



Appeal Decision

Site visit made on 22 August 2019

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 3rd September 2019

Appeal Ref: APP/N1730/D/19/3230694

Westside Bungalow, 69 Potley Hill Road, Yateley GU46 6AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr David Hunt against the decision of Hart District Council.
- The application Ref: 19/00167/AMCON dated 22 January 2019, was refused by notice dated 22 March 2019.
- The application sought planning permission for erection of a detached single storey garage and single storey rear extension without complying with a condition attached to planning permission Ref: 16/00390/HOU dated 13 October 2016.
- The condition in dispute is No. 7 which states: All works, including excavation, construction and tree protection, shall be done in accordance with the method survey and arboricultural details submitted. All trees shown on the site or adjacent to the site which are protected by a Tree Preservation Order and the hedge shown to be retained on the front boundary shall be retained and protected in accordance with the approved details for the duration of works on the site and for at least five years following occupation of the approved garage- workshop. Any such vegetation immediately adjoining the site shall be protected on the site in a similar manner for the duration of works on the site.
Any such vegetation removed without the Local Planning Authority's consent, or which die or become, in the Authority's opinion, seriously damaged or otherwise defective during such period shall be replaced and/or shall receive remedial action as required by the Authority. Such works shall be implemented as soon as is reasonably practicable and, in any case, replacement planting shall be implemented by not later than the end of the following planting season, with planting of such size and species and in such number and positions as may be agreed with the Authority in writing.
- The reason given for the condition is: *To ensure the continuity of amenity afforded by existing vegetation and to satisfy saved policy GEN1 and CON8 of the Hart District Local Plan.*

Decision

1. The appeal is allowed and planning permission is granted for erection of a detached single storey garage and single storey rear extension at Westside Bungalow, 69 Potley Hill Road, Yateley GU46 6AG in accordance with the application Ref: 19/00167/AMCON dated 22 January 2019, without compliance with condition number 7 previously imposed on planning permission Ref 16/00390/HOU dated 13 October 2016 and subject to the following conditions:

- 1) The development hereby permitted shall be begun before 13 October 2019.
- 2) The development hereby permitted shall be carried out in accordance with the following approved amended plans:

Proposed Plans, Foundation Details, Service Connections Plan and Garage Section, drawing: S1025PL01- 2 revision P; Proposed Bungalow and Street View Elevations , drawing: S1025PL01-3 revision P; Proposed Garage Elevations, drawing : S1025PL01-4 revision P.

- 3) No development shall take place until details and samples of the bricks and tiles to be used in the external surfaces of i) the extension and ii) the garage / workshop have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with approved details.
- 4) The proposed roof lights and photo voltaic panels for the garage-workshop shall be fitted flush with the proposed roof slope.
- 5) The approved parking facilities for vehicles shall not be used for any purpose other than the parking of motorised vehicles and access shall be maintained at all times to allow them to be used as such.
- 6) The proposed development shall proceed strictly in accordance with all of the recommendations (and including pre-commencement measures) detailed in the submitted Arboricultural Implications Assessment and Method Statement (referenced DAA TPP 02, dated 2 June 2016) by David Archer Associates and in accordance with BS5837 - Trees in relation to design, demolition and construction.
- 7) All works, including excavation, construction and tree protection, shall be done in accordance with the method survey and arboricultural details submitted.
 - a) All trees shown on the site or adjacent to the site which are protected by a Tree Preservation Order shall be retained and shall be protected in accordance with the approved details for the duration of the permitted works on the site.
 - b) The hedge shown to be retained on the front boundary shall be retained and protected in accordance with the approved details for the duration of works on the site and for at least five years following occupation of the approved garage-workshop, unless it is first agreed in writing with the Council that any of the individual plants require to be removed to enable the garage-workshop to be constructed. In seeking written approval for the removal of individual plants, full details of the replacement planting, including the species, height, number and size of the replacement planting and the timing of planting shall also be submitted. The replacement planting shall be carried out in accordance with the approved details.
 - c) Any such vegetation immediately adjoining the site shall be protected on the site in a similar manner for the duration of works on the site.

Any vegetation removed without the Local Planning Authority's consent, or which die or become, in the Authority's opinion, seriously damaged or

otherwise defective within five years following occupation of the approved garage-workshop shall be replaced and/or shall receive remedial action as required by the Authority. Such works shall be implemented as soon as is reasonably practicable and, in any case, replacement planting shall be implemented by not later than the end of the following planting season, with planting of such size and species and in such number and positions as may be agreed with the Authority in writing.

Main Issue

2. The main issue in this appeal is whether the variation of the condition to allow the removal of the existing hedge along the front boundary would harm the character and appearance of the local area.

Reasons

3. The appeal property is a detached bungalow on the north side of Potley Hill Road within a predominantly residential area. There is a variety of frontage treatments along the length of the road, but the appeal property is located in a very verdant section. Although there is some boundary fencing facing the road in close vicinity of the appeal site, the predominant character and appearance of the road is of mature tree and hedge planting with some low brick built walls. Built development is generally set back from the road frontage which contributes to the verdant character and appearance of the local area.
4. Planning permission was granted in 2016 for a side extension and detached garage and workshop close to the front of the site. The approved plans show the continuation of the existing hedging along the frontage and the approved Arboricultural Implications Assessment and Method Statement, referenced under Condition 7, indicates at paragraph 2.2.8 that the specially designed foundations and retaining walls of the workshop/garage will allow hedging to grow abutting it. Table 1 of the report indicates the removal of individual plants within hedge as required to enable adequate space for construction activities. The accompanying plan TPP01 shows that where possible existing hedge plants are to be retained and supplemented by high quality nursery stock.
5. The Appellant is seeking to remove the hedge and following completion of the garage/workshop to erect a 'quality traditional feather edge fence'. I understand from the information submitted at the application stage that the Appellant has been advised that it would be difficult to construct the garage with the hedge in place; it would affect the quality of the finish of the brickwork facing the boundary and add significantly to the cost. No more detailed information has been provided on the issues raised or on the proposed replacement fence.
6. As set out above, the appeal property currently has an attractive front boundary with its mature trees and hedges contributing to the verdant character and appearance of the local area. Whilst there are some examples of fencing along the frontage boundaries, they are not in my view part of the predominant pattern of verdant frontages. I am not satisfied on the very limited information before me that the proposed frontage treatment of a fence would be in keeping and respect the verdant character and appearance of the local area. I therefore conclude that the loss of a planted front boundary would be harmful and would not protect the character and appearance of the local area.

7. However, it is clear from the arboricultural details submitted that it was acknowledged that the construction of the permitted garage-workshop might necessitate the removal of some of the individual planting forming the existing hedge, with subsequent replanting, and to that extent there is some contradiction between condition 6 relating to undertaking the work in accordance with the arboricultural report and condition 7 relating to retention of the hedge. I therefore propose to delete condition 7 as currently imposed and to amend its wording to allow for removal of individual plants in the existing hedge to enable the development to be constructed, but to require new planting to replace any plants removed to ensure the continuation of the hedge in the longer term. I appreciate that there would be a period when there might be a lack of a continuous verdant frontage but this should be for a relatively short period of time.
8. It is therefore my conclusion that the variation of the condition to allow the hedge to be replaced by a fence should not be allowed as it would harm the character and appearance of the local area and would conflict with Policy GEN1 and CON8 of the Hart District Local Plan which seek for development to respect the local context including the protection of planting of amenity value.
9. However, I further conclude that the condition should be amended to enable the necessary removal of individual plants during construction subject to replacement planting. This would accord with Policy GEN1 and CON8 of the Hart District Local Plan.
10. I have noted the concerns raised by a neighbouring resident regarding the proposed development, but the development itself, which benefits from planning permission, is not before me for consideration.

Conditions and Conclusion

11. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 of the Town and Country Planning Act 1990 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall re-impose all the conditions imposed together with the amended condition. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
12. I have also made some minor amendments to the drafting of the wording of Condition 7 as it could be interpreted, as originally drafted, that the trees with a Tree Preservation Order, were only to be retained for a period of five years following the development. There are separate procedures available in respect of trees protected by a tree preservation order, should future works be sought or required. I am satisfied that the amendments are for purposes of clarification and neither the Appellant nor the Council are prejudiced by the proposed amendment to the wording.
13. A Section 73 application cannot be used to extend the time period for commencement of development, and I have therefore referred back to the three year commencement period as originally granted.

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR