



Appeal Decision

Site visit made on 9 May 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2019

Appeal Ref: APP/A1910/W/19/3222826

Mountbatten House (Former Hardings Garage), Hempstead Road, Bovingdon HP3 0HE

- 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 McCarthy & Stone Retirement Lifestyles Ltd against the decision of Dacorum Borough Council.
 - The application Ref 4/01871/18/ROC, dated 25 July 2018, was refused by notice dated 3 January 2019.
 - The application sought planning permission for the construction of 34 units of retirement living apartments for the elderly with associated communal facilities, parking and landscaping without complying with a condition attached to planning permission Ref 4/03698/15/MFA, dated 20 April 2016.
 - 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/documents: 030, 025, 028, 026, 035, 039, 031, 037, 029, 038, 036.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 34 units of retirement living apartments for the elderly with associated communal facilities, parking and landscaping at Mountbatten House (Former Hardings Garage), Hempstead Road, Bovingdon HP3 0HE in accordance with the application Ref 4/01871/18/ROC dated 25 July 2018, without complying with condition No 2 set out in planning permission Ref 4/03698/15/MFA granted on 20 April 2016 by Dacorum Borough Council, but otherwise subject to the conditions in the attached schedule.

Procedural Matter

2. The appeal application was submitted to amend the previously approved plans for the retirement living apartments to include a flue to serve a boiler in the plant room. I could see during my site visit that the flue had been constructed.

Main Issue

3. The main issue is the effect of the flue on the character and appearance of the area.

Reasons

4. The site consists of 34 retirement living apartments with associated facilities, parking and landscaping. It is situated on the edge of the settlement and so serves as a visually sensitive gateway site into Bovingdon.
5. The flue is constructed from stainless steel and is mounted externally between windows on a two-storey gabled elevation. It is situated on a part of the building that is in close proximity to a mature well treed boundary, which provides screening. It is also towards the rear of the site when viewed from Hempstead Road, where I could see during my site visit that it could be glimpsed. It extends beyond the ridge level of this part of the building, albeit other parts of the building are three-storeys in height and more prominent.
6. Given its positioning against the boundary and its location within the site, the flue is not a highly visible feature within the street-scene, particularly when viewed in the context of the built form at the site. It is therefore not a visually intrusive, incongruous or incompatible feature and so integrates with the streetscape character, even though the overall site is visually sensitive. Whilst the flue is quite large in-itself, it is compatible in scale with the host residential building and is of a typical, as opposed poor, design. I am therefore not persuaded on the evidence before me that it is inconsistent with the host building or has diminished the quality of the originally approved development.
7. I however accept that at times of the year when the surrounding trees are not in leaf the flue could appear more conspicuous owing to its stainless steel construction and finish. A planning condition requiring the flue to be painted, and which I will address in more detail later in my decision, would in my view ameliorate such concerns.
8. I therefore conclude the flue is not harmful to the character and appearance of the area and so accords with Policy CS12 of the Dacorum Borough Council Core Strategy 2006-2031, adopted September 2013. This policy, amongst other things, requires development to integrate with the streetscape character and avoid visual intrusion. For the same reasons the proposal would comply with the achieving well-designed places objectives of the National Planning Policy Framework (the Framework).

Other Matters

9. Concern was raised about pollution from the flue however this is not a matter in dispute between the Council and appellant and I am not persuaded on the evidence before me to reach a different finding. Limited evidence was provided about the refusal to grant planning permission for a flue on a former building at the site, but as I do not have the full details of that scheme, I have been unable to consider this matter further.
10. I also appreciate that a desire had been expressed by the Council and some local residents for the flue to be encased inside a chimney of matching brickwork. However, such a proposal is not before me and does not affect my findings in relation to the main issue.
11. The site is within the Green Belt and paragraph 144 and 145 of the Framework relate to the very special circumstances and exceptions to inappropriate development. Having considered the implications of the proposal, I find the appeal scheme would not amount to inappropriate development.

Conditions

12. The planning conditions are those that have been suggested by the Council as well as the original occupancy restriction. The approved plans condition has been amended to account for the proposed flue and in the interests of certainty. The appellant has offered to paint the flue black and the Council has also suggested, in the event the appeal is allowed, that it be painted to match the existing building. I however find the latter to be imprecise and so I have imposed that the flue be painted black, within the timeframe suggested by the Council, or an alternative colour that is first agreed in writing.

Conclusion

13. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be allowed.

Paul T Hocking

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans/documents: 030; 025 Rev A; 028; 026; 035; 039; 031 Rev A; 037; 029; 038; 036 Rev A.
- 2) The development hereby permitted shall be retained in accordance with the materials specified on the approved drawings and details contained within the application form and the Design, Access and Sustainability Statement.
- 3) A visibility splay measuring a minimum 43 x 2.4 metres shall be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
- 4) The recommendations contained within the approved noise assessment report shall be incorporated within the development in perpetuity.
- 5) The flue hereby permitted shall be painted black within 3 months of the date of this decision, or a colour that is otherwise first agreed in writing by the Local Planning Authority. It shall be retained in the colour it is painted in perpetuity.
- 6) Management and maintenance of site drainage will be undertaken in perpetuity in accordance with the approved Drainage Strategy (application reference: 4/00149/17/DRC).
- 7) No persons under 60 years of age, with the exception of a partner living with them who is not less than 55 years of age, shall occupy any of the apartments hereby permitted.