



Appeal Decision

Site visit made on 29 October 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2019

Appeal Ref: APP/H5960/W/19/3233485

Land R/O 13 Thurleigh Road, London SW12 8UB

- 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 Edward Church against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2019/0946, dated 1 March 2019, was refused by notice dated 26 April 2019.
 - The application sought planning permission for development described as 'Variation of condition 7 (in accordance with approved drawings) pursuant to planning permission dated 27/02/2015 ref 2014/6325 [Demolition of existing garages, erection of a single-storey plus basement attached self-contained dwelling fronting Blenkarne Road with boundary treatment and associated landscaping.] to allow the reconfiguration of the front of the building and changes to the window layout, rooflights and roof' without complying with a condition attached to planning permission Ref 2018/1742, dated 23 August 2018.
 - The condition in dispute is No 5 which states that: *The development shall be carried out in accordance with the approved drawings 26BLNKRNRD-001P Rev A, 26BLNKRNRD-101, 26BLNKRNRD-102, 26BLNKRNRD-103, 26BLNKRNRD-104, 26BLNKRNRD-105, 26BLNKRNRD-106, 26BLNKRNRD-107, 26BLNKRNRD-108 and 26BLNKRNRD-109 and specifications, unless approved otherwise in writing by the local planning authority.*
 - The reason given for the condition is: To ensure a satisfactory standard of development, and to allow the local planning authority to review any potential changes to the scheme.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I am aware that in addition to the address I have used in the banner heading above, which is taken from the application form, the appeal site is also known as '26 Blenkarne Road SW11 6HZ', and both addresses have been used by the Council and the appellant in their evidence.

Main Issue

3. The main issue is whether or not the proposal would be a minor material amendment to a condition attached to a previous planning permission, having regard to the scale and nature of the proposal.

Reasons

4. The Planning Practice Guidance (PPG) makes it clear that amendments to conditions attached to a planning permission can be made under section 73 of the Act¹ to seek a minor material amendment where there is a relevant condition that can be varied. There is no definition of a minor material amendment either within the Act or within the PPG. However, the PPG states that a minor material amendment is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.
5. The proposal seeks to vary condition no 5 (the condition) of a previous planning permission² by substituting the plans approved under the condition for the plans submitted as part of the appeal proposal. The previous planning permission was a variation to the approved plans relating to the original planning permission for the demolition of garages and the erection of a single-storey dwelling with a basement³. I saw on my site visit that no construction works in order to erect the dwelling appeared to have been carried out.
6. In comparison with the previous planning permission, the proposal would be taller and include a first-floor, part of which would be set-back from the main façade. The proposal would alter the approved fenestration style and pattern at ground floor as well as proposing a full height glazed element which would be located within the front elevation. Other alterations to boundary treatments are proposed.
7. The development description relating to the original planning permission³ describes the proposal as a 'single-storey' dwelling which, according to the appellant, was not the development description used on the original application form which was altered by the Council during the application process. I am also mindful that the width and depth of the proposed dwelling and the number of bedrooms would remain the same as the details approved under the previous planning permission. Nonetheless, it is clear in considering the existing and approved plans, along with those submitted with this appeal, that the height and overall mass of the proposed two-storey dwelling, along with the alterations to its design at ground floor level, and the provision of new windows at first-floor level, would result in a dwelling considerably larger and different in design to the single-storey dwelling previously approved. For these reasons, therefore, the plans submitted with this appeal propose a distinctly different form of development.
8. Even though the planning application has been properly advertised and the public have had the opportunity to comment on it, this consideration does not detract from my findings on the proposal to vary the condition which, when considered against the previous planning permission as a whole, seeks a fundamental change, contrary to the guidance set out in the PPG.
9. In conclusion therefore, I find that the development would not be a minor material amendment to a condition attached to a previous planning permission, having regard to the scale and nature of the proposal. The amendments as proposed would result in a development substantially different to the one that

¹ See Town and Country Planning Act 1990

² Council of the London Borough of Wandsworth planning reference 2018/1742

³ Council of the London Borough of Wandsworth planning reference 2014/6325

has been approved, contrary to the guidance set out in the PPG, thus such a significant change as proposed should not be facilitated through an amendment to an existing planning condition.

Other Matters

10. As I find that the proposal is not a minor material amendment, proper consideration should be given to any other relevant matters in the context of the scale/nature of the development that is being proposed through the correct procedure. Whilst the Council's reasons for refusal include reference to the impact of the proposal on adjacent trees and the character and appearance of the area, and the appellant's case purports several benefits associated with the scheme, it is beyond the scope of this appeal to consider these matters, given that I find that the proposal should not be considered as a minor material amendment under the Act.
11. I have been provided with evidence of several other cases where planning permission has been granted for new dwellings by the Council or on appeal on sites that have some similarities with the one before me. However, none of those cases involved a proposal to vary a planning condition in the same manner as the one before me. I am not satisfied that the circumstances of these cases are sufficiently similar to the appeal scheme such that it would warrant me reaching a different conclusion on the main issue.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

Matthew Woodward

INSPECTOR