



Appeal Decision

Site visit made on 25 February 2020

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2020

Appeal Ref: APP/C4615/W/19/3242870

Hillcroft Nursing Home, 135 High Street, Wordsley DY8 5QS

- 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 J Patel against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P19/0979, dated 9 July 2019, was refused by notice dated 5 December 2019.
 - The development proposed is described as single storey extension to provide replacement accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey extension to the rear of Hillcroft Nursing Home, 135 High Street, Wordsley DY8 5QS in accordance with the terms of the application Ref: Ref P19/0979, dated 9 July 2019 and subject to the attached schedule of conditions.

Procedural Matter

2. I have used the description of development as set out in the decision notice and appeal form as it is more precise. I have also removed reference to the previously submitted application as it is superfluous.

Main Issues

3. The main issues are i) whether the proposal would preserve or enhance the character and appearance of the Wordsley Church Conservation Area (CA); and ii) the effect of the proposal on highway safety including whether car parking arrangements would be acceptable.

Reasons

Conservation Area

4. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving and enhancing the character or appearance of Conservation Areas. Policies S8 and S9 of the Dudley Borough Development Strategy (DBDS) and Policy ENV 2 of the Black Country Core Strategy 2011 (BCCS) also seek, amongst other things, to protect and enhance the character of Conservation Areas within the Borough.

5. The appeal building is a two storey building which sits on a prominent corner within the Wordsley Conservation Area (CA). The CA is characterised by a strong linear form of development which runs predominantly north-south along the High Street. Generally, the buildings within the CA are modest in scale, fronting the High Street with enclosed outside space to the rears.
6. The appeal building dates back to the mid 19th Century and would have originally been built as a pair of semi-detached houses although I noted during my site visit that there have been alterations to the original building including side and rear extensions. Nevertheless, it is still possible to appreciate the original features of the building and therefore I concur with the Council's view that as an example of original domestic architecture, the building and in particular its frontage, make a positive contribution to the character and appearance of the CA.
7. The building is currently in use as a residential care home. To the rear, there is an existing two storey outrigger and a car parking area. Beyond the carpark, to the south, there is an enclosed garden. It is proposed to develop a further single storey extension to the rear of the property which would occupy part of the existing car park and garden area. The extension would front onto Rectory Street which is a relatively narrow residential road which links the High Street with the residential area beyond.
8. The proposed extension would be a simple single storey brick and slate structure with a pitched roof and timber casement windows similar to the rest of the appeal property. It would project around 13 metres from rear of the existing outrigger and would be set back from the northern elevation by approximately 5 metres. It would appear subordinate in scale when viewed in the context of the appeal property and neighbouring houses. Due to its position, towards the rear of the existing carpark, its single storey height and the fall of the land, the proposed extension would not be prominent when viewed from the High Street. Indeed, only short glimpses of the development would be possible when passing the junction of Rectory Street with High Street.
9. I am cognisant of the fact that development would lead to the felling of five category C trees and hence that this would have some modest adverse effect on the character and appearance of the CA. However, taking into account the fact that the trees are assessed as category C and that the Council's Tree Officer does not object to their removal, I am satisfied that this aspect of the proposal would preserve the character and appearance of the CA subject to the imposition of a planning condition requiring replacement tree planting.
10. Overall, I consider that the scale, proportion and design of the proposed extension would have a neutral effect on the area. Therefore, and subject to the imposition of planning conditions, the development would preserve the character and appearance of the CA. Accordingly, I conclude that the proposal would comply with the requirements of Policies S6, S8, S9, S11 and L2 of the DBDS and BCCS Policies CPS4, ENV2 and ENV 3. Collectively, these policies seek to ensure developments are of a good quality design that protect and promote the special qualities, character and distinctiveness of the local area including the CA and buildings of architectural or historic importance.

Highway safety and car parking

11. The new extension and reconfigured parking area would front onto Rectory Street close to the junction with High Street. Whilst I appreciate that my site visit represents a snapshot in time, I noted that the street was relatively narrow with housing close to the footpath on both sides. Most properties did not have off-street parking and there were some parking restrictions in place along both sides of the road. As such, there was limited space for on-street parking and at the time of my visit there was a number of cars parked on either side of the road making the space for passing cars tight. I therefore appreciate the concerns raised by other interested parties in relation to congestion and on street parking difficulties.
12. The reconfiguration of the carpark would mean that a length of the boundary wall measuring around 7.5 metres would be removed to allow cars to access to proposed parking bays. This would mean that on-street parking on that portion of the street would be reduced however, acknowledging the length of wall that would be removed it would only affect one space. The Council's refusal notice cites the reduction in on-street car parking and the potential for the displacement of vehicles from the appeal site as a significant highway safety concern. Furthermore, other interested parties say that Rectory Street is used as a short cut to the Fairhaven Primary School causing congestion at certain times of the day. I have not been provided with any substantive evidence in the form of traffic or accident data which demonstrate that there are existing highway safety issues and therefore I cannot be certain that a further reduction of on-street parking would lead to highway safety issues. Nevertheless, I accept that there is evidence of some pressure on the highway in terms of parking and congestion.
13. The Council's Highways Officer notes that access to and from the public highway would not be substantially changed and that the maintained level of on-site car parking would meet the adopted parking standards. I note that interested parties have raised concerns regarding the lack of parking spaces for emergency vehicles and I accept that Planning Guidance Note 10 (PGN10) requires that nursing homes provide such spaces.
14. Notwithstanding the above, it cannot be ignored that the appeal property is an existing nursing home business. Furthermore, there is no dispute between the main parties that the number of on-site parking spaces would not be altered by the proposed development.
15. The appellant submits that the extension is required in order to facilitate the internal reconfiguration of the care home to meet current standards which prohibit the use of double occupancy rooms. The net result of this would be that the number of residents in the appeal property would reduce from 28 to 26. On this basis, given that on-site car parking would remain the same, but the number of residents would be reduced, it is reasonable to conclude that there would be no intensification of the use of the existing access point, public highway or car park arising from the proposal.
16. However, in the context that there is evidence of some congestion and on-street parking pressure and there would be a slight reduction in available on-street car parking as a result of the development, any further increase in the number of residents from 26 would lead to additional highway pressure. Consequently, I consider it to be necessary to impose a condition which

restricts the number of residents within the facility to no more than 26. This would ensure that overall the proposal would have a neutral effect on highway safety and on on-street car parking provision.

17. Accordingly, subject to a condition that restricts the number of residents to 26, I am satisfied that the appeal proposal would not lead to an intensification of the existing access point, nor would it lead to an unacceptable increased demand for on street parking to such an extent that it would have an unacceptable highway safety impact or lead to congestion or on-street car parking demand concerns. Therefore, I conclude that the proposal would accord with the car parking and highway safety requirements of BCCS policy TRAN2; Policy L2 of the DBDS and PGN 10.

Other Matters

18. I have taken into account all representations made by other interested parties.
19. A number of comments have been raised in relation to the storage of bins on the appeal site and I saw during my site visit that there were a number of large commercial bins located in the carpark fronting Rectory Street. However, during the application process the appellant amended the plans to facilitate an undercover bin storage area. The Council has raised no concerns in relation to the proposed bin storage and I would concur with this view.
20. There have been several comments regarding the potential for overlooking into the adjacent property at 1 Rectory Street and gardens of other neighbouring properties on Queens Street and Rectory Street. The western elevation of the extension would sit relatively close to the shared boundary with 1 Rectory Street. There would be access to the bin store at ground level and a short flight of external steps leading to a fire exit. No other openings are proposed on this elevation. Therefore, given that the fire exit would be reserved for emergency use, I do not agree that there would be the potential for any material overlooking such that the proposal would be detrimental to the living conditions of the occupiers of no 1 Rectory Street.
21. In relation to the potential for overlooking into the neighbouring gardens, there would be one window on the southern elevation of the extension. However, it would serve a corridor and not a habitable room and hence any overlooking would not be materially adverse.
22. In relation to comments regarding the potential loss of light into the garden of 1 Rectory Street, the orientation of the properties is such that the extension would sit to the east of the south facing garden at 1 Rectory Street. With this in mind, and further acknowledging the current situation whereby the mature trees cast shadow over the garden, any loss of daylight caused by the extension would be limited to the early part of the morning. Hence, it would not lead to a significant reduction in living conditions for the occupiers of no 1 Rectory Street.
23. I have considered points made in relation to potential impacts on wildlife arising from the felling of the trees to the rear of the appeal property and I note that the Council's Tree Officer concludes that the trees may provide a suitable habitat for nesting birds and roosting bats. However, I have no specific evidence that the trees do in fact provide a habitat for birds or bats.

Consequently, I am not persuaded that the felling of the trees would have a detrimental impact on local wildlife.

24. Finally, in relation to the third party comments on whether or not there is a need for a fire escape staircase in the proposed location, such a matter is set out in the Building Regulations and does not therefore fall to be considered as part of this appeal. Similarly, matters pertaining to whether or not the proposed extension would encroach on a shared boundary is a private legal matter to be addressed by relevant land owners.
25. None of the other matters raised outweigh my overall conclusion on the main issues.

Conditions

26. The conditions set out in the accompanying schedule are based on those suggested by the Council. In the interests of precision and clarity, and where necessary, I have amended the wording of the suggested conditions and removed those that are repetitive in order to comply with advice in the Planning Practice Guidance.
27. 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, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
28. In the interests of safeguarding the character and appearance of the area, I have also imposed conditions relating to the submission of materials, details of hard and soft landscaping and the replacement and protection of trees.
29. In the interests of the living conditions of the occupiers of the neighbouring properties, it is necessary to impose a condition which restricts the openings in the western elevation of the extension.
30. I acknowledge that the appellant would prefer a condition limiting the number of residents to 28 to reflect the existing care home registration. However, for the reasons set out above, and in the interests of highway safety, it is necessary to impose a condition which restricts the number of residents at the facility to no more than 26.
31. In accordance with section 14 of the National Planning Policy Framework and in the interests of environmental sustainability, I have imposed a condition which requires provision for an electric vehicle charging point in order to encourage greater use of sustainable modes of transport.

Conclusion

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

J Hunter

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: AP18017-10 and AP18017-11 Rev D.
- 3) No development above ground level shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no openings other than those expressly authorised by this permission shall be constructed on the west (side) elevation of the extension.
- 5) No development above ground level shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) earthworks showing existing and proposed finished levels or contours;
 - ii) vehicle parking layouts;
 - iii) vehicle and pedestrian access and circulation areas;
 - iv) drainage;
 - v) lighting;

The works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be maintained in accordance with an approved scheme of management maintenance.
- 6) No development above ground level shall take place until a full specification of all proposed tree planting has been submitted to and approved in writing by the local planning authority. The specification shall identify tree replacements for those lost by the approval of the development and shall include the quantity, size, species, and positions or density of all trees to be planted, how they will be planted and protected and the proposed time of planting. The tree planting shall be carried out in accordance with the approved specification.
- 7) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (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.

- 8) No development above ground level shall commence until details of electric vehicle charging bays with a vehicle charging point, to be provided in accordance with the Council's standard (Parking Standards SPD) have been submitted and approved in writing by the Local Planning Authority. Such details shall include signs and bay markings indicating that bays will be used for parking of electric vehicles only whilst being charged. Prior to first occupation, the electric charging points and bays shall be installed in accordance with the approved details and shall thereafter be maintained for the life of the development.
- 9) The building hereby known as Hillcroft Nursing Home, 135 High Street, Wordsley DY8 5QS shall not be occupied by more than 26 residents and any one time.