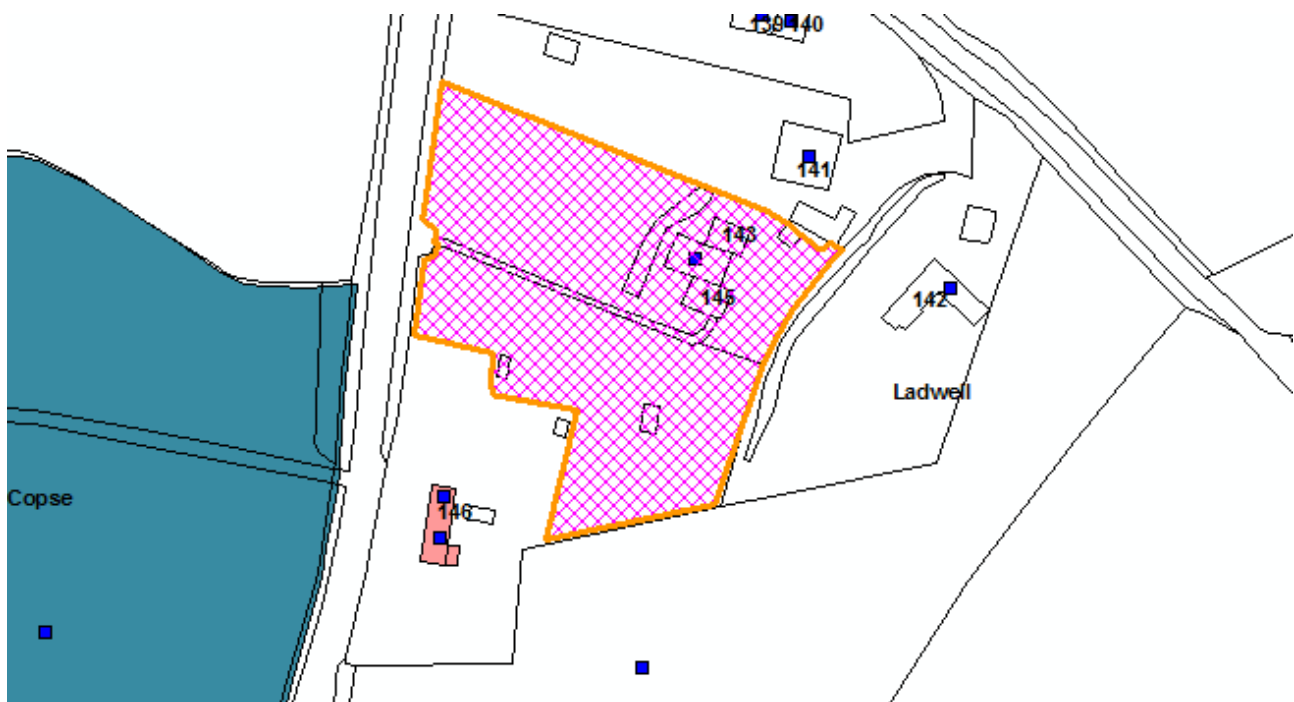


WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Case No: 20/00377/FUL
Proposal Description: Section 73A application relating to decision No. 17/00375/FUL (Demolition of the existing house and erection of new house - 01/06/2020) (Retrospective)
Condition Number(s): 2
Address: 144 Ladwell, Ladwell House Hursley Road Hursley SO21 2LE
Parish, or Ward if within Winchester City: Hursley
Applicants Name: Mrs L Sinker
Case Officer: Sean Quigley
Date Valid: 3 April 2020
Recommendation: Application Permitted

Link to Planning Documents : <https://planningapps.winchester.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q5ZNYDBPJ9X00>

Pre Application Advice: None



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General Comments

The application is reported to Committee due to the number of objections received which are contrary to the officer's recommendation.

The Parish Council has also requested that the application be determined by the Planning Committee which is appended to this report.

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Site Description

The site comprises a detached dwelling set within a small group of dwellings approximately 1km south of Hursley Village. The house is set back approximately 40m from the eastern side of Hursley Road and occupies an elevated position. The site slopes down westwards towards Hursley Road.

Proposal

This application (under Section 73A of the Town and Country Planning Act 1990) (TCPA) seeks to amend Condition 2 of 17/00375/FUL which permitted the demolition of the existing house and erection of new house (24.5.17). Condition 2 of the existing permission specifies the approved drawings which the development must be built in accordance with.

Section 73a of the TCPA enables an applicant to apply to develop land without compliance with conditions attached to an extant previous planning permission. Under this section a local planning authority may amend conditions.

The application to be determined seeks the variation of Condition 2 of permission 17/00375/FUL which specifies the approved plans according to which the development must be built.

The replacement dwelling has been completed and therefore the application is retrospective.

Relevant Planning History

07/02479/FUL -Two storey rear extension, detached garage with store above
13/00236/FUL -Two storey rear extension, detached garage with store above
16/01489/FUL -Erection of two storey front extension and single storey rear extension
17/00375/FUL - Demolition of the existing house and erection of new house in line with planning approval 16/01489/FUL with the addition of a garage to the front elevation.

Consultations

None.

Representations:

Hursley Parish Council – Objection - Appended in full to this report (Appendix 1).

1 letter of objection has been received for the following reason:

- whilst the applicant states that the changes are material, they consider they are minor. This is not the case - the cumulative impact of the change are major and results in a dwelling which makes no reference to the original building

Relevant Planning Policy:

Winchester Local Plan Part 1 – Joint Core Strategy
Policies MTRA4, CP13 and CP20
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Winchester Local Plan Part 2 - Development Management and Site Allocations
DM1, DM15, DM16, DM17, DM27 and DM29 of Local Plan Part 2 (2017).

Other

High Quality Places - SPD (2015).

National Planning Policy Guidance/Statements:

National Planning Policy Framework

Planning Practice Guidance

National Planning Practice

Planning Considerations

Principle of development

Paragraph 47 of the NPPF requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise.

This application seeks the variation of Condition 2 of the extant permission which specifies the plans according to which the development should be built. The principle of development - the replacement of an existing dwelling in the countryside - has previously been accepted by the local planning authority in approving the extant permission and is a material consideration in the assessment of these changes to it (17/00375/FUL).

Whilst the site is located in the countryside (and outside any settlement) where residential development would not normally be permitted, the site already has a residential use and the principle of a replacement dwelling in the countryside is accepted by LPP2 Policy DM23 - Rural Character. This was the basis on which the existing planning permission for a replacement dwelling was granted and there has been no further change to this policy since for the recommendation of approval for this application.

Design

The changes can be summarised as below and are assessed in respect of LPP1 Policy CP13 and LPP2 policy DM16;

- the size of some of the windows and window openings
- the omission of a first-floor window
- changes to the shape of the garage doors
- relocation of the steps
- increased head height of the flat roof dormer on the rear elevation
- and other minor changes to the external appearance.

Each of these areas of change are considered below.

Changes to the sizes of some of the windows - the applicant was able to source most of the windows from a property in Surrey that was being demolished. By recycling / re-using existing materials rather than buying new windows complies with NPPF advice on the

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need to use natural resources prudently and minimising waste. In order to accommodate the windows, some of the window openings had been changed slightly, although overall the changes are minor.

Omission of first-floor window - the small first-floor eaves dormer window on the side (North East) elevation has been omitted - this is a minor change and has no significant impact bearing on the overall design. It should be noted that the dormer window is shown on the north east elevation of the approved plan, but does not appear on front elevation – so the front elevation view is unchanged in any case.

Relocation of steps - the steps leading up to the south west elevation were originally installed as per the approved plans. However, they were not compliant with the building regulations as they were too steep and so were repositioned in order that the step-spread could be increased.

Changes to the design of the garage doors - the openings for the garage doors on the approved plans are arched however standard rectangular-shaped doors were installed instead. The size and proportion of the doors are the same, but without arches, which is considered acceptable in their appearance.

Increase in the head height of the rear dormer window is to be increased by 400mm. It still takes the same form as shown on the approved plan, but it is larger. Being on the rear elevation, it is not visible from public area to passers-by and has little effect on the overall design, appearance or impact of the dwelling.

Other changes include:

- insertion of a small additional ground floor window on the north east elevation (the same elevation where the eaves dormer has been omitted);
- minor changes to the fenestration detailing on the south west elevation;
- the omission of decorative coursing above the windows;
- changes to the external appearance of the protruding single storey element at the rear

Chimneys - the chimneys needed to be strengthened with steel to reach their height on the approved plan. Issues with this results in this amendment being sought to keep the chimneys at ridge height and is acceptable in respect of the impact on the appearance of the property. It should however only be temporary as the applicants intend to increase their height in accordance with the approved planning permission.

The applicant has submitted a drawing which shows the proposed elevations overlaid with those in the approved drawings. The approved elevations have been redrawn with the detailing removed to facilitate comparison. The overlay plan confirms that the changes for which approval is sought are minor material amendments and illustrates the impact on the appearance of the dwelling.

The Parish Council are concerned with how the design integrity of the original dwelling in the context of Hursley has changed through the course of the permitted applications and work undertaken on site. The planning assessments of the historic applications listed above, were made based on the proposals, relevant planning policy and material planning considerations at that time citing reasons why the permission for the extended dwelling

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and replacement dwelling were permitted in their assessment, in accordance with the Development Plan.

For this application, the design changes as set out above are considered not to be materially harmful to the appearance of the dwelling in respect of LPP1 Policy CP13 and LPP2 policy DM16 and the wider impact is considered below.

Impact on the character and appearance of the area

Whilst the proposed changes affect the appearance of the dwelling, increasing its visual impact, the overall size, height, shape and form is substantially the same as that originally approved, as is the positioning of the majority of the doors and windows. Where there are differences, e.g. the increase in the height of the flat roof dormer on the rear elevation, the re-positioning of the steps, amended garage doors, these do not have a demonstrably harmful or significant impact on the character or appearance of the area. Whilst the house is significantly above the level of Hursley Road (approximately 3m) the front elevation of the property is set back by approximately 40m from the road. The road at this point is relatively narrow and bordered on the eastern side with mature trees and hedges restricting views into the land beyond. Whilst the road frontage of the application site is open (it appears that hedging has been removed) views in, available mainly to those in vehicles, are fleeting and therefore not significant in the street scene. In addition, impacts will be significantly mitigated with the introduction of additional planting between the line of the entrance gate and the site's boundary with the road and on that boundary particularly. A condition will be attached to any permission requiring a suitable landscape scheme to be submitted.

The dwelling responds positively to the character, appearance and variety of the local environment within and surrounding the site in terms of its design, scale and environment within and surrounding the site in terms of its design, scale and layout and therefore complies with LPP2 Policies CP13 and DM16.

The nearest listed building to the site is the Red House, on Hursley Road approximately 200m to the south. The proposed development will have no impact on the listed Building or its setting because of the distance. The nearest conservation area is in Hursley, approximately 1km to the north. The proposed development does not affect the setting of the conservation area. The southern boundary of Hursley Park, a former deer park which appears on the Hampshire Inventory of Historic Parks and Gardens, is approximately 400m north-west of the site. The proposed development will not have any impact on the setting of the park or the heritage assets. The assessment has therefore taken into account the key issues of the preservation of the special architectural / historic interest of a listed building and its setting (S.66 P(LBCA) Act 1990; Policies DM29 & DM30 of the Winchester District Local Plan Part 2 Adopted 2017; Policy CP20 Winchester District Joint Core Strategy; NPPF Section 12) and the preservation or enhancement of the character or appearance of the conservation area (S.72 P(LBCA) Act 1990; Policies DM27 & DM28 of the Winchester District Local Plan Part 2 Adopted 2017; Policy CP20 Winchester District Joint Core Strategy; NPPF Section 16). In summary, the proposed development will not have a detrimental impact on these statutory land use designations.

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Impact on Neighbour Amenity

Whilst the re-designed rear first floor dormer window will have a marginally greater impact in terms of overlooking in relation to the property to the rear (some 20m distant and at a higher level) this is not significant. Similarly, the impact on the amenities of the occupiers of the property adjacent to the northern boundary of the site will not be significantly impacted. In conclusion, the size, height and orientation of the proposed development is acceptable in terms of the impact of the residential amenities of neighbouring occupiers in accordance with LPP2 Policy DM17.

Highways/Parking

The proposed development uses the existing vehicular access onto Hursley Road and there are no other highway issues in respect of the changes being proposed. The dwelling has ample parking for vehicles in the gravelled area at the front of the property and the garages. It is therefore considered that the proposal accords with Local Plan Part Two DM18.

Ecology

The extant permission was acceptable in relation to ecological issues and the proposed development will have no greater ecological impact. Conditions ensuring the compliance with the recommendations of the original ecology report and information relating to bats submitted with the extant application are recommended (Condition 04 and 05). The development therefore complies with The European Habitats Directive and The Conservation of Habitats & Species (Amendment) Regulations 2017.

Other Matters

Due regard should be given to the Equality Act 2010: Public Sector Equality Duty. Public bodies need to consciously think about the three aims of the Equality Duty as part of the process of decision-making. The weight given to the Equality Duty, compared to the other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. The Local Planning Authority has given due regard to this duty and the considerations do not outweigh any matters in the exercise of our duty.

Conclusion

Whilst the proposed development is materially different from that permitted by the extant permission and has a marginally greater impact in visual terms, and on the amenities of nearby properties, those impacts are acceptable in the context of the particular circumstances of the application and local plan policies CP13, DM16, DM17 and DM23.

Recommendation:

Application Permitted subject to the following condition(s):

01 The materials to be used in the construction of the external surfaces of the extension hereby permitted shall be as specified in the Supporting Statement and the approved plans. Development shall then be carried out in accordance with the approved details.

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Reason: In the interests of the visual amenities of the area

02 The development hereby approved shall be constructed in accordance with the following plans:

WIN-NM-1351.07 – Elevations as Proposed
WIN-NM-1351.06 – Floor Plans as Proposed
WIN-NM-1351.03A – Site Plan as Proposed

Reason: For the avoidance of doubt, to ensure that the proposed development is carried out in accordance with the plans and documents from which the permission relates to comply with Section 91 of the Town and Country Planning Act 1990.

03. The garage hereby permitted shall only be used for the purpose of accommodating private motor vehicles or other ancillary domestic storage purposes, and shall not, at any time, be used for living accommodation, business, commercial or industrial purposes.

Reason: In the interests of the amenities of the locality.

04. The development shall be carried out in accordance with the measures, conclusions and recommendations set out within report by PV Ecology, phase 1 and 2 dated 7 August 2016. Thereafter, the compensation measures shall be permanently maintained and retained in accordance with the approved details.

Reason; To provide adequate mitigation and enhancement for protected species.

05. Within 3 month of the date of this permission, details of soft landscape works must be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include the following;- planting plans, including the proposed planting near the boundary of the site with Hursley Road, schedules of plants and replacement trees, noting species, planting sizes and proposed, numbers/densities where appropriate. All soft landscape works shall be carried out in accordance with the approved details. If within a period of five years after planting any tree or plant is removed, dies or becomes, in the opinion of the Local Planning Authority, seriously damaged, defective or diseased another tree or plant of the same species and size as that originally approved shall be planted at the same place, within the next planting season, unless the Local Planning Authority gives its written consent to any variation.

Reason – In the interests of the visual amenities of the area.

06. Detailed proposals for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development hereby permitted. The approved details shall be fully implemented before first occupation of the new dwelling.

Reason - To ensure satisfactory provision of foul and surface water drainage.

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07. Within 6 months of the date of this permission, detailed information (in the form of SAP design stage data) demonstrating that all homes meet the Code 5 standard for energy (as defined by the ENE1 and ENE2 in the Code for Sustainable Homes) and the Code 4 standard for water (in the form of a BRE water calculator) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be built in accordance with these findings.

Reason: To ensure that the proposal complies with Policy DM19 of the Local Plan Part 2

Informatives:

1. This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Local Plan Part 1 Joint Core Strategy: Policies CP13.

Local Plan Part 2: DM16, DM17 and DM23 of Local Plan Part 2

The High Quality Places Supplementary Planning Document.

3. In accordance with paragraph 38 of the NPPF, Winchester City Council (WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;

-offering a pre-application advice service and,

-updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

4. During Construction, no materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.

5. All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

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Appendix 1 - Objection from Hursley Parish Council

Hursley Parish Council OBJECTS to the Section 73A application relating to decision No. 17/00375/FUL (Demolition of the existing house and erection of new house - 01/06/2020 Condition Number(s): 2

In his Planning Statement, planning consultant Neil March acknowledges that the non-compliance with Condition number 2 is material although he also considers them minor. We do not agree that the breaches are minor, whether separately or severally

Of the six non-compliant details Mr March lists:

- Changes to the size of some of the windows and windows openings
- The omission of a first-floor window
- Changes to the shape of the garage doors
- Relocation of the steps
- Increased head height of the flat roof dormer on the rear elevation
- Other minor changes to the external appearance

We do not take issue with the omission of a (side) first floor window, which is not visible from the road and reduces overlooking to the north.

Similarly, whilst the increase in height of the flat roof dormer affects only the residents of 142 Ladwell to the rear, we question how the architect could have designed and how WCC Planning could have accepted a design which did not have adequate headroom.

We cannot object to the relocation of the steps, which were too steep as originally designed. However we question why they were designed in a way which did not meet Health and Safety standards. And we question why such relocation had to be placed so far to the right as to result in such an unfortunate increase in the expanse of blank render.

We do object to the new shape of the garage doors – unfortunately the row of four doors side by side looks like a private or council garage block, unrelated to the dwelling.

We do object to the window shapes and glazing, not as originally shown in the application but apparently bought from reclamation and the house frontage redesigned to fit. There is now no proportional sizing between ground and first floor windows, and the windows themselves are completely different in style. There is no styling to the lintels as shown in the 2017 drawings, simply a soldier course of pale brick, making this an 'anywhere' house that could have been built in the 1970s.

We understand that the very light coloured brick was accepted by WCC Planning officers as 'materials in compliance' despite the fact that every application, including 17/00375/FUL states that the materials, red brick, clay tiles and timber window surrounds, will be 'to match existing'. We queried the choice of brick from the moment we saw it, we contacted WCC Planning on several occasions over a period of 18 months and never received assurance on compliance until March 2020 (bricks only, no mention of roof tiles) and yet no action was taken by WCC Planning. 'Materials to match existing' was an essential

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reassurance that the new dwelling would respect the local traditional 'Hursley' style, referred to in all applications. The choice of pale brick and grey slate roof, if in fact approved by WCC Planning, is a shameful betrayal by both the applicants and their agents, and indeed the case officer who approved them. At no time were any of these changes brought to the attention of Hursley PC.

The low height of the new chimneys is not listed by Mr March as a breach, although it manifestly is, as he says the applicants intend to build them up to the height shown. Why haven't they? Building a chimney is much easier during the construction phase. We have no confidence in such assurances and the lack of visible chimneys is yet another omission from the claimed respect for the style of the original dwelling.

We feel, as a Parish Council, very let down by the Planning Department, and of course by the applicants and their agents, who took a historic 'Hursley style' dwelling with classic Hursley chimneys, and filled their applications with reassuring references to Policies that seek to protect and enhance the heritage environment:

CP13 High Quality Design (New development will be expected to meet the highest standards of design and analysis of the opportunities, constraints, accessibility, and connectivity of the site to its surroundings.)

CP20 Heritage and Character (The policy supports new development which recognises and enhances landscape & heritage assets.)

DP3 General Design Guidance (The principals are that in terms of its design scale and layout "the proposal should respond positively to the appearance and variety of the local environment" and "does not have an unacceptable adverse effect on adjoining land, uses or property")

DP4 Landscape and Built Environment (Development should not detract from public views and should maintain and /or enhance the setting.)

The applications also make multiple references to screening of the site by existing vegetation, and therefore no negative impact or visual intrusion, then take out the vegetation, exposing the whole site to public view.

We note that neither before the 2016 or 2017 applications was Pre-Application advice sought. Nor did the applicants bring their plans and intentions to the Parish Council, which is recognised as good practice. However the permitted 2016 application (and indeed an earlier permitted 2007 application) was professionally and sympathetically designed and the PC did not object. Sadly it was not built.

We cannot say the same for the 2017 application, which was not even advised to Hursley PC by WCC Planning (minuted as such), and only discovered by the Clerk when he was checking decided applications for report, leaving less time for scrutiny by members. Nor was the Planning department, let alone the PC, contacted before the changes to what they fully understood to be enforceable conditions were carried out. The current Section 73A application, which is really about exemption from CIL liability, forces the admission of the non-compliance. We do not see why this should be condoned, nor what credence this would give to any future planning process.

For all the above reasons, Hursley Parish Council requests that this Section 73A application be taken to Planning Committee, for consideration in public before the

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committee. We understand that because of Covid-19, the Planning Committee process is now virtual. Nevertheless, we want this application considered by the committee. Should this Section 73A application be approved, against our wishes, then we would seek new conditions to mitigate the negative impact of the built dwelling:

- 1) Build the chimneys as shown on approved plans
- 2) Replace the windows with suitable casement windows more in keeping with local tradition and as shown on approved plans.
- 3) Paint or face the garage and steps façade to lessen the stark white render, which is a very visible intrusion on the landscape. Ditto for new gate pillars.
- 4) If possible, rebuild steps to start the run in front of the façade and break up an otherwise huge blank space.
- 5) Remove or reduce the harsh exterior lighting which adds to the visual intrusion.

Hursley PC notes that there is no Officer Report listed on the Documents section relating to 17/00375/FUL on WCC website, before the Decision Notice issued. This is a serious omission, and together with the approval of materials which appears to be retrospective, may reflect not only changes and absences of officers, but the reason we were unable to have any meaningful exchange about this application as built out over the past two years.

Attachments:

Before and After images, to illustrate the brick and tile colours and 'Hursley' style that the 2017 application purported to respect
2016 frontage, sympathetically styled
2017 frontage (no comment)
2017 Design and Access Statement (references to policies)
2020 Planning Statement (referring to breaches of condition)
Overlay documents showing changes from approved frontage (this does not adequately convey the changes to window detail)

Elizabeth Billingham
Clerk to Hursley Parish Council