



Appeal Decision

Site visit made on 14 June 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/H1840/D/22/3297618

No-Dale, Boston Lane, Hinton-On-The-Green, Evesham WR11 2RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Aiden Dryden against the decision of Wychavon District Council.
 - The application Ref 21/02885/HP, dated 7 December 2021, was refused by notice dated 1 February 2022.
 - The application sought planning permission for 2 storey side and rear extension, new sewerage plant and domestic air source system, without complying with a condition attached to planning permission Ref 18/00234/HP, dated 20 August 2018.
 - The condition in dispute No 2 which states that "unless where required or allowed by other conditions attached to this permission, the development hereby approved shall be carried out in accordance with the information provided on the application form and the following plans/drawings/documents – Site Location Plan 1:1250; 010 – Proposed Block Plan 1:500; 003 Rev. D – Proposed Plans; 004 Rev. C – Proposed Elevations; Water Management Statement (January 2018)"
 - The reason given for the condition is "to define the permission".
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Decision

1. The appeal is allowed and planning permission is granted for 2 storey side and rear extension, new sewerage plant and domestic air source system, at No-Dale, Boston Lane, Hinton-On-The-Green, Evesham WR11 2RD, without complying with condition 2 previously attached to planning permission Ref 18/00234/HP, dated 20 August 2018, but subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. Planning permission reference 18/00234/HP has been granted for extensions at the property. This included a two storey side and rear extension; raising the ridge of the main roof and installing domestic air source heat system. Development has commenced but at the time of my site visit the building did not accord with the permitted drawings in two respects. Firstly, the twin gables at the rear elevation have been built higher and an additional window has been inserted in each of them. Application reference 21/02885/HP, which is the subject of this appeal, seeks to vary Condition 2 of the original permission by substituting amended drawings to address this. Therefore, the appeal has been dealt with under S73A of the Act. Accordingly, I shall consider only the question of the conditions subject to which planning permission was granted and will not undertake a complete re-consideration of the original application. The amended drawings include extending the area of attic storage that has

already been approved but do not propose an additional storey. Secondly, the eaves on the front elevation are higher than those shown on the permitted plan. This change is not shown on the amended plans which are the subject of this appeal and so this matter is not before me.

3. The Council have confirmed that the decision notice for 21/02885/HP referred to drawing '004 Rev. D' in error and it should have stated '004 Rev. E'. I note that the Council delegated report occasionally refers to the side extension, but this already has permission and the application subject to this appeal does not seek changes to the two storey side extension.
4. At the time of my site visit, the development was substantially complete. However, interior works were not complete and the dwelling was not occupied.

Main Issue

5. Taking into account the above, the main issue for this appeal is the effect of the proposed rear extension, as set out in the amended drawings, on the character and appearance of the host dwelling and the surrounding area.

Reasons

6. The appeal site forms part of a small group of dwellings fronting onto Boston Lane, in a rural location. The dwelling is detached and sits within a substantial plot. It is finished in render with a tile roof. Either side of the site are a couple of large, detached dwellings, set within similarly large plots and finished in render, brick and tile. There is no predominant style in this run of dwellings and the roofs feature a mix of designs, orientations and heights.
7. The amended drawings incorporate a rear extension with twin gables, both with a ridge height that matches the main roof ridge. Due to the spaces between dwellings, the rear extension is visible from the front. However, when viewed from the road, due to the perspective and angle of sight, the ridge of each gable appears slightly lower than and hence subordinate to the main roof. The rear extension is therefore not overly dominant. This is regardless of the lack of a physical design break between the main roof ridge and the gable ridges.
8. When viewed from the side and rear, the rear extension is of a size and design which results in a visually balanced elevation, in keeping with the overall scale and character of the extended dwelling. Due to the distance to the boundaries the extension is not overbearing for neighbours. I note that a neighbouring dwelling has similar gabled sections to the rear, with ridge heights that match the main ridge.
9. The amended design may not accord with every element of the South Worcestershire Design Guide Supplementary Planning Document (SPD). This was also the case for the original approval, which with the scale of the overall changes and raising of the roof ridge was not considered to be subordinate to the original dwelling. However, as set out in the National Planning Policy Framework, SPDs add further detail and guidance to development plan policies and can be a material consideration, but they are not part of the plan. Regardless of this, I find no significant lack of compliance with the general aims of the SPD which seeks to secure well designed extensions which reflects the character of the existing building and the surrounding area.

10. The scale, height and massing of the rear extension is in proportion to the overall dwelling and the plot within which it sits. The extended dwelling is in keeping with the scale and design of the surrounding dwellings. I therefore conclude that the development, as set out in the amended drawings, does not cause unacceptable harm to the character and appearance of the host dwelling and the surrounding area. Consequently, the development complies with Policy SWDP 21 of the South Worcestershire Development Plan, which seeks to ensure that development is of a high quality design which integrates effectively with its surroundings, including in terms of scale, height and massing.

Other Matters

11. As set out above, I consider the amended scheme to be acceptable in and of itself. However, the previously approved scheme is a fallback position, under which the Council have already accepted the principle of significant alterations and extensions, including raising the height of the main roof ridge. The amended rear extension has ridges higher than the original dwelling, but they are no higher than the main ridge that has already been approved.
12. The concern of neighbours regarding overlooking from the additional windows in the top of the rear gables is noted. However, both the original dwelling and the previously approved development included rear facing windows at first floor. Due to the distances and orientation, the additional windows are not considered to afford any significantly different overlooking, despite being at a higher level. In this regard I agree with the Council, who stated they had no concerns in terms of loss of privacy from the gable windows.
13. Planning permission has been granted for the Air Source Heat Pump. I am informed by the Council that the condition relating to the Pump has been discharged in so far as it relates to the submission of details.

Conditions

14. This appeal grants a new planning permission. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73A should also restate the conditions imposed on earlier permissions that continue to have effect. The Council has confirmed that details relating to some conditions imposed on the original planning permission have been submitted and approved. However, I do not have those details before me and it is not for me to determine whether the development has been carried out in accordance with such details. As I do not have sufficient information about the current status of the conditions originally imposed I shall reimpose all those conditions 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.
15. As the external walls and roof have already been substantially completed, it is not necessary to impose a condition requiring commencement within a set period or to secure the submission of details of the materials. It is necessary to specify the amended list of approved drawings as this provides certainty and defines the permission.

Conclusion

16. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal

should be allowed. I will grant a new planning permission with the original condition 2 substituted, and now becoming condition 1. I will reimpose the undisputed conditions, which remain reasonable and necessary.

Helen Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall be carried out in accordance with the information provided on the application form and the following plans, drawings and documents:
 - Site Location Plan 1:1250
 - 010 – Proposed Block Plan 1:500
 - 003 Rev. E – Proposed Plans
 - 004 Rev. E – Proposed Elevations
 - Water Management Statement (January 2018)
- 2) Prior to its installation on site, full details of the domestic air source heat pump hereby approved, including its siting, technical specification and noise rating, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall not be occupied/first used until full details of all foul and surface water drainage systems to serve the development have been submitted to and approved in writing by the Local Planning Authority. The approved drainage works shall be implemented in accordance with the approved details before the first occupation/use of the development hereby permitted and shall be retained thereafter.
- 4) The development hereby permitted shall be carried out in accordance with the recommendations contained within Section 5 and Appendix 4 of the Bat Survey report by Countryside Consultants Ltd dated 26th June 2018 submitted with application 18/00234/HP. On completion of the mitigation and enhancement measures a brief letter of compliance shall be submitted to the local planning authority by the licensed ecologist for confirmation they have been carried out as approved.
- 5) Before the first occupation of the extended dwelling hereby permitted the side facing windows at upper floor shall be fitted with Pilkington Level 4 obscured glazing or equivalent and shall be permanently retained in that condition thereafter.

***** End of Conditions *****