
Appeal Decision

Site visit made on 3 June 2019

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State.

Decision date: 17th July 2019

Appeal Ref: APP/B0230/W/19/3223868

Collinson Care Home, 616-618 Dunstable Road, Luton LU4 8RT

- 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 Collinson Care Home against the decision of Luton Borough Council.
 - The application Ref 18/00883/FUL dated 8 June 2018, was refused by notice dated 3 September 2018.
 - The development proposed is the erection of a second floor rear extension to create 6 further rooms for the care of the elderly.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a second floor rear extension to create 6 further rooms for the care of the elderly in accordance with the terms of the application Ref 18/00883/FUL dated 8 June 2018, subject to the following conditions:
 - i. the development hereby permitted shall begin no later than three years from the date of this decision and
 - ii. the development hereby permitted shall be carried out in accordance with the following approved plans: CDG/616-618/2018/A (Existing plans, location plan, site plans); CDG/616-618/2018/B (Existing plans, elevations and sections) and CDG/616-618/2018/C (Proposed plans, elevations and sections).
 - iii. Notwithstanding what is shown on the above plans the proposed external materials shall match those of the existing building.

Procedural Matter

2. Since the submission of the appeal, an updated version of the National Planning Policy Framework (February 2019) (the Framework) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issue in this appeal, Government policy has not materially changed, and it was not therefore necessary to invite any further comments from the different parties involved.

Main Issue

3. The main issue is the effect of the proposed development upon the living conditions of neighbouring properties in terms of light, privacy and visual intrusion.

Reasons

4. The appeal building is a large, two storey, modern care home. It is built in brick and white render and it is situated at the junction of Dunstable Road and Humberstone Road. It has car parking in front of it, accessed from Dunstable Road. It has a brick and railing perimeter wall.
5. The area is predominantly residential, with mainly two storey brick properties facing the roads and with front amenity spaces. The appeal building has dwelling houses immediately adjoining it on both Dunstable Road and Humberstone Road. The care home has windows to habitable rooms at ground and first floor level.
6. The proposed development is for 6 extra bedrooms to the rear of the property on an upper floor: this would involve redesigning the roof structure to change it from a dual pitch to a flat roof.
7. When seen from No 2 Humberstone Road, by constructing the proposed flat roof, the facing wall of the care home would be increased by about 2.3 metres in order to create the proposed bedrooms, although the overall height of the building would remain about the same.
8. The proposed bedroom windows would overlook the garden to No 2 Humberstone Road, as do the existing windows at ground and first floor levels. However, on my site visit, I was able to see that the wall of the care home is set back from the common boundary by about 5 metres and that there is mature, high and relatively wide screen planting along the common boundary and within the grounds of No 2 Humberstone Road: this would form an effective screen to any additional overlooking of the garden area. While the LPA is concerned that the screen may not be a permanent feature it is within the grounds of the adjoining property and thus its occupiers would have control over it and could retain the screen if they so wish.
9. I was also able to see that the sun completely clears the existing care home and shines into its rear amenity space. While this was only one day in the year, and towards midsummer, I consider that the proposed extra wall height would not significantly and adversely affect daylighting into the garden of No 2 Humberstone Road. Moreover, the appellant has submitted with the appeal a consultant's report which examines the possible impact of the proposed development upon sunlighting and overshadowing of the garden area to No 2 Humberstone Road. The report concludes that the proposed development would still enable sunlight levels to the adjoining garden to exceed the minimum requirements of Building Research Establishment (BRE) 209 digest guidelines regarding sunlighting and overshadowing.
10. The Local Planning authority (LPA) states that the proposed development would lead to a loss of privacy and visual intrusion for the occupants of No 2 Humberstone Road. However, there are already windows to habitable rooms at

first floor level facing its garden. The proposed development will add windows at second floor level, but they would be no nearer to No 2 Humberstone Road. The existing planting would provide some screening to any additional downward looking from the proposed new windows. I therefore find that there would not be a significant visual intrusion or loss of privacy to the occupants of No 2 Humberstone Road. Moreover, when seen from No 2 Humberstone Road, the proposed development would be screened by the existing mature trees and hedging within its own garden curtilage and this would very significantly mask the additional development and the perception of any visual intrusion resulting from it.

11. No 4 Humberstone Road is further away from the proposed development than is No 2 Humberstone Road and the extra distance, combined with the landscaping screen at No 2 which will equally mask the proposed development, will very significantly mitigate any visual intrusion and also any loss of privacy. Furthermore, I have found that there would be no significant loss of light or overshadowing to No 2 Humberstone Road, and as No 4 is further away from the proposed development, I find that there would be no such loss of light or overshadowing to the latter property or its occupants
12. The LPA considers that the proposed development would also adversely affect the living conditions of the occupants of No 614 Dunstable Road in terms of visual intrusion. On my site visit I saw that the proposed development would be sited against its garden. There is dense planting along this common boundary and within the grounds of No 614 Dunstable Road which provides an effective screen against visual intrusion.
13. In addition, the nearest window in the care home is approximately 25 metres away from the boundary with No 614 Dunstable Road: the proposed development would add a room with a window above this, but it would be no nearer to the boundary than the existing window. In such circumstances, I find that there would be no additional, adverse impact on the occupants of No 614 Dunstable Road by way of visual intrusion.
14. I therefore conclude that the proposed development would not conflict with the Luton Local Plan 2017, policy LLP1 which aims to enhance the sense of place and to preserve or improve the character of the area, or with policy LLP25 which promotes good design so as to minimise overlooking, overshadowing and the loss of light. I further conclude that the proposed development would accord with the aims of chapter 12 of the Framework which seeks to promote good design by adding to the overall quality of an area.

Other matters

15. The LPA has referred to the comments of the Care Standards Commission that there is an 11% vacancy rate in care homes. However, I have no planning policy evidence before me to indicate that the absence of any such need is a necessary planning consideration in this instance. I therefore give the matter only limited weight.
16. This matter does not alter my conclusions on the main issue.

Conclusion

17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed. I have imposed the standard time condition and a condition to ensure the development is in accordance with the approved plans in the interests of certainty. Notwithstanding what may be shown on the submitted plans I have imposed a condition that the proposed external materials shall match those of the existing development, in the interests of protecting the character of the area. I have not imposed a condition, as suggested by the LPA, to require all window openings in the proposed development to be obscure-glazed and fixed to a height of 1.7m. so as to limit the opportunity for overlooking to adjoining occupiers. I have concluded that any such overlooking would have very limited effect, and in addition, such a condition would severely limit the visual attractiveness and suitability of the proposed bedrooms for their occupants.

Steven Hartley

INSPECTOR