
Appeal Decision

Site visit made on 24 January 2017

by Alex Hutson MATP CMLI MArborA

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

Decision date: 14 February 2017

Appeal Ref: APP/Q5300/W/16/3163159

Keble Preparatory School, Wades Hill, Southgate, Enfield N21 1BG

- 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 John Field – Keble Preparatory School against the decision of the Council of the London Borough of Enfield.
 - The application Ref 15/04043/FUL, dated 1 September 2015, was refused by notice dated 16 May 2016.
 - The application sought planning permission for erection of a single storey side and rear extension, without complying with a condition attached to planning permission Ref P14-00584PLA, dated 17 April 2014.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the approved plans including plans(s) that may have been revised, as set out in the attached schedule.
 - 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 erection of single storey side and rear extension at Keble Preparatory School, Wades Hill, Southgate, Enfield N21 1BG in accordance with application Ref 15/04043/FUL, dated 1 September 2015 without complying with condition No 1 set out in planning permission Ref P14-00584PLA granted on 17 April 2014 by the London Borough of Enfield, but otherwise subject to the conditions on the attached schedule of conditions.

Procedural matters and background

2. The condition in dispute relates to a planning permission granted for the erection of a single storey side and rear extension. There is no dispute between the parties that the single storey rear extension element has been constructed in accordance with the plans approved under Ref P14-00584PLA. I observed this to be the case and I have considered the appeal on this basis.
 3. The appellant seeks to vary the planning permission by substituting the approved plans with amended plans. The amended plans relate to the single storey side extension element only. The proposed amendments would, amongst other things, increase the overall roof height of the proposed single storey side extension. However, I consider that in the context of the overall scheme, the amended plans constitute minor material amendments. As such, I
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am satisfied that the appeal can reasonably be dealt with under section 73 of the Town and Country Planning Act 1990.

4. The appellant, the Council and a number of interested parties make reference to the existing single storey side extension as built. As do some of the submitted plans. Nevertheless, as built, this element does not benefit from planning permission. I have therefore considered the appeal on the basis of the submitted plans where these relate to the consented and proposed development only.

Main issue

5. The main issue is whether the condition is reasonable and necessary to protect the living conditions of the occupiers of 1 Harwoods Yard with particular regard to outlook.

Reasons

6. The proposal would introduce a flank wall associated with the single storey side extension element along the shared boundary with the rear garden of 1 Harwoods Lane. It would be of a height and length not materially different to the height and length of the flank wall of the single storey side extension consented under the approved scheme. From the top of this wall, the roof would slope away gently over part of the proposed single storey side extension before changing gradient to slope away more gently over the remaining part of it. This would increase the overall height of the roof over the single storey side extension element beyond the roof height of the consented scheme. It is this element of the proposal which appears to be the main concern for the Council and for the occupiers of No 1.
7. Nevertheless, given the gently sloping nature of the proposed roof and that the main increase in height would be set away from the shared boundary, I do not consider that these proposed changes would result in any increased sense of enclosure for the occupiers of No 1 materially greater than that which would arise from the consented scheme. In addition, whilst the proposal would also increase the roof height of the single storey side extension alongside the flank wall of No 1 when compared with that of the consented scheme, this would not be particularly apparent in any views from any windows within No 1 or from any views from within the rear garden of this property. As such, this would not give rise to any harmful cumulative sense of enclosure for the occupiers of No 1.
8. Consequently, the proposal would not result in harm to the living conditions of the occupiers of No 1 with regard to outlook and would not detrimentally affect the enjoyment of their home and garden.
9. It is therefore not necessary or reasonable for the condition to require the development to be carried out in accordance with the approved plans. As such, the variation of the planning permission and the substitution of the condition to comply with the amended plans would be compliant with Policy DMD 37- Achieving High Quality and Design-Led Development, of the Enfield Council Development Management Document 2014. This policy requires, amongst other things, development to be appropriate to its context and to have appropriate regard to its surroundings.

Other matters

10. I have considered the concerns of a number of interested parties including in respect of: light; dust and noise and disturbance during construction works; drainage; character and appearance; and inaccuracies within the submitted plans. However, living conditions matters beyond that relating to outlook was not raised as a concern by the Council. In addition, given the modest increase in height of the proposal over and above that of the consented scheme, I am satisfied that there would be no material loss of light to the property of No 1.
11. Any dust or noise and disturbance which might arise from the construction works would be a temporary effect and would not be sufficient reason in itself to withhold a planning permission. The submitted plans show that guttering would be incorporated into the design which would prevent water ingress onto the property of No 1. The Council considers that the proposal would be sympathetic to the character and appearance of the area and would not harm the setting of the adjacent Winchmore Hill Conservation Area. Having regard to its scale, design and use of materials, I would concur with this view. The Council considers that the submitted plans are satisfactory to accurately assess the proposal and any effects of it. On the basis of the evidence before me, I have no substantive reasons to take a different view on this matter.

Conditions

12. 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. I shall therefore impose all those that I consider remain relevant. I have amended some of these conditions to reflect current statute. In respect of the approved plans condition, I have not considered it necessary to refer to any plans which relate to the single storey rear extension element approved under Ref P14-00584PLA given that this element has been constructed in accordance with these plans. A time limit condition is also not necessary on the basis that the development has been partially implemented.

Conclusion

13. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed. I shall therefore vary the planning permission by deleting the disputed condition No 1 and substituting for it an amended condition as indicated in my decision.

Alex Hutson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 004 P 99; 004 P 100 Rev A; 004 P 200 Rev B; 004 P 201 Rev B; 004 P 202 Rev A, 004 P 300 Rev A; 004 P 301 Rev A; 004 P 400; and 004 P 401.
- 2) The external finishing materials shall match those used in the construction of the existing building and/or areas of hard surfacing.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any amending Order, no external windows or doors other than those indicated on the approved drawings shall be installed in the development hereby permitted.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any amending Order, no balustrades or other means of enclosure shall be erected on the roof of the extension(s). No roof of any part of the extension(s) shall be used for any recreational purpose and access shall only be for the purposes of the maintenance of the property or means of emergency escape.