



Appeal Decision

Site visit made on 8 February 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2022

Appeal Ref: APP/F5540/W/21/3277355

37a-45 Hounslow Road, Feltham, London 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 Channins Hounslow Hotel (Guernsey) Limited against the decision of London Borough of Hounslow.
- The application Ref 00631/Z/P5, dated 4 December 2020, was refused by notice dated 12 March 2021.
- 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/P4, dated 1 October 2019.
- The condition in dispute is No 21 which states that: "No customer of the development hereby approved shall reside at the premises for a period of greater than 30 consecutive days."
- The reason given for the condition is: "such a condition would ensure that the hotel use operates as approved, and so is necessary, relevant and reasonable."¹

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/P5, dated 4 December 2020, without compliance with condition number 21 previously imposed on planning permission Ref 00631/Z/P4 dated 1st October 2019 and subject to conditions set out in the attached schedule.

Procedural Matters

2. A deed of variation (DoV) has been submitted and signed by the Appellant and the Council that ties this development to the schedules in the original unilateral undertaking (UU). I have taken account of the details in the UU and the accompanying DoV in my assessment.

¹ The reason for the condition is a direct extract from Paragraph 29 of APP/F5540/W/18/3206039, allowed on 1st October 2019

Background and Main Issues

3. Planning permission was granted at appeal² on 1 October 2019 (Ref 00631/Z/P4) (the 2019 approval) 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 condition number 3 previously imposed on planning permission Ref 00631/Z/P3.
4. A Certificate of Lawfulness confirming the lawful implementation of the 2019 approval was issued by the Council on 4 June 2021 and confirms that the development has commenced. My understanding from the site's planning history and following my site visit, is that the commencement of works relates to the demolition of some existing garages at the site, rather than the commencement of above ground works. Some pre-commencement conditions have also been discharged.
5. Condition 21 of the 2019 approval sets out that no customer of the development shall reside at the premises for a period of greater than 30 consecutive days. The appointed Inspector imposed this condition to ensure the hotel use operates as approved. An application to remove this condition was submitted under Ref 00631/Z/P5.
6. The application to remove condition 21 was refused for two reasons. Firstly, an unrestricted length of stay would result in guests occupying poor quality accommodation within rooms at the basement level, which would receive limited access to daylight/sunlight, outlook and privacy. The second refusal reason indicates that the applicant failed to demonstrate that the removal of the condition would not have severe and adverse impacts on highway safety, the free flow of traffic and the Council's sustainable transport aims.
7. Therefore, the main issues are: the effect that removing condition 21 would have on the quality of guest accommodation at the premises, with particular reference to outlook, daylight/sunlight and privacy; and the effect that removing condition 21 would have on highway safety, with particular reference to parking and the use of alternative modes of transport other than the motor vehicle.

Reasons

Quality of accommodation

8. The Inspector chose to limit the length of stay of guests at the premises to 30 days, yet as his reasoning makes clear this does not specifically relate to the quality of the accommodation for future guests or highway safety in the locality. Nevertheless, it appears that from my reading of the evidence that the Council has chosen to interpret the condition's intention as such.
9. The rooms proposed for the basement levels of the building are modestly size and include the provision of a bed, shower, toilet and a small kitchen unit. The majority of the rooms have a single window that looks onto a narrow light well, whilst a small proportion have no windows. There would also be some mutual overlooking between windows, given the narrow proportions of the light well. It

² APP/F5540/W/18/3206039, allowed on 1st October 2019

is acknowledged that there would be limited exposure to direct daylight and sunlight given the location of the basement rooms and the depth of the light well, in addition to some likely overlooking between windows. Yet those circumstances would be the same for guests regardless of the duration of their stay and I do not see how removing the length of stay condition would materially alter the accommodation within the basement areas. Moreover, the Council did not see the quality of the accommodation as a concern when it determined application Ref 00631/Z/P4.

10. It is nevertheless acknowledged that a long-term length of stay at the hotel would increase the time that guests would be residing in rooms. However, they would equally have access to the hotel's amenities, which include a pool, gym, dining and lounge area. There is an external garden for guests to use, whilst I observed during my site visit a number of parks and green spaces within a short walk of the site. Hotel guests would have access to those facilities during their stay, and these would form part of the wider guest experience, in addition to their room. Accordingly, and having regard to the areas in which guests could access during their stay, I see no reason why the quality of the accommodation would be unsatisfactory for those staying more than 30 days.
11. In its refusal reason on this main issue, the Council referred to development plan policies which seek to protect the living conditions of occupiers of new housing development. However, I have not seen any specific guidance or standards relating to privacy, light conditions and outlook outlined in the development plan for hotel accommodation. A hotel use would have a transient clientele where accommodation would be purchased by guests on a nightly basis. Accordingly, guest rooms are likely to have a different spatial arrangement and outlook from within, compared to a dwelling house within Use Class C3.
12. The removal of the condition, in the Council's view would enable an unlimited length of stay for customers and materially change how the hotel would operate and function, while making it more akin to typical residential accommodation. Yet, despite the prospect of some guests staying for long periods, the scheme's proximity to Heathrow airport and London's many attractions would likely attract a large proportion of short stay guests. Furthermore, if the Council thought the character of the use had changed to cater for permanent residential accommodation, it would be able to enforce against the description of the development for which the original permission was granted. Similarly, this would also apply to circumstances whereby the hotel was developing into a form of supported or specialised accommodation that would fall outside of Class C1.
13. In determining the 2019 approval, the Inspector's reason for imposing Condition 21 was that *"such a condition would ensure that the hotel use operates as approved, and so is necessary, relevant and reasonable"*. The operative part of the development approved, that is, the description of development for which the original permission was granted, refers to the scheme being a hotel. The main parties are also in agreement that it would fall under Class C1 of the Use Classes Order³. The courts have found that it is not necessary to impose a condition to define what is permitted if the permission itself does so properly.

³ Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

14. Whilst the condition is worded to restrict the occupancy of guests to 30 days, it is clear to me, from the Inspector's reason that the terms of the condition wasn't to restrict or limit a particular aspect of the development, rather it was intended to ensure the operative use was carried out as approved. Therefore, considering the wording used in the Inspector's reasoning and what the courts have found, it would not be necessary to impose a condition that would control the operating use as approved.
15. In conclusion, the effect of removing condition 21 would not materially harm the quality of guest accommodation at the premises, with reference to outlook, daylight/sunlight and privacy. I have also found that the condition would not be necessary. There would be no conflict with Policy D6 of the London Plan (2021) and Policy SC5 of the Local Plan (2015), given that their intention relates to the quality and standards of new housing.

Highway safety

16. The appeal site is located on the southern side of the busy Hounslow Road, in a predominantly residential area, albeit a short walk from Feltham Town centre and its many amenities and public transport connections (approximately 500m). The site has a PTAL rating of 4 (Good), which rises to 6 at the nearby town centre. The 2019 approval includes a 45-space car park as well as coach parking facilities. No changes are proposed to the parking or access arrangements previously approved in 2019.
17. The appellant's evidence includes details that demonstrate high parking stress and limited space availability in the locality. Trip generation data relating to three comparable hotels with no time limit on guest occupancy has also been provided.
18. The Council contends that the removal of Condition 21 would encourage a change in guest travel behaviour with a greater proportion relying on the car for journeys as well as an increase in deliveries to the premises. It maintains that this behaviour would reflect more a typical permanent resident. The Council have concerns that the potential change in travel behaviour and its consequential effects on highway safety and sustainability have not been assessed by the appellant.
19. Under the current terms of occupancy, there would be nothing preventing guests from using the small kitchen facilities within the rooms and dining within those spaces. They could even, as the appellant's evidence suggests, reduce the need to travel to access local restaurants and take-aways. Moreover, guests would also be able to arrange for deliveries to be made to the premises.
20. The immediate locality has very good public transport connections that are within easy reach of the appeal site. These along with the site's close proximity to Feltham town centre would make it desirable to travel to and from the site by means other than the private motor car. I do not doubt that some long stay guests would arrive and depart by car. However, given the levels of parking stress and availability in the area and the possibility that on-site options are at capacity, it is likely that a sizeable proportion of guests staying for longer periods would favour the more sustainable and convenient travel options nearby, rather than choose to park in the locality.

21. Accordingly, I do not see how the removal of condition 21, would be significantly different to the consented position, or lead to materially different travel behaviours amongst guests staying at the premises.
22. On the basis of the above, I conclude that the effect of removing Condition 21 would not result in any material harm to highway safety, with particular reference to parking and the use of alternative modes of transport other than the motor vehicle. The proposal accords with Policies T4, T6 and T6.4 of the London Plan (2021) and Policy EC2 of the Local Plan (2015), where they require proposals to safeguard highway safety, comply with parking guidelines and encourage the use of public transport and maximise the opportunities for walking and cycling.

Other Matters

23. There are concerns amongst residents that the proposal would have effects on local living conditions, parking conditions and highway safety. As the proposal does not include any physical or structural changes there would be no new impacts brought about by the proposal in terms of neighbouring living conditions. Moreover, the number of rooms proposed remains the same, therefore there would be no material increase in the effects from noise and disturbance. Regarding the effects on building foundations and adjacent structures on neighbouring land, those matters fall outside of this appeal given the terms of what is being sought.

Planning Obligation and Conditions

24. The submitted DoV effectively replicates the matters set out in the UU which related to the 2019 approval. No objections were raised to the provisions of the new obligation, and based on the evidence before me, I conclude that it meets the policy in paragraph 204 of the Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
25. The Council has not provided a list of suggested conditions; therefore, I have relied upon those imposed by the Inspector in the 2019 approval. Moreover, the appellant has provided details of those conditions that have been discharged by the Council.
26. The PPG states that, for the purpose of clarity, decision notices for the grant of planning permission under section 73 of the Town and Country Planning Act 1990 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.
27. I have had regard to all the planning conditions the Inspector attached to the 2019 approval including those that require the approval of details prior to above ground works and the first occupation of the development. The submitted evidence also refers to conditions that have been discharged and the relevant planning reference that these related to. As such, I have imposed those that I consider remain relevant, meet the tests of conditions as set out at paragraph 55 of the National Planning Policy Framework, as well as those that have been discharged. In the event that further conditions have been discharged, that is a matter which can be addressed by the parties.

28. I have removed the condition restricting the length of stay at the premises that is the subject of this appeal as this is not necessary or reasonable for the reasons already explained.
29. Partial demolition works on some buildings have started on site and therefore this negates the requirement for a condition seeking works to commence within three years of grant of permission. For reasons of clarity and to ensure the development is carried out as approved, I have included a condition that lists the approved plans and accompanying documents.

Conclusion

30. For the reasons given above, and having considered all matters raised, I conclude that the appeal should succeed and condition 21 should be deleted. I have granted a new planning permission without the disputed condition and reinstating those undisputed conditions that are still subsisting and capable of taking effect.

R.E Jones

INSPECTOR

Schedule of Conditions

- 1) 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.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A-000-001 PLO, A-000-002 PLO, A025-001 PLO, A-025-010 PLO, A-100-101 PLO, A-100-102 PLO, A-100-103 PLO, A-100-104 PL1, A-100-105 PLO, A-100-106 PLO, A-100-107 PLO, A100-108 PLO, A-110-101 PLO, A-110-102 PLO, A-120-101 PLO, A-120-102 PLO, A-120-103 PLO, A-120-104 PLO.
- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) 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.
- 8) 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.
- 9) 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.
- 10) 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.
- 11) 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.
- 12) (A) Prior to the commencement of Phase 2 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.
- 13) (A) The development shall be carried out in accordance with the details approved under application 00631/Z/P4(14):
- REP/19106/1 Revision A (Drainage Strategy Report) by TA Tompson LLP Consulting Engineers [dated May 2020]; PH/19106/100 (Roof Level Drainage Services Layout) [dated April 2020]; PH/19106/101 A (Ground Level Drainage Services Layout) [dated April 2020]; PH/19106/102 (Basement Level -01 Drainage Services Layout) [dated April 2020]; PH/19106/103 (Basement Level -04 Drainage Services Layout) [dated April 2020].
- (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.

- 14) 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.

- 15) The development shall be carried out in accordance with the details approved under application 00631/Z/P4(16):

1159-A2S-XX-XX-RP-Y-001-00 (Geo-environmental desk study report) by A-squared Studio [dated 19 March 2020]; 1159-A2S-XX-XX-RP-Y-001-01 (Geo-environmental desk study report) by A-squared Studio [dated 26 March 2020]; 1159-A2S-XX-XX-RP-Y-0001-02 (Geo-environmental desk study report) by A-squared Studio [dated April 2020];

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.

- 16) 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.
- 17) 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.
- 18) The development shall be carried out in accordance with the details approved under application 00631/Z/P4(19): 109838-12-003 (Detailed construction management plan) by Systra [dated 7 July 2020].
- 19) 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.
- 20) The pool and leisure facilities as proposed shall be available for the use of overnight guests only.

- 21) 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.
- 22) The development shall be carried out in accordance with the details approved under application 00631/Z/P4(24):
- A-100-111 Rev P1, A-000-011 Rev P2, A-100-112 Rev P1, A100-113 Rev P1, A-100-114 Rev P1, A-100-115 Rev P1, A-100- 116 Rev P1, A-100-117 Rev P1 & A-100-118 Rev P1.
- 23) 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.

*****End of Schedule*****