
Appeal Decision

Site visit made on 3 March 2014

by Jonathan Manning BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 March 2014

Appeal Ref: APP/X1735/A/13/2210187

**Merok House Rest & Convalescent Home, 46 New Brighton Road,
Emsworth, Hampshire, PO10 7QR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Ian Caldwell against the decision of Havant Borough Council.
 - The application Ref APP/13/00765, dated 1 August 2013, was refused by notice dated 18 September 2013.
 - The development proposed is internal alterations, proposed replacement side extension, proposed replacement rear extension with new build addition, and infill of existing central courtyard.
-

Decision

1. The appeal is allowed and planning permission is granted for internal alterations, proposed replacement side extension, proposed replacement rear extension with new build addition, and infill of existing central courtyard at Merok House Rest & Convalescent Home, 46 New Brighton Road, Emsworth, Hampshire, PO10 7QR, in accordance with the terms of application ref: APP/13/00765, dated 1 August 2013, subject to the conditions in the attached schedule.

Procedural Matter

2. The appeal site has a planning history, which includes a previous appeal (T/APP/X1735/A/96/262160/P8, dated 16 May 1996) for erection of a single storey rear extension to provide four additional rest home bed spaces. The proposal subject of this appeal differs significantly and is not directly comparable. I have therefore afforded the findings of the previous Inspector limited weight.
3. I have taken into account the Government's Planning Practice Guidance, issued on 6 March 2014, in reaching my decision.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupants of neighbouring properties.

Reasons

5. The appeal site is located on New Brighton Road and is an established Care Home, which currently accommodates 22 residents in 18 rooms. The wider area is mainly residential. I observed on my site visit that the appeal site is

bordered by dwellings at No 8, 9 and 10 Silvertrees to the north and No 44 New Brighton Road to the south, all of which are in close proximity. The proposal would replace the current 2 storey extension to the south with a 3 storey extension and sunroom, demolish the rear kitchen/laundry extension and replace with a rear 2 storey extension, construct a 2 storey extension to the north and construct a 3 storey extension infilling the courtyard area and providing a lift tower.

6. The proposed 3 storey extension to the south of the site, would be located close to the northern elevation of No 44, which accommodates a number of windows some of which are to habitable rooms. The proposed extension would not have any windows to habitable rooms and all openings above ground level are proposed to be obscure glazed, to ensure that there would be no overlooking or loss of privacy. The occupants of No 44 submit that the proposed extension by virtue of its height would be a dominant feature which would affect their outlook. Whilst I accept that the proposed third storey would result in additional built form and bulk close to the upstairs windows of No 44, I observed that the proposed extension would be set at a lower ridge height than the current building and would not extend past the building line of the current extension on this boundary. I am also mindful that the outlook on the northern elevation of No 44 is currently at the existing building. As a result, I do not consider that the addition of a third storey would significantly harm the outlook from the windows on the northern elevation of No 44 or would be a dominant feature.
7. The appellant has also provided drawings that demonstrate that the angle of additional obstruction that would be caused by the proposed 3 storey extension to the upstairs windows of No 44 would be less than the 25 degree maximum held to be unacceptable by the BRE Good Practice Guidance 'Site Layout Planning for Daylight and Sunlight'. I therefore consider that any loss of day or sunlight would not be significant.
8. The proposed rear extension would replace the existing kitchen extension and has been designed to include first floor accommodation within the hipped roof, which would have a central flat section to reduce its bulk and height. The proposed rear extension would extend past the existing kitchen extension by approximately 10.3 metres. I observed that No 9 has a kitchen window at ground floor level and 2 bedroom windows on the first floor that would face onto the proposed rear extension. It was evident that the existing kitchen extension has a large gable end facing towards No 9, which in my view is a dominant feature. I consider that whilst the proposed rear extension would be significantly longer, the removal of the significant bulk of the gable end and replacement with the proposed rear extension with hipped roof would result in an improved outlook from No 9.
9. I have carefully reviewed the appellants Sun Study, which illustrates that there would be a loss of sunlight to No 9 during the winter months, which is largely restricted to the early afternoon. The appellant has also provided section drawings which demonstrate that there would not any significant loss of daylight. Given that the loss of sunlight would be restricted to a relatively limited period of time, I consider that the proposal would not result in any significant harm in this regard. I am mindful that the sun study also indicates that there would be some increases of sunlight to No 9 during the spring and autumn as a result of the removal of the large gable end.

10. I observed that there would only be oblique views of the proposed rear extension from No 10. It was evident that the proposed rear extension would be noticeable from No 8. However, given the single storey eaves height of the proposed rear extension in this location, I do not consider that there would be any harm to the outlook of No 8. The Sun Study indicates that there would be some loss of sunlight to No 8 during the winter, however this would be restricted to late afternoons only and would in my view not result in any significant harm.
11. The northern elevation of the proposed rear extension would only have roof lights above ground floor level. I observed that there would be no overlooking or loss of privacy to No 8, No 9 and No 10. There would also be rooflights on the southern elevation with the addition of 3 dormer windows, which would face the rear of No 44 and its garden. The dormer windows would have a deep cill to restrict overlooking. The dormer windows would also be approximately 11 metres from the boundary with No 44 and I observed that there is currently mature vegetation that largely screens any views. For these reasons, I consider that there would not be any significant overlooking or loss of privacy to No 44 or its rear garden.
12. The proposed 2 storey northern side extension would be constructed close to the boundary with No 9 and No 10 and would be directly behind their garages. I observed that the views from both properties would be relatively oblique. The proposed northern extension would also fill in an area that is currently open, but would not extend past the general building line on this elevation and would be significantly lower than the ridge height of the existing building behind. As a result, I consider that there would not be any harm caused to the outlook of No 9 or No 10. The design of the extension results in the first floor being within the roof area and is served by a dormer window. The window would have a deep internal cill and given its location facing east, I do not consider that there would be any overlooking or loss of privacy. The Sun Study illustrates that there would be a loss of sunlight to the bedroom window of No 10 in the winter months as a result of the extension. However, as with the other aspects of the proposal such a loss would occur for only a limited time, in the mornings and therefore would not result in any significant harm.
13. The occupants of No 8, No 9 and No 10 have raised concern in relation to the potential for increased noise and disturbance associated with the proposed new bedrooms on the northern elevation at ground floor level. I observed that there is likely to be some noise and disturbance caused, particularly in the summer when windows may be open. However, I am mindful that the existing kitchen and laundry room and its venting which I understand has caused issues in the past, would be relocated within the central courtyard infill extension. Therefore on balance, I consider that the proposal would have a neutral effect in terms of noise and disturbance to the occupants of No 8, No 9 and No 10.
14. The construction of the central 3 storey extension and lift tower, given their central location away from the boundaries with neighbouring properties would not result in any harm to the occupant's living conditions. In addition, there is no evidence before me to suggest that the relocation of the kitchen to this location or the increase in food production for increased residents would result in any unacceptable smells or odour.

15. The potential for light pollution has raised concern. Whilst I acknowledge that there would be an increase in the amount of openings, particularly from the large rear extension, the majority of new openings relate to bedrooms or habitable rooms and therefore any lights are likely to be switched off at night. In addition, a planning condition could be imposed to address any matters in relation to external lighting.
16. The Council has made reference to the Havant Borough Council Design Guide Supplementary Planning Document (2011), which sets out back to back distances for new residential development. It is advised that where a dwelling faces a blank gable a 10 metre separation distance is required to protect loss of outlook. However, given the existing relationship of the neighbouring properties where there are already considerably shorter separation distances in place, I consider that such a requirement would be unreasonable.
17. In conclusion, whilst I accept that the proposal would lead to some loss of sunlight during the winter months to No 8, No 9 and No 10, I consider that given the relatively limited period in which this would occur that any harm would not be significant and does not warrant the refusal of the appeal. Consequently, I consider the proposal would not cause any significant harm, in terms of outlook, overbearing effect, privacy, loss of day and sunlight, noise and other disturbance to the living conditions of the occupants of neighbouring properties. The proposed development therefore complies with Policy CS16 High Quality Design of the Havant Borough Core Strategy (2011).

Other matters

18. The proposal would significantly enlarge the current Care Home. However, I observed that there are substantial grounds to the rear that could suitably accommodate a large extension, leave adequate amenity space and would not appear cramped or result in overdevelopment. I observed that the proposal would add additional bulk to the front of the building, however the extensions and lift tower would utilise similar materials and complement to host building. Given this and that the property is set well back from the road, I do not consider that there would be any impact on the character and appearance of the area.
19. Concerns have been raised by local residents with regard to increased traffic movements and parking issues. The addition of 8 residents to the care home would not result in any significant increase in transport movements from visitors and I observed that the access was suitable and visibility in each direction along New Brighton Road was good. The appellant has also set out that there would be no additional deliveries as a result of the proposal. The north access from the road would be blocked up to provide for 2 additional parking spaces, which I consider would address any parking issues. I am also mindful that the Council's Highway Department raised no objection in either regard. The appellant has also provided a Travel Plan to promote sustainable transport, the measures of which could be secured via a planning condition.
20. An Arboricultural Assessment has been provided which demonstrates that the proposal can be implemented without any significant harm to trees. The proposed measures to protect trees from any damage can be secured through a planning condition. The use on bonfires on the site is a concern of local residents. I consider that this matter could also be addressed by the imposition of a planning condition to restrict their use.

21. There is no evidence before me to suggest that the proposal would result in any harmful effects or disturbance to the current care home residents, which could not be carefully managed. I also acknowledge the concerns of local residents with regard to the value of their properties. However, the Planning System: General Principles advises that it is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

Conditions

22. I have considered the 11 conditions suggested by the Council against the tests set out within the National Planning Policy Framework and the advice provided by the Government's Planning Practice Guidance, issued on 6 March 2014 and have amended them where required. A condition is required in the interests of sound planning and for the avoidance of doubt, requiring the development to be carried out in accordance with the approved plans. The Council listed the Design and Access Statement, Travel Plan and the Arboricultural Assessment within this condition. However, I consider that for the avoidance of doubt separate conditions should be imposed requiring the measures set out within the documents to be implemented. In addition, I consider that the details set out within the Design and Access Statement are suitably covered within other conditions.
23. To ensure the suitable appearance of the proposal a condition is necessary that require the details of all external materials to be provided. Conditions are imposed in the interests of the living conditions of the occupants of neighbouring properties. These require: details of all ventilation or filtration equipment; noise from plant, machinery and equipment to be below the current background levels; details of all external lighting; restrictions to the hours that construction, demolition and clearance work can be carried out; a programme for the suppression of dust during construction, demolition and clearance; no bonfires during construction, demolition or clearance; and obscure glazing where required to be fitted prior to the occupation of the proposal. For the same purpose and for the avoidance of doubt, I also consider that it is necessary for details of the reveal depth and cill height of all dormer windows to be agreed with the Council.
24. In the interests of highway safety conditions are necessary to ensure that suitable parking areas are provided and that the measures set out within the Travel Plan provided by the appellant are implemented. To ensure the protection of trees on the site a condition is imposed to ensure that the provisions set out within the Arboricultural Assessment provided by the appellant are implemented.

Conclusion

25. For the reasons set out above and considering all other matters raised, including the concerns of local residents, the appeal should succeed.

Jonathan Manning

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - 4963/1100 Rev F (Site Layout)
 - 4963/1201 Rev G (Proposed Ground Floor)
 - 4963/1202 Rev H (Proposed First Floor)
 - 4963/1203 Rev E (Proposed Second Floor)
 - 4963/1204 Rev E (Proposed Roof Plan)
 - 4963/1300 Rev H (Proposed South Elevation)
 - 4963/1301 Rev H (Proposed North Elevation)
 - 4963/1302 Rev H (Proposed West and East Elevations)
 - 4963/1400 Rev E (Proposed Sections)
 - 4963/1900 Rev B (Sun Study – View A December 21st)
 - 4963/1901 Rev C (Sun Study – View B December 21st)
 - 4963/1902 Rev B (Sun Study – View A March/September 21st)
 - 4963/1903 Rev C (Sun Study – View B March/September 21st)
 - 4963/1904 Rev B (Sun Study – View A June 21st)
 - 4963/1905 Rev C (Sun Study – View B June 21st)
 - 4963/1906 Rev A (Sun Study – View C December 21st)
 - 4963/1907 Rev A (Sun Study – View C March/September 21st)
 - 4963/1908 Rev A (Sun Study – View C June 21st)
- 3) No development shall take place until details (including the provision of samples where appropriate) of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No externally visible or audible plant, machinery or structures required for ventilation or filtration purposes shall be installed until details of the external appearance and acoustic performance have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter.
- 5) Noise resulting from the use of any/all plant, machinery or equipment shall not exceed a level of 5dB(A) below the existing background level (or 10dB(A) below if there is a particular tonal quality) when measured in accordance with British Standard BS4142-1997.
- 6) No development shall take place until a scheme of external lighting has been submitted to and approved in writing by the local planning authority. Details shall include intensity and contours of illumination at neighbouring residential properties. Development shall be carried out in accordance with

the approved details. There shall be no external lighting on the site other than as thereby approved.

- 7) No construction deliveries, construction work, demolition or site clearance shall take place outside of the hours of 08.00 and 18.00 Monday to Saturdays. No construction deliveries, construction work, demolition or site clearance shall take place on a Sunday or Public/Bank Holidays.
- 8) No development shall take place until a programme for the suppression of dust during the construction of the development has been submitted too and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No materials or articles of any description shall be burnt on the site at any time during construction work, demolition or clearance.
- 10) The development hereby approved shall not be occupied until, the windows identified as obscure glazing on the approved plans set out in Condition 2 are provided and permanently retained thereafter.
- 11) No development shall take place until details of the reveal depth and cill height of all dormer windows has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details and permanently retained thereafter.
- 12) The Travel Plan Statement dated July 2013 shall be permanently implemented in accordance with the approved details.
- 13) The development hereby approved shall not be occupied until the north access has been blocked up and space for loading, unloading and parking of vehicles has been provided within the site in accordance with the approved plans. Such areas shall be permanently retained and shall not be used for any other purpose.
- 14) The development hereby permitted shall be carried out in accordance with the Arboricultural Assessment, dated July 2013.