



Appeal Decision

Site visit made on 13 June 2017

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 26 July 2017

Appeal Ref: APP/B5480/W/17/3166603

72 Rainsford Way, Havering, Hornchurch RM12 4BL

- 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 Craig Pugh against the decision of the Council of the London Borough of Havering.
 - The application Ref P0086.16, dated 14 January 2016, was refused by notice dated 11 August 2016.
 - The application sought planning permission for the demolition of existing attached garage and replacement with new end of terraced four bedroom semi-detached dwelling with associated parking and amenity without complying with condition 4 attached to planning permission Ref P0172.15, dated 20 July 2015.
 - The condition in dispute is No 4 which states that: *before the building(s) hereby permitted is first occupied, the area set aside for car parking as shown on drawing no. SP15012-BB shall be laid out and surfaced to the satisfaction of the Local Planning Authority and retained permanently thereafter for the accommodation of vehicles visiting the site and shall not be used for any other purpose. This includes the relocation of the telegraph pole as identified on the drawings submitted.*
 - The reason given for the condition is: *to ensure that the car parking arrangement is made permanently available to the standards adopted by the Local planning Authority in the interest of highway safety, and that the development accords with the Development Control Policies Development Plan Document Policy DC33.*
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing attached garage and replacement with new end of terraced four bedroom semi-detached dwelling with associated parking and amenity at 72 Rainsford Way, Havering, Hornchurch RM12 4BL in accordance with the application Ref P0086.16 dated 14 January 2016, without compliance with condition number 4 previously imposed on planning permission Ref P0172.15 dated 20 July 2015 and subject to the conditions set out in the attached schedule.

Procedural matters

2. During the course of the appeal, clarification was given of the appellant's name which has been included in the banner heading above accordingly.
3. At the time of my site visit, the development proposed had been started on

site. I did not have access to the site to establish if the development had been completed in accordance with the approved plans. I have, therefore, based my decision on what I saw on site, together with the submitted plans and details.

Main Issue

4. This is whether the condition is reasonable and necessary in the interests of highway safety.

Reasons

5. To the front of the new dwelling is an area of hardstanding that provides space for two vehicles to park. The evidence before me demonstrates that, with the telegraph pole in situ, and with another vehicle parked alongside, it remains possible for a vehicle to manoeuvre on and off the site, free from obstruction.
6. Whilst the Council suggests that the telegraph pole needs to be removed to facilitate the safe movement of a vehicle on and off the site I have no evidence before me that supports this claim and therefore causes me to change my conclusion reached. I recognise that, with the telegraph pole in situ it would not be possible for two vehicles to manoeuvre on and off the site at the same time, but this would not be possible with the pole removed given the limited space to the front of the site overall.
7. In all, therefore, I find that it is not necessary for the telegraph pole to be removed to facilitate the safe movement of vehicles on and off the site. Reference to the removal of the telegraph pole in condition 4, therefore, is unreasonable and unnecessary and removing reference to this would not conflict with policy DC32 of the Core Strategy and Development Control Policies Development Plan Document¹ which seeks development that does not have an adverse impact on the road hierarchy and its users.

Conditions

8. In allowing the appeal I am granting permission for the demolition of existing attached garage and replacement with new end of terraced four bedroom semi-detached dwelling with associated parking and amenity, subject to conditions, including condition 4 with the reference to the telegraph pole removed. Planning permission P0172.15 will therefore remain intact and implementable too.
9. 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.

¹ London Borough of Havering, Core Strategy and Development Control Policies Development Plan Document (Adopted 2008)

10. As the original planning permission P0172.15 has been started, there is no requirement to impose a time limit condition.

Conclusion

11. For the reasons given above the appeal is allowed. Accordingly I will vary condition 4 of planning consent P0086.16, in line with the discussion above.

R Walmsley

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be not be carried out otherwise than in complete accordance with approved plans: SP15012-A; SP15012-AA; SP15012-B; SP15012-BB; SP15012-C; SP15012-DD; SP15012-G; SP15012-ee; SP15012-ff;
2. No works shall take place in relation to any of the development hereby approved until samples of all materials to be used in the external construction of the building(s) are submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be constructed with the approved materials;
3. Before the building(s) hereby permitted is first occupied, the area set aside for car parking as shown on drawing no.SP15012-BB shall be laid out and surfaced to the satisfaction of the Local Planning Authority and retained permanently thereafter for the accommodation of vehicles visiting the site and shall not be used for any other purpose;
4. Before the building(s) hereby permitted is first occupied, provision shall be made within the site for two car parking spaces for both existing and proposed dwelling houses and thereafter this provision shall be made permanently available for use, unless otherwise agreed in writing by the Local Planning Authority;
5. No building shall be occupied or use commenced until refuse and recycling facilities are provided in accordance with detail which shall previously have been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling facilities shall be permanently retained thereafter;
6. No building shall be occupied or use commenced until cycle storage is provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be permanently retained thereafter;
7. No works shall take place in relation to any of the development hereby approved until a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers is submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall include details of:

- a) Parking of vehicles of site personnel and visitors;
 - b) Storage of plant and materials;
 - c) Dust management controls;
 - d) Measures for minimising the impact of noise and, if appropriate, vibrations arising from construction activities;
 - e) Predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the Local Planning Authority;
 - f) Scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the Local Planning Authority;
 - g) Siting and design of temporary buildings;
 - h) Scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
 - i) Details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded. And the development shall be carried out in accordance with the approved scheme and statement;
8. All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no window or other opening (other than those shown on the submitted and approved plan) shall be formed in the flank wall(s) of the building(s) hereby permitted, unless specific permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), other than porches erected in accordance with the Order, no extension or enlargement (including additions to roofs) shall be made to the dwellinghouse(s) hereby permitted, or any detached building erected, without express permission in writing of the Local Planning Authority.