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# Appeal Decision

Site visit made on 9 April 2024

**by K Williams MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 May 2024**

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**Appeal Ref: APP/P1560/W/23/3328552**

**Meadowcroft, Steam Mill Road, Bradfield CO11 2QY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Volf, Stour Valley Care Group against the decision of Tendring District Council.
  - The application Ref is 22/01603/FUL.
  - The development is for the proposed extension of existing Care Home to provide seven new en-suite bedrooms including lift and new stairs.
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## Decision

1. The appeal is allowed and planning permission is granted for the proposed extension of existing Care Home to provide seven new en-suite bedrooms including lift and new stairs at Meadowcroft, Steam Mill Road, Bradfield CO11 2QY in accordance with the terms of the application, Ref 22/01603/FUL, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The description of development was amended during the course of the planning application. The description in the banner heading and decision above was used by the Council in its decision notice, and the appellant has confirmed there is no objection to the amended description. I have also used the address and applicant details provided on the original application form.
3. The appellant advises that, the front two bedrooms on the First Floor Plan on Drawing No.667/25 B were incorrectly labelled and should be shown as store-rooms. The appellant has confirmed they are seeking consent to provide an extension and a maximum of 17 bedrooms. They have agreed to a condition which would limit the number of care home bedrooms to 17, I shall return to this later in my decision. As this provides clarification, it does not change the substance of the proposed development that was considered by the Council, having regard to the principles and tests in recent legal judgments<sup>1</sup> the Council and interested parties would not be prejudiced by this.
4. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. However, as the Framework's policy content insofar as it relates to the main issues has not been significantly changed there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

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<sup>1</sup> Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37 and Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

## **Main Issues**

5. The main issues are:

- The effect of the proposed development upon the character and appearance of the area;
- The effect upon the living conditions of the occupiers of nearby dwellings with particular regard to outlook, noise and disturbance.

## **Reasons**

### *Character and appearance*

6. The appeal building was a former dwelling. Having been previously extended it is currently in use as a small care home with ten en-suite bedrooms. Set within extensive grounds, the building is located within the settlement development boundary of Bradfield. The site has boundaries with residential properties to the north, east and west and is accessed from Steam Mill Road. It is proposed to extend the existing building to provide two new bedrooms, at ground floor, and extend above the larger rear wing creating five new bedrooms at first floor. The proposed development would result in an overall increase in bedrooms to 17 and seeks to change the nature of care provided.
7. The development would comprise a large extension to the existing building that would increase the length of the rear wing and overall floorspace. Although the extension would be long, it would not extend as far at first floor level and it would not exceed the ridge height of the highest part of the host building, thus retaining some subservience. Although it adds additional mass, this would not be extensive due to the sloping form of the roof. The proposed development would simply read as a continuation of the existing roof of the building to which it would connect. The overall design including ground floor extensions, external appearance and materials would satisfactorily re-order the building, providing a more cohesive appearance. Reflecting the character of the host building it would therefore provide an overall harmonious addition reflective of the surrounding residential character of the host building and the area.
8. The site is enclosed by a tall hedge/trees to the east, and largely obscured from prominent public views from the west and north by existing residential homes. Although the extension would be evident, these features would visually contain the development and would limit its visibility in the surrounding area. Whilst I have found the proposed design to be acceptable, this containment further supports my view that that the overall massing, height and size would not be an overbearing design and would not result in harm to the character and appearance of the area.
9. I conclude that the development would not harm the character and appearance of either the host building or the surrounding area. It would therefore accord SP7 and SPL3 of the Tendring District Council 2013-33 and Beyond Section 1 and Section 2 (adopted January 2021 and January 2022, respectively). Together, and insofar as they are relevant to this issue, these seek to, amongst other things, ensure new development preserves the quality of existing places and is well designed.

### *Living conditions*

10. The main access point and parking area is to the front of the building from Steam Mill Road. There is a second established access from Straight Road between the residential properties and gardens of Elmtree Cottage to the west of the site, and Sundown to the north. The existing rear wing is set off from these boundaries, and to its east affording space around the host building. External amenity areas were located to the north and east on the rear wing with the western part of the site comprising hard standing.
11. The appellants have identified that a minimal increase of one additional staff member would be required during the day. Contrary to the assertion of the Council that the additional rooms will lead to increased deliveries, it is understood that the appellant, an established operator, who based on running an 85 bed care home, advises that the number of deliveries would not increase as a result of the development. The Council has not provided evidence to dispute this.
12. Furthermore I note that the Highway and Transportation service of Essex County Council did not object to the scheme and found no reason to dispute the initial submission that the site has ample parking space, particularly towards the front of the site. Based on my observations, the site provided lots of parking space to the front to accommodate five staff vehicles and visitors. I have no evidence that the increase in rooms or type of care provided would significantly increasing the utilisation of parking facilities or access points towards the space at the rear of the site.
13. The existing care home is relatively small. The increase in number of bedrooms, which can be restricted to a maximum of 17 would not be significant and cumulatively would not be out of character with the surrounding residential area. I am not convinced, that this increase would lead to a level of use within the communal space towards the rear by residents or staff that would be significantly different to the current operation.
14. I understand that in the past some residents of the care home alongside staff or visitors have been heard by neighbouring residents. However, it is not uncommon in residential areas to hear very occasional loud noises by people, and anti-social language is largely attributable to individual behaviour, and matters relating to management practices and operation of gates and collection of refuse. Having considered this matter, I also note that the Council's Environmental Protection service did not object to the application. Although the neighbouring properties are particularly sensitive to the development, I have no substantive evidence to the contrary that deliveries, servicing, or activities would result in any serious noise or disturbance for neighbouring residents significantly over and above the current situation.
15. The Council has approved a rear extension<sup>2</sup> which would bring the existing single storey rear wing very close to the side garden boundary with Sundown. The approved development would have a substantial hipped roof. In contrast the proposed development at its closest point would consist of a single storey flat roof element, before the additional first floor element.

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<sup>2</sup> Council reference 21/01782/FUL

16. Whilst the flat roof addition would project above the fence there would be a greater amount of space adjacent to the boundary than the approved scheme. Setting the first floor element back from the boundary would prevent the development from appearing overbearing from within the garden and from the windows on the rear of this property. Furthermore it would not project along the entire length of the garden boundary and would be perpendicular to rear windows, thus retaining space and a relatively open aspect for this property. Even though the first floor would be closer to grounds of Sundown, I am not convinced that it would have a substantially different effect than the approved scheme or that it would be harmfully enclosing.
17. Elmtree Cottage to the west has a narrow rear garden, it is separated from the care home grounds by a high close boarded fence and trellis. There are Windows at ground floor and within its roof facing the side wing of the care home. Beyond this is a gap between the boundary and rear projecting wing of the development. Whilst the proposed development would raise the eaves, increase its length and height, it would not encroach any closer to the rear boundary of Elmtree Cottage.
18. The extension would largely be seen against and in the context of the massing of the main building and existing first floor. The existing sloping roof form would be reflected in the proposed design and it would not exceed the height of the host building and therefore would not appear excessive or unusually high. The incorporation of the predominantly sloping roof receding away from the boundary would help to reduce the overall scale and massing. Taking these factors together, the extension would not significantly intrude upon views out from the rear windows and garden of Elmtree Cottage, which would retain open aspects towards the north east, and it would not create a substantially more harmful sense of enclosure beyond that which presently exists.
19. I have considered whether the proposal's upper floor windows, in particular the rooflights serving bedrooms on the western and northern roof slope would harm the privacy of nearby occupiers. Although I note residents look out from existing windows, I am satisfied that the sloping form of the rooflights, their position above head height, the use of the proposed rooms and distance to boundaries and windows would significantly restrict the views available into the adjacent gardens and properties, preventing any harmful loss of privacy. However, I have no section plan of the northern elevation, and as a rooflight is proposed closer to the boundary with Sundown a condition to obscurely glaze or fix shut a second window would prevent the perception of overlooked.
20. The appellant submitted a drawing entitled 'Sun on Ground Diagram.' The Council does not provide any detailed comments on this drawing, or sunlight within its appeal statement, nor did it form a specific reason for refusal. However, I note in the officer report, that the proposal was considered to result in a minimum intrusion into the gardens of Sundown and Elmtree Cottage and although it is clear that measurement of annual probable sunlight hours was not undertaken, the Council considered that there would be no reduction in sunlight in to the habitable rooms serving those properties or that the effect would be harmful.
21. What is clear from the drawing is that there would be some loss of sunlight arising from the proposal on part of the gardens at Elmtree Cottage and Sundown. However, these properties have boundaries which already create a

certain level of shadowing. What is more, the separation distances and orientation between the proposed and existing built form would help minimise the impact from overshadowing created by the proposed extension. The proposal would not result in a materially harmful loss of sunlight or daylight which would be so great as to justify withholding permission.

22. I therefore conclude that the proposed development would not harm the living conditions of the occupiers of nearby dwellings with particular regard to outlook, noise and disturbance. It would therefore accord with SP7 and SPL3 of the Tendring District Council 2013-33 and Beyond Section 1 and Section 2. Together, and insofar as they are relevant to this issue, these seek to, amongst other things, ensure new development protects the amenity of existing and residents with regard to noise, light, outlook and privacy. The proposal would therefore accord with the Framework in paragraph 135 f) where it similarly seeks to ensure a high standard of amenity.

### **Other Matters**

23. Policy LP10 supports the provision of care homes and extra care housing within settlement development boundaries, and that accommodation provision should be geared towards particular groups in the population, including the elderly. It is a different Use Class to a House of Multiple Occupation<sup>3</sup>. Furthermore the Framework recognises the importance of meeting the housing needs of older people whether or not this creates a commercial enterprise. Therefore a need, or lack of need, for additional bedrooms is not particularly relevant or determinative to the issues upon which this case turns. Nor would an Article 4 direction prevent an application for such development.
24. There is no planning policy requirement that has been brought to my attention regarding room sizes or standards for a care home use. The Council has not raised the standard of accommodation proposed, and I have no reason to dispute this.
25. The proposal would support the construction industry during this phase of the development and would provide small economic benefits. Whilst I acknowledge there would be an effect on neighbouring residents, this would not be so harmful overall so as to withhold permission. The increase in the number of bed spaces over and above the extant permission would be very modest and the social and economic benefits weigh in favour of the proposal.

### **Conditions**

26. I have had regard to the conditions suggested by the Council, the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
27. For certainty, I have set out the timescale for the commencement of development and that the development is carried out in accordance with the approved plans. I have confirmed the appellant agrees to a pre-commencement condition for a construction management plan and to obscure glazing of a window. The restriction on the bedroom numbers was suggested by the appellant. These are necessary due to the proximity of neighbouring residents and in the interests of their living conditions. A condition requiring

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<sup>3</sup> Class C4. Houses in multiple occupation - The Town and Country Planning (Use Classes) Order 1987

the external materials to match those of the host building is necessary so as to ensure that it is in keeping with the host building. A condition requiring a parking area for cycles is necessary in the interests of sustainable transport options.

### **Conclusion**

28. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

*K Williams*

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:
  - 667/21 B Existing
  - 667/25 B Proposed
  - 667/20 C Location and Block Plan
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site;
  - b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height;
  - c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where;
  - d) Details of any protection measures for footpaths and trees surrounding the site;
  - e) Details of any means of access to the site during construction;
  - f) Details of the scheduled timing/phasing of development for the overall construction period;
  - g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place;
  - h) Details of the siting of any on site compounds and porta-loos;
  - i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition;
  - j) A site waste management plan (that shall include reuse and recycling of materials);
  - k) A scheme for sustainable construction management to ensure effective water and energy use;
  - l) A scheme of review of complaints from neighbours;
  - m) Registration and details of a Considerate Constructors Scheme;The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) Notwithstanding the submitted plans the materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 5) The extension hereby permitted shall not be occupied until the rooflight on the northern elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning

authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

- 6) The extension hereby permitted shall not be occupied until a scheme for the provision of cycle / powered two-wheeler parking facility to be provided within the site shall have been submitted to and approved, in writing by the local planning authority before it is installed and once installed shall be retained thereafter.
- 7) Notwithstanding the submitted plans, the overnight accommodation provided for residents at the development shall not exceed 17 bedrooms.

**End of schedule**