

Appeal Decision

Site visit made on 15 November 2016

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 07 December 2016

Appeal Ref: APP/R5510/W/16/3156365

Childlink Learning Centre, Hill End Road, Harefield UB9 6LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Steve Bignall, Rylex Developments Ltd against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 13327/APP/2016/2182, dated 6 June 2016, was refused by notice dated 8 August 2016.
 - The application sought planning permission for development described as 'variation of condition 2 (Approved Plans) of planning permission ref: 13327/APP/2015/2823 dated 13/10/2015 to change the design of the single storey and two storey roofs (3 x two storey, 3-bed, terraced dwellings with associated parking, amenity space, and bin and cycle stores involving demolition of existing building)' without complying with a condition attached to planning permission Ref 13327/APP/2015/4529, dated 23 February 2016.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 15/2951/1; 15/2951/2; 15/2951/3; 15/2951/4; 15/2951/5 and 15/2951/6, and shall thereafter be retained/maintained for as long as the development remains in existence.*
 - The reason given for the condition is: *To ensure the development complies with the provisions of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012) and the London Plan (2015).*
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Decision

1. The appeal is allowed and planning permission is granted for variation of condition 2 (Approved Plans) of planning permission ref: 13327/APP/2015/2823 dated 13/10/2015 to change the design of the single storey and two storey roofs (3 x two storey, 3-bed, terraced dwellings with associated parking, amenity space, and bin and cycle stores involving demolition of existing building) at Childlink Learning Centre, Hill End Road, Harefield UB9 6LH in accordance with the application Ref: 13327/APP/2016/2182 dated 6 June 2016 without compliance with condition number 2 previously imposed on planning permission Ref 13327/APP/2015/4529 dated 23 February 2016 subject to the attached schedule of conditions.

Procedural matter

2. I saw at my site visit that development was being undertaken at the site. The Council did not consider the application on a retrospective basis and for the
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avoidance of doubt, I have dealt with the appeal on the basis of the drawings submitted and not on the dwellings under construction.

Background and main issue

3. The appeal relates to a planning condition attached to planning permission ref 13327/APP/2015/4529. The appeal scheme seeks the provision of a rear dormer window and front rooflight room in each of the three dwellings to serve what are described as 'play rooms' within the roof space of each dwelling. My consideration is confined to disputed condition 2, which sets out that the development shall be carried out in complete accordance with the specified approved plans. The Council consider that the play rooms are additional bedrooms and that the proposal fails to provide sufficient private amenity space for 4 bedroom dwellings. The main issue for the appeal therefore is whether future occupiers of the dwellings would be likely to experience acceptable living conditions in terms of amenity space provision.

Reasons

4. The submitted plans show that each dwelling would have three bedrooms on the first floor and an 'L' shaped play room within each roofspace. Whilst I note the appellants comment that the downstairs reception rooms could also be converted into a bedroom, given that the substantial part of each play room would have headroom in excess of 2 metres, their position within the houses and the floorspace of each room, it is not inconceivable that they could be utilised as bedrooms.
5. Saved Policy BE23 of the London Borough of Hillingdon Unitary Development Plan (UDP), includes that new residential buildings should provide sufficient external amenity space to protect the amenity of occupants of the proposed and surrounding buildings and which is usable in terms of its shape and siting. I note from the Council officers report that there is a separation distance of about 20.55 metres between the proposed dwellings and the property to the rear, which is slightly below the figure of 21 metres as set out in the Hillingdon Design and Accessibility Statement (HDAS) Supplementary Planning Document Residential Extensions (SPD). In terms of saved UDP Policy BE23, I consider that there is sufficient size of rear gardens to protect the living conditions of occupants of the proposed and neighbouring dwellings to the rear and side. I also consider that the width, length and shape and siting of the rear private amenity spaces are such that they would provide usable space for the future occupants of the proposed dwellings.
6. The SPD also includes garden space standards in respect of extensions where 60 square metres of garden space should be retained for 3 bedroom houses and 100 square metres for 4 bedroom houses. Each of the proposed dwellings exceeds the retained garden space standard set out in the SPD for 3 bedroom dwellings. The Council has stated that 92, 89 and 83 square metres of private amenity space are provided respectively for the dwellings. These figures are not disputed by the appellant and are below that set out in the SPD for four bedroom houses. However, whilst the size of the rear gardens falls below that set out in the SPD for 4 bedroom dwellings, should the dwellings proposed be so occupied, I consider that the provision of private amenity space to be adequate for the future occupiers.

7. To conclude on this matter, despite falling below the retained garden space figures set out in the SPD, I consider that the appeal proposal would provide future occupiers of the proposed dwellings with acceptable living conditions in terms of amenity space provision. Therefore, the proposal does not conflict with saved UDP Policy BE23. It also does not conflict with Hillingdon Local Plan: Part 1 Strategic Policies Policy BE1 which is concerned with new development improving and maintaining the quality of the built environment.

Other matters

8. I have considered the comments by interested parties regarding the appeal proposal giving rise to an increase in overlooking of neighbouring properties over that which would arise from the permitted scheme due to the rear dormers. However, I consider that the separation distances between the proposed and existing dwellings are adequate to prevent significantly greater additional overlooking from occurring from the dormers which would be setback behind the rear eaves line.

Conclusions

9. For the reasons given above I conclude that the appeal should be allowed and that condition 2 is varied to allow for the provision of roof space play rooms, dormer windows and rooflights.
10. In allowing the appeal and granting planning permission I have considered those conditions imposed on the original planning permission and as set out in the Council statement. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
11. I have imposed conditions regarding timescales and specifying the approved plans to provide certainty. I have imposed conditions in respect of external construction materials and landscaping in the interests of the character and appearance of the area. I have also imposed a condition regarding the removal of permitted development rights in respect of extensions or roof alterations and curtilage buildings in order to safeguard the living conditions of future occupiers of the dwellings and neighbours. I have reapplied the condition regarding construction standards to ensure an appropriate standard of housing stock and conditions in regards to off street parking provision and building material storage in the interests of highway safety.

Philip Lewis

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 23 February 2019.
- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: Proposed site plan 15/2951/1B; Ground floor plan 15/2951/2A; First floor plan 15/2951/3B; Roof plan 15/2951/4B; Elevations 15/2951/5C; elevations 15/2951/6C and loft floor plan 15/2951/7A and shall thereafter be retained/maintained for as long as the development remains in existence.
- 3) No development shall take place until details of all materials and external surfaces have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details and be retained as such. Details should include information relating to make, product/type, colour and photographs/images.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification); no garages, sheds or other outbuildings, nor extension or roof alteration to any dwellinghouses shall be erected without the grant of further specific permission from the Local Planning Authority.
- 5) No development shall take place until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:-
 - i) Details of soft landscaping; planting plans (at not less than a scale of 1:100); written specification of planting and cultivation works to be undertaken; and schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate.
 - ii) Details of hard landscaping; means of enclosure and boundary treatments; hard surfacing materials and external lighting.
 - iii) Details of landscape maintenance; Landscape Maintenance Schedule for a minimum period of 5 years; proposals for the replacement of any tree, shrub, or area of surfacing/seeding within the landscaping scheme which dies or in the opinion of the Local Planning Authority becomes seriously damaged or diseased.
 - iv) Schedule for Implementation
 - v) Existing and proposed functional services above and below ground
 - vi) Proposed finishing levels or contoursThereafter the development shall be carried out and maintained in full accordance with the approved details.
- 6) The dwellings hereby approved shall be constructed to meet the standards for a Category 2 M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010) 2015, and all such provisions shall remain in place for the life of the building.
- 7) Prior to the commencement of any works hereby approved an off street parking allocation plan, clearly showing 2 allocated parking spaces per dwelling and the provision of kerb side, footway and property boundary

treatments, including the crossovers to the designated parking areas shall be submitted to and approved in writing by the Local Planning Authority.

- 8) Any building materials stored on site must not obstruct to use of the shared access drive to the side of the application site. The access must be kept free from obstruction and allow access to the application site and the property to the rear.