



Appeal Decision

Site visit made on 28 August 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2019

Appeal Ref: APP/F5540/W/19/3231099

The Little School Daycare Ltd, 42-43 Boston Park Road, Brentford, Middlesex, TW8 9JF

- 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 Mrs Harbir Randeva (The Little School Daycare Limited) against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00134/42-43/P13, received by the Council on 7 March 2019, was refused by notice dated 7 May 2019.
 - The application sought planning permission for the erection of a first floor extension to provide office and storage space and conversion of part of ground floor to provide sensory room without complying with a condition attached to planning permission Ref 00134/42-43/P12, dated 5 September 2017.
 - The condition in dispute is No 4 which states that: *The windows formed in the rear elevation along Churchill House boundary shall be obscure glazed, hinged to open inwards and not openable up to 1.7m from internal finished floor levels and shall not be repaired or replaced otherwise than with obscured glazing.*
 - The reason given for the condition is: To protect the privacy at the adjoining site.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a first floor extension to provide office and storage space and conversion of part of ground floor to provide sensory room at The Little School Daycare Ltd, 42-43 Boston Park Road, Brentford, Middlesex, TW8 9JF in accordance with application Ref 00134/42-43/P13 without compliance with condition number 4 previously imposed on planning permission Ref 00134/42-43/P12, dated 5 September 2017.

Application for costs

2. An application for costs was made by Mrs Harbir Randeva (The Little School Daycare Limited). This application is the subject of a separate Decision.

Procedural Matter

3. There was no declaration date given on the application form. Therefore, I have taken the date the application was received from the Council's decision notice.

Main Issue

4. The main issue is the effect that removing the condition would have on the existing and future operational needs and development of the neighbouring site, having regard to privacy.

Reasons

5. The appellant seeks the removal of a planning condition (the condition), relating to the provision, and subsequent retention of, obscure glazing in the elevation along Churchill House boundary. The condition was attached to a previous planning permission¹. Churchill House lies to the rear of the appeal building and is divided into a number of different light industrial and employment generating uses.
6. The appeal building sits in between, and to the rear of, a number of properties which front Boston Park Road. As a consequence of the planning permission and the condition attached to it, the appeal building has recently been extended and obscure glazing has been installed within the ground and first floor rear elevation of the extended building directly facing Churchill House and the hardstanding surrounding it.
7. Policy CC2 of the London Borough of Hounslow Local Plan Volume 1 2015 – 2030 (the Local Plan) requires, amongst other matters, that development provides adequate levels of privacy and minimises overlooking through careful layout, design and orientation of buildings.
8. The removal of the condition would allow the appellant to replace the existing obscured glazing in the rear openings of the appeal building with clear glazing, with no restrictions on the type of window or its openings. The rooms served by the obscured windows are currently used as office and storage areas in connection with the main children's day nursery use. As I observed on my site visit, the windows serve to totally obscure any views of Churchill House from within the appeal building. However, given the proximity of these windows to Churchill House, the provision of clear glazing in these openings, particularly at first-floor level, would allow unimpeded views of part of Churchill House and the outside space and parking area associated with it.
9. Even though I accept that the proposal would allow an increase in the level of overlooking of Churchill House, it is not clear from the Council's evidence how this would compromise the existing operational needs of the businesses within Churchill House. Nevertheless, I observed on my site visit several windows and doors within Churchill House which were close to, and within direct line of sight, of the windows within the appeal building. Whilst I do not know the specific nature of the rooms or spaces within Churchill House that each of the windows serves, I am satisfied that the entirety of the building comprises a range of non-residential uses.
10. I am aware of a recent application for prior approval for a change of use relating to residential units within Churchill House. I do not know which of the existing employment units were the subject of this application but, in any event, I am told that the application was refused permission. Consequently, there is no extant consent on the site for residential development, nor is it in residential use.

¹ Planning permission reference - 00134/42-43/P12

11. Unlike residential dwellings, which are primarily places of relaxation and enjoyment where occupiers might expect a reasonable degree of protection from proposals affecting their living conditions, I would not expect the same level of amenity standards to be afforded to the occupiers of employment sites, such as Churchill House, which is primarily used for the purposes of work. This is reinforced by the fact I have not been presented with a specific development plan policy relating to amenity standards for occupiers of non-residential uses.
12. Based on the nature of the uses within Churchill House, and the use of the appeal building for non-residential purposes, I fail to see how any increase in overlooking arising from the proposed alteration of the glazing type within the appeal building would affect the ability of workers within Churchill House from carrying out their tasks in connection with the needs of their respective businesses. Furthermore, I do not consider that an alteration in glazing would adversely affect the character and appearance of the host building or the area.
13. Even if I was to accept the Council's contention that Churchill House is an underutilised employment site suitable for future intensification and redevelopment, I have not seen any evidence of any future proposals for the site, or any site-specific policies relating to it, which would preclude windows in non-residential buildings from being sited close to the boundary of Churchill House. The lack of evidence leads me to conclude that any future redevelopment of Churchill House is based mainly on conjecture, and I am unconvinced that the proposal would restrict its future development potential.
14. Having regard to the foregoing, I find that the condition is not necessary as the removal of it would not adversely affect the existing and future operational needs and development of the neighbouring site, having regard to privacy. The removal of the condition would not lead to conflict with Policies CC1 or CC2 of the Local Plan which together seek high quality urban design which sensitively and creatively responds to an area's character and seeks to ensure no unacceptable overlooking of surrounding areas or buildings.

Other Matters

15. The Council contends that the appellant cannot question the merits of imposing the condition, as to do that, they would be required to make an appeal against the planning condition on the planning permission (Section 79 appeal). A Section 79 appeal must be made within 6 months of the Council's initial permission, so this route was not open to the appellant when she appealed. In any case Section 79 does not prevent an appeal under Section 73 of the Act and for the reasons given, I have decided the condition is not necessary in this case and therefore, I will issue a new decision with the condition removed.
16. The Council have referred to Draft London Plan Policy E7. Even though I have not been provided with a copy of the Policy, I note that it does not yet form part of the development plan. Based on the evidence before me, this Policy appears to be intended to protect and support the development of existing employment uses. Consideration of its contents does not outweigh my overall findings, and I find the proposal acceptable for the reasons given.

Conditions

17. I have considered the conditions suggested by the Council as well as those on the previous decision notice. However, a condition relating to the

commencement of development is not needed since the development relating to the extension and works within which the windows are situated has already been carried out. For the same reason I do not consider that a condition concerning the submitted plans is necessary in this case, nor is a materials condition. Consequently, no conditions are necessary in this case.

Conclusion

18. For the reasons set out above I conclude that the appeal is allowed.

Matthew Woodward

INSPECTOR