a result of the proposals.
16. With regard to concerns raised about drainage of neighbouring gardens with the introduction of the proposed retaining wall, I have no substantive basis to consider that the proposals would cause harmful effects in this respect. In respect of potential effects from any external sensor lighting on neighbouring amenity, I have no substantive basis to consider that this would be likely to cause significantly more light spillage than is currently the case in the locality.
17. Refuse bins would be located close to the rear garden boundary of an adjacent residential property. However, there is no substantive basis to consider that this would be likely to cause harmful odours, particularly due to the lower site levels and intervening retaining wall and fencing.

18. Any future proposals relating to the extension of the proposed dwelling, and that would require planning permission, would need to be considered on their merits.

Conditions

19. The Council has suggested seven conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Planning Practice Guidance and amended some of the wording and omitted one.
20. The standard time condition would be required in this case and for the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would also be required.
21. In the interests of the character and appearance of the surrounding area, conditions requiring the implementation of the proposals in accordance with details of the proposed external building materials for the dwelling and the submitted landscaping measures, the latter also in the interests of the privacy of prospective residents, would be necessary.
22. The Council suggests a condition to secure a small scale biodiversity scheme. In light of development plan policies that seek biodiversity enhancements, I consider that such a condition would be necessary to secure appropriate measures relating to bats and birds.
23. In the interests of highway safety, it would be necessary to secure by condition the implementation and retention of proposed measures relating to visibility at the vehicular access to the site, the external parking area and the access, all of which would be altered from that existing. The garage that would serve the proposal is existing.
24. In respect of foul and surface water drainage of the site, I have received no substantive evidence that the proposals would be likely to have a significant impact on the existing systems in this respect such as to warrant the need for the suggested condition on this matter. In this respect, I also note that Severn Trent Water advises that the proposal would have minimal impact on the public sewerage system and raises no objections and has no requirement for a drainage condition to be applied. I have no substantive basis to consider otherwise. Such a condition would therefore be unnecessary in this case.

Conclusion

25. For the above reasons, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

Annex - Conditions

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: CJ 018 01, CJ 018 02, CJ 018 04, CJ 018 06, CJ 018 07, CJ 018 08.
3. Prior to any works above ground level, details of the roofing and external facing materials proposed to be used shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
4. Prior to any above ground works a small scale biodiversity enhancement scheme (2 x bat tubes or bat bricks and 2 x Schwegler 1 MR bird boxes) shall be submitted to and be approved in writing by the Local Planning Authority. Thereafter the approved biodiversity enhancement scheme shall be fully implemented within 6 months of the first occupation of the approved dwelling and be maintained on-site in perpetuity.
5. Prior to the first occupation of the dwelling hereby approved the hard and soft landscaping for the site shall be fully implemented in accordance with the approved Proposed Site Layout drawing no. CJ 018 06. If at any time during the subsequent five years any tree, shrub or hedge forming part of the scheme shall for any reason die, be removed or felled it shall be replaced with another tree, shrub or hedge of the same species during the next planting season to the satisfaction of the Local Planning Authority.
6. Prior to the first occupation of the dwelling hereby approved the external parking area, access and visibility splays shall be fully implemented in accordance with the approved Proposed Site Layout drawing no. CJ 018 06. Thereafter the external parking area, access and visibility splays shall be maintained as approved in perpetuity and retained for those purposes, and the visibility splays shall be maintained free of obstruction.