

Report of the Director of Planning & Community Services Group

Address 41 RUSHDENE ROAD EASTCOTE

Development: Variation of condition 4 of planning permission reference 51162/APP/2009/466, dated 05-06-2009, to allow for alteration of the fenestration arrangement to the dormer window, involving increasing the glazed area from a 2-light window to a 3-light window.

LBH Ref Nos: 51162/APP/2009/1286

Drawing Nos: Location Plan at Scale 1:1250
Design and Access Statement
TSG/41RR/PRK02/PD
TSG/41RR/PRK03/ED
TSG/41RR/PRK03/PD
TSG/41RR/PRK02/E

Date Plans Received: 15/06/2009

Date(s) of Amendment(s):

Date Application Valid: 29/06/2009

1. CONSIDERATIONS

1.1 Site and Locality

The application site is situated on the east side of Rushdene Road and comprises a substantial two storey detached property with a hipped roof and front projecting gable. To the front there is a single integral garage, and the frontage has yet to be completed, but a driveway to the garage will provide adequate off street parking for this property. There is a beech tree covered by TPO No 614 situated in the front garden, set 1m back from the public footway. The property is a newly constructed infill plot in a street characterised mainly by semi-detached properties. The land in the locality is sloping with the rear gardens, on this side of the street, falling away from the properties. The dwelling is within a 'developed area' as identified in the Hillingdon Unitary Development Plan (UDP) (Saved Policies September 2007).

1.2 Proposed Scheme

The application seeks planning permission for the alteration of the existing fenestration details in the rear facing dormer. The existing two light sections would be widened to three sections. Planning permission is required for this proposal as permitted development rights were withdrawn by Condition 4 of planning permission reference 51162/APP/2009/466.

1.3 Relevant Planning History

51162/99/0399 Forming Part Of 39 Rushdene Road Eastcote Pinner
Erection of a five-bedroom detached house

Decision Date: 24-09-1999 Refused

Appeal:

51162/APP/1999/2320 Forming Part Of 39 Rushdene Road Eastcote Pinner

ERECTION OF A FIVE-BEDROOM DETACHED HOUSE

Decision Date: 07-07-2000 Approved **Appeal:**
51162/APP/2000/1899 Forming Part Of 39 Rushdene Road Eastcote Pinner
ERECTION OF A FIVE-BEDROOM DETACHED DWELLINGHOUSE

Decision Date: 02-10-2000 Refused **Appeal:**27-FEB-01 Dismissed
51162/APP/2000/620 Forming Part Of 39 Rushdene Road Eastcote Pinner

ERECTION OF A FIVE-BEDROOM HOUSE

Decision Date: 07-07-2000 Refused **Appeal:**
51162/APP/2001/852 Forming Part Of 39 Rushdene Road Eastcote Pinner

ERECTION OF A FIVE-BEDROOM DETACHED HOUSE (INVOLVING GABLE ENDS)

Decision Date: 25-07-2001 Refused **Appeal:******* Dismissed
51162/APP/2002/77 Forming Part Of 39 Rushdene Road Eastcote Pinner

ERECTION OF A FIVE-BEDROOM DETACHED DWELLING WITH INTEGRAL GARAGE

Decision Date: 27-05-2004 Refused **Appeal:**18-FEB-05 Dismissed
51162/APP/2007/2544 Forming Part Of 39 Rushdene Road Eastcote Pinner

ERECTION OF A FIVE-BEDROOM DETACHED DWELLING WITH INTEGRAL GARAGE,
MODIFICATIONS TO PLANNING PERMISSION 51162/APP/1999/2320 DATED 7TH JULY 2000
(ERECTION OF A FIVE-BEDROOM DETACHED HOUSE) (RETROSPECTIVE APPLICATION)

Decision Date: 11-03-2008 Refused **Appeal:**26-JAN-09 Dismissed
51162/APP/2007/512 Forming Part Of 39 Rushdene Road Eastcote Pinner
FIVE BEDROOMHOUSE

Decision Date: 05-11-2007 Withdrawn **Appeal:**
51162/APP/2008/425 41 Rushdene Road Eastcote
ERECTION OF A REAR CONSERVATORY (RETROSPECTIVE APPLICATION).

Decision Date: 22-04-2008 Refused **Appeal:**
51162/APP/2009/1287 41 Rushdene Road Eastcote
Single storey rear extension.

Decision Date: **Appeal:**
51162/APP/2009/1288 41 Rushdene Road Eastcote
Single storey rear extension.

Decision Date: **Appeal:**
51162/APP/2009/466 41 Rushdene Road Eastcote
ERECTION OF A FIVE BEDROOM DETACHED HOUSE WITH INTEGRAL GARAGE
(RETROSPECTIVE APPLICATION)

Decision Date: 05-06-2009 Approved **Appeal:**

51162/APP/2009/467 41 Rushdene Road Eastcote

Rear conservatory and dormer window (Application for a Certificate of Lawfulness for a existing use or operation or activity).

Decision Date: 02-04-2009 Withdrawn **Appeal:**

Comment on Planning History

There are two further applications running concurrently with this application, both relate to single storey rear extensions (although showing different roof forms) (51162/APP/2009/1287 and 1288) and are also reported on this agenda.

The application site has a complex planning history, with the most recent application resulting in a retrospective planning approval for erection of the dwelling.

However, it should be noted during the construction of the property the dormer was constructed with a 4-light window, although the planning approval showed a 2-light opening.

This unauthorised alteration to the approved scheme was considered as part of a planning appeal for the erection of the dwelling in 2009. The inspector, in his decision letter stated:

"The enlarged window in the dormer draws attention to this element and gives it significantly greater prominence and as such is over dominant rather than subservient. In addition the increased size of this window results in a greater perception of being overlooked at adjoining properties.

In his summing up the inspector concluded;

"Whilst I have found no significant harm in respect of the porch or the roof lights along the single storey side projection, I have found that in respect of the dormer and conservatory the development would have significant harm to the amenity and character of the area and to living conditions of the adjoining properties."

These comments are considered material to the determination of this current application.

2. Advertisement and Site Notice

2.1 Advertisement Expiry Date:- Not applicable

2.2 Site Notice Expiry Date:- Not applicable

3. Comments on Public Consultations

28 Neighbours were consulted, and 3 responses have been received that made the following comments:

1. We feel continually harassed by this developer;
2. We would like this matter resolved and some agreement how to prevent the constant barrage of appeals, amendments and submissions, which add to worry and stress of local residents;
3. This developer is in breach of Section 1 Article 8 of the European Human Rights Convention;
4. We appeal to all applications on these sites until the applicant realizes he would have more success of a brownfield site;
5. This dormer window has already been the subject of a previous planning appeal and

was refused due to its large size giving rise to increased sense of overlooking and it did not protect the privacy of neighbouring properties;

6. I would ask the authority refuses to determine the current applications as I think the appellant thinks he will get his own way if he continually bombards the LPA with new similar applications;

7. The rear dormer widow overlooks the garden and the surroundings of adjoining properties. It is most uncomfortable and unjust as there are roof windows to provide light.

Officer comments - It is not possible to prevent an applicant submitting an application on any given site and each application is required to be determined on its own merits. It is not considered to be a breach of human rights for a planning application to have due process.

Eastcote Residents Association

The applicant does not live in the borough but over a period of ten years has submitted twenty applications on this and another site, in Lowlands Road, all of which were refused and ten appeals have been dismissed. This building has been under construction for four years and is still not finished thus Rushdene Road resembles a slum. The residents of the area are constantly having to defend against inappropriate development and this is a waste of tax payers money and residents time.

A ward councillor has requested that the application be determined at the North Planning Committee

London Borough of Harrow - No comments received.

4. UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

Part 2 Policies:

BE13 New development must harmonise with the existing street scene.

BE15 Alterations and extensions to existing buildings

BE19 New development must improve or complement the character of the area.

BE20 Daylight and sunlight considerations.

BE21 Siting, bulk and proximity of new buildings/extensions.

BE24 Requires new development to ensure adequate levels of privacy to neighbours.

HDAS Residential Extensions

5. MAIN PLANNING ISSUES

The main considerations are design and impact upon the dwelling and wider locality and the impact upon the amenities of adjoining occupiers.

Policy BE15 of the UDP (Saved Polices 2007) requires extensions and alterations to harmonise with the scale, form, architectural composition and proportions of the original building and Policy BE24 of the UDP requires that the design of new buildings and

extensions should protect the privacy of the occupiers and their neighbours.

The adopted Supplementary Planning Document (SPD) HDAS: Residential Extensions: section 6.9 states no door or window should overlook a neighbouring property. These are therefore usually located on the rear wall. If windows are located on a side wall they should be at a high level, or non-opening below 1.8m internal finished floor level and fitted with obscure glazing. Section 7.0 in relation to Loft conversions and roof alterations states careful thought must be given to the volume, height, proportion, details and position and overall appearance of any dormer windows or other roof alterations.

It is considered that the proposed alterations would not cause any further loss of light or outlook to adjoining occupiers, as no further additions are proposed as part of this application. All the proposed habitable rooms, and those altered by the development would maintain an adequate outlook and source of natural light, and therefore this proposal would accord with Policies BE20 and BE21 of the UDP (Saved Polices, September 2007) and Policy 4A.3 of the London Plan (2008).

The proposed alteration to the dormer window would reflect the proportions and style of those used on the existing property, and therefore would comply with the advice in the SPD: Residential Extensions, which states that any new windows should reflect those of the existing house. It is considered the proposed alteration is visually in-keeping with the main dwelling, such that its character would not be unduly harmed. The proposal would therefore comply with policies BE13, BE15, and BE19 of the UDP (Saved Polices September 2007) and Supplementary Planning Document HDAS: Residential Extensions.

With regard to loss of privacy, the SPD Residential Layouts, section 4.12, states adequate distances should be maintained to any area from which overlooking may occur, as a guide, the distance should not be less than 21m between facing habitable room windows and 24m to patio areas. The properties situated to the rear of the development would be over 50m away, however, whilst the proposal may meet the recommended distances, it is also considered that each development should be considered on its own merits and therefore even if a proposal complies with design guidance it still may not be viewed as acceptable.

With regard to the fenestration of the dormer window, the property when constructed was built with a 4-light window, and the inspector in the 2009 appeal decision considered that, due to the size of the window in the dormer, a greater perception of being overlooked occurred and that the change in the internal layout and the size of the window together with the height of the dormer above ground floor level gave rise to a significantly increased sense of overlooking to adjoining properties. The area of glazing was then reduced by 50% to a 2-light window and conformed to the size of the window shown in the planning approval for the property in 2000.

This application seeks to replace the existing 2-light window with a 3-light window. It is considered that due to the height of the existing dormer and property in relation to surrounding neighbouring dwellings, any additional enlargement of the existing opening would draw further attention to it and result in a greater perception of being overlooked to adjoining properties. As such, this proposal would fail to accord with Policy BE24 of the UDP (Saved Polices September 2007) and with Supplementary Planning Document HDAS: Residential Extensions.

6. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Reason for refusal

The enlarged window size creates conditions for greater overlooking of adjoining rear gardens and a greater perception of being overlooked to the detriment of neighbouring residential amenity. The proposal is therefore contrary to policy BE24 of the Hillingdon Unitary Development Plan Saved Policies September 2007 and the adopted Supplementary Planning Document HDAS: Residential Extensions.

INFORMATIVES

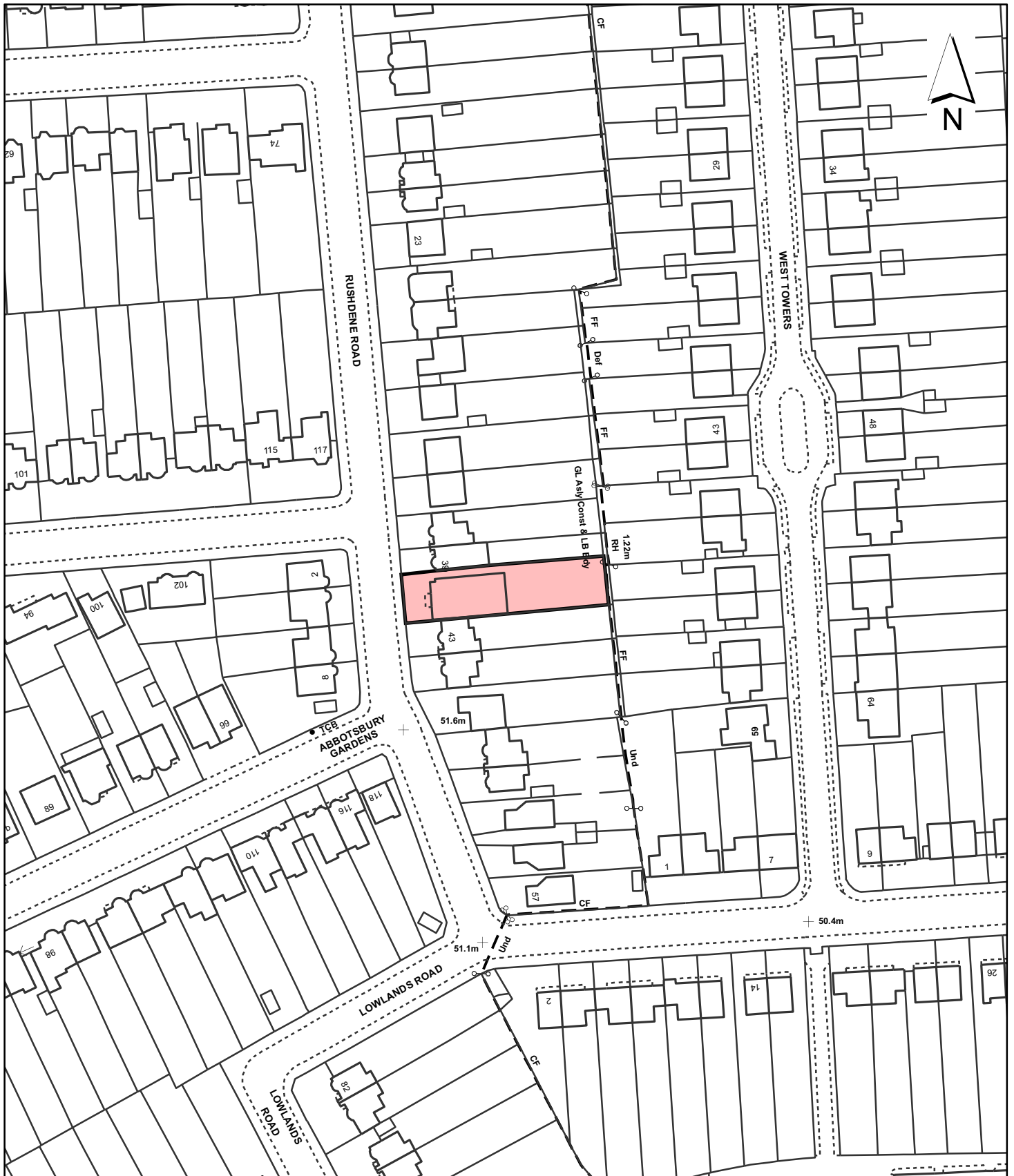
Standard Informatives

- 1 The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).
- 2 The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) set out below, and to all relevant material considerations, including Supplementary Planning Guidance:
Policy No.


BE13	New development must harmonise with the existing street scene.
BE15	Alterations and extensions to existing buildings
BE19	New development must improve or complement the character of the area.
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
HDAS	Residential Extensions

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Notes

 Site boundary

For identification purposes only.

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Site Address	
41 Rushdene Road Eastcote	
Planning Application Ref:	Scale
51162/APP/2009/1286	1:1,250
Planning Committee	Date
North	August 2009

LONDON BOROUGH OF HILLINGDON

Planning & Community Services

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