



## Appeal Decision

Site visit made on 11 January 2022

**by A Price BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 February 2022**

**Appeal Ref: APP/R5510/W/21/3282910**

**Land to the rear of 45 Seaton Gardens, Ruislip HA4 0BB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Longford Developments Ltd against the decision of the Council of the London Borough of Hillingdon.
- The application Ref 70507/APP/2021/1208, dated 25 March 2021, was refused by notice dated 25 August 2021.
- The development is described on the application form as 'construction of one new two storey dwelling with associated parking and vehicular crossover'.

### **Decision**

1. The appeal is allowed and planning permission is granted for the construction of one new two storey dwelling with associated parking and vehicular crossover at land to the rear of 45 Seaton Gardens, Ruislip HA4 0BB in accordance with the terms of the application, Ref 70507/APP/2021/1208, dated 25 March 2021, subject to the conditions appended to this decision.

### **Main Issue**

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of 45 and 47 Seaton Gardens, with particular regard to outlook.

### **Reasons**

3. The appeal site is situated close to the corner of Seaton Gardens and Kingswear Road. Separated from the terraced house at 41 Kingswear Road by a narrow gated vehicular access, the site adjoins the end of the rear gardens of terraced houses at 45 and 47 Seaton Gardens. The appeal site consists of a fairly small parcel of land in a suburban residential street. Roughly half of the site is taken up by a double garage and a hardstanding used for parking. Part of the site is fenced off and is discrete from the adjoining residential gardens.
4. Outlook from the rear of Nos 45 and 47 is over their private rear gardens and towards the side elevation of No 41. The existing single-storey garage structure at the appeal site is visible from within these properties and their gardens.
5. A separation distance of approximately 16 metres would exist between the proposed two-storey property and the rear elevation of No 45. As a result, the proposed development would undoubtably bring built form closer to the rear elevations of Nos 45 and 47, highly visible from both within the rear-facing rooms and the gardens of these existing properties. However, the occupiers of Nos 45 and 47 would retain uninterrupted outlook over their own rear gardens,

and over the approximately 7 metre deep garden area of the proposed development. Whilst occupiers of the existing properties would experience a slight change in their relationship with the appeal site and there would be a slightly increased sense of enclosure, the separation distance between properties would be reasonable. Accordingly, overdominance and visual intrusion would not result from the proposed development.

6. Appeals at land to the rear of 39 and 39a<sup>1</sup> Hatherleigh Road have some similarities to the appeal before me. I noted during my site visit that the development has taken place and now comprises 1A Kingswear Road. No 1A has a similar relationship with adjoining properties, including the siting of development within the plot, as well as being of a similar scale and appearance. The development allowed above proposed a separation distance exceeding 15 metres. This was concluded as being acceptable in terms of its effect on neighbouring living conditions.
7. My attention has also been brought to a dismissed appeal at land to the rear of 229 and 229a Victoria Road<sup>2</sup>. The specific characteristics and circumstances that applied to this case are not directly comparable to those before me, particularly in respect of the siting of the proposed dwelling. In that case the proposed development was to be positioned equidistant between the two adjoining properties rather than close to the adjoining terrace, as is the case at Seaton Gardens and at 39 and 39a Hatherleigh Road.
8. Given that no windows within the proposed development would face existing houses or gardens on Seaton Gardens, no harm would arise to neighbouring occupiers in relation to privacy. In order to ensure that this remains the case, I have attached a condition removing permitted development rights to prevent the installation of new windows openings without proper consideration of their impacts. Furthermore, I have no evidence before me to suggest that the proposed development would result in an unacceptable impact on the levels of daylight and sunlight currently enjoyed by neighbouring occupiers.
9. Consequently, I conclude that the proposed development would have an acceptable effect on the living conditions of the occupiers of 45 and 47 Seaton Gardens, with particular regard to outlook. As such, it would comply with the relevant provisions of Policy DMHB 11 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020), which amongst other things seeks to protect the amenity of adjacent properties and open space. This is consistent with paragraph 185 of the National Planning Policy Framework (2021).

## **Other Matters**

10. A number of concerns have been raised by local residents and others. I have dealt with matters pertaining to living conditions of neighbouring occupiers and similarities to nearby developments above. In terms of the design and scale of the development, it would assimilate with the surrounding area.
11. Matters of drainage and disruption during construction have been dealt with by the inclusion of conditions. Whilst the value of property is not a material planning consideration, the potential for subdivision of the existing or proposed development into flats is not before me.

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<sup>1</sup> APP/R5510/W/15/3016551 and APP/R5510/W/15/3016555

<sup>2</sup> APP/R5510/W/20/3244714

12. In respect of highway safety, the Council's highways officer has found that it is unlikely that the proposed development would have a detrimental impact on the local highways network and considers that it would be acceptable in terms of both trip generation and parking provision. I have no reason to disagree with these findings.
13. In respect of comments raised in relation to the development of garden land and increased density, policy DMH6 of the adopted Local Plan sets out a presumption against the loss of gardens except in exceptional cases. These exceptional cases include having an acceptable impact on neighbouring amenity, providing acceptable standards of parking provision and highway safety, and the protection of trees and wildlife habitats. In this case, the development would take place on a site that is partly in use for private parking together with a small area of land that is discrete from any adjoining amenity space. In any case, I consider that the proposal before me would meet the exceptions set out in that policy.

## **Conclusion**

14. For the above reasons, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

## **Conditions**

15. The Council has provided a list of 11 conditions. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance, and consider in that context that only 9 need to be applied. I have amended the wording of some, and combined provisions of others without altering their fundamental aims. Numerical references to conditions are to those appended to this decision as opposed to the Council's numbering.
16. Conditions 1 and 2 on time limits and approved plan are necessary for certainty. Conditions 5 and 6 are necessary in order to protect the character and appearance of the area, with 6 also necessary to ensure the adequate provision for cycle and bin storage. Condition 3 is necessary to ensure appropriate living conditions for neighbouring occupiers are maintained.
17. Condition 4 requires the submission and approval of sustainable water management measures. This is necessary in the interests of flood prevention and water management. Both conditions 3 and 4 are pre-commencement conditions as they are necessary to ensure that any potential mitigation is properly designed prior to the commencement of development.
18. Condition 7 is necessary in order to ensure that any potential impacts on the living conditions of the occupiers of the development hereby permitted or those of neighbouring properties are properly considered. For similar reasons, I have also included condition 8 withdrawing permitted development rights for any new window openings without the prior consent of the Council.
19. Condition 9 is necessary to ensure inclusive design is achieved and maintained for future occupiers. A condition requiring the upstairs bathroom window to be fitted with obscured glazing is unnecessary as this window would not affect any neighbouring property.

20. Furthermore, a condition requiring that the property be step-free, is unnecessary in my view as this matter would be dealt with under Building Regulations in relation to inclusive design as covered by condition 9.

21. The Council put forward a further condition on achieving an energy efficiency standard of a minimum of a 10% CO2 improvement over Building Regulations requirements. Although Policy SI2 of the London Plan (2021) encourages energy efficiency in development, this policy relates to major development only. As the development would not be major development, I have not applied this condition.

*A Price*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 3248-SK1; 3248-02; 3248-03; 3248-SS-02.
3. The development hereby permitted shall not commence, including any works of demolition, until a Demolition and Construction Management Plan (DCMP) has been submitted to, and approved in writing by the local planning authority. The DCMP shall include details of measures for controlling: dust; noise; vibration; lighting; delivery locations; the parking of vehicles of site operatives and visitors; and advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works.

No works associated with the development hereby permitted, including deliveries or vehicle movements, shall take place outside of the following times: 0800-1800 Mondays to Fridays and 0800-1300 on Saturdays. No works associated with the development hereby permitted, including deliveries or vehicular movements, shall take place on Sundays or public holidays. The approved DCMP shall be adhered to throughout the construction period for the development hereby permitted.

4. The development hereby permitted shall not commence, including any works of demolition, until a scheme for the provision of sustainable water management has been submitted to and approved in writing by the local planning authority. The scheme shall clearly demonstrate that sustainable drainage systems (SUDS) have been incorporated into the design of the development in accordance with the hierarchy set out under Policy SI5 of the London Plan (2021) and will:
  - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii. include a timetable for its implementation; and
  - iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall also demonstrate the use of materials to minimise the use of potable water through water collection, reuse and recycling and will:

  - iv. provide details of water collection facilities to capture excess rainwater; and

- v. provide details of how rain and grey water will be recycled and reused in the development.

Thereafter the development hereby permitted shall be implemented and maintained in accordance with these details for as long as the development remains in existence.

5. Prior to any works on site above damp proof course level, details/samples of all materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details/samples.
6. Prior to any works on site above damp proof course level, a scheme for soft and hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - i) planting plans at a scale of not less than 1:00;
  - ii) written specification of planting and cultivation works to be undertaken;
  - iii) schedule of plants giving species, plant sizes and proposed numbers/densities where appropriate;
  - iv) refuse storage;
  - v) cycle storage;
  - vi) means of enclosure/boundary treatments;
  - vii) car parking layouts (including 1 active and 1 passive electrical charging point);
  - viii) hard surfacing materials;
  - ix) landscape maintenance schedule for a minimum period of 5 years;
  - x) proposals for the replacement of any tree, shrub or area of surfing/seeding within the landscaping scheme which dies or becomes seriously damaged or diseased; and
  - xi) schedule for implementation.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied and maintained in accordance with an approved schedule of maintenance.

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 garage(s), shed(s) or other outbuilding(s), nor extension or roof alteration to any dwellinghouse shall be erected without the grant of further specific permission from the Local Planning Authority.

8. 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 windows/dormer windows other than those expressly authorised by this permission shall be constructed or installed without the grant of further specific permission from the Local Planning Authority.
9. The dwelling hereby approved shall be constructed to meet the standards for a Category 2 M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010, as amended), and all such provisions shall remain in place for the life of the building.