

Appeal Decision

Site visit made on 30 March 2017

by M Seaton DipTP MRTPI

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

Decision date: 11 May 2017

Appeal Ref: APP/W5780/W/16/3165962

61 Cleveland Road, South Woodford, London, E18 2AE

- 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 a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Altaf Bhuruwala (on behalf of Portvale Estates Ltd) against the decision of the London Borough of Redbridge.
 - The application Ref 4752/16, dated 4 October 2016, was refused by notice dated 15 December 2016.
 - The application sought planning permission for the development of 15 self-contained flats without complying with a condition originally attached to planning permission Ref 1475/06, dated 29 July 2006.
 - The condition in dispute is No. 2 which states that:
The development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved.
 - The reason given for the condition is:
In order to ensure that the development hereby permitted is carried out in accordance with the submitted drawings.
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Procedural Matter

1. The appellant has provided clarification in respect of a drafting error on drawing number CR_PP_204 Rev A. In the drawing, the representation of the ridge height of the neighbouring property at No. 59 Cleveland Road was shown incorrectly as 4-storey rather than 3-storey. It has subsequently been clarified that the ridge height of the neighbouring building is demarcated on the drawing by a line at approximately the same level as the eaves height of the proposed building. I am satisfied that this clarification has not had a fundamental effect on the Council's assessment of the proposals during the course of the planning application or appeal.

Decision

2. The appeal is allowed and planning permission is granted for the development of 15 self-contained flats at 61 Cleveland Road, South Woodford, London, E18 2AE in accordance with the application Ref 4752/16 dated 4 October 2016, without compliance with condition number 2 previously imposed on planning permission Ref 1475/06 dated 29 July 2006, but subject to an additional condition, and the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and as set out in the Annex.
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Background and Main Issue

3. The original planning permission for 15 self-contained flats in two blocks, one facing on to Cleveland Road, and one facing on to Marlborough Road, was granted planning permission in 2006, with it indicated within the Council's Delegated Report that the works were commenced in 2007. The appellant has sought to amend the original planning permission to make alterations and extensions to the roof of the Cleveland Road building, in order to provide additional storage accommodation at third floor level, and has also proposed various other amendments to the entrance and elevations of the building.
4. The Council has indicated that the proposed alterations to the main entrance, fenestration and materials at lower levels of the building are considered to be acceptable in design terms, and I see no reason to disagree with this conclusion. However, the Council has concluded that the extensions and alterations to the roof level would, as a consequence of their location, size, design and external appearance, represent an intrusive form of development within the locality, which would have a serious adverse effect on visual amenities.
5. As a consequence, the main issue in this instance is whether the condition is reasonable or necessary, having regard to the effect of the proposed development on the character and appearance of the area.

Reasons

6. It is evident from my observations, that Cleveland Road possesses a comparatively diverse range of architecture and scale of buildings, incorporating significant variety in form and appearance. The buildings on either side of the appeal site exemplify the variety in scale and form, being a substantial two-storey Victorian Villa with additional accommodation within a steeply pitched roof storey, and a more modern three-storey property of lesser scale, but with the third storey incorporated within a mansard roof. Elsewhere on Cleveland Road, I observed further significant variation of scale between 2-4 storeys.
7. Whilst the proposed building would incorporate three full-storeys and an additional roof storey in the form of a mansard roof and dormer windows, the overall height of the roof would not differ significantly from the ridge height of the neighbouring property to the north. I accept that the proposals would be more visible on approach from the south along Cleveland Road as a consequence of the smaller scale three-storey block adjacent to the south, but I do not consider that this in itself would be a visually harmful feature within a street already exhibiting a significant variety of building scale and form. I accept that the proposed mansard roof would add an increased level of bulk to the overall building, but I am not persuaded that this would result in a significant adverse effect on the street scene with mansard roofs and substantial buildings and blocks visible elsewhere.
8. I have carefully considered the Council's contention that the proposed dormer windows and front gables would add an unacceptable level of clutter to the proposed roof storey, resulting in a prominent and visually intrusive impact on the street scene. However, I do not accept that the visual effect of the addition of the gables and the dormer to the front elevation would do anything other than add visual interest to the proposals in comparison to the more simple

appearance of the approved scheme. In this respect I have had regard to the visual interest provided by other dormer windows, gables and roof features elsewhere on Cleveland Road and surrounding streets, and consider that the appeal scheme would not appear as a departure from this aspect of the character of the area. I am also satisfied that the limited scale and position of the dormer windows on the side elevations would not result in visually oppressive or incongruous additions.

9. I would also conclude that the design and detailing of the two gables to the front elevation would seek to closely reflect the character and appearance of the adjacent Victorian Villa to the north of the appeal site, the design of which I consider to have an overall positive visual effect on the street scene. I also consider that the detailed design changes to the front elevation including the roof storey as a whole, would improve the overall appearance of the scheme
10. On the basis of the evidence placed before me, and my own observations of the site and street scene, I am satisfied that the proposed development would not result in an adverse effect on the character and appearance of the area. As a consequence, the existing condition would not be reasonable or necessary, subject to the imposition of a replacement condition as proposed. I do not therefore find the proposal to conflict with Policy SP3 of the London Borough of Redbridge Core Strategy (2008), or Policy BD1 of the London Borough of Redbridge Borough Wide Primary Policies Development Plan Document (2008). These policies seek that the Borough's built environment will be of a high quality and compatible with and contribute to the distinctive character within which the development is located, as well as being of a style, mass, scale, density and design appropriate to the locality.

Other Matters

11. Interested parties have raised a number of additional objections to the proposed variation to the approved scheme. In respect of these concerns, I am mindful that the appeal scheme does not propose any additional apartments beyond the number already approved, and as a consequence there would be no additional impact on either parking or local infrastructure. Furthermore, the appellant has confirmed that pedestrian entry to the site is to be retained from both Cleveland Road and Marlborough Road, the latter also providing the vehicular entrance. I am also satisfied that the additional proposed windows on the front elevation would not have the potential to have an unacceptable impact on the existing level of privacy available to dwellings on the opposite side of Cleveland Road. This is as a consequence of the distance between the facing elevations, and also recognising that the resultant relationship would not be uncharacteristic or a departure from the existing context within the vicinity.
12. I have had regard to the suspicions of interested parties regarding the nature and design of the proposed amendments to the roof and the potential for the addition of further residential accommodation in the future. However, this is not a matter which can have any bearing on my decision-making. The proposals clearly indicate that the roof void created is for the installation of plant and other equipment, as well as providing storage for the already approved units. If the appellant was to seek to use this space in an alternative manner as has been suggested, then it would be necessary to gain the requisite approval from the Council, who would have the opportunity to thoroughly consider the planning merits of any further scheme.

Conclusion

13. The guidance in the Planning Practice Guidance makes it 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. I note from the Council's suggested list of conditions that a number of the original conditions would appear to have been discharged, with the conditions now solely worded as requiring compliance with previously submitted plans. I have amalgamated these references into a single condition for conciseness and identified which matters the compliance applies to. I have also updated the references to the various British Standard documents incorporated within Condition Nos. 2 & 3 to ensure that they reflect the current rather than withdrawn documents. Otherwise, I shall re-impose all conditions that have been re-suggested, but in the event that some others have in fact been discharged, that is a matter which can be addressed by the parties.
14. I have concluded that the existing condition related to the development being undertaken in accordance with the approved plans may be replaced with a condition ensuring the development is in accordance with a revised set of plans. Therefore, for the reasons given above I conclude that the planning permission should be varied as set out in the formal decision.

M Seaton

INSPECTOR

Annex

Conditions

1. The development hereby approved shall be carried out in accordance with the approved drawing numbers: 1796/1, 30, 31, 32, 33, 34 & 241107-1 Rev.A (as amended by CR_PP_020A, CR_PP_200A, CR_PP_201A, CR_PP_202A, CR_PP_204A, CR_PP_205A, CR_PP_206A, CR_PP_207A, CR_PP_210A, CR_PP_211A and CR_PP_212A)
2. Before any hard surfacing works are undertaken a scheme showing hard surfacing and complying with the requirements specified in *BS 5837 (2012) 'Trees in relation to design, demolition and construction. Recommendations'*, shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall show the extent and nature of all hard surfaced areas, and the materials to be used. The hard surfacing shall be completed before the building hereby permitted is first occupied, and shall be permanently retained thereafter, in accordance with the agreed details.
3. Before any further works are undertaken, a scheme showing existing landscape features and proposed landscaping, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall comply with the requirements specified in *BS 5837 (2012) 'Trees in relation to design, demolition and construction. Recommendations'*, shall include a statement regarding the method of construction in the vicinity of trees, and shall show the position, species, trunk diameter, height and canopy spread of all the existing trees, plants and shrubs, as well as existing ground levels. The scheme shall also show which of the existing trees, plants and shrubs are to be retained and which are to be removed: none of the existing trees, plants and shrubs at the site, shown to be removed, shall be removed until this scheme has been approved in writing by the Local Planning Authority. The scheme shall further show proposals for new planting of trees, plants and shrubs, new ground levels, the position, depth and design of any underground service trenches or foundation works and their means of excavation in the vicinity of any trees, plants or shrubs to be retained. The new planting shall be carried out in the first planting and/or seeding season following the first occupation of the buildings and shall comply with the requirements specified in *BS 3936-1 (1992) 'Nursery Stock. Specification for trees and shrubs'*, and in *BS 4428 (1989) 'Code of practice for general landscape operations'*. None of the new trees, plants or shrubs planted shall be lopped or topped within a period of five years from the completion of the development. Any trees, plants or shrubs which, within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season, in accordance with the approved scheme.
4. Before any further works are undertaken, a scheme for the protection of all the existing trees, plants and shrubs indicated to be retained in the scheme approved under condition 3 above shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show the position, height and nature of all fences or other means of enclosure proposed to surround each existing tree, plant and shrub. The protection measures as approved shall be undertaken at the site before any work in connection with the development hereby permitted commences at the site, and shall be retained for the entire period of the duration of any work at the site, in

connection with the development hereby permitted. Within the fence or other means of enclosure surrounding each tree, plant or shrub, no activities associated with building operations shall take place (including the placing or storage of any structure, vehicle, plant, machinery, equipment, materials or spoil) nor shall any fires be lit, nor any changes in ground level be made, unless previously agreed in writing by the Local Planning Authority.

5. Prior to first occupation of the development hereby permitted, details of all walls and/or fences to be erected within or on the perimeters of the site shall be submitted to and approved in writing by the Local Planning Authority. The walls/fences as approved shall be erected at the site before the buildings hereby permitted are first brought into use, and retained thereafter in accordance with the approved details.
6. Prior to first occupation of the development hereby permitted, details of the proposed refuse and recycling storage and collection facilities to be provided at the site shall be submitted to and approved in writing by the Local Planning Authority. The facilities as approved shall then be provided at the site prior to use hereby permitted first commencing and retained at the site thereafter in accordance with the approved drawings at all times.
7. Prior to further works being carried out; details/samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with these approved details.
8. Before occupation, the dwellings shall comply with Building Regulations Optional Requirement Approved Document M4 (2) Category 2: Accessible and adaptable dwellings (2015 edition) other than for the 'approach routes' section for all units above ground floor level and evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
9. Prior to first occupation of the development hereby permitted, a scheme shall be submitted to and approved in writing by the Local Planning Authority describing the means by which future residents of this development shall be excluded from the Local Car Parking Permit Scheme. The development shall only be carried out and completed in accordance with that approved scheme.
10. Prior to first occupation of the development hereby permitted, details of external illumination to be installed within the site shall be submitted to and approved in writing by the Local Planning Authority. The illumination as approved shall be provided at the site before the first occupation of the buildings and retained thereafter in accordance with the approved details.
11. Prior to any further works, a scheme shall be submitted to and approved in writing by the Local Planning Authority describing the means by which construction activity at the site and construction traffic to and from the site shall be controlled. The scheme shall include measures for:
 - i) construction traffic routes;
 - ii) construction traffic washing;

- iii) public highway cleaning;
- iv) dust suppression;
- v) noise suppression;
- vi) hours of work;
- vii) construction waste disposal.

The development hereby permitted shall only be carried out and completed in accordance with the approved scheme.

12. Prior to any further works being carried out, a scheme shall be submitted to and approved in writing by the Local Planning Authority describing the means by which provision of local construction workers, a work place co-ordinator and training for local employees in the locality necessitated by this development will be secured. The development shall be carried out and completed in accordance with this scheme.
13. The development shall be carried out and completed in accordance with the details submitted, and approved on 11 August 2009, in connection with Conditions 9 (provision of education facilities), 10 (provision of local amenities), 13 (provision of transport facilities), 16 (provision of health care facilities), 17 (provision for community care and social services facilities) & 18 (provision for open space enhancement or facilities) of the original planning permission Ref. 1475/06, dated 29 July 2006, and as approved under the following reference nos; 1475/06/01, 1475/06/02, 1475/06/03, 1475/06/04, 1475/06/05 & 1475/06/06.