



Appeal Decision

Site visit made on 4 February 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2020

Appeal Ref: APP/Z1510/W/19/3236754

Meadows Residential Home, Fairy Hall Lane, Rayne CM77 6SZ

- 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 Webster, Butterfly Care Group against the decision of Braintree District Council.
 - The application Ref 19/00111/FUL, dated 22 January 2019, was refused by notice dated 18 April 2019.
 - The development proposed is extension to existing care home to allow for additional assisted living accommodation.
-

Decision

1. The appeal is allowed and planning permission is granted for extension to existing care home to allow for additional assisted living accommodation at Meadows Residential Home, Fairy Hall Lane, Rayne CM77 6SZ in accordance with the terms of the application, Ref 19/00111/FUL, dated 22 January 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The Council's submissions and reasons for refusal make reference to a number of policies within the emerging Braintree District Publication Draft Local Plan (DLP). From the details before me, it would appear that further evidence is required before the plan can proceed to adoption and no additional material has been provided to me regarding the current status of any unresolved objections to the adoption of the plan. Having regard to paragraph 48 of the National Planning Policy Framework (the Framework), I consider that the DLP and the policies quoted within the reason for refusal can be afforded only limited weight as they may be subject to change. As such I have considered the appeal against the current adopted development plan policies contained within the saved Braintree District Local Plan Review 2005 (LPR) and adopted Braintree District Core Strategy 2011 (CS).

Main Issues

3. The main issues to be considered are the effect of the proposed development on (i) the character and appearance of the area; and (ii) the living conditions of future occupiers of the appeal development with respect to outlook.

Reasons

Character and appearance

4. The appeal site comprises a single storey building and its grounds, benefitting from a large rear garden. The property is currently utilised as a care-home providing accommodation for adults with a disability. The property falls within an established row of buildings with dwellings to the north and south, although to the east of the site are open fields.
5. The appeal proposal seeks to add a single storey rear extension with a depth of approximately 17 metres, to provide a further 4 units of supported living accommodation. The plans also indicate that the parking area to the front of the property would be altered to provide a formalised layout for 8 cars, that would necessitate partial removal of the hedgerow fronting the road.
6. The existing building falls within the development boundary for Rayne as identified within the adopted development plan. However, the appeal development would fall outside of this defined boundary and as such would be in the countryside. Policies RLP20 and RLP21 of the adopted LPR allow for institutional uses in both town and villages boundaries and in the countryside, subject to a number of criteria. These include that such development is of a high quality design in terms of scale, form, layout and materials. As such, I do not consider that an extension of the property as proposed would be unacceptable in principle in terms of these policies or RLP2, that indicates that outside of development boundaries, countryside policies apply.
7. It is evident that there is a variety of development within the vicinity of the site that includes a range of structures that extend to the rear of principal buildings, and development set back from the road frontage. The rear of the property is enclosed by mature vegetated boundaries. As a result of this and the surrounding pattern of development, there is a lack of discernible views of the site of the proposed extension. The proposal would be of a significant depth, although the roof would be set down from the existing building which further serves to minimise its wider visual prominence. Although I note that the extension may project beyond the rear of development at neighbouring plots, this would not be widely appreciable from the public domain. As such, I do not consider that, in itself, this element of the works would result in unacceptable harm to the character or grain of surrounding development.
8. Further to the above, the property benefits from a substantial rear garden, and although the proposal would increase built development at the site, significant amenity space to serve future and existing residents would remain. As such I consider the appeal proposal would not result in an overdevelopment of the site. For this and above reasons, I do not find that the proposed extension in terms of design, scale, form, layout or materials, would result in unacceptable tension with the identified policies.
9. The reason for refusal also makes reference to issues relating to the proposed parking layout. I acknowledge that many frontages along Fairy Hall Lane are enclosed by hedgerows of varied form although this is not exclusively the case.
10. Parking provision is currently provided on a large area of hardstanding to the front accessed from an entrance from Fairy Hall Lane. The submitted details indicate that this would be extended with an additional access point to provide

8 spaces, whereas the Council indicate that maximum parking standards would require that 7 spaces be provided. No formal highways objections have been received from the Council's Highways Department in relation to these matters including the size, arrangement and number of parking bays. Whilst noting that such matters may affect usability of the spaces within the submitted layout, the matters detailed by the Council predominantly relate to character and appearance rather than highway safety.

11. Whilst the existing hedgerow currently provides a degree of visual relief, I am not aware of any formal protection afforded to it and from my site observations it is not of any particular quality. Furthermore, although the proposal would open up the site frontage and introduce an enlarged area of hardstanding to site boundaries, views of this would be localised in their extent. Although the plans submitted with this appeal do not adequately address concerns of the Council, I consider that an improved parking layout including landscaping could be achieved. As such I am not persuaded that any substantive harm resulting from the proposed parking layout relating to position, size and number of spaces, landscaping and enclosure, could not be adequately dealt with by way of condition as proposed by the Council.
12. For the reasons outlined above, I conclude that the proposal would not lead to unacceptable impact on the character and appearance of the area. Hence it would accord with the design and landscape aims of Policies RLP2, RLP20, RLP21 and RLP90 of the LPR and Policies CS5 and CS9 of the adopted CS, that seek amongst other things, development that protects landscape character and responds to local context respectively. The proposal would also accord with the guidance contained in the Framework, including the design aims of Chapter 12.
13. Furthermore, I am not persuaded of conflict with Policy RLP56 of the LPR and Policy CS7 of the CS that respectively seek amongst other things, to require provision of off-street parking in accordance with parking standards and careful management of car parking, and I consider that the appeal decision does not turn on these issues.

Living conditions

14. The appeal development includes bedroom windows within the northern elevation that would be in close proximity to the existing hedge. However, from the details before me, a degree of separation from the hedgerow would be maintained and the units would also benefit from outlook from the southern elevation. To my mind, such an arrangement would not result in an unacceptable form of outlook for future residents.
15. For these reasons, I conclude that the appeal development would not result in an unsatisfactory form of outlook for future occupiers. Hence it would comply with the living conditions aims of Policies RLP20, RLP21 and RLP90 of the LPR and Policy CS9 of the CS. The proposal would also accord with the living conditions aims of the Framework, including those within chapter 15.

Other Matters

16. A number of matters have been raised within third party representations, including that previous outbuildings at the site have been erected without the benefit of planning permission and these, and those on neighbouring sites, have been omitted from submitted plans. I acknowledge the presence of other

buildings at the site and neighbouring properties, and that I am not fully familiar with the planning circumstances of these structures. Nevertheless, I have only had regard to the individual planning merits of the proposed extension and do not find the planning status of existing structures to be determinative to my consideration of this appeal.

17. I acknowledge concerns raised by third parties with regard to potential impact upon living conditions of occupiers of neighbouring properties by virtue of loss of outlook and privacy. However, due to the height and location of the proposal relative to neighbouring properties, I am not persuaded that there would be unacceptable impact upon outlook. Furthermore, in terms of privacy, owing to the single storey height of the extension, any views from windows within the proposal towards neighbouring properties would be adequately mitigated by the existing hedgerow or could be satisfactorily addressed by an alternative form of enclosure.
18. In terms of noise and disturbance including from security lighting, although the proposal would result in an intensification in use at the site, I have no substantive evidence to suggest that the proposal would result in a significant increase over and above the existing situation or that any such increase would be unacceptable.
19. I acknowledge concerns with regard to the suitability of the proposed tiles owing to the roof pitch on the appeal proposal. However, I consider that the use of alternative roofing materials would not be unacceptable providing that they visually match those of the host property. I consider that this can be adequately controlled through an appropriate condition.
20. With regard to any disturbance from construction activities to the hedgerow separating the site with neighbouring properties, whilst I acknowledge the proximity of the proposal to the hedge, I consider that any harm could be adequately mitigated by way of condition.
21. I acknowledge concerns raised with regard to the accuracy of the plans including a lack of dimensions and the suggestion that an incorrect gradient of land is shown. Whilst I have not been provided with anything to substantiate this, having assessed the submitted details and been on site, this does not alter my conclusions on the main issues above.
22. It has been brought to my attention that allowing this appeal would set a precedent for future backland development. However, each case must be assessed on its own merits and I have determined this appeal on the basis of the information before me.
23. Further concerns are raised with regard to parking issues including previous instances of a minibus parking very close to the boundaries of the site and parking occurring on the grass verge to the front. Whilst I acknowledge these matters, I am not persuaded that the appeal development would necessarily heighten the issues raised or that they would alter or outweigh my findings with regard to the main issues detailed above. Furthermore, the Council have not raised highway safety as a reason for refusal.
24. None of the other matters outweigh or alter my conclusions on the main issues.

Conditions

25. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, in the interests of certainty. I have therefore imposed a condition to this effect. A condition is also imposed requiring materials to match those of the existing dwelling in the interests of character and appearance.
26. I have attached a condition restricting the use of the extension to assisted living accommodation in the interests of parking and living conditions of occupiers of the host property and neighbouring residential properties. In the interests of character and appearance, it is necessary to attach a condition requiring the provision of further details of the parking area and associated landscaping.
27. I have also attached a condition requiring details of protection of retained trees/hedgerow in the interests of character and appearance and living conditions. I acknowledge the Council have requested a condition requiring a construction traffic management plan and I have therefore attached the suggested condition with regard to control of parking and storage of materials in the interests of highway safety and living conditions of neighbouring properties. There is exceptional justification for these conditions to be pre-commencement conditions and these have been agreed by the appellant.
28. I acknowledge Environmental Health comments received at application stage with regard to control of construction works. However, owing to the scale of development proposed I consider this to be overly onerous and not reasonable or necessary to make the development acceptable in planning terms.

Conclusion

29. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Robert Lankshear

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: P01, P02 and P03.
3. The external surfaces of the extension hereby permitted shall match those used in the construction of the existing building.
4. The building hereby permitted shall only be occupied as units of 'assisted living accommodation' and for no other residential purpose.
5. Prior to the commencement of development, a construction traffic management plan, shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include:
 - Plans indicating the provision of space within the site for the parking of construction workers vehicles and for the delivery and storage of materials.
 - Details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway.The development shall thereafter be constructed in accordance with the agreed Plan.
6. Prior to the first occupation of the development hereby approved, and notwithstanding the layout on the submitted plans, a scaled parking plan, to include the layout of parking provision at the site, including any required mini bus parking; colour and type of material for all hard surface areas; details of any proposed means of enclosure; a planting plan including plant/tree types and sizes, plant numbers and distances and implementation timetables, shall be submitted to and approved in writing by the Local Planning Authority. All details agreed as part of the scheme shall be carried out before the first occupation of the development hereby approved. Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.
7. Prior to the commencement of development, a scheme of tree/hedgerow protection for all trees/hedgerow to be retained shall be submitted to and approved in writing by the local planning authority. Any agreed protection shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.