



Appeal Decision

Site visit made on 7 September 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Appeal Ref: APP/R5510/W/20/3249835

4 Eskdale Road, Uxbridge, UB8 2RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr A Sharma against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 71691/APP/2019/4018, dated 12 December 2019, was approved on 2 March 2020 and planning permission was granted subject to conditions.
- The development permitted is *variation of condition 2 (Approved Plans) of planning permission Ref:71691/APP/2016/975 dated 12/05/2016 (Erection of a replacement two storey industrial unit and first floor rear extension to Unit 4 involving demolition of existing Unit 3A building to rear) to allow for minor material amendments.*
- The condition in dispute is No 3 which states that: *The development shall not begin until a scheme, which specifies the provisions to be made for the control of noise emanating from the site has been submitted to and approved in writing by the Local Planning Authority. Where external machinery/equipment or external openings are proposed, details of the siting and sound insulation of such works (for example, refrigeration and air conditioning, ventilation units, air intake louvres, ducting, chimneys, mechanical extraction and disposal of fumes, dust and grit) shall be submitted to and approved by the Local Planning Authority. The details shall be implemented before the development hereby approved is occupied and thereafter permanently retained.*
- The reason given for the condition is: *To safeguard the amenity of the surrounding area in accordance with Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) and the London Plan (2016).*

Decision

1. The appeal is allowed and the planning permission Ref 71691/APP/2019/4018 for variation of condition 2 (Approved Plans) of planning permission Ref:71691/APP/2016/975 dated 12/05/2016 (Erection of a replacement two storey industrial unit and first floor rear extension to Unit 4 involving demolition of existing Unit 3A building to rear) to allow for minor material amendments at 4 Eskdale Road, Uxbridge, UB8 2RT granted on 2 March 2020 by the Council of the London Borough of Hillingdon, is varied by deleting condition 3.

Main issue

2. Planning permission allowing minor material amendments to approved plans for development at the appeal site was granted in March 2020. Condition 3 of the new permission must be satisfied prior to commencement of development and is not achievable as written because the works had already been completed.

3. The main issue is therefore whether an amended condition is necessary and reasonable having regard to the effect of noise on the amenity of the adjacent properties.

Reasons

4. The 2016 permission required that a scheme for the control of noise be submitted prior to commencement. In the absence of any information to the contrary, it must be assumed that the requirements of this condition were met. The minor material amendments comprised alterations to windows, a more open plan internal layout and 2 new garage openings. Additional openings have the potential to increase the noise emanating from the site. However, the amendments to the building are minor and I have nothing before me to suggest that an increase in noise, if any, would be significant compared to the levels accepted when implementing the original permission.
5. The accompanying Officer's report concludes that the amendments would meet the requirements of Policy DMHB11 of the London Borough of Hillingdon Local Plan Part 2 (adopted January 2020), which in part requires that proposals should not adversely impact on the amenity of adjacent properties.
6. I also note the recommendation from the EPU Officer in 2016 stating that the development would not have an adverse impact upon amenity of the adjacent units in terms of noise, but that a condition should be imposed requiring submission of a scheme for noise control in the event that any additional machinery or plant is installed in the future. There is nothing before me to suggest that this is the case here.
7. On this basis, I am satisfied that recent minor material amendments would not significantly alter the original, acceptable, situation and there is therefore no conflict with Policy DMHB11. The condition, even if amended to remove the pre-commencement clause, would therefore not be necessary or reasonable.

Conclusion

8. For the reasons above, and having regard to all other matters raised, the appeal should be allowed.

B Davies

INSPECTOR