



Appeal Decision

Site visit made on 25 October 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2019

Appeal Ref: APP/F5540/W/19/3234111 71 St Johns Road, London TW7 6XQ

- 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 Ed Marsh (FRT Developments Ltd) against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00981/71/P5, dated 1 April 2019, was refused by notice dated 1 July 2019.
 - The application sought planning permission for two storey extensions to the roof and rear of the existing building to provide 23 new flats, private and communal amenity space, hard and soft landscaping, car and cycle parking. With associated external alterations and infrastructure without complying with a condition attached to planning permission Ref 00981/71/P4, dated 4 May 2018.
 - The condition in dispute is No 2 which states that: *"2. The proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted (Drawing Numbers: Planning Statement; Design & Access Statement; Drainage Assessment; Construction Method Statement (Oct 2017 Rev C); Daylight/Sunlight Assessment; Noise Report; 001 Rev B; 002 Rev A; 003 Rev A; BREEAM Domestic Refurbishment 2014 Pre-Assessment Estimator v0.1; Energy Statement; Landscape Design Report; Flood Risk Assessment; Transport Statement; Location Plan; 85/03/P102; 85/03/P103; 85/03/P105; 85/03/P106; 85/03/P107; 85/03/P108; 85/03/P109; 85/03/P110 Rev A; 2016-2935-TR08; 2016-2935-TR04 Rev C; Received 20/10/2017; 85/03/P101 Rev A; 85/03/P104 Rev A; Received 03/01/2018) 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 two storey extensions to the roof and rear of the existing building to provide 23 new flats, private and communal amenity space, hard and soft landscaping, car and cycle parking. With associated external alterations and infrastructure at 71 St Johns Road, London TW7 6XQ in accordance with the application Ref 00981/71/P5 dated 1 April 2019, without compliance with condition number 2 previously imposed on planning permission Ref 00981/71/P4 dated 4 May 2018 and subject to the attached schedule of conditions.

Procedural Matters

2. The appeal was submitted by Ed Marsh (FRT Developments Ltd). However, the applicant's name is stated as 'C/O Carter Jones' on the planning application. The appellant's agent has confirmed in writing that the planning application and appeal were submitted by the same person. I have dealt with the appeal on that basis. In the interests of clarity and precision, I have used the appellant's name from the appeal form in the banner heading above.

Main Issue

3. The main issue is whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to the amount of internal floorspace.

Reasons

4. The proposal seeks to alter the approved internal layout of six studio apartments to form six one-bedroom flats. Within each of the units, a dividing wall would be constructed to provide a separate bedroom.
5. Policy 3.5 of the London Plan (2016) and the Government's Technical Housing Standards - Nationally Described Space Standard (March 2015) (the National Standard) set out the minimum space standards for new residential development. The National Standard is incorporated into the London Borough of Hounslow Local Plan 2015-2030 (2015) (the 'LP') as part of Policy SC5.
6. The National Standard sets out that the minimum space standard for a one-bedroom, two-person unit is 50 square metres. Whereas, the minimum space standard for a one-bedroom, one-person unit is 39 square metres.
7. Amongst other things, the technical requirements of the National Standard set out that in order to provide two bedspaces, a double (or twin room) should have a floor area of at least 11.5 square metres and a width of at least 2.75 metres (where additional double (or twin rooms) are provided they should have a width of at least 2.55 metres); whilst a single bedroom should have a floor area of at least 7.5 square metres and a width of at least 2.15 metres.
8. The Council contend that the minimum space standard for a one-bedroom, one-person unit applies only to studio flats, and, where a separate bedroom is provided, the development should meet the minimum space standard for a one-bedroom, two-person unit. As the size of the proposed flats falls below 50 square metres, the Council argue that the proposed units would provide cramped and substandard living accommodation for future occupiers.
9. The supporting text to the National Standard does not differentiate between one-bedroom, one-person units and one-person studio units. It explains that relating internal space to the number of bedspaces is a means of classification for assessment purposes only when designing new homes and seeking planning approval. It does not imply actual occupancy, or define the minimum for any room in a dwelling to be used for a specific purpose other than in complying with the National Standard. On that basis, I disagree with the Council's interpretation and application of the National Standard.
10. The appellant states that the respective bedrooms within each of the proposed one-bedroom flats would have a floor area of 10.08 square metres and have a

minimum width of 2.8 metres. The Council have not disputed these figures. The size of the respective bedrooms falls below 11.5 square metres, but exceeds 7.5 square metres. Therefore, when assessed against the technical requirements of the National Standard, the bedrooms would be classed as single bedrooms, suitable for occupation by one person. As such, each of the proposed one-bedroom flats would be categorised as a one-bedroom, one-person unit whereby the minimum space standard is 39 square metres. Each of the six flats would have a gross internal floor area of 42 square metres, which would exceed the minimum space standard.

11. For the collective reasons set out above, I conclude that the proposed flats would be categorised as one-bedroom, one-person units. As the units exceed the minimum space standard, I conclude that the proposal would provide satisfactory living conditions for future occupiers, with particular regard to the amount of internal floorspace for each residential unit. As such, the proposal would accord with Policy 3.5 of the London Plan (2016) and Policy SC5 of the LP, which, amongst other things, require new residential development to comply with the Government's minimum space standards set out within the National Standard.

Planning obligations and S106 agreement

12. The appellant has submitted a deed of variation legal agreement during the appeal process, which has the effect of varying the section 106 legal agreement that was secured as part of the original planning permission. The deed of variation legal agreement requires the provision of on-site affordable housing and financial contributions towards carbon off-setting, construction training and a controlled parking zone, which were secured as part of the original permission, to be delivered as part of the current proposal. The Council have confirmed that the agreement is acceptable.
13. Having regard to Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and paragraph 56 of the National Planning Policy Framework (the 'Framework'), I am satisfied that the obligation is necessary and indeed meets all of the required tests.

Other Matters

14. Reference has been made to several other appeal decisions, where Inspectors have interpreted the National Standard. However, I am not aware of the particular circumstances in relation to those cases, and, in any event, I have determined this appeal on its own individual planning merits.

Conditions

15. 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.
16. In this instance, the Council have confirmed that several conditions from the original planning permission have been discharged and they have put forward a list of suggested conditions in respect of the current proposal. The conditions have been agreed by the appellant.

17. I have considered the conditions against the tests as laid out in paragraph 55 of the Framework. In the interests of precision, where necessary, I have amended the wording of the conditions. In respect of the approved plans condition, I have listed the approved plans and supporting documents, as it is necessary that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.

Conclusion

18. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Christopher Miell
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before 4 May 2021.
- 2) The proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted (numbered below) 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:

Drawing Numbers: Planning Statement; Design & Access Statement; Drainage Assessment; Construction Method Statement (Oct 2017 Rev C); Daylight/Sunlight Assessment; Noise Report; 001 Rev B; 002 Rev A; 003 Rev A; BREEAM Domestic Refurbishment 2014 Pre-Assessment Estimator v0.1; Energy Statement; Landscape Design Report; Flood Risk Assessment; Transport Statement; Location Plan; 85/03/P102; 85/03/P103; 85/03/P105; 85/03/P106; 85/03/P108; 85/03/P110 Rev A; 2016-2935-TR08; 2016-2935-TR04 Rev C; Received 20/10/2017; 85/03/P101 Rev A; 85/03/P104 Rev A; Received 03/01/2018. 85/03/P107 Rev A; 85/03/P109 Rev A; Received 01/04/2019.
- 3) No demolition or construction work shall take place on the site except between the hours of 8:00am to 6:00pm on Mondays to Friday and 9:00am to 1:00pm on Saturdays and none shall take place on Sundays and Public Holidays.
- 4) The materials to be used in the construction of the external surfaces shall be those approved by planning permission 00981/71/P4(4) on 20 June 2018.
- 5) Before the occupation of the flats hereby permitted, hard and soft landscaping details as approved by planning permission 00981/71/P4 shall be implemented on site and managed in line with the approved Landscape Design Report and retained thereafter in accordance with the approved drawings.
- 6) The waste and recycled materials storage arrangements shown on the approved drawing by application 00981/71/P4 shall be completed before any part of the accommodation hereby permitted is occupied. The approved waste and recycled materials storage arrangements shall thereafter be retained.
- 7) Prior to the occupation of the building, the cycle parking facilities in line with the approved by planning permission 00981/71/P4 shall be installed and retained during the lifetime of this development.
- 8) The car parking areas shall be managed in line with those approved by planning permission 00981/71/P4(8) on 14 June 2019.
- 9) The development hereby permitted shall be designed and constructed in accordance with the Lifetime Home standards with a minimum of two flats to be wheelchair accessible.

- 10) The development hereby permitted shall be in line with BREEAM certificate interim design as approved by planning permission 00981/71/P4(10) on 17/12/2018.

Within 6 months of completion of the development a BREEAM Domestic Refurbishment 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 for the 2nd floor flats.

- 11) The units shall be installed in line with agreed fittings in accordance with the details submitted and approved by planning permission 00981/71/P4 (11) on 26 June 2019.
- 12) The development shall not be occupied until evidence (e.g. photographs and copies of installation contracts) has been submitted to the Local Planning Authority and approved in writing to demonstrate that the development has been carried out in accordance with the approved materials details meeting the following standards:
- At least three of the key elements of the building envelope (external walls, windows roof, upper floor slabs, internal walls, floor finishes/coverings) are to achieve a rating of A+ to D in the Building Research Establishment (BRE) The Green Guide of specification.
 - At least 50% of timber and timber products are to be sourced from accredited Forest Stewardship Council (FSC) or Programme for the Endorsement of Forestry Certification (PEFC) scheme.
 - No construction or insulation materials are to be used which will release toxins into the internal and external environment, including those that deplete stratospheric ozone.
- 13) The sustainable drainage measures shall be in line with the submitted and agreed details by approved planning permission 00981/71/P4(13) on 25 July 2018. The agreed details shall be implemented as approved prior to the first occupation of the development and retained as such thereafter.
- 14) Prior to occupation, the applicant must submit for review and approval by the Local Planning Authority, 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.