



Appeal Decision

Site visit made on 5 December 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2020

Appeal Ref: APP/Q5300/W/19/3237556

95 Green Road, New Southgate, London N14 4AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for 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 Ms Kunzler against the Council of the London Borough of Enfield.
 - The application Ref 18/03507/VAR is dated 6 December 2018.
 - The application sought planning permission for subdivision of the site and erection of a detached 2-storey 3-bed single dwelling house with basement, rear dormer, off street parking and alterations to vehicular access involving demolition of existing garage to No. 95 without complying with conditions attached to planning permission Ref 15/04669/FUL, dated 13 October 2016.
 - The conditions in dispute are Nos 5 and 6 which state that:
(5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any amending Order, no external windows or doors other than those indicated on the approved drawings shall be installed in the development hereby approved without the approval in writing of the Local Planning Authority.
(6) Prior to occupation of the development hereby approved details of a hard and soft landscaping scheme including details of boundary treatments around and within the site, the location and appearance of the bin and cycle stores and details of the front driveway paving materials shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall also be in place prior to occupation of the development.
 - The reasons given for the conditions are:
(5) To safeguard the privacy of the occupiers of adjoining properties.
(6) In the interest of visual and residential amenity and provision of an acceptable amenity provisions for future occupiers of the development.
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Decision

1. The appeal is allowed and planning permission is granted for subdivision of the site and erection of a detached 2-storey 3-bed single dwelling house with basement, rear dormer, off street parking and alterations to vehicular access involving demolition of existing garage to No. 95 at 95 Green Road, New Southgate, London N14 4AP in accordance with the application Ref 18/03507/VAR dated 6 December 2018, and subject to the conditions on the attached schedule.

Procedural Matters and Background

2. The application subject to this appeal seeks minor amendments to the approved scheme for the subdivision of land at 95 Green Road and the erection of a new detached dwelling, through the variation of two conditions.
3. The address I have used is 95 Green Road, rather than 93-95 Green Road, which is referred to on the application form. The red line on the submitted location plan shows the site as being 95 Green Road, and this also corresponds with both of the Council's previous decision notices relating to this proposal.
4. The appeal has been made following to the Council's failure to determine the application within the required period. Following the submission of the appeal the Council has not clarified the position it would have taken on the application if it had made a decision.
5. The original planning permission for the new dwelling had a three year timescale which required that the development must be begun not later than 13 October 2019. The appellant has confirmed that the permission has been implemented through clearance of the site, demolition of a garage, creation of a vehicle crossover and installation of a drainage pipe. This accords with the situation which I observed on my site visit. The Council have not disputed that development has commenced and I am content that the planning permission has been implemented and the permission is extant.

Main Issue

6. The main issue is the effect that varying the conditions would have on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of adjoining properties and future occupiers of the new dwelling.

Reasons

7. The original permission allowed the construction of a new house on a triangular piece of land forming part of the curtilage of 95 Green Road, and was subject to eight conditions. Details have previously been submitted and approved by the Council relating to condition 3 (detailed design and materials), 4 (glazing at first floor level on the side elevation) and 6 (hard and soft landscaping, details of boundary treatments, bin and cycle stores and front driveway paving materials)¹.
8. The proposal now subject to this appeal seeks minor alterations to the approved scheme, and the subsequently approved details, through the variation of conditions 5 and 6. Specifically, these changes include providing an additional rooflight to the front elevation; a new sidelight adjacent to the front door; alteration to the approved basement fenestration; new rear access door on the west elevation; dwarf brick wall along the boundary with 95 Green Road; relocation of the approved timber refuse store and alteration of the driveway to omit the previously approved ramp.
9. The appellant has confirmed that the removal of the ramp to the front door and replacement with sloped paving would not prevent level access to the house.

¹ Application reference 17/02617/CND

Access to the rear garden from the kitchen would be provided by the new solid door in the west elevation. The bin store would be moved from the approved position at the side of the house to the front driveway area, which would be a more practical location. The proposed dwarf wall along the side of the property would match that at the front and would be an acceptable form of boundary treatment. These alterations to the hard landscaping would not cause harm to the character of the area.

10. The proposed rooflight and side window by the front door would allow additional light into the building, and the change to the basement door would allow purge ventilation in accordance with Building Regulations. These alterations to the fenestration would be minor in nature and would improve the living conditions for future residents of the dwelling without causing harm to the character or appearance of the building.
11. Turning to the effect of the alterations on the living conditions of neighbouring occupiers, the new door on the side elevation would be close to the boundary with 95 Green Road, but would have no glazing so would not result in overlooking or loss of privacy. Similarly, the alterations to the windows on the front elevation and basement would not result in any additional overlooking or loss of privacy to neighbouring occupiers.
12. The appeal seeks to achieve the amendments to the doors and windows by varying condition 5, which removes permitted development rights for external windows and doors. Whilst the proposed alterations are acceptable, condition 5 is still necessary to protect the privacy of neighbouring occupiers and should be retained.
13. To allow the amendments to the doors and windows, I have instead updated the plans condition to refer to the site location plan, floor plans and elevations submitted with the current application.
14. Condition 5 remains unaltered, other than to renumber it as condition 4 and update it to refer to the 2015 version of the General Permitted Development Order.
15. The Council has previously approved details of hard and soft landscaping required by condition 6. The plans now submitted seek to alter those details, particularly as they relate to hard landscaping and the position of the bin store. The revisions are acceptable as described above.
16. All of the details required by condition 6 have been submitted but the condition is still required to ensure that the development is carried out in accordance with those approved plans. This is necessary to ensure a satisfactory standard of development which respects the character of the area. I have therefore varied condition 6 (renumbered 5) so that it requires that development is carried out and retained in accordance with the previously approved details showing soft landscaping and the location of the cycle store (provided through application 17/02617/CND), and the details of the bin store, boundary wall and driveway which were provided as part of the appeal proposal.
17. Turning to the other conditions, the development has already commenced so it is not necessary to re-impose a condition specifying timescales. This has resulted in the renumbering of subsequent conditions. The plans condition, originally number 2, is therefore now condition 1, and so on.

18. The Council has previously agreed details in respect of conditions 3 and 4 but, as the new dwelling has not yet been started and the proposed fenestration has changed, the conditions have not been fully discharged. To ensure a satisfactory appearance and to safeguard the privacy of neighbouring occupiers these conditions remain necessary and I have reattached them with minor changes to make them more precise.
19. Condition 7 requires details of any new access roads and junctions which, given the nature of the development involved, is not necessary. However other highway alterations such as a crossover may be required, and the condition, with some amendments, is still relevant and necessary. Condition 8, which removes permitted development rights for extensions and outbuildings, is also still relevant and necessary given the relatively constrained plot and its proximity to neighbouring properties. I have re-imposed these conditions which are renumbered 6 and 7, with minor wording changes in the interests of precision.
20. I conclude that the proposed amendments to the scheme and the associated variation to conditions 2 and 6 as detailed above, would not cause harm to the character and appearance of the area. Furthermore, no harm would be caused to the living conditions of the occupiers of adjoining properties, or to future occupiers of the new dwelling. I have found no conflict with Policies 7.4 and 7.6 of the London Plan 2015, concerned with local character and architecture, or Policy DMD 8 of the Enfield Development Management Document 2014, which sets out requirements for new residential development.

Conclusion

21. For the reasons given above I conclude that the appeal should be allowed and conditions 2 and 6 varied as set out in the attached schedule. It is not necessary to vary condition 5, which is still relevant, other than to update it so that it refers to the correct version of the General Permitted Development Order. Minor alterations are needed to conditions 3, 7 and 8 in the interests of precision.

R Morgan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan 1807(PL)001
 - Proposed front and rear elevations 1807(PL)130
 - Proposed east and west elevations 1807(PL)131
 - Proposed basement and ground floor plans 1807(PL)110
 - Proposed first and second floor plans 1807(PL)111
 - Proposed roof plan 1807(PL)112
- 2) Erection of the dwelling hereby permitted shall not commence until detailed drawings to a scale of 1:20 to confirm the detailed design and materials to be used have been submitted to and approved in writing by the Local Planning Authority. These details shall include: all elevations; all windows and doors (windows shall be set at least 115mm within window reveal); railings/walling and locations of rain water pipes. The development shall be carried out solely in accordance with the approved details.
- 3) The glazing to be installed at first floor level on the side (west) elevation of the development shall be in obscured glass and fixed shut to a height of 1.8m from the internal first floor level of the property hereby approved. The glazing shall not be altered without the approval in writing of the Local Planning Authority.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no external windows or doors windows other than those indicated on the approved drawings shall be installed in the development hereby approved without the approval in writing of the Local Planning Authority.
- 5) The development shall be carried out in accordance with the following approved details before the development is first occupied and shall be so retained hereafter:
 - Soft landscaping, paving materials and details of cycle store as shown on plan BR-023
 - Boundary treatments and details of bin store as shown on plan 1807(PL)110
- 6) The development shall not be occupied until details of the construction of any highway alterations associated with the development have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved in this condition and so retained thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1 Classes A, B, C, D or E of the Order shall be carried out unless planning permission has first been granted by the Local Planning Authority.