



Appeal Decision

Hearing held on 27 June 2019

Site visit made on 27 June 2019

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 1st October 2019

Appeal Ref: APP/F5540/W/18/3206039

37a - 45 Hounslow Road, Feltham, TW14 0AU

- 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 SB Hotel (Guernsey) Limited against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00631/Z/P4, dated 16 August 2017, was refused by notice dated 24 January 2018.
 - The application sought planning permission for redevelopment of the site to provide a three-storey plus basements 151 bed apartment/hotel with 45 car parking, 14 cycle parking spaces, refuse/recycling area and associated landscaping following demolition of existing properties at Hounslow Road without complying with a condition attached to planning permission Ref 00631/Z/P3, dated 12 October 2017.
 - The condition in dispute is No 3 which states that: *"The proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted (A-025-001 PL0, A-025-010 PL0, A-000-001 PL, A-000-002 PL0, A-100-000 PL0, A-100-001 PL0, A-100-002 PL3, A-100-003 PL0, A-100-004 PL0, A-100-005 PL0, A-110-000 PL0, A-110-001 PL0, A-120-000 PL0, A-120-001 PL0, A-120-002 PL0, A-120-003 PL0, Environmental Noise Impact Assessment (7540/EIA-Rev.2), Daylight, Sunlight and Overshadowing report (December 2016), untitled review of existing and proposed of hotel supply in the Feltham Area (August 2016), Sequential Test and Impact Assessment (October 2016), Air Quality Assessment (December 2016), Energy Statement (December 2016), Design and Access Statement Document (December 2016), untitled landscaping plan dated 02/12/2016, Flood Risk Assessment (October 2016), Planning Statement (December 2016), Statement of Community Involvement (December 2016) and Transport Statement submitted on 20 December 2016 and Management of Coach Parking with Drawings Technical Note dated 20 March 2017 received on 22 March 2017) therewith and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority before the building is used."*
 - The reason given for the condition is: *"To ensure the development is carried out in accordance with the planning permission"*.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of the site to provide a three-storey plus basements 151 bed apartment/hotel with 45 car parking, 14 cycle parking spaces, refuse/recycling area and associated landscaping following demolition of existing properties at Hounslow Road at 37a-45 Hounslow Road, Feltham TW14 0AU in accordance with the application Ref 00631/Z/P4 dated 16 August 2017, without compliance with condition number 3 previously imposed on planning permission Ref 00631/Z/P3

dated 12 October 2017 and subject to the 25 conditions set out in the attached schedule.

Procedural Matters

2. I have dealt with this appeal along with another appeal relating to a site on the opposite side of Hounslow Road (ref APP/F5540/W/18/3206038). Given the similar proposals and issues, but different appellants, the appeals have travelled together rather than being formally linked. Hearings were held jointly on the same day, but each appeal has a separate decision letter.
3. At the hearing for this appeal, the main parties agreed that the site comprises the properties at 37a to 45 Hounslow Road as stated on the application form and did not include 37 Hounslow Road as stated on the decision notice and appeal form. The main parties also agreed that the disputed condition was No 3 from the original planning permission (relating to approved plans) as stated on the application form and not condition No 2 as stated on the decision notice and appeal form. The banner heading and formal decision above have been amended accordingly.
4. A signed and dated unilateral undertaking (UU) was provided by the appellant following the close of the hearing. The Council raised concerns as to whether it had been properly executed but has now confirmed that it is satisfied. Therefore, I have accepted and assessed the UU as part of my decision.

Background and Main Issues

5. Planning permission was granted on 12 October 2017 (ref 00631/Z/P3) for the redevelopment of the site to provide a three-storey plus basements 151 bed apartment/hotel with 45 car parking, 14 cycle parking spaces, refuse/recycling area and associated landscaping following the demolition of existing properties ('the approved scheme'). Condition 3 sets out the approved plans which includes two basement floors (one for car parking and the other for accommodation).
6. The appeal scheme seeks to amend the approved plans and vary condition 3 accordingly. The amended plans involve no external changes and the number of guest rooms and parking spaces would remain the same. Two extra basement floors would be added. There would be minor internal changes to the first and second floors which would provide guest rooms. The ground floor changes include a restaurant (for guests only) instead of guest rooms. The basement floor -1 would have car parking rather than guest rooms. Basement floors -2 and -3 would have duplex guest rooms, and basement floor -4 would contain further guest rooms.
7. The application to vary condition 3 was refused for two reasons. The second related to the effects of the construction phase on highway safety and the living conditions of occupiers of neighbouring properties. However, at the hearing the Council confirmed it was not seeking to defend the second reason based on additional information provided by the appellant at the appeal stage. The first reason for refusal continued to be defended as the Council remained concerned about the impact of different guest room layouts and use.
8. Therefore, the main issue is the effect that varying condition 3 would have on the living conditions of neighbouring residents in terms of noise and disturbance arising from the operation of the development.

Reasons

9. The site contains an existing hotel and 3 pairs of semi-detached properties, all of which would be demolished under the approved and appeal schemes. There is car parking at the front and rear of the site and little external space for hotel guests. There are semi-detached properties either side of the site, and properties to the rear on Walsham Road each with rear gardens.
10. The approved and appeal schemes would both have hotel entrances directly off Hounslow Road and private external space at the rear between the existing garden for 47 Hounslow Road and the rear gardens for properties on Walsham Road. The proposed duplex rooms could accommodate up to 4 people based on the space and layout of each duplex, compared to 2 people for a conventional guest room. With 36 duplexes, the number of guests occupying the development could increase by 72 to a maximum of 372 people.
11. Based on the scenario of a fully occupied hotel, the additional guests would result in an increase in comings and goings on Hounslow Road and a potential greater demand for the private external space. The duplexes could be occupied by families with different patterns of activity, but it is difficult to know whether the rooms would be occupied by the same guests for longer. The proximity of Heathrow Airport suggests that overnight stays could be more likely, but equally people may choose to stay for several days on holiday to London. At the hearing, a potential operator was mentioned, but at this stage there is little clarity on the exact market and mode of operation for the new hotel.
12. Any additional noise generated by additional/different occupants of the duplexes from within the new building would be imperceptible from the outside given the basement level of these rooms. Hounslow Road is a main thoroughfare and already noisy in terms of traffic movements, so additional comings and goings based on the potential increase in guest numbers would be unlikely to create unacceptable levels of noise or disturbance to the front elevations of neighbouring properties. The same applies in terms of the use of the car park and other vehicle movements generated by the development, while the amount of car parking is the same for a broadly similar number of guests. Whilst on the ground floor, the restaurant would not contain any external seating areas and so would have little adverse effect.
13. The use of the private external space would generate a degree of noise and disturbance from people talking and/or children playing. This could have an effect on occupiers of neighbouring properties and gardens, particularly at first floor rear windows. The key question is how the appeal scheme might differ in effect from the approved scheme.
14. In terms of the potential increased use of the external space, the appellant's noise addendum assumes 10% of the total number of guests using the space at any one time. This would be around 38 people based on a fully occupied hotel, compared to around 32 people based on the approved scheme. The noise addendum considers that noise levels would not increase by more than 2.3dBA during the hours of operation (08:00 to 22:00 hours). Based on the categorisation of noise changes in the addendum, this would have a slight impact and no observed adverse effect. With 20% of guests using the space (76 people), the appellant's consultant confirmed at the hearing that noise levels would increase by around 3.8dBA which would have a moderate impact and the lowest observed adverse effect.

15. Having considered the size of the proposed external space, it seems unlikely that 76 guests would fit comfortably into this space, and that something closer to 10% would be more probable. At 10%, the number of additional guests using the space would only be an increase in 6 people on the approved scheme. There might be occasional loud noises such as shouting, but the appeal scheme would likely be little different to the approved scheme in terms of the use of the external space.
16. The noise levels at 10% use would be below any observed adverse effects, but even at 20%, conditions relating to the hours of operation and the submission of a noise management plan would ensure that the external space is used at appropriate times and in an appropriate manner. This would help to mitigate any adverse effects. A condition can also be used to deal with car parking, servicing, deliveries and coach management to mitigate effects from vehicle movements. There would be some noise and disturbance to properties arising from the construction of the development. However, this would be similar to the approved scheme and could be controlled through conditions requiring a construction management plan and specific hours of work. Due to the very limited external changes compared to the approved scheme, effects on neighbouring properties in terms of light would be very similar.
17. In conclusion, the effect of varying the disputed condition on the living conditions of neighbouring residents in terms of noise and disturbance would be acceptable. Therefore, the proposed development would accord with Policy CC2 of the Hounslow Local Plan 2015-2030 (HLP) including part (j) which seeks a positive impact on the amenity of current and future residents, visitors and passers-by and part (r) which seeks to mitigate noise quality issues.
18. There would also be no conflict with Policy D9 of the emerging London Plan. The policy compels London Boroughs to establish policies to address the negative impact of large-scale basement development and consider the impact of noise amongst other things. Finally, there would be no conflict with paragraph 180 of the National Planning Policy Framework which seeks to mitigate and reduce to a minimum any potential adverse impacts resulting from noise from new development.

Other Matters

19. The UU contains a number of planning obligations and addresses matters outlined in the HLP and the Hounslow Planning Obligations Supplementary Planning Document 2015 (POSPD). Firstly, it provides for construction training and employment and skills initiatives as required by HLP Policy ED4 for all major developments. Secondly, it makes provision for a Travel Plan as required by HLP Policy EC2. Thirdly, it makes a contribution towards the consultation and implementation of a controlled parking zone as promoted by HLP Policy EC2. Finally, it requires the approval of a considerate contractor scheme as set out in the POSPD. All of these matters are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Therefore, I can take into account all of the planning obligations contained within the UU.
20. Hounslow Road and the nearby junctions are evidently busy parts of the highway network. However, additional assessment work carried out by the appellant indicates that the impact of construction traffic on the network would be acceptable, even taking into account the potential for construction work

across the road at the other appeal site. Such matters can be addressed via conditions relating to a construction management plan and a phasing plan.

21. The evidence before me does not reveal that traffic pollution levels would be unacceptably increased. Structural damage to neighbouring properties has been assessed as low, even if the site opposite is constructed at the same time, and can be addressed via mechanisms outside of the planning system including the Party Wall Act. The construction would take account of the geological conditions of the site, including the water table, and would also need to address existing sewage networks. Conditions relating to drainage can be applied.
22. The existing main hotel building has some townscape and heritage merit, but permission already exists for its demolition and the replacement building. While basement hotel rooms may not appeal to everyone, there is little evidence to suggest that such an arrangement would not be utilised by guests. There is also little evidence that the hotel will end up being used by the Council to house people or that it would result in negative crime effects.
23. I acknowledge interested parties concerns about repetitive applications relating to this site, but landowners and developers are entitled to seek approval for variations to schemes before implementation. I also have little evidence that there is no need for further hotel accommodation in the local area. Finally, matters relating to whether the red line of the site affects a shared driveway would need to be resolved between the relevant landowners outside of the planning process.

Conditions

24. As the original permission has not yet been implemented, the time limit for commencing the development should run from the date of the original permission. Therefore, the first condition specifies that the development shall begin no later than 12 October 2020. Condition 3 specifies the approved plans as they relate to this appeal scheme. Conditions 2, 4 and 5 relating to materials, landscaping and boundary treatments are necessary in the interests of the character and appearance of the area and to maintain the privacy of adjoining properties.
25. Conditions 6, 7, 8 and 11 are necessary in the interests of highway safety to ensure that adequate cycle and car parking is provided along with revised crossovers and plans to manage parking, deliveries, servicing, coaches and vehicle circulations. Condition 10 requires vehicle charging points to meet policy requirements. Condition 20 requires highway improvement works to Hounslow Road in the interests of highway safety.
26. Condition 9 is necessary to ensure that wheelchair accessible rooms meet the required standards. Conditions 12 and 13 are necessary to ensure that the development has an acceptable effect in terms of sustainable energy use. Condition 14 is necessary in the interests of drainage and flood risk management. Condition 15 is necessary in the interests of adequate waste management provision. Condition 16 requires survey work relating to contaminated land and is necessary to reduce the risks to people and the environment.

27. Condition 17 is necessary to ensure adequate security measures for the development. Condition 18 is necessary to limit the hours of use of the private external space in the interests of the living conditions of occupiers of neighbouring properties. Condition 23 is also necessary in the interests of living conditions and requires a management plan for the development including noise management.
28. Conditions 19 and 24 require the approval of a construction management plan and a phasing plan before development commences. This is to ensure acceptable effects on neighbouring living conditions and the safety of the highway network. They are pre-commencement conditions as they need to be resolved before any work takes place. They have been agreed in writing by the appellant. Condition 25 is necessary to specify the construction hours.
29. I have imposed Condition 21 which limits the occupancy of the hotel to no more than 30 consecutive days. Although the appellant considers this to be unnecessary, I have been given little evidence as to why the development would be acceptable without it. Such a condition would ensure that the hotel use operates as approved, and so is necessary, relevant and reasonable. It would also be enforceable as the Council could monitor the use over time. Condition 22 is necessary to ensure that the pool and leisure facilities are only used by overnight guests to prevent wider public use and additional trips to the hotel negatively affecting the highway network and neighbouring living conditions.

Conclusion

30. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Rupert Warren QC	Counsel
Richard Quelch BA (Hons) DIP MRTPI	Avison Young
Lauren Whiteley BA (Cantab) MA	Avison Young
Torben Andersen BSc MIOA	RBA Acoustics
Callum Brewer MSc MIOA	RBA Acoustics
Adrian Cole BA MSc FCILT	Steer
Mike Crilly BSc MSc DIC	Geotechnical Consulting Group
Wesley Mason	Systems For Safety Ltd
MSc CMIOSH CMAPS MIIRSM	

FOR THE LOCAL PLANNING AUTHORITY:

Sam Smith	London Borough of Hounslow
Tom Bradfield	London Borough of Hounslow

INTERESTED PARTIES WHO SPOKE AT HEARING:

Sheila Ahmed	Local resident
Adeel Ahmed	Local resident
L Dalglish	Local resident
Tina Fernandes	Local resident
June Stewart	Local resident

DOCUMENTS SUBMITTED AT HEARING

1. Draft unilateral undertaking, submitted by the appellant.

DOCUMENTS SUBMITTED AFTER HEARING

1. Revised list of conditions, submitted by both main parties.
2. Hounslow Planning Obligations Supplementary Planning Document 2015, submitted by the local planning authority.
3. Completed and executed unilateral undertaking, submitted by the appellant.

Schedule of Conditions (25)

- 1) The development hereby permitted shall begin not later than 12 October 2020.
- 2) No above ground works of the development hereby permitted shall take place until samples of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: A-000-001 PL0, A-000-002 PL0, A-025-001 PL0, A-025-010 PL0, A-100-101 PL0, A-100-102 PL0, A-100-103 PL0, A-100-104 PL1, A-100-105 PL0, A-100-106 PL0, A-100-107 PL0, A-100-108 PL0, A-110-101 PL0, A-110-102 PL0, A-120-101 PL0, A-120-102 PL0, A-120-103 PL0, A-120-104 PL0.
- 4) Prior to first occupation of the development, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority and these works shall have been carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing material; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); and proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc). Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.
- 5) Prior to first occupation of the development, site plans shall have been submitted to and approved in writing by the local planning authority indicating the positions, design, materials and type of boundary treatment to be erected (including acoustic fencing). The boundary treatment shall be completed before the development is first occupied and shall be retained thereafter.
- 6) Prior to first occupation of the development, full details including plans and elevations of cycle parking facilities shall have been submitted to and approved in writing by the local planning authority. The works shall be carried out as approved before the development is first occupied and shall be retained thereafter.
- 7) Notwithstanding the details shown on the approved plans, prior to the first occupation of the development, a plan shall be submitted to and approved in writing by the local planning authority showing full details of the parking to take place on the site. These details shall include scale and location of parking spaces and tracking diagrams. The works shall be carried out as approved before the development is first occupied and shall be retained thereafter.
- 8) Prior to first occupation of the development, the following plans shall be submitted to and approved in writing by the local planning authority :

- A car park management plan.
- A delivery and servicing plan.
- A coach management plan to include (but not restricted to) details of how guests and coach operators will be informed of the various restrictions prior to or during the booking process, how the hotel's website will advise future guests of the restrictions, and how the policy will be managed, enforced, reviewed and amended.
- A plan to manage and enforce vehicle circulation within the site to include the provision of appropriate signage prior to first occupation to enforce the plan.

The plans and works shall be carried out as approved before the development is first occupied and shall be retained thereafter.

- 9) No above ground works shall take place until details of wheelchair accessible rooms have been submitted to and approved in writing by the local planning authority. The works shall be carried out as approved before the development is first occupied and shall be retained thereafter.
- 10) No above ground works shall take place until details of active and passive electric vehicle charging points have been submitted to and approved in writing by the local planning authority. The spaces shown on the approved details shall be available for use before first occupation of the development and shall be thereafter retained and maintained as such.
- 11) Notwithstanding information contained within the approved drawings, before above ground works take place details of revised crossovers shall be submitted to and approved in writing by the local planning authority. The crossovers must comply with a Stage 1 Road Safety Audit and Stage 2 if necessary and a written agreement shall be entered into with the Council to secure the works. The approved crossovers shall be available for use before first occupation of the development and shall be thereafter retained and maintained as such.
- 12) Prior to first occupation of the development, evidence (e.g. photographs, installation contracts and As-Built certificates under the National Calculation Method) should be submitted to the local planning authority and approved in writing to show that the development has been constructed in accordance with the approved Energy Strategy, and any subsequent approved revisions.
- 13) (A) Within three months of work starting on site a BREEAM Design Stage certificate and summary score sheet (or such equivalent standard that replaces this) must be submitted to and approved in writing by the local planning authority to show that an 'Excellent' (minimum score 70%) rating will be achieved, unless otherwise agreed in writing by the local planning authority.

(B) Prior to first occupation of the development a BREEAM Post-Construction Review certificate and summary score sheet (or such equivalent standard that replaces this) must be submitted to and approved in writing by the local planning authority to show that an 'Excellent' (minimum score 70%) rating has been achieved, unless otherwise agreed in writing by the local planning authority.

- 14) (A) Prior to commencement of development (excluding site investigations and demolition), final detailed drainage designs (including drawings) of the proposed scheme agreed within the Flood Risk Assessment October 2017 published by RPS must be submitted to and approved in writing by the local planning authority. This should specifically confirm the final attenuation volumes required with the installation of the green roof and attenuation combined to achieve the agreed 2l/s restricted run off rate. The design should consider the use of rainwater harvesting on site and include where appropriate within the scheme in line with London Plan policy 5.13.
- (B) Prior to first occupation of the development, evidence that the drainage system has been built as per the final detailed drainage designs through the submission of photographs and copies of installation contracts, and written confirmation that the drainage features will be managed as per the detailed maintenance plan for the lifetime of the development, must be submitted to and approved in writing by the local planning authority.
- 15) Prior to first occupation of the development, details of the arrangements for storing of waste and recycled materials shall be submitted to and approved in writing by the local planning authority. The arrangements for storing waste and recycled materials shall not be carried out otherwise than in accordance with any approval given and shall be completed before first occupation of the development and thereafter retained.
- 16) Before the development hereby permitted commences (excluding demolition):
- (A) A contaminated land Phase 1 desk study report shall be submitted to and approved in writing by the local planning authority. Should the Phase 1 report recommend that a Phase 2 site investigation is required, then this shall be carried out and submitted to, and approved in writing by the local planning authority. The site shall be investigated by a competent person to identify the extent and nature of contamination. The report should include a tiered risk assessment of the contamination based on the proposed end use of the site. Additional investigation may be required where it is deemed necessary.
- (B) If required, a scheme for decontamination of the site shall be submitted to the local planning authority, for written approval. The scheme shall account for any comments made by the local planning authority before the development hereby permitted is first occupied.
- During the course of the development:
- (C) The local planning authority shall be notified immediately if additional contamination is discovered during the course of the development. A competent person shall assess the additional contamination, and shall submit appropriate amendments to the scheme for decontamination in writing to the local planning authority for approval in writing before any work on that aspect of development continues.
- Before the development is first occupied:
- (D) The agreed scheme for decontamination referred to in clauses (B) and (C) above, including amendments, shall be fully implemented and a

written validation (closure) report submitted to the local planning authority for approval in writing.

- 17) Prior to first occupation of the development, details of security measures shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before first occupation of the development and shall be thereafter retained as such.
- 18) No customer of the hotel shall be present within the outdoor amenity space between the hours of 22:00 - 08:00, Monday – Sunday, save for the purposes of access/egress.
- 19) Prior to the commencement of the development hereby approved, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority.

The following shall be included in the plan:

- i. confirmation that a pre-start record of site conditions on the adjoining public highway will be undertaken with Hounslow Highways and a commitment to repair any damage caused
- ii. provision for the parking of vehicles of site operatives and visitors
- iii. provisions for loading, unloading and storage of plant and materials within the site
- iv. details of access to the site, including means to control and manage access and egress of vehicles to and from the site for the duration of construction including phasing arrangements
- v. details of vehicle routing from the site to the wider strategic road network
- vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vii. provision of wheel washing facilities at the site exit and a commitment to sweep adjacent roads when required and at the request of the council
- viii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- ix. measures to ensure the safety of all users of the public highway especially cyclists and pedestrians in the vicinity of the site and especially at the access
- x. commitment to liaise with other contractors in the vicinity of the site to maximise the potential for consolidation and to minimise traffic impacts
- xi. avoidance of peak hours for deliveries and details of a booking system to avoid vehicles waiting on the public highway
- xii. all necessary traffic orders and other permissions required to allow safe access to the site to be secured and implemented prior to commencement of construction
- xiii. details of the construction programme and a schedule of traffic movements

The development shall be carried out in accordance with the approved details.

- 20) Prior to first occupation of the development, a written agreement with Hounslow Council to provide a traffic island and associated highways improvement works including additional waiting restrictions on Hounslow Road outside the site shall be entered into. The works shall be and implemented before first occupation of the development and thereafter retained.
- 21) No customer of the development hereby approved shall reside at the premises for a period of greater than 30 consecutive days.
- 22) The pool and leisure facilities as proposed shall be available for the use of overnight guests only.
- 23) Prior to first occupation of the development, a Management Plan, including a noise management plan, shall be submitted to and approved in writing by the local planning authority. The development shall be operated in accordance with the approved plan.
- 24) Prior to commencement of the development, a phasing plan shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved plan.
- 25) Hours of construction shall be limited to 08:00 – 18:00 Monday to Friday and 09:00 – 13:00 Saturday. No construction shall take place outside these hours or on a Sunday.