



Appeal Decision

Site visit made on 19 November 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29TH November 2021

Appeal Ref: APP/W4325/W/21/3279291

15 Cypress Croft, Bebington CH63 9FG

- 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 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 John Hodgkins against Wirral Metropolitan Borough Council.
 - The application Ref APP/21/00287 is dated 12 February 2021.
 - The application sought planning permission for variation of condition 2 (approved plans) of planning permission APP/19/01052 (erection of detached bungalow with associated parking and landscaping) to allow external alterations comprising an increase in roof pitch with associated increase in eaves and ridge height; the installation of rooflight windows; and alterations to fenestration without complying with a condition attached to planning permission Ref APP/20/00394, dated 15 May 2020.
 - The condition in dispute is No 2 which states that: *"The development hereby permitted shall be carried out in accordance with the approved plans as listed as follows: 786.02C (Site Plan) dated 16.05.19 and received by the local planning authority on 12 March 2020, 786.03C (Proposed Floor Plans) dated 16.05.19 and received by the local planning authority on 12 March 2020 and 786.04C (Elevations) dated 16.05.19 and received by the local planning authority on 12 March 2020"*.
 - The reason given for the condition is: *"For the avoidance of doubt and to define the permission"*.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached bungalow with associated car parking and landscaping at 15 Cypress Croft, Bebington, CH63 9FG in accordance with application Ref APP/21/00287, dated 12 February 2021, without compliance with condition number 2 previously imposed on planning permission Ref APP/20/00394, dated 15 May 2020, and subject to the conditions in the attached schedule.

Procedural Matters

2. Planning permission was approved on 24 October 2019 for the erection of a detached bungalow with associated car parking and landscaping on the appeal site¹. An application was subsequently made under s73 of the Town and Country Planning Act, as detailed in the banner heading above, to vary the drawings condition of this planning permission. This new planning permission related to alterations to the approved roof, the installation of rooflight windows and alterations to fenestration.

¹ Planning permission Ref No APP/19/01052

3. The evidence is that development has begun in respect of the latter planning permission but has not been fully implemented. The subject appeal seeks to vary condition No 02 of APP/20/00394 (i.e. the drawings condition) in such a manner that the dwelling would be the same as already approved other than including a proposed storeroom on the front elevation. The storeroom would measure about 2.1 m x 4.4 m and would have a pitched roof and timber doors to the side elevation. It would be built in materials to match the approved dwelling.
4. In the decision above, I have taken the description of development from the original planning permission, i.e. planning permission No APP/19/01052. This is because it more accurately describes the proposal. In allowing the appeal, it grants a separate planning permission for the erection of a dwelling on the site.

Main Issue

5. This appeal follows the failure of the local planning authority (LPA) to determine the planning application within the statutory determination period. I do not therefore have a decision notice from the LPA. However, in its statement of case the LPA comment that had it been in a position to determine the appeal it would have refused planning permission on the basis of harm to the character and appearance of the area and conflict with saved policies HS4 and HS11 of the Wirral Unitary Development Plan 2000 (UDP).
6. In the context of the above, the main issue is therefore the effect of the proposal on the character and appearance of the area.

Reasons

7. There are two planning permissions relating to the appeal site which are still capable of being implemented. These planning permissions are not at risk irrespective of the decision made in terms of this appeal. I was able to see on my site visit that development had already begun.
8. The appeal property falls within a residential cul-de-sac where there are both single and two storey detached dwellings. The houses are not identical in terms of their scale or style and it is of note that some have projecting front wings, garages and porches of different sizes. In this context, the proposed store, which would be modest and proportionate in scale, would not look out of place in its immediate setting.
9. The roof ridge height of the store would be the same as that of the approved porch. While the front wall of the store would be unbroken, there would be overall relief within the wider front elevation from the central entrance porch and immediately surrounding windows. To the passer-by, the front elevation of the store would, to some extent, reflect the appearance of other relatively unbroken elevations which are seen within the wider cul-de-sac. I acknowledge that the store would be wider and deeper than the central entrance porch, but in this local context I do not find that it would be an unsympathetic or deleterious addition. I therefore find that the proposal would be acceptable from a design point of view.
10. I therefore conclude that the proposal would accord with the design, character, and appearance requirements of saved policies HS4 and HS11 of the UDP and Chapter 12 of the National Planning Policy Framework 2021.

Conditions

11. The conditions in the attached schedule have been suggested by the Council. Where necessary, I have amended the conditions in the interests of precision and necessity.
12. It is necessary to impose a time limit for commencement of development. However, as this is an appeal made under s73 of the Town and Country Planning Act 1990 it is necessary that this runs from the date on the original planning permission. It is necessary that the development is 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.
13. A condition is imposed which provides and retains the on-site car parking spaces as shown on the submitted site plan. This is necessary in order to minimise on-street car parking and hence to maintain the free flow of traffic within what is a tight cul-de-sac location.
14. In the interests of the character and appearance of the area, and to protect the living conditions of the occupiers of neighbouring properties, there is clear justification for imposing conditions that remove permitted development rights relating to the erection of a means of enclosure forward of the front wall of the dwelling and extensions/alterations to the dwelling; a condition that ensures that identified roof lights are non-openable and obscure glazed, and a condition specifying the use of materials.
15. In order to ensure an acceptable level of privacy to the side garden of the proposed dwelling, it is necessary to include a condition which ensures that a door and window to the attached garage of the host dwelling are removed and the openings permanently blocked up.

Conclusion

16. I conclude that the appeal should be allowed and planning permission granted.

D Hartley

INSPECTOR

Schedule of Conditions

- (1) The development hereby permitted shall be begun on or before the 24th October 2022.
- (2) The development hereby permitted shall be carried out in accordance with the following approved plans: 786.02E (Site Plan); 786.03D (Proposed Floor Plan) and 786.04D (Elevations).
- (3) The external walling and roofing materials of the development shall comprise the following (as approved under discharge of condition application DIS/21/00474): external walling - Ibstock brick (Brunswick Antique Red), external roofing - Marley Double Roman tile (Antique Brown).
- (4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no extensions, upper floor windows, dormer windows or further roof light windows shall be erected or installed without the further grant of planning permission by the Local Planning Authority.
- (5) The dwelling hereby permitted shall not be occupied until the vehicular parking spaces identified on approved drawing 786.02E (Site Plan) have been constructed and are available for use. Thereafter the vehicular parking spaces shall be retained for this purpose.
- (6) The dwelling hereby permitted shall not be occupied until the existing door and window to the west and north elevations of the existing garage along the boundary line with the curtilage of the approved dwelling (as identified by the dotted and dashed line on approved drawing 786.02E (Site Plan) have been removed and the openings blocked up. Thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting the provisions of that Order), no further doors or windows shall be inserted into the north or west elevations of the existing garage.
- (7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no walls, fences or other means of enclosure shall be erected on any part of the land lying between any wall of the building fronting a highway and the highway boundary without the grant of planning permission by the Local Planning Authority. For the avoidance of doubt, for the purpose of this condition 'highway' includes the adjacent private driveway.
- (8) The rooflight windows hereby permitted shall not be glazed otherwise than with obscured glass to at least level 3 of the Pilkington Scale of Privacy, and in addition, those to the north west (rear) elevation shall be non-opening. Thereafter, the roof light windows shall be permanently retained as such.