



Appeal Decision

Site visit made on 10 May 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

Appeal Ref: APP/N1540/W/21/3282710

Land Adjacent to Pearson House, Edinburgh Gate, Harlow CM20 3JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Miss Nikki Collins of Weston Homes Plc against the decision of Harlow Council.
 - The application Ref HW/CND/20/00109, dated 6 March 2020, sought approval of details pursuant to condition No 17 of a planning permission Ref HW/FUL/18/00144, granted on 12 September 2019.
 - The application was refused by notice dated 23 March 2021.
 - The development approved under Ref HW/FUL/18/00144 was redevelopment of existing car park associated with former Pearson House. Erection of two blocks of between 2- 11 storeys in height comprising 361 dwellings including ground and first floor car parking together with associated development including podium and ground floor amenity space, landscaping, surface car parking, new pedestrian links, cycle and refuse stores at Edinburgh House Car Park, Edinburgh Gate, Harlow, Essex.
 - The condition in dispute is No 17 which states that:
Notwithstanding the approved plans, prior to the commencement of any works above ground level, an amended refuse and recycling scheme, including elevational drawings of any bin stores, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of the phase of the development to which the refuse and recycle storage relates.
 - The reason given for the condition is:
To ensure waste collections can be undertaken appropriately and in the interests of the character and appearance of the area in accordance with policy BE1 of the Adopted Replacement Harlow Local Plan.
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Decision

1. The appeal is allowed and the details submitted pursuant to condition No 17 attached to planning permission Ref HM/FUL/18/00144 granted on 12 September 2019, in accordance with the application Ref HW/CND/20/00109 dated 6 March 2020 and the details submitted with it, are approved. The approved details comprise the Planning Statement March 2020, and drawings WH188/19/P/25.03 Rev.A, WH188/19/P/75.107A, WH188/18/15.TR01 and WH188/20/P/25.03.

Procedural Matters

2. The appellant has submitted an additional drawing with the appeal (WH188/20/P/25.03). The Council have had the opportunity to comment on this plan and as a consequence their interests would not be prejudiced if I was to take these detail into account. My consideration of the appeal therefore includes that plan.

3. The development is substantially underway and parts of the wider development are occupied, with some bin storage facilities installed. I have dealt with the appeal on this basis.
4. Since the time at which the condition was imposed, the policy which informed the reason for the condition has been replaced by Policy H2 of the Harlow Local Development Plan 2020 (the LDP).

Background and Main Issue

5. The appellant activated a deemed discharge notice on the application, which was dated 9 March 2021, however, the Council issued a decision on 23 March 2021. Therefore, on the basis of the evidence there is no deemed consent relating to the condition in dispute.
6. A separate application to discharge condition 17 was approved by the Council on 8 September 2021 (Ref HW/CND/20/00109). This entailed the bins from stores 1-5 being dragged to a temporary holding area on collection day. The appellant intended this as an interim solution while construction works were taking place.
7. The Council accept that the design and appearance of the proposed refuse stores is acceptable, and character and appearance did not form a reason for refusal. Based on the evidence and my site visit, I have no reason to disagree with this.
8. Taking account of the above, the main issue is whether the details submitted pursuant to condition 17 make appropriate provision for waste collections.

Reasons

9. Collectively, the National Planning Policy Framework (the Framework) and National Planning Policy for Waste, require development to make sufficient provision for waste management and promote good design to secure the integration of waste management facilities with the rest of the development. Policy H2 of the LDP requires that residential developments, among other things, make adequate provision for refuse and storage collection.
10. The Council have raised concerns which it considers render the waste collection arrangements inadequate. Based on the information before me, the remaining areas of dispute relate to the distance of the bins from the collecting vehicles (and consequent dragging distances) and the distance that refuse vehicles would be required to reverse.
11. In respect of the distance of the bins from the collecting vehicles, the dragging distances associated with stores 1-5 are well within the distances sited within Building Regulations, but not within those distances in the British Standard 5906:2005 (the BS), which relates to waste management. This is similarly the case for the reversing distances required to serve stores 6 and 7, which exceed the BS limit.
12. The BS states that it takes the form of guidance and recommendations and should not be quoted as if it were a specification. To all except one bin store the dragging path follows a predominantly straight path from the store door to the refuse vehicle, which would utilise an allocated service bay at the edge of the road, thereby reducing any obstruction to the carriageway while the

collections were being undertaken. The Council are satisfied with the gradients between the bin locations and the refuse vehicles and the widths of the store doors. Taking these matters into account, I find the additional dragging distance to serve stores 1-5 would not appear to be excessive.

13. In respect of the reversing distance of refuse vehicles, this is applicable to stores 6 and 7 at the western side of the development, as other stores would be served by the servicing bays. The areas in which the refuse vehicles would need to reverse are small cul-de-sacs with low levels of traffic. Any obstruction to the flow of the traffic would therefore not be significant, even if additional time were required to complete the collections.
14. In light of these attributes of the development, and as the BS states it should be used as guidance, I consider the arrangements proposed to be adequate for the purposes of the condition. The arrangements comply with the reason for the imposition of the condition and would comply with policy H2 of the LDP and the objectives of the Framework and National Planning Policy for Waste.

Other Matters

15. I have had regard to the other issues raised by the Council. With regard to risk of injury, there is no substantive evidence before me to suggest that this would be significantly greater as a result of this proposal than an alternative. Matters relating to compliance with other legislation, for example relating to health and safety, fall outside the remit of this appeal.
16. The Council anticipate incurring additional costs, for example through additional time spent carrying out the collections and through potential conflict with the Environmental Protection Act 1990, which could result in the need for the Council to serve notice in the future. Matters of compliance with other legislation are not for me to establish under this appeal under Section 78 of the Act, and matters relating to the specific operation and management of the waste collection teams are a matter for the Council. Based on the evidence before me, I am not convinced that there would be such a significant additional financial burden arising from the proposed arrangements that it would amount to this being given any significant weight.
17. There may be alternatives to the proposed arrangements, including those which were approved on 8 September 2021. Those arrangements represent a genuine fallback position and I give this significant weight. However, for the reasons given above I am of the view that the proposed arrangements are acceptable. I appreciate that the proposed arrangements may generate some challenges for the Council's waste collection services. However, for the reasons given above, I find the proposals to be adequate for planning purposes and that they achieve the requirements of the condition.

Conclusion

18. For the reasons set out, and having considered all other matters raised, I conclude that the proposal is compliant with the development plan and the appeal should be allowed.

C Shearing

INSPECTOR