



Appeal Decision

Site visit made on 13 February 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2024

Appeal Ref: APP/Z5630/W/23/3325023

Glanmire Farm, Rushett Lane, Malden Rushett, Chessington, Kingston Upon Thames KT18 7TR

- 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 Mr and Mrs Earnshaw against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 23/00831/FUL, dated 28 March 2023, was refused by notice dated 23 May 2023.
 - The application sought planning permission for the demolition of the existing stables and barn, and the erection of a single storey dwelling and replacement detached stable with associated parking and landscaping without complying with a condition attached to planning permission Ref 21/04089/FUL, dated 21 December 2022 (allowed under appeal ref APPZ5630/W/22/3300875).
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: J004060-DD-01 Site Location Plan; J004060-DD-04 Site Block Plan As Proposed; J004060-DD-05-A Site Plan As Proposed; J004060-DD-10-A Floor Plan As Proposed; J004060-DD-11 Roof Plan As Proposed; J004060-DD-12-A Elevations As Proposed; J004060-DD-13-A Elevations As Proposed; J004060-DD-14 Stables - Plans As Proposed; J004060-DD-15 Stables - Elevations As Proposed; J004060-DD-16 Site Block Plan As Proposed (Land use); J004060-DD-17-A Site Plan As Proposed (with technical info); J004060-DD-18 Floor Plan As Proposed (M4 compliance); J004060-DD-19 Section A-A As Proposed; J004060-DD-20 Section B-B As Proposed.
 - The reason given for the condition is: in the interests of certainty.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing stables and barn, erection of a single storey dwelling and replacement detached stable with associated parking and landscaping at Glanmire Farm, Malden Rushett, Chessington, Kingston Upon Thames KT18 7TR in accordance with the terms of the application, Ref 23/00831/FUL, dated 28 March 2023, without compliance with condition No 2 previously imposed on planning permission Ref 21/04089/FUL (allowed under appeal ref APPZ5630/W/22/3300875), subject to the conditions in the attached schedule.

Preliminary Matters

2. The Government has recently published a revised version of the National Planning Policy Framework (the Framework). Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main

issues of this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.

Background and Main Issue

3. Planning permission has been allowed at appeal for the demolition of existing stables and barn, and the erection of a single storey dwelling and replacement detached stable with associated parking and landscaping. The appeal seeks permission to carry out external alterations to the proposal without complying with condition 2. These alterations include the provision of solar panels, details of the fixed position of the muck heap required by condition 3, as well as alterations to windows and doors.
4. The Council conclude that the solar panels and location of muck heap would be acceptable, and I see no reason to disagree. Therefore, the main issue is the effect of the proposed changes to the dwelling's windows and doors on the character and appearance of the area.

Reasons

5. The appeal site is located within Glanmire Farm, which is accessed off Rushett Lane. It currently accommodates an equestrian facility comprising a stable block, barn building, parking area, sand school and paddocks together with the residential dwelling The Old Coach House. The site lies within the Green Belt and it exhibits a rural character.
6. The proposed window on the northern elevation would replace the double doors and relate well with the proportions and positioning of the approved fenestration.
7. The proposed alterations on the southern elevation comprise the relocated set of double doors and a new window, to replace an approved door. These alterations would not result in an undue amount of glazing, given the limited number of openings in this façade. Additionally, these apertures would have timber shutters, which would match the appearance of the dwelling and blend with it when both open or closed. As such, the proposal would not detract from the design of the approved dwelling and would respect the simple rural qualities of the existing buildings and adjoining farmland.
8. The Public Right of Way (PRoW) that crosses Glanmire Farm is at some distance from the proposal and the undulating land levels would limit views towards the building's southern elevation from the PRoW. Considering the limited nature of the proposed changes when compared with the approved plans, the proposal would not appear visually prominent to the users of the footpath or wider countryside.
9. For the reasons stated above, the proposal would not have a harmful effect on the character and appearance of the area. The proposal would accord with Policy D3 of The London Plan 2021 and with Policy DM10 of the Royal Borough of Kingston Upon Thames Core Strategy 2012, which amongst others support development that incorporates principles of good design and enhances local context. The proposal would comply with the Framework, which seeks to ensure that the quality of approved development is not materially diminished between permission and completion.

Conditions

10. The guidance in the PPG makes it clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. The Council has provided a list of suggested conditions, which the appellant agrees with. I shall impose these conditions, albeit in some cases I have amended the wording in the interests of clarity.
11. Based on the information before me, work has not commenced on site. The PPG states that a grant of planning permission under section 73 of the Act should not extend the time period for implementation. Therefore, I shall vary the standard time condition in order to ensure the commencement of development is three years from the date the original permission was granted.
12. For certainty a condition is required to ensure the development is completed in accordance with the approved plans. As the effect of allowing the appeal creates a new, standalone planning permission, I have included the plans which relate to the stable block. Further, I have included drawing ref. J004060-DD-26-A Muck Heap Drawings, which shows the location of the muck heap and satisfies part of condition 3 as originally imposed.
13. In order to prevent any effects on the nearby Site of Specific Scientific Interest, a condition is necessary to ensure that the mitigation measures are secured during the lifetime of the development.
14. In the interests of the free flow of traffic and safety of users of the highway, a condition requiring the development to proceed in accordance with the approved construction management plan is necessary.
15. For reasons relating to the character and appearance of the area, its openness and its biodiversity interests, it is necessary to secure the delivery of the landscaping scheme and of the enhancements to the nature conservation.
16. In the interests of the openness of the Green Belt and to ensure an outcome on which the scheme is premised, a condition seeking the demolition of all buildings to be removed is necessary prior to above ground works taking place. For similar reasons relating to the character and appearance of the area, conditions seeking details of the external materials to be used in the construction of the dwelling and securing the implementation of the agreed boundary treatments are necessary.
17. A condition is necessary to ensure that the parking for the dwelling is provided and thereafter kept clear for its intended purpose.
18. Conditions relating to energy efficiency measures in the construction of the dwelling, water efficiency measures and its level of accessibility and adaptability are required as these are factors which have attracted positive weight in favour of the scheme.
19. To ensure that adequate cycle parking is provided as a means to promote sustainable travel, a condition is necessary to require the provision and retention of cycle parking facilities.
20. To protect the living environment of neighbouring occupiers, a condition is necessary to prescribe the permitted construction working hours. A condition is

necessary in order to address any unexpected contamination if encountered on site during construction activities.

21. A condition removing permitted development rights is necessary to ensure the acceptability of the scheme in terms of Green Belt.

Conclusion

22. Overall, I conclude that the proposal would comply with the development plan as a whole. There are no material considerations that indicate that a decision should be taken otherwise than in accordance with it. As such, the appeal is allowed.

P Terceiro

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from 21 December 2022.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - J004060-DD-01 Site Location Plan
 - J004060-DD-04-B Site Block Plan as Proposed
 - J004060-DD-05-C Site Plan as Proposed
 - J004060-DD-10-C Floor Plan as Proposed
 - J004060-DD-11-B Roof Plan as Proposed
 - J004060-DD-12-C Elevations as Proposed
 - J004060-DD-13-C Elevations as Proposed
 - J004060-DD-16-B Site Block Plan as Proposed (Land use)
 - J004060-DD-17-C Site Plan as Proposed (with technical info)
 - J004060-DD-18-B Floor Plan as Proposed (M4 compliance)
 - J004060-DD-19-B Section A-A as Proposed
 - J004060-DD-20-B Section B-B as Proposed
 - J004060-DD-21-B Site Plan As Proposed (with overlay of previous application)
 - J004060-DD-26-A Muck Heap Drawings
 - J004060-DD-14 Stables - Plans As Proposed
 - J004060-DD-15 Stables - Elevations As Proposed
- 3) The development shall be carried out in strict accordance with the details of mitigation measures (and approved timescales), to prevent harm to features for which Epsom and Ashted Commons Site of Special Scientific Interest (SSSI) has been notified, approved under application ref 23/02405/CLC dated 30 October 2023. The approved details shall thereafter be maintained in perpetuity.
- 4) The development hereby approved shall be carried out in strict accordance with the Construction Management Plan approved under application ref 23/02405/CLC dated 30 October 2023.
- 5) The detailed Landscaping Scheme and Landscape Management Scheme approved under application ref 23/02405/CLC dated 30 October 2023 shall be implemented within the first planting season following first occupation of the development. Any trees or shrubs which die, are removed or become diseased during this period shall be replaced during the following planting season. The areas shown to be landscaped shall be permanently retained for that purpose in accordance with the approved details.
- 6) The details of enhancements to the nature conservation interest of the site (including management and maintenance measures) shall be implemented in accordance with the details approved under application ref 23/02405/CLC dated 30 October 2023 prior to the first occupation of the development hereby approved and thereafter retained.
- 7) Prior to the commencement of any above ground works associated with the development hereby approved (excluding demolition), the buildings to be

removed as shown on the submitted drawings, shall be demolished. Prior to the first occupation of the dwelling hereby approved, all building waste and other materials arising from the demolition shall be removed from the site.

- 8) A sample of the facing materials to be utilised in the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any above ground works on site are commenced. The development shall then be built in accordance with these approved samples.
- 9) The car parking accommodation shown upon the approved drawings shall be provided with a hard bound dust free surface, adequately drained before the development to which it relates is occupied and thereafter it shall be kept free from obstruction at all times and shall not thereafter be used for any purposes other than the parking of vehicles for the occupiers of the development and visitors to it.
- 10) The development hereby approved must be carried out in strict accordance with the details of the positions, design, materials and type of all boundary treatment, fences and means of enclosures approved under application ref 23/02405/CLC dated 30 October 2023. The approved details shall be implemented prior to first occupation of the approved dwelling.
- 11) The dwelling hereby permitted shall not be occupied until evidence has been submitted to the Local Planning Authority confirming that the development has achieved the targeted reduction in CO2 emissions over Part L of the Building Regulations set out in the Energy Statement Report, Rev 4.0 prepared by Base Energy and that internal water usage shall not exceed 105 litres per person per day.
- 12) The dwelling hereby permitted shall not be occupied until details of how the dwelling as built complies with Part M4(3) of the Building Regulations have been submitted to the Local Planning Authority for approval in writing. The development shall thereafter be maintained in accordance with the approved details.
- 13) The cycle parking facilities as shown on the approved plans shall be provided prior to first occupation of the development to which this permission relates and shall be permanently retained for that purpose and kept free from obstruction thereafter.
- 14) The site and building works required to implement the development shall be only carried out between the hours of 08:00 and 18:00 Mondays to Fridays and between 08:00 and 13:00 on Saturdays and not at all on Bank Holidays and Sundays.
- 15) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the same.

- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no additions or enlargements to the dwellinghouse or outbuildings on the site other than those expressly authorised by this permission, or means of enclosure or hardstanding shall be constructed.