



Appeal Decision

Site visit made on 19 January 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2021

Appeal Ref: APP/Q4625/W/20/3258104

Elm Croft, 242 Coleshill Heath Road, Chelmsley Wood, Solihull B37 7HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Midway Care Group Ltd. against Solihull Metropolitan Borough Council.
 - The application Ref PL/2019/00978/PPFL, is dated 20 February 2019.
 - The development proposed is a change of class use from C3 to C2 to accommodate 6no. service users. Rear extension falling under permitted developments. Conversion of garage to bedroom. 2no. first floor side extensions. Internal remodelling to accommodate C2 Class Use.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently failed to provide a statement for the purposes of this appeal, however, I have been provided with copies of responses received to their consultations on both the planning application and the appeal. I have had regard to these and matters observed at the time of my site inspection in framing the main issues.
3. The development proposal includes an extension considered by the appellant to benefit from permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015. It is not for me, under a section 78 appeal, to determine whether or not a proposed development is lawful. To that end, it is open to the appellant to apply for a determination under s192 of the Town and Country Planning Act 1990 and my determination of this appeal under s78 does not affect the issuing of a determination under s192 regardless of the outcome of this appeal.

Main Issues

4. The main issues are the effect of the development on:
 - The character and appearance of the dwelling and its locality
 - Highway safety
 - The living conditions of neighbouring occupiers.

Reasons

Character and appearance

5. The site is located within a mainly residential area which consists of individually designed detached dwellings set behind deep front gardens with private amenity space to the rear. Development in the vicinity is of mixed age, scale and architectural detailing. The site accommodates a two-storey dwelling with asymmetric gabled roof. The front of the building has a catslide roof incorporating dormer windows and a projecting two-storey gabled bay. To the rear, the building has been extended and the main eaves are set above first floor level. A single storey garage and covered passageway are attached to the side whereupon the building fills the majority of the width of the site.
6. Although many of the dwellings in the immediate row substantially fill their generous plot widths, a perception of space between the buildings is retained due to subordinate side elements, the use of hipped roofs and buildings being set in from their side boundaries. With the set back positions of the buildings and absence of development on the opposite side of this part of the road, there is a sense of spaciousness to the layout of local development that is a positive aspect of the area.
7. The proposed first floor side extensions would give rise to two storey development across much of the width of the site. Due to the close proximity of the neighbouring dwellings, the sense of space between the buildings would appear significantly reduced. The effect would contrast to the prevalent level of spacing such that the proposals would cause the dwelling to appear excessive in scale and constricted within its plot.
8. The proposal would result in the introduction a second front-facing gable element. This would be set back from the existing bay in a location where single projecting bays with gabled or hipped roofs are characteristic. Although the apex would reflect the form and pitch of the existing gable, the extension would fail to align with any part of the front or side elevation of the building. It would incorporate a fourth and higher eaves level visible on its frontage. Furthermore, the proportioning of the front windows would fail to reflect those of the original frontage openings. Taken with the truncated depth of the forward side extension and the successive flat roof addition, the visible extensions would have poor reference to the original style and character of the building.
9. Notwithstanding the variation of house types and designs in the locality, the unsympathetic appearance and poor alignment of the forward side extension would fail to achieve a consolidated form of development. When viewed in the row of development, this would appear ungainly and excessive in scale.
10. For the above reasons, I find that the design would fail to reflect the character of the existing building and predominant spacious setting of dwellings on this part of Coleshill Heath Road. It would conflict with section 12 of the National Planning Policy Framework (the Framework) as it seeks to secure high standards of design that are sympathetic to local character.

Highways

11. In full use, the building could accommodate 6 residents and attendant staff. According to the appellant this would be between 4 and 6 support workers

depending on the time of day. The appellant advises that residents would not have access to motor vehicles but would utilise small people carriers. It is unclear how many of these vehicles would be required at any one time to serve the facility. Although the site benefits from good access to public transport and local services, and staff could access it as pedestrians or cyclists, the cumulative parking requirement, particularly at staff change overs or if visitors arrive by private vehicle, could be significant.

12. The site benefits from a large forecourt area. The existing hard surfaced area could be extended in a manner similar to other nearby properties and be set out more formally to maximise parking capacity, vehicle turning and include bin storage. This would provide opportunities for increased vehicle parking and turning sufficient to enable vehicles to enter and leave in a forward gear. However, in the absence of any thorough assessment or mechanism to limit vehicle numbers used in conjunction with the proposed use, I find the space would likely be insufficient to accommodate the potential parking requirement.
13. At the time of my site inspection, although only a snapshot in time, Coleshill Heath Road was moderately trafficked. However, I note that it links to the close strategic road network and, along with the nearby junction, is a main route into neighbouring residential areas. The carriageway is free from parking restrictions and informal parking on grassed verges is prevented by railings in the immediate locality. On-street parking was not observed.
14. The potential level of out-spill of vehicles from the development could be significant. But even if limited to one or two, the carriageway width is such that two-way traffic could not pass if vehicles were parked on the road. This could lead to vehicles queueing in the carriageway, particularly at busier times. The geometry of the nearby junction at Coleshill Road is angled to Coleshill Heath Road such that left turning vehicles can run-out towards the site whilst looking right. Accordingly, the effect of slowing or static traffic on Coleshill Heath Road northwards of the junction could significantly elevate the potential for highway user collisions in this particular location.
15. I acknowledge that a crossing to link the alternate footways along Coleshill Heath Road might be provided at some point in the future and in close proximity to the site. However, there is little evidence before me to demonstrate this will take place or mitigate the concerns I have identified.
16. For the above reasons, I find that, in the absence of detailed evidence to demonstrate otherwise, the potential parking demand generated by the use and the limited parking area are likely to result in on-street parking in a locality where it would prejudice highway safety. For that reason, I find that the proposals would conflict with Paragraphs 108 and 127 of the Framework as they seek safe forms of development.

Living conditions

17. The proposed use of the extended building by independent residents and staff would generate a high level of occupancy for the single detached dwelling. Along with the potential to give rise to greater numbers of visitors to the unrelated occupants, this is likely to result in greater levels of general comings and goings. However, there is little evidence to suggest that this would, of necessity, be at unsociable times or to a degree that would be significantly

greater than large family occupation to cause adverse impacts on neighbouring living conditions.

18. The main entrance serving the majority of the units is set away from the side boundaries which benefit from high fencing. This would limit noise and observable activity to the front of the building, should people congregate there. Furthermore, such activity would be experienced against the background noise level of the busy road such that the effect would be limited. Noise generated by construction of the extensions would be relatively short lived to avoid a lasting effect on neighbouring living conditions.
19. The neighbouring properties have obscure glazed secondary windows in their side elevations which address the appeal site. The proposed extensions would mask existing side facing first-floor windows save for a proposed bathroom window in the original part of the house, and the front bay. Accordingly, any overlooking from proposed windows would be reduced in comparison to the existing arrangement. The circumstance of views from the front bay would remain unchanged.
20. Views from a rear-facing maintenance window of the forwardmost first-floor bedroom would be more restricted than the existing side-facing bedroom windows such that reduced overlooking of No240 would result. All other proposed windows address the front or rear garden areas in a manner similar of typical housing arrangements and where undue loss of privacy would not therefore arise.
21. The main rear windows serving the side extensions could act as a potential means of fire escape via the retained areas of flat roof of the single storey part of the building. In the event of emergencies these could facilitate access to the neighbouring property. Use of those roof areas could be restricted through fitting of emergency single-use locking mechanisms and could be secured through a planning condition to prevent general access. This would limit the ability to overlook or enter the adjacent site in that manner.
22. Although some overshadowing of the neighbouring properties would arise from the proposed extensions, this would be to a limited degree on account of the orientation and alignment of the properties. This, and light spillage from windows and rooflights, would not cause significant impacts to neighbouring living conditions.
23. The position of the rearward extensions are such that they would project beyond the rear elevations of the neighbouring properties where windows serving main habitable rooms and sitting out spaces are present. Whilst some views of the proposals would be observed, the position and scale of development would be such that these would not be dominated by the extensions to create poor outlook or overbear on neighbouring occupiers.
24. For those reasons, I find that the supported residential use of the extended property would not cause harm to the living conditions of nearby residential occupiers and would be consistent with the aims of Paragraph 180 of the Framework.

Other Matters

25. The appellant advises that the development would provide accommodation and opportunities for independent living in a community setting for people with

disabilities. It would also enable a suitable standard of care provision that would be registered with the Care Quality Commission.

26. Disability is a 'relevant protected characteristic' and I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
27. In respect of the above, whilst I acknowledge the benefits that would result to the potential occupiers of the accommodation, I note that this option is not entirely dependent on the proposed development and could be achieved through an alternative design of development. Consequently, although a refusal of planning permission may deprive prospective occupants of independent living accommodation in the form shown, it would not prevent the alternative extension of the dwelling and/or appropriate management of vehicle use and parking demand to prejudice the ability to accommodate supported living. Accordingly, those circumstances are not a strong justification for setting aside national policies with the legitimate aim of seeking high quality design and to protect highway safety in the public interest. I therefore attach them limited weight having regard to the particular circumstances of the case.
28. I acknowledge that the proposal would support local services and generate employment opportunities resulting in moderate benefits. However, those benefits would not outweigh the harm I have identified in the specific circumstances of the case.

Conclusion

29. Although I have found that the proposal would not cause undue harm to the living conditions of nearby residents and would provide assisted living and employment opportunities whilst benefitting local services, these matters, taken singularly or cumulatively, do not outweigh the harm I have identified in relation to highway safety and the character and appearance of the development and its locality. I therefore conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR