# **Planning Committee**

# **ADDENDUM**

DATE: Thursday 25 October 2012







#### **HARROW COUNCIL**

#### **ADDENDUM**

#### **PLANNING COMMITTEE**

DATE: 25<sup>th</sup> October 2012

# 1/01

Natural England have granted a licence under the Conservation of Habitats and Species Regulations 2010 (as amended). The applicant has therefore withdrawn the above application to amend condition 17 of P/2203/06cfu.

# 2/01 Additional Information regarding the regeneration of St Ann's Road:

The over riding approach to the St Anns scheme has been to create a "central strip" where all permanent features (trading kiosks, barrows, trees, street furniture etc) are located, leaving the areas on either side, adjacent to shops, free from clutter.

The scheme aims to improve the vibrancy and vitality of the town centre by increasing spend and higher footfall – outdoor seating areas have a role to play in this by creating an additional attraction in the street, something that conventional seating, located in the central strip, is unlikely to achieve. Provided that there is sufficient space for pedestrians to pass easily, pavement cafes would not conflict with the proposed design.

In terms of the this application, two paving types are proposed - large element paving outside the shops (the same as the existing in Station Road) and a smaller element paving in the central strip and Havelock Place, with a thin granite slab separating the different materials. The proposed seating area encroaches slightly on the notional Havelock Place area, marginally overlapping the two pavement types. However, given that the seating would be moveable this proposal would not conflict with the regeneration of St Anns Road as the design allows for seating in this area.

# 2/02

#### Section Consultations:

Three additional letters of objection have been received. One is a duplicate letter that was received previously on 30<sup>th</sup> August 2012 and has already been acknowledged by the Council. The other two letter make the following comments:

- 5 additional car parking spaces will not be sufficient for the expanded school and the proposed double yellow lines on Glebe Avenue and Tonbridge Crescent will penalise the local residents the most.
- The school has never consulted or communicated its plans to local residents
- The access to the school from D'Arcy Gardens should be maintained to help with traffic flow and pedestrian movement.

# **Section 9) Consultation Responses**

At the end of this section, add:

- 5 additional car parking spaces will not be sufficient for the expanded school and the proposed double yellow lines on Glebe Avenue and Tonbridge Crescent will penalise the local residents the most.
  - They applicants have sought to provide additional car parking spaces on the site. Further to this due regard must be given to the constrained nature of the site and the lack of available space for even more parking spaces without compromising other areas of the site including the playing field and existing hard surface playground.
- The school has never consulted or communicated its plans to local residents. The school held a community consultation evening on 12<sup>th</sup> July 2012 and the local communities were invited to examine the plans and discuss the proposals with representatives of the school, the Council, the Framework Contractor and Architect. Residents were invited to comment on the scheme and record their views on comments sheets or by email. A number of comments related to the number of car parking spaces on site and additional car parking spaces have been provided in response to this.
- The access to the school from D'Arcy Gardens should be maintained to help with traffic flow and pedestrian movement.
   Access from D'Arcy Gardens would be maintained, in addition to a new pedestrian access from the Glebe Avenue. The additional pedestrian access is considered to be an improvement in secure access management to the school

# 2/03 Section Conditions:

site.

It is recommended that an additional condition be added as follows:

8. The construction of any buildings hereby permitted shall not be commenced until a satisfactory Flood Risk Assessment has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details and the works shall thereafter be retained.

Reason: To protect the natural flood plain and reduce and mitigate the effects of flood risk on the site or elsewhere in accordance with the National Planning Policy Framework (2012) and to ensure that the necessary construction and design criteria for the development proposals follow approved conditions according to the NPPF (2012).

# 2/04 Addendum Item 1:

On page 55 of the agenda, under Replies from Secondary consultation insert "1".

Under Summary of Responses (issues not already raised in first round of consultation) add:

- Description of development incorrect
- No references made in application drawings or plans to the falling land levels on the site and the subsequent consequences of development
- Extensions still excessively high and would not accord with Council guidelines

- Pitched roof over rear extension does not accord with Council guidance and previous statements
- No Party Wall Agreement provided
- Development represents an insincere effort to remedy the breach
- Concerns in relation to the location of the boiler flue and the Council's responsibilities in this respect

#### Addendum Item 2:

On page 59/60 of the agenda, under the heading Consultation Responses add:

# Response to issues raised as a result of second round of consultation:

Description of development incorrect

It should be noted that the development description on page 51 of the agenda differs slightly from the development description on the letters of consultation sent to neighbouring properties and closely reflects the development description suggested in the representation received. The development description provides an indication of the proposed development but the plans submitted with the application should provide the primary consideration for interested parties. From the representations received, it is clear that the submitted plans have been clearly understood through 2 rounds of consultation. As such, it is considered that no parties have been unduly prejudiced by this minor alteration to the development description.

[For reference the description of development on the consultation letters was: MODIFICATION OF EXISTING SINGLE STOREY SIDE TO REAR EXTENSION TO REDUCE DEPTH AND ALTERATIONS TO ROOF

And for the second round of consultation:

MODIFICATION OF EXISTING SINGLE STOREY SIDE TO REAR EXTENSION TO REDUCE DEPTH AND ALTERATIONS TO ROOF (AMENDED PLANS RECEIVED DETAILING THE BOUNDARY LINE BETWEEN NO.24 AND NO.26 WOODWAY CRESCENT)]

No references made in application drawings or plans to the falling land levels on the site and the subsequent consequences of development

No references are made to the changing land levels of the site and neighbouring site. However, it is considered that the submitted drawings are adequate for the purposes of the consideration of the application. As detailed in the appraisal, consideration has been given to the differing land levels in the assessment of this application as the site circumstances were thoroughly considered at the site visit to both properties.

Extensions still excessively high and would not accord with Council guidelines Consideration of the height of the extensions has been outlined in the assessment of the application in the appraisal section of the report. In terms of appearance impacts, the height and scale of the extensions would accord with the adopted SPD. Detailed consideration of the impacts arising in terms of amenity is provided in the residential amenity section of the appraisal.

Pitched roof over rear extension does not accord with Council guidance and previous statements

The pitched roof extension of the single storey rear extension would not previously have accorded with Supplementary Planning Guide: Extensions – A Householder's Guide 2008 [SPG]. In December 2010 the Council adopted Supplementary Planning Document: Residential Design Guide 2010 which superseded the SPG. The pitched

roof of the single storey rear extension accords with guidance contained in the adopted SPD.

# No Party Wall Agreement provided

The Party Wall Act etc 1996 is not a material consideration in the determination of planning applications. An informative relating to the Party Wall etc Act 1996 is added to the report. However, the Council have no jurisdiction in the application of this Act.

Development represents an insincere effort to remedy the breach

This comment is noted but not accepted as outlined in the assessment of the application.

Concerns in relation to the location of the boiler flue and the Council's responsibilities in this respect

Concerns in relation to the impacts of boiler flues should be addressed to the Council's Environmental Health Department and/or Building Control. This matter has been referred to these council departments for investigation.

# Addendum Item 3:

An email from Mrs Kingsley who has made representations on this application following the Committee Member Site visit to Fergal O'Donnell (Case Officer) is appended to this addendum here.

#### **APPENDIX**

Please see letter attached regarding Committee Visit Concerns - 26 Woodway Crescent, dated 22/10/12

# 3/01 Addendum Item 1:

Amend the Description of Development on page 91 of the agenda to:

RETROSPECTIVE APPLICATION FOR SINGLE STOREY SIDE TO REAR EXTENSION; PROPOSED MODIFICATIONS TO REDUCE DEPTH AND ALTERATIONS TO ROOF

# Addendum Item 2:

On page 95 of the agenda, under Replies from Secondary consultation insert "1".

Under Summary of Responses (issues not already raised in first round of consultation) add:

- Description of development incorrect
- No references made in application drawings or plans to the falling land levels on the site and the subsequent consequences of development
- Extensions still excessively high and would not accord with Council guidelines
- Pitched roof over rear extension does not accord with Council guidance and previous statements
- No Party Wall Agreement provided
- Development represents an insincere effort to remedy the breach
- Concerns in relation to the location of the boiler flue and the Council's responsibilities in this respect

#### Addendum Item 3:

On page 99/100 of the agenda, under the heading Consultation Responses add:

Response to issues raised as a result of second round of consultation:

Description of development incorrect

This comment is noted and the description of development amended accordingly on page 91 of the agenda. The development description provides an indication of the proposed development but the plans submitted with the application should provide the primary consideration for interested parties. From the representations received, it is clear that the submitted plans have been clearly understood through two rounds of consultation. As such, it is considered that no parties have been unduly prejudiced by this minor alteration to the development description.

[For reference the description of development on the consultation letters was: MODIFICATION OF EXISTING SINGLE STOREY SIDE TO REAR EXTENSION TO REDUCE DEPTH AND ALTERATIONS TO ROOF

And for the second round of consultation:

MODIFICATION OF EXISTING SINGLE STOREY SIDE TO REAR EXTENSION TO REDUCE DEPTH AND ALTERATIONS TO ROOF (AMENDED PLANS RECEIVED DETAILING THE BOUNDARY LINE BETWEEN NO.24 AND NO.26 WOODWAY CRESCENT)]

No references made in application drawings or plans to the falling land levels on the site and the subsequent consequences of development

No references are made to the changing land levels of the site and neighbouring site. However, it is considered that the submitted drawings are adequate for the purposes of the consideration of the application. As detailed in the appraisal, consideration has been given to the differing land levels in the assessment of this application as the site circumstances were thoroughly considered at the site visit to both properties.

Extensions still excessively high and would not accord with Council guidelines Consideration of the height of the extensions has been outlined in the assessment of the application in the appraisal section of the report.

Pitched roof over rear extension does not accord with Council guidance and previous statements

The pitched roof extension of the single storey rear extension would not previously have accorded with Supplementary Planning Guide: Extensions – A Householder's Guide 2008 [SPG]. In December 2010 the Council adopted Supplementary Planning Document: Residential Design Guide 2010 which superseded the SPG. The pitched roof of the single storey rear extension accords with the adopted SPD.

# No Party Wall Agreement provided

The Party Wall Act etc 1996 is not a material consideration in the determination of planning applications. An informative relating to the Party Wall etc Act 1996 is added to the report. However, the Council have no jurisdiction in the application of this Act.

Development represents an insincere effort to remedy the breach

This comment is noted. In this instance, it is considered that the amendments made would not satisfactorily address the concerns raised previously by the Council and the Inspectors in the previous appeals on the site.

Concerns in relation to the location of the boiler flue and the Council's responsibilities in this respect

Concerns in relation to the impacts of boiler flues should be addressed to the Council's Environmental Health Department and/or Building Control. This matter has been referred to these council departments for investigation.

# Addendum Item 4:

An email from Mrs Kingsley who has made representations on this application following the Committee Member Site visit to Fergal O'Donnell (Case Officer) is appended to this addendum here.

# **APPENDIX**

Please see letter attached regarding Committee Visit Concerns - 26 Woodway Crescent, dated 22/10/12

# 3/02 Addendum Item 1:

On page 110 of the agenda, under Replies from Secondary consultation insert "1".

Under Summary of Responses (issues not already raised in first round of consultation) add:

- Description of development incorrect
- No references made in application drawings or plans to the falling land levels on the site and the subsequent consequences of development
- Extensions still excessively high and would not accord with Council guidelines
- Pitched roof over rear extension does not accord with Council guidance and previous statements
- No Party Wall Agreement provided
- Development represents an insincere effort to remedy the breach
- Concerns in relation to the location of the boiler flue and the Council's responsibilities in this respect

# Addendum Item 2:

On pages 114/115 of the agenda, under the heading Consultation Responses add:

# Response to issues raised as a result of second round of consultation:

Description of development incorrect

It should be noted that the development description on page 106 of the agenda differs slightly from the development description on the letters of consultation sent to neighbouring properties and closely reflects the development description suggested in the representation received. The development description provides an indication of the proposed development but the plans submitted with the application should provide the primary consideration for interested parties. From the representations received, it is clear that the submitted plans have been clearly understood through two rounds of consultation. As such, it is considered that no parties have been unduly prejudiced by this minor alteration to the development description.

[For reference the description of development on the consultation letters was: MODIFICATION OF EXISTING SINGLE STOREY SIDE TO REAR EXTENSION TO REDUCE DEPTH AND ALTERATIONS TO ROOF

And for the second round of consultation:

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No references made in application drawings or plans to the falling land levels on the site and the subsequent consequences of development

No references are made to the changing land levels of the site and neighbouring site on the submitted drawings. However, it is considered that the submitted drawings are adequate for the purposes of the consideration of the application. As detailed in the appraisal, consideration has been given to the differing land levels in the assessment of this application as the site circumstances were thoroughly considered at the site visit to both properties.

Extensions still excessively high and would not accord with Council guidelines Consideration of the height of the extensions has been outlined in the assessment of the application in the appraisal section of the report.

Pitched roof over rear extension does not accord with Council guidance and previous statements

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Development represents an insincere effort to remedy the breach

This comment is noted. In this instance, it is considered that the amendments made would not satisfactorily address the concerns raised previously by the Council and the Inspectors in the previous appeals on the site.

Concerns in relation to the location of the boiler flue and the Council's responsibilities in this respect

Concerns in relation to the impacts of boiler flues should be addressed to the Council's Environmental Health Department and/or Building Control. This matter has been referred to these council departments for investigation.

#### Addendum Item 3:

An email from Mrs Kingsley who has made representations on this application following the Committee Member Site visit to Fergal O'Donnell (Case Officer) is appended to this addendum here.

#### **APPENDIX**

Please see letter attached regarding Committee Visit Concerns - 26 Woodway Crescent, dated 22/10/12

# ADVANCE WARNING GIVEN OF REQUESTS TO MAKE REPRESENTATIONS ON PLANNING APPLICATIONS

Application	Objector	Applicant/Applicant's Representative (who has advised that they would wish to reply)
2/04 24 Woodway Crescent, Harrow	Sheila Kingsley	Mr S Hussain

Planning Committee Addendum 8 25<sup>th</sup> October 2012

# Fergal ODonnell - Committee Visit Concerns - 26 Woodway Crescent

From:

Denise Kingsley

To: Date: Fergal ODonnell 22/10/2012 00:18

Subject:

Committee Visit Concerns - 26 Woodway Crescent

Attachments:

### Dear Mr O'Donnell

With reference to the Committee's visit to my home on Saturday I was absolutely appalled by the comments of a Councillor (identity known to us) who having looked through the "protected" kitchen window casually asked me "What is your Problem with this?", and it was immediately clear to us, that to have asked that question at all, the Councillor had not, prior to his visit, made himself au fait with the full circumstances surrounding past or present history or relevant facts, and didn't appear to know what he was supposed to be looking at or what the site conditions were. The question was asked in your presence, but when I went to respond to the question the Councillor turned his back on me and walked away. Other members of the Committee spent only a few seconds glancing at the view thro' the kitchen window which could not possibly have been long enough to assess the view of 5 different roof lines, the excessive height, close proximity, tight juxtaposition or discordant roof line, loss of light, outlook or visible amenity thro' a "protected" window. Many appeared more interested in the utility room, a separate small area at the rear of the main kitchen which houses a fridgefreezer-spinner-washing machine and had no relevance at all to the view thro' the "protected" kitchen window. Interest was shown in the patio area outside the kitchen window, but not from the rear garden which also shows the disjointed roof line as well as the bulbous appearance of the side elevation. When I mentioned the presence of a boiler in the side elevation to another Councillor (Identity known to us) he abruptly stated he would be checking the plans and walked away! The side elevation Store Are has always been used as a boiler room and this has continued as can be seen from the photograph below.

When the Planning Inspectorate sent their 2 qualified Planning Inspectors to visit the site previously, they spent several moments absorbing the impact of the unauthorised development thro' the "protected" window and the implications on the living conditions of the inhabitants of No.26 and their findings upheld those of the LPA in the Statement of Case. They also viewed the unauthorised development from the rear garden of No.26. None of this was emulated by the Councillors. The actions of the Councillor who asked the question, would call into doubt the integrity of the Committee based on the fact that a decision will be made on a vote, his included.

Mr Hussain despite having been issued with an Enforcement Notice by the LPA in June 2010, and despite two failed appeals to PINS, and despite non-compliance to demolish his unauthorised extension has now merely split the

development in two and is calling it "Permitted Development", and has now enlarged and retained most of it. Could I please refer you to the comments he made to the Planning Inspectorate in his appeal against refusal of planning permission LPA Ref: P/2222/11 dated 20th March 2012, as follows: (copy available if required for your reference)

Mr Hussain refers to advice given on page 17 (et al) of the DCLG document "Permitted Development for Householders: Technical Guidance", published in August 2010. He wrote "It is the first 3 metres of the extension, immediately behind the garage and directly in front of the kitchen window at No.26 which is considered by the LPA to have the most impact; it is therefore ironic that permitted development tolerances appear to allow an extension to a height which would appear likely to cause greater harm than the existing extension.......... it is considered to be relevant to the consideration of this appeal since, if the appeal is dismissed and the requirements of the enforcement notice are enforced, the outcome, it seems, could be worse for the principal complainant. That would surely be a nonsense".

He then wrote further in his Conclusions: 6.3 "Notwithstanding the above, it is considered that current permitted development tolerances would enable a more intrusive extension to be built".

The LPA - Statement of Case (7.3) refers to permitted development as follows: "The falling ground levels in particular limit the scope of permitted development in this case. Whilst there may be an alternative to complete demolition of the property, it is not therefore considered expedient for the enforcement notice to grant permission for such an alternative".

Mr Hussain knows exactly what he is doing and knows of the impact of the extension immediately behind the garage and the affect on the living conditions of No.26 but has had no compunction at all in implementing his plans as outlined above and has, already built his more intrusive extension as promised. He has now over-ridden two Delegated Application reports made in 2003 and 2008 which specifically said no to a mono-pitch roof due to specific site conditions - he has over-ridden Mr Andy Parker's recent Delegated Application Report, an LPA Statement-of Case and two Planning Inspectorate decisions, in order to get what he wants. He now has replaced the flat roof with a huge unauthorised mono-pitch roof to his rear extension, and has retained the side elevation (immediately facing the "protected" window), albeit shorter in depth, but at the same angle/proximity to the common boundary wall and built back the bricks to the same excessive height of 3.5m, the bricks at this excessive height are directly behind the cladding. This is the same side elevation which the LPA had invited him to remove, and which he had declined to do so!!

As mentioned in previous correspondence, the site hasn't changed. It is still a wedge-shaped site with falling undulating land levels, No.26 being some

500mm lower in land level, there is still close proximity, the extension now built is totally overbearing and overshadowing. This unauthorised development has now been altered in retrospect but all alterations have been made purely for Mr Hussain's gain with no deference at all to the "protected" window which faces directly on to the development, and at the expense of all his adjacent neighbour's amenities and light.

With reference to previous correspondence you have repeatedly told us that all comments are "noted" but this appeared to be not the case on Saturday morning when the particular Councillor in question appeared to not even know what was the purpose of his visit to my home, after having visited the neighbour and viewed his development from the other side of the boundary. The LPA's rules and regulations still apply and are clearly outlined in their Statement of Case and the PINS reports, and in view of the LPA-Statement of Case 7.3. comments that "the falling ground levels in particular limit the scope of permitted development in this case....." why were Permitted Development Rights not rescinded for this site? An Article 4 direction could have been issued based on the LPAs findings.

There have been many words written by the LPA and PINS but no actual enforcement action has been taken to date to remove the unauthorised extension and there has only been continuous validation of planning applications, none of which do anything at all to remedy the harm caused to our living conditions identified throughout the LPA Statement of Case and the PINS decision reports. We appear to be in the same or even worse situation than before the Enforcement Notice was served in June 2010. We have reduced light, have now an even uglier and depressing view of 5 different roof-lines and related network of white drainpipes and guttering, no outlook or visible amenity and are totally overshadowed by the entire unauthorised development which now has the addition of a mono-pitch roof. Despite the LPA being aware that this work has been ongoing, and being totally au fait with site conditions, we have been given no protection and Mr Hussain has built again to his own agenda, building without any regard at all as to the consequences of his actions to the amenities of his adjacent neighbours.

It would appear that the unauthorised extension has progressed away from legal action whereby the Planning Department were waiting for a Hearing Date to prosecute the neighbour for non-compliance with the Enforcement Notice, to consideration being given now to an equally if not more intrusive unauthorised development than before.

We are aware of Mr Hussain's comments that he now requires the side elevation for his elderly father-in-law who is "disabled"! This is untrue, however, as the father-in-law is regularly seen walking to and fro to the shops in Kenton High Road entirely on his own and walking without any assistance.. He has also been seen supervising builders and bent down scraping weeds from between patio bricks in the rear garden, and he had no problem walking down our path to ask us to move our car when the front garden wall was being built. Being elderly does not make a person disabled. The side elevation of the extension is described by the LPA as a

Store Room area and Mr Hussain had been asked to remove it.

As can clearly be seen from the photograph below, Mr Hussain has housed his boiler in the side elevation as before. During building works the boiler was covered by a black waterproof cover for protection but it is possible to see the white flue with the black edge poking out. This is now covered by a roof but is fully functional and plumbed in. There is an opening at the rear from which plumes from the boiler can be seen spewing out. This opening was covered during your visit but removed again immediately afterwards so presumably the boiler was switched off during that time. The boiler flue has not yet been plumbed in as before but we expect any day now for it to appear over the common boundary line directly facing the "protected" window. As you saw, this rear elevation is directly in front of the "protected" window and, in Mr Hussain's own words he is fully aware that .... "the extension, immediately behind the garage and directly in front of the kitchen window at No.26 which is considered by the LPA to have the most impact; it is therefore ironic that permitted development tolerances appear to allow an extension to a height which would appear likely to cause greater harm than the existing extension...". This extension, immediately behind the garage remains now as a boiler room with a 3.5m straight height wall and retains the same harm already identified by the LPA and PINS and does not create a nice environment for us to live in - combined with the 3.5m high discordant roof line of the garage, the tight juxtaposition join of the side elevation to the garage, and the huge mono-pitch roof which overwhelms the entire area.

It can clearly be seen from the before and after photographs of the site that nothing has changed with regard to the closed-in environment created by Mr Hussains original unauthorised extension and the unauthorised alterations he has made to it.

Another concern is why has no attempt been made to amend the title of the 3 applications to 'Retention' instead of 'Modification'. Why is this being ignored, the LPA are fully aware that the existing extension has no planning permission, so the question has to be asked why is it now being treated by the LPA as though it has planning permission. The impression being given to the reader /committee members by the 3 titles of the applications is that Mr Hussain already has planning permission and merely wants to make modifications to it and has already retrospectively done so!!

With regard to your comments regarding the boiler flue i.e. "it would be a legal

matter between us and the neighbour" it can be seen from the picture that the boiler is definitely in the side elevation Store Area and it is only a matter of time before the flue appears and the following would apply:

# **Government Planning Portal:**

Part III of the Environmental Protection Act 1990 addresses statutory nuisance and clean air. It considers whether fumes or gases emitted from premises constitute "statutory nuisances". Under the Act it is the duty of every local authority to take such steps as are reasonably practicable to investigate any complaint. If is felt that a local authority have not discharged their responsibility properly in relation to a complaint under the Environmental Protection Act, it is open to the complainant to take his/her case to the Local Government Ombudsman.â€" Also, under Section 82 of the Environmental Protection Act 1990 a person can take action if affected by fumes/gases amounting to a nuisance by bringing the circumstances of the matter direct to a Magistrates' Court.â€" If it is certain that there is only one position for the boiler, a vertical extended flue may be possible. This would allow the flue products to disperse at a high level and reduce the possibility of nuisance. Note also that modern boilers are relatively small and can be fitted on internal walls, loft areas, etc with relatively small diameter extended horizontal and vertical flues, therefore other boiler positions may be possible.

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