


REPORT TO PLANNING COMMITTEE

6th November 2019

Application Reference	DC/19/63417
Application Received	16 th September 2019
Application Description	Retention of pergola at rear
Application Address	Wood Green Nursing Home 27 Wood Green Road Wednesbury WS10 9AX
Applicant	Michael Goss
Ward	Wednesbury North
Contribution towards Vision 2030:	
Contact Officer(s)	Mrs Christine Phillips 0121 569 4040 christine_phillips@sandwell.gov.uk

RECOMMENDATION

Subject to confirmation that the pergola would not be used as a smoking shelter, verification that a smoking shelter would not be required at the application premises, and that alternative provision has been made elsewhere within the site, retrospective planning permission is recommended subject to:

- (i) The pergola not being used as a smoking shelter; and
- (ii) The planting of a conifer tree along the boundary.

1. BACKGROUND

- 1.1 This application is being reported to your Planning Committee at the request of Councillor Peter Hughes and Councillor Elaine Costigan due to previous objections from neighbouring residents. Both Councillors have requested that your Committee visit the site before determining the application.

2. SUMMARY OF KEY CONSIDERATIONS

- 2.1 The site is not allocated in the adopted development plans.

- 2.2 The material planning considerations which are relevant to this application are:-

Design, appearance and materials

The intended use

The impact on adjoining property in terms of loss of privacy

Refer to section 6 below for more details

3. The APPLICATION SITE

- 3.1 The application refers to an established nursing home on the north-west side of Wood Green Road, opposite Brunswick Park. The site also backs onto Jockey Lane. The original house at 27 Wood Green Road has been significantly extended since 2007 as part of the conversion to a nursing home so that it fills most of the frontage and extends into the back of the site in roughly a “u” shape. There is an enclosed rear garden adjoining the boundary with 28 Wood Green Road and there is extensive planting along the boundary, largely planted within the garden of the house no. 28 Wood Green Road.

4. PLANNING HISTORY

- 4.1 In 2007 application DC/06/46393, was approved on appeal following refusal by the Council, giving permission for enlargements to make the home capable of housing up to 40 residents. The extensions have been part implemented which enables the applicants to continue building the remaining approved alterations at their convenience. These remaining changes relate to the main frontage block.

During the implementation of DC/06/46393 various changes were made to the layout and design to meet practical construction demands and means of escape requirements. This resulted in the approval of a non-material amendment application to retain the changes in December 2011.

A further application DC/11/54048 sought to make alterations to the approved scheme including bringing the extension closer to the rear of no 28 Wood Green Road. Whilst several of the changes were deemed to be acceptable, the submission was refused by your Committee on the following grounds: -

“The proposed extension would detract from the amenities of the neighbouring residential property at no 28 Wood Green Road by reason of loss of light to a rear lounge and kitchen.”

Application DC/12/54441 was a re-submission of DC/11/54048 for alteration/extension to infill the lounge; laundry extension; gables to frontage; new entrance; enclosure of external staircase and elevational improvements. It was approved in May 2012.

4.2 Relevant planning applications are as follows:-

DC/12/54441	Alteration/extension to infill lounge, Laundry extension, gables to frontage New entrance, enclosure of external Staircase and elevation improvements, (re-submission of DC/11/54048)	Approved 30/5/2012
DC/11/54048	Extensions and alterations to proposals originally approved under DC/10/51926.	Refused 27/3/2012
DC/06/46393	Non-Material Amendment Submission For amendment to DC/06/46393.	Agreed 30/12/2011
DC/10/51926	Renewal of (DC/06/46393) consent for proposed part single-storey and part two-storey extension.	Approved 6/5/2010
DC/06/46393	Part rear single-storey and part two-Storey extension.	Allowed on Appeal 25/5/2007

4.3 It should be noted that the consented applications required the applicant to plant additional landscaping and mature planting along the boundary with no. 28 Wood Green Road and this has not been implemented to date. The local planning authority have received ongoing complaints about the development of the site since work commenced.

5. APPLICATION DETAILS

5.1 It is proposed to retain a timber pergola in the rear garden located close to the boundary with the garden of 28 Wood Green Road. The structure measures 5m x 6m x 3m high to the highest point of a fully hipped tiled roof (2.2m to eaves height). The structure is open sided, although on the rear elevation facing 28 Wood Green Road, an artificial green screen wall has been affixed to prevent overlooking.

6. PUBLICITY

6.1 The application has been publicised by neighbour notification with one response.

6.2 Objections

Objections have been received on the following grounds: -

- (i) Loss of privacy due to the construction of the pergola along with the fact that the applicant has failed to comply with previous planning conditions relating to landscape planting along the boundary.
- (ii) Concern that the pergola would be used as a smoking shelter 24/7 all year round by staff, residents and visitors resulting in litter, possibility of the fence setting alight (as has happened in the past), and smoke.
- (iii) Increased noise closer to the boundary.
- (iv) Loss of light and outlook to all habitable rooms on the ground and first floor of the adjoining house.
- (v) That the land levels have been increased when the original building works were commenced by approximately 1m and therefore making the pergola unduly prominent.

Immaterial issues have also been raised regarding fire damage to the fence and rubble being stored against the fence causing it to break. Also, rubbish stored in areas that are designated for emergency vehicles. The local planning authority has advised the objector that it has no control over these issues.

6.3 Responses to objections

I respond to the objector's comments in turn;

- (i) The pergola itself extends along a 6m stretch of the boundary and the applicant has installed an artificial green screen along its rear elevation to protect privacy. In terms of other landscaping, it is recognised that the applicant has failed to comply with earlier planning conditions relating to the provision of additional landscaping. When building works first commenced in relation to the nursing home extensions, many of the trees that were due to be retained along the boundary were felled by the applicant and not replaced. In response the owner of the adjoining house planted trees within his boundary that, in the last 10 years, have established to provide a relatively full and evergreen screen between the two sites. There is a gap towards the back of the site away from the pergola and a single conifer tree would fill the gap, in my view. This could be dealt with via planning condition.

- (ii) The applicant has been asked to verify the use of the pergola. The assumed use is a sun shelter for residents and visitors although this is not clarified in the application. The applicant has been asked to confirm that it will not be used as a smoking shelter and whether there is an existing smoking shelter within the site. Furthermore, Environmental Health Officers have been asked to confirm whether this type of business would be required to provide such a shelter under Health and Safety or Smoke Free Regulations. I will update your Committee on this matter.
- (iii) It is not considered that the use of the pergola as a sun shelter for residents and visitors would cause significant noise issues to warrant refusal of permission. However, this may not be the case should it be used as a smoking shelter by staff at all hours.
- (iv) It is not considered that the pergola causes any appreciable loss of light or outlook to the habitable rooms of the neighbouring property. It is positioned approximately 7m away from the closest window and largely screened by trees/hedging. Also, the materials used in its construction are not unsightly.
- (v) The increase in land levels do not form part of this planning application submission. The structure is not unduly high (max 3.2m to a hipped roof) and is largely obscured from view.

6.4 Support

No comments have been received which support the application.

7. STATUTORY CONSULTATION

- 7.1 Environmental Health – Comments awaited in relation to the requirement of a smoking shelter under Health and Safety or Smoke Free Regulations.

8. GOVERNMENT GUIDANCE/NATIONAL PLANNING POLICY

- 8.1 National Planning Policy Framework promotes sustainable development but states that that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.

9. LOCAL PLANNING POLICY

- 9.1 The following sections of the Council's Development Plan are relevant: -

ENV3: Design Quality

SAD EOS9: Urban Design Principles

9.2 From a design perspective the pergola is considered acceptable and would accord to adopted design policies.

10. MATERIAL CONSIDERATIONS

10.1 The key material considerations with this proposal are design referred to above (9.2) and the intended use and the impact on adjoining property in terms of loss of privacy. As indicated in 6.3 above (response to objections):-

10.2 Design. The design is considered to be acceptable in size and appearance.

10.3 Intended use of the structure. Awaiting clarification from the applicant, however it is considered that as a facility for residents and visitors to be shaded from the sun, the use is considered appropriate. However, I would have reservations about the use of the pergola as a smoking shelter.

10.3 Loss of privacy. This is negligible and would not warrant refusal of permission.

11. IMPLICATIONS FOR SANDWELL'S VISION

11.1 The proposal supports Ambition 10 of the Sandwell Vision 2030

11.2 Ambition 10 – Sandwell has a national reputation for getting things done, where all local partners are focussed on what really matters in people's lives and communities.

12. CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

12.1 The proposal is of appropriate design in accordance with adopted policy. Also, it would not have an adverse impact on adjoining residential property providing it is used solely as a sun shelter for residents and visitors. It is further considered that the existing landscaping, albeit largely within the garden of no 28, along with the artificial green screen, does ensure adequate privacy.

12.2 It is recognised that the adjoining residents have suffered from the development of the site, where breaches of planning control have taken place, and where the local planning authority has been unable to achieve acceptable outcomes in the past. This situation has largely arisen from the earlier decision by the Planning Inspectorate to allow an appeal that was refused by your Committee (DC/06/46393). I do sympathise with the

objector's concerns but I am mindful of the fact that 10 years has now elapsed and, in relation to this proposal, an established and substantial landscape screen exists between the two premises which lies within the boundary and control of the adjoining neighbour. It is nevertheless considered appropriate to request that the additional conifer is planted along the boundary to complete the screen between the two properties.

- 12.3 Finally, the fact that the full landscaping scheme has not been installed in accordance with earlier consents cannot be controlled by this application. Although I fully understand the frustration of the objectors at the failure of the applicant to comply with this element of the development, enforcement action has been considered but it would not be expedient to pursue it given the existing substantial screening along the boundary. The planting of one additional conifer would complete the screen and the applicant has verbally agreed to do this.

13. STRATEGIC RESOURCE IMPLICATIONS

- 13.1 When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the council.

14. LEGAL AND GOVERNANCE CONSIDERATIONS

- 14.1 This application is submitted under section 55 of the Town and Country Planning Act 1990.

15. EQUALITY IMPACT ASSESSMENT

- 15.1 There are no equalities issues arising from this proposal and therefore an equality impact assessment has not been carried out.

16. DATA PROTECTION IMPACT ASSESSMENT

- 16.1 The planning application and accompanying documentation is a public document.

17. CRIME AND DISORDER AND RISK ASSESSMENT

- 17.1 There are no crime and disorder issues with this application.

18. SUSTAINABILITY OF PROPOSALS

- 18.1 Refer to the national planning framework (8) and local plan policies (9) and material considerations (10).

19. HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

19.1 Refer to the summary of the report (12).

20. IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

20.1 There will be no impact.

21. APPENDICES:

Site Plan

Context Plan

Plan No. 01

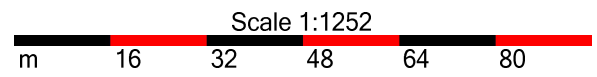
Photograph 02

DC/19/63417
 Wood Green Nursing Home



Legend

Sc 1:1251



© Crown copyright and database rights 2019
 Ordnance Survey Licence No 100023119

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	23 October 2019
OS Licence No	



This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Sandwell MBC Licence No LA 076309 2013 2016





WoodGreen



WoodGreen



WoodGreen



WoodGreen