
Appeal Decisions

Site visit made on 9 August 2021

by Mr Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal A: Ref: APP/Y1945/W/20/3262347

4 Sherwoods Road, Watford WD19 4AZ

- 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 Tom McBride against the decision of Watford Borough Council.
 - The application Ref 20/00412/VAR, dated 20 April 2020, was refused by notice dated 9 June 2020.
 - The application sought planning permission for the erection of a three bedroom dwelling without complying with a condition attached to planning permission Ref 18/01167/FUL, dated 5 November 2018.
 - The condition in dispute is No 2 which states that:
The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan 120220/001; 120220/002; 120220/003A; and 120220/004A.
 - No reason is given for the condition.
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Appeal B: Ref: APP/Y1945/W/20/3265812

4A Sherwoods Road, Watford WD19 4AZ

- 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 Tom McBride against the decision of Watford Borough Council.
 - The application Ref 20/01210/VAR, dated 30 October 2020, was refused by notice dated 11 December 2020.
 - The application sought planning permission for the erection of a three bedroom dwelling without complying with a condition attached to planning permission Ref 18/01167/FUL, dated 5 November 2018.
 - The condition in dispute is No 4 which states that:
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 development permitted under Schedule 2, Part 1, Class B shall be carried out to the development hereby approved without written permission of the Local Planning Authority.
 - The reason given for the condition is:
To enable the Local Planning Authority to ensure that any such developments are carried out in a manner which will not be harmful to the character and appearance of the development hereby proposed or the wider street scene
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Decisions

1. Appeal A is allowed and planning permission is granted for the erection of a three bedroom dwelling at 4 Sherwoods Road, Watford WD19 4AZ in accordance with the application Ref 20/00412/VAR dated 20 April 2020, without compliance with condition number 2 previously imposed on planning permission Ref 18/01167/FUL dated 5 November 2018 and subject to the conditions set out in Schedule A.
2. Appeal B is allowed and planning permission is granted for the erection of a three bedroom dwelling at 4A Sherwoods Road, Watford WD19 4AZ in accordance with the application Ref 20/01210/VAR dated 30 October 2020, without compliance with condition number 4 previously imposed on planning permission Ref 18/01167/FUL dated 5 November 2018 and subject to the conditions set out in Schedule B.

Preliminary Matters

3. Since the appeals were submitted the Government has published a new National Planning Policy Framework (the Framework). Comments were sought from the Council and the Appellant. As the main parties have had the opportunity to provide comments no injustice has been caused. I have considered the appeals on the basis of the revised Framework.
4. I observed at the time of my site visit that an addition has already been constructed, however as I cannot be sure that it accords with the details provided, I have made my assessment on the basis of the submitted plans.

Main Issue

5. The main issue in both appeals is whether the conditions are reasonable and necessary, having regard to the effect on the character and appearance of the host property and the surrounding area.

Reasons

Appeal A

6. The application subject of this appeal sought to vary the approved plans in order to allow the construction of a windowless dormer element to the side elevation of the property. The dormer, with a crown roof over, would appear as a small, subservient element on the roofscape. It would be set back from the eaves, as well as being set down from the ridgeline. Moreover, it would not be visually prominent on the dwelling and would be unobtrusive in views from the street. In light of its modest visual appearance, it would not result in the dwelling appearing top heavy, or unbalanced.
7. Thus, the addition of the dormer element would have an acceptable effect on the character and appearance of the host property and surrounding area. The scheme therefore accords with policies SS1 And UD1 of Watford's Local Plan, Part 1 – Core Strategy (adopted January 2013), insofar as they seek to ensure a high standard of design and that new development should respect local character. It would also accord with the design aims of the Framework.
8. While there may be technical conflict with the guidance that I have been referred to within the Watford Borough Council – Residential Design Guidance

(adopted August 2016), for the reasons given above I find that there would be no harm, and thus good reason for departing from this general guidance.

Appeal B

9. Appeal B refers to an application which sought to remove a condition which removed permitted development rights in respect of roof alterations. I am aware that the Framework, at paragraph 54, states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Furthermore, the Planning Practice Guidance (the PPG) advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.
10. The Council contends that the permitted development rights have been removed to ensure that any such development is carried out in a manner that will not be harmful. However, I observed that the appeal site was located in an area where there was considerable variety in the form of roofs, in terms of their shape, as well as in terms of additions that have been made. As such, any additions to the roof made under permitted development are unlikely to be unduly alien in their appearance. I am also conscious that the matter of removing permitted development rights was considered by an Inspector when considering a previous appeal on the site and it was deemed not necessary to do so. Given the context that I set out above, I agree with this judgement.
11. Thus, I find that the condition is not reasonable or necessary in the interests of the character and appearance of the host property and surrounding area. The removal of this condition therefore accords with policies SS1 And UD1 of Watford's Local Plan, Part 1 – Core Strategy (adopted January 2013), insofar as they seek to ensure a high standard of design and that new development should respect local character. It would also accord with the design aims of the Framework.

Conditions

12. Both application forms indicate that the development has commenced and so I have not imposed conditions in this respect. In respect of Appeal A, in the interests of clarity, I have added the additional plan reference to the condition, rather than replacing one of the plan references.
13. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

14. For the reasons given above I conclude that both appeals should be allowed.

Martin Allen

INSPECTOR

Schedule A - Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 120220/001, 120220/002, 120220/003A and 120220/004A; as amended by Drawing number 120220/104.
- 2) Prior to the commencement of the construction of the external surfaces of the dwelling or the extension to existing dwelling (as applicable) details and samples of the materials to be used in the external finishes of the buildings including all external walls, roofs, doors, windows, fascia's, rainwater and foul drainage goods hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) 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 development permitted under Schedule 2, Part 1, Class B shall be carried out to the development hereby approved without written permission of the Local Planning Authority. Reason: To enable the Local Planning Authority to ensure that any such developments are carried out in a manner which will not be harmful to the character and appearance of the development hereby proposed or the wider street scene.
- 4) No construction works associated with the dwelling shall commence within the site until details of the disposal of surface water from the new hard surfaced driveway areas have been submitted to and approved in writing by the local planning authority. The new dwelling shall not be occupied until the works for the disposal of the surface water have been constructed in accordance with the approved details.
- 5) Notwithstanding the submitted details, prior to the first occupation of the dwelling shall not be occupied until details of the siting, height, type, materials and finish of all fencing, walls, gates or other means of enclosure around the boundaries of the site and within the site have been submitted to and approved in writing by the local planning authority. All fencing, walls, gates or other means of enclosure shall be provided in accordance with the approved details prior to the first occupation of the dwelling hereby approved and shall be maintained as such for the life of the development.
- 6) 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), with the exception of the means of enclosure approved under Condition 5 no further fences, gates or walls shall be erected within the curtilage of either the existing dwelling or the dwelling hereby approved between the front walls of the properties and the highway boundary of Sherwoods Road.
- 7) Prior to the first occupation of the dwelling full details of both hard and soft landscaping works, including all planting and the retention of trees, have been submitted to and approved in writing by the local planning

authority. The approved landscaping scheme, with the exception of the planting, shall be completed prior to the first occupation of the dwelling or in accordance with an approved scheme of phasing. Any proposed planting shall be completed not later than the first available planting and seeding season after first occupation of the dwelling. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, or in accordance with alternative details first approved in writing by the local planning authority.

- 8) Notwithstanding the submitted details, prior to the first occupation of the dwelling details of the size, type, siting and finish of the refuse, recycling and cycle storage enclosures shall be submitted to and approved in writing by the local planning authority. The details approved under this condition shall be installed and made available for use prior to the first occupation of the dwelling and shall be retained for refuse/recycling/cycles only and shall not be used for any other purpose.
- 9) Prior to the first occupation of the dwelling the windows on the northeast facing and southwest facing elevations of the new dwelling hereby approved shall be permanently fixed closed below 1.7 metres in height above the internal floor level and shall be fitted with obscured glass. The windows shall not be replaced with an alternative design, or clear glazing without the prior permission of the local planning authority.
- 10) Notwithstanding the submitted details, the new dwelling shall not be occupied until details of the privacy screening to be installed on the terrace at the rear of the existing house (4 Sherwoods Road) have been submitted to and approved in writing by the Local Planning Authority. The new dwelling shall not be occupied until the approved screening has been installed. The screening shall be retained as approved at all times thereafter unless otherwise first agreed in writing by the local planning authority.
- 11) No development shall take place until details of the existing and proposed ground levels and the finished ground floor level of the new dwelling have been submitted to and approved in writing by the local planning authority. The development shall only be constructed in accordance with the approved details.
- 12) The dwelling hereby approved shall not be occupied until the new accesses to Sherwoods Road and the on-site parking areas have been laid out and constructed in accordance with the approved drawings and made available for use and these facilities shall thereafter be maintained as such for their intended purpose.
- 13) The dwelling hereby approved shall not be occupied until the existing vehicular crossover not incorporated into the development hereby permitted has been stopped up through the raising of the existing dropped kerbs and the reinstatement of the footways and highway boundaries to the same line, level and detail as the adjoining footways, verges and highway boundaries.

Schedule B - Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan 120220/001; 120220/002; 120220/003A; and 120220/004A.
- 2) Prior to the commencement of the construction of the external surfaces of the dwelling or the extension to existing dwelling (as applicable) details and samples of the materials to be used in the external finishes of the buildings including all external walls, roofs, doors, windows, fascia's, rainwater and foul drainage goods hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No construction works associated with the dwelling shall commence within the site until details of the disposal of surface water from the new hard surfaced driveway areas have been submitted to and approved in writing by the local planning authority. The new dwelling shall not be occupied until the works for the disposal of the surface water have been constructed in accordance with the approved details.
- 4) Notwithstanding the submitted details, prior to the first occupation of the dwelling shall not be occupied until details of the siting, height, type, materials and finish of all fencing, walls, gates or other means of enclosure around the boundaries of the site and within the site have been submitted to and approved in writing by the local planning authority. All fencing, walls, gates or other means of enclosure shall be provided in accordance with the approved details prior to the first occupation of the dwelling hereby approved and shall be maintained as such for the life of the development.
- 5) 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), with the exception of the means of enclosure approved under Condition 4 no further fences, gates or walls shall be erected within the curtilage of either the existing dwelling or the dwelling hereby approved between the front walls of the properties and the highway boundary of Sherwoods Road.
- 6) Prior to the first occupation of the dwelling full details of both hard and soft landscaping works, including all planting and the retention of trees, have been submitted to and approved in writing by the local planning authority. The approved landscaping scheme, with the exception of the planting, shall be completed prior to the first occupation of the dwelling or in accordance with an approved scheme of phasing. Any proposed planting shall be completed not later than the first available planting and seeding season after first occupation of the dwelling. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, or in accordance with alternative details first approved in writing by the local planning authority.

- 7) Notwithstanding the submitted details, prior to the first occupation of the dwelling details of the size, type, siting and finish of the refuse, recycling and cycle storage enclosures shall be submitted to and approved in writing by the local planning authority. The details approved under this condition shall be installed and made available for use prior to the first occupation of the dwelling and shall be retained for refuse/recycling/cycles only and shall not be used for any other purpose.
- 8) Prior to the first occupation of the dwelling the windows on the northeast facing and southwest facing elevations of the new dwelling hereby approved shall be permanently fixed closed below 1.7 metres in height above the internal floor level and shall be fitted with obscured glass. The windows shall not be replaced with an alternative design, or clear glazing without the prior permission of the local planning authority.
- 9) Notwithstanding the submitted details, the new dwelling shall not be occupied until details of the privacy screening to be installed on the terrace at the rear of the existing house (4 Sherwoods Road) have been submitted to and approved in writing by the Local Planning Authority. The new dwelling shall not be occupied until the approved screening has been installed. The screening shall be retained as approved at all times thereafter unless otherwise first agreed in writing by the local planning authority.
- 10) No development shall take place until details of the existing and proposed ground levels and the finished ground floor level of the new dwelling have been submitted to and approved in writing by the local planning authority. The development shall only be constructed in accordance with the approved details.
- 11) The dwelling hereby approved shall not be occupied until the new accesses to Sherwoods Road and the on-site parking areas have been laid out and constructed in accordance with the approved drawings and made available for use and these facilities shall thereafter be maintained as such for their intended purpose.
- 12) The dwelling hereby approved shall not be occupied until the existing vehicular crossover not incorporated into the development hereby permitted has been stopped up through the raising of the existing dropped kerbs and the reinstatement of the footways and highway boundaries to the same line, level and detail as the adjoining footways, verges and highway boundaries.