

Report of the Corporate Director of Planning & Community Services

Address 41 RUSHDENE ROAD EASTCOTE

Development: ERECTION OF A FIVE BEDROOM DETACHED HOUSE WITH INTEGRAL GARAGE (AMENDMENT TO 51162/APP/1999/2320 DATED 7TH JULY 2000 ERECTION OF A FIVE BEDROOM HOUSE) (RETROSPECTIVE APPLICATION)

LBH Ref Nos: 51162/APP/2009/466

Drawing Nos: Design and Access Statement
TSG/41RR/CF02/A
TSG/41RR/CF01
TSG/41RR/CF03
TSG/41RR/CF04
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TSG/41RR/CF10

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| Date Plans Received: | 09/03/2009 | Date(s) of Amendment(s): | 07/04/2009 |
| Date Application Valid: | 07/04/2009 | | 05/05/2009 |
| | | | 07/05/2009 |

1. SUMMARY

Retrospective planning permission is sought to erect a two storey, 5 bedroom detached house (referred to as 41 Rushdene Road), with integral garage and dormer window to the rear. The site has a complex planning history with planning permission originally being granted for a detached house in July 2000. Since this approval there have been four further submissions for a detached house on the site, all of which were refused, with three dismissed at appeal.

Work commenced on the building of a detached house on 26th May 2005, just before the expiry of the five-year period of planning permission (51162/APP/1999/2320). However, in July 2006 it was brought to the attention of the authority that the development was not being built in accordance with the approved plans.

A further application was received (51162/APP/2007/2544) which sought to regularise the house as built, and whilst the siting of the house in relation to the boundaries of the application site and its overall dimensions had been altered from the approved scheme, it was not considered to materially impact on the street scene or adjoining occupiers in terms of the Council's policies. However, this application was refused due to the size and appearance of the porch, conservatory, rooflights to the ground floor side element, window to the dormer, and side window facing no 43. An appeal was lodged (14th August 2008) against this decision, and was subsequently dismissed (26th January 2009), in relation to the rear dormer window and conservatory.

Whilst this appeal was being considered an enforcement notice was served (17th October 2008) which required the conservatory to be demolished, the side window to be

fixed shut (facing No 43), and the window in the dormer to be reduced. This notice has now been fully complied with.

Despite compliance with the enforcement notice, the dwelling as constructed does not actually have planning permission as it does not comply with the plans that were granted permission. As such, the applicant is now seeking retrospective planning permission to regularise the situation. The dwelling as it currently stands, and following the appeal decision on application reference 51162/APP/2007/2544, is not considered to impact on the street scene or the adjoining occupiers and, subject to the appropriate conditions, the application is recommended for approval.

2. RECOMMENDATION

APPROVAL subject to the following:

1 T8 Time Limit - full planning application 3 years

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

2 OM1 Development in accordance with Approved Plans

The development shall not be carried out otherwise than in strict accordance with the plans hereby approved unless consent to any variation is first obtained in writing from the Local Planning Authority.

REASON

To ensure that the external appearance of the development is satisfactory and complies with Policies BE13 and BE15 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

3 MRD4 Single Dwellings Occupation

The development hereby approved shall not be sub-divided to form additional dwelling units or used in multiple occupation without a further express permission from the Local Planning Authority.

REASON

To ensure that the premises remain as a single dwelling until such time as the Local Planning Authority may be satisfied that conversion would be in accordance with Policy H7 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

4 RPD1 No Additional Windows or Doors

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows, doors or other openings shall be constructed in any walls or roof slopes of the development hereby approved.

REASON

To prevent overlooking to adjoining properties in accordance with policy BE24 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

5 RPD2 Obscured Glazing and Non-Opening Windows (a)

The first floor and roof light window(s) facing Nos. 39 and 43 Rushdene Road shall be glazed with obscured glass and non-opening below a height of 1.8 metres taken from internal finished floor level and shall remain so for so long as the development remains in existence.

REASON

To prevent overlooking to adjoining properties in accordance with policy BE24 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

6 RPD5 Restrictions on Erection of Extensions and Outbuildings

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension to the dwellinghouse shall be erected without the grant of further specific permission from the Local Planning Authority.

REASON

So that the Local Planning Authority can ensure that any such development would not result in a significant loss of residential amenity in accordance with policy BE21 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

7 RPD9 Enlargement to Houses - Roof Additions/Alterations

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no addition to or enlargement of the roof of any dwellinghouse shall be constructed without the prior written consent of the Local Planning Authority.

REASON

To preserve the character and appearance of the development and protect the visual amenity of the area and to ensure that any additions to the roof are in accordance with policy BE15 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

8 M6 Boundary Fencing - retention

A 1.8 metre high close boarded fence or imperforate wall shall be maintained on the boundary with No 39 and 43 Rushdene Road for the full depth of the development hereby approved, and shall be permanently retained for so long as the development remains in existence.

REASON

To safeguard the privacy and amenity of neighbouring occupiers in accordance with Policy BE24 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

9 H7 Parking Arrangements (Residential)

The parking areas (including where appropriate, the marking out of parking spaces) including any garages and car ports shown on the approved plans, shall be constructed prior to the occupation of the development and thereafter be permanently retained and used for no other purpose.

REASON

To ensure that an appropriate level of car parking provision is provided on site in accordance with Policy AM14 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and Chapter 3C of the London Plan. (February 2008).

10 RCU3 Loss of Garage(s) to Living Accommodation (Not Garage

Courts
Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990, the garage(s) shall be used only for the accommodation of private motor vehicles incidental to the use of the dwellinghouse as a residence.

REASON

To ensure that adequate off-street parking to serve the development is provided and retained, in accordance with policy AM14 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

11 TL2 Trees to be retained

Trees, hedges and shrubs shown to be retained on the approved plan shall not be damaged, uprooted, felled, lopped or topped without the prior written consent of the Local Planning Authority.

If any retained tree, hedge or shrub is removed or severely damaged during construction, or is found to be seriously diseased or dying another tree, hedge or shrub shall be planted at the same place and shall be of a size and species to be agreed in writing by the Local Planning Authority and shall be planted in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier.

Where damage is less severe, a schedule of remedial works necessary to ameliorate the effect of damage by tree surgery, feeding or groundwork shall be agreed in writing with the Local Planning Authority. New planting should comply with BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs'. Remedial work should be carried out to BS 3998 (1989) 'Recommendations for Tree Work' and BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. The agreed work shall be completed in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier.

REASON

To ensure that the trees and other vegetation continue to make a valuable contribution to the amenity of the area in accordance with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and to comply with Section 197 of the Town and Country Planning Act 1990.

12 TL5 Landscaping Scheme - (full apps where details are reserved)

Within one month of the date of this permission a landscape scheme providing full details of hard and soft landscaping works has been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The scheme shall include: -

- Planting plans (at not less than a scale of 1:100),
- Written specification of planting and cultivation works to be undertaken,
- Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate,
- Implementation programme.

The scheme shall also include details of the following: -

- Proposed finishing levels or contours,
- Means of enclosure,
- Existing and proposed functional services above and below ground (e.g. drainage, power cables or communications equipment, indicating lines, manholes or associated structures).

REASON

To ensure that the proposed development will preserve and enhance the visual amenities of the locality in compliance with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

13 TL6 Landscaping Scheme - implementation

All hard and soft landscaping shall be carried out in accordance with the approved landscaping scheme and shall be completed within six months of the date of approval of the landscaping details as required by condition 12.

The new planting and landscape operations should comply with the requirements specified in BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs' and in BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. Thereafter, the areas of hard and soft landscaping shall be permanently retained.

Any tree, shrub or area of turfing or seeding shown on the approved landscaping scheme which within a period of 5 years from the completion of development dies, is removed or in the opinion of the Local Planning Authority becomes seriously damaged or diseased shall be replaced in the same place in the next planting season with another such tree, shrub or area of turfing or seeding of similar size and species unless the Local Planning Authority first gives written consent to any variation.

REASON

To ensure that the landscaped areas are laid out and retained in accordance with the approved plans in order to preserve and enhance the visual amenities of the locality in compliance with policy BE38 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

INFORMATIVES

1 I52 Compulsory Informative (1)

The decision to GRANT 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 I53 Compulsory Informative (2)

The decision to GRANT 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, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (February 2008) and national guidance

| | |
|----------|---|
| 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. |
| BE22 | Residential extensions/buildings of two or more storeys. |
| BE23 | Requires the provision of adequate amenity space. |
| BE24 | Requires new development to ensure adequate levels of privacy to neighbours. |
| BE38 | Retention of topographical and landscape features and provision of new planting and landscaping in development proposals. |
| AM7 | Consideration of traffic generated by proposed developments. |
| AM14 | New development and car parking standards. |
| HDAS | Residential Layouts Residential Extensions |
| LPP 4A.3 | London Plan Policy 4A.3 - Sustainable Design and Construction. |

3 I1 Building to Approved Drawing

You are advised this permission is based on the dimensions provided on the approved drawings as numbered above. The development hereby approved must be constructed precisely in accordance with the approved drawings. Any deviation from these drawings requires the written consent of the Local Planning Authority.

4 I2 Encroachment

You are advised that if any part of the development hereby permitted encroaches by either its roof, walls, eaves, gutters, or foundations, then a new planning application will have to be submitted. This planning permission is not valid for a development that results in any form of encroachment.

5 I3 Building Regulations - Demolition and Building Works

Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced. For further information and advice, contact - Planning & Community Services, Building Control, 3N/01 Civic Centre, Uxbridge (Telephone 01895 250804 / 805 / 808).

6 I5 Party Walls

The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:

- carry out work to an existing party wall;
- build on the boundary with a neighbouring property;
- in some circumstances, carry out groundworks within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control

Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "the Party Walls etc. Act 1996 - explanatory booklet" published by the ODPM, available free of charge from the Planning & Community Services Reception Desk, Level 3, Civic Centre, Uxbridge, UB8 1UW.

7 16 Property Rights/Rights of Light

Your attention is drawn to the fact that the planning permission does not override property rights and any ancient rights of light that may exist. This permission does not empower you to enter onto land not in your ownership without the specific consent of the owner. If you require further information or advice, you should consult a solicitor.

8 115 Control of Environmental Nuisance from Construction Work

Nuisance from demolition and construction works is subject to control under The Control of Pollution Act 1974, the Clean Air Acts and other related legislation. In particular, you should ensure that the following are complied with: -

A) Demolition and construction works should only be carried out between the hours of 08.00 hours and 18.00 hours Monday to Friday and between the hours of 08.00 hours and 13.00 hours on Saturday. No works shall be carried out on Sundays or Bank Holidays.

B) All noise generated during such works should be controlled in compliance with British Standard Code of Practice BS 5228: 1984.

C) The elimination of the release of dust or odours that could create a public health nuisance.

D) No bonfires that create dark smoke or nuisance to local residents.

You are advised to consult the Council's Environmental Protection Unit, 3S/02, Civic Centre, High Street, Uxbridge, UB8 1UW (Tel.01895 277401) or to seek prior approval under Section 61 of the Control of Pollution Act if you anticipate any difficulty in carrying out construction other than within the normal working hours set out in (A) above, and by means that would minimise disturbance to adjoining premises.

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The installation or alterations of any crossovers must be undertaken at the expense of the applicant.

3. CONSIDERATIONS

3.1 Site and Locality

The site is situated on the east side of Rushdene Road (formally land between Nos. 39 and 43) and comprises a partially completed, substantial two storey detached property with a hipped roof, front projecting gable and to the front a single integral garage. 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 dwelling is within a developed area as identified in the Hillingdon Unitary Development Plan (UDP) (Saved Policies September 2007).

3.2 Proposed Scheme

The application seeks retrospective planning permission to erect a two storey 5-bedroom detached dwelling, with additional accommodation in the roofspace, an integral single garage, rear dormer and front porch. The dwelling is 14.27m deep (not including the porch), 9.5m wide with a hipped roof, 5.3m to the eaves level and 8.6m high to the ridge height. The two storey house is inset by 1m from the boundary with no.39 and 1.5m from the boundary with no.43 at first floor and the single storey side projection (facing no 43) is inset by 0.5m. The rear dormer has a width of 3.15m, maximum depth of 3.8m and height of 2.2m.

3.3 Relevant Planning History

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

Decision: 24-09-1999 Refused

51162/APP/1999/2320 Forming Part Of 39 Rushdene Road Eastcote Pinner
ERECTION OF A FIVE-BEDROOM DETACHED HOUSE

Decision: 07-07-2000 Approved

51162/APP/2000/1899 Forming Part Of 39 Rushdene Road Eastcote Pinner
ERECTION OF A FIVE-BEDROOM DETACHED DWELLINGHOUSE

Decision: 02-10-2000 Refused **Appeal:** 27-02-2001 Dismissed

51162/APP/2000/620 Forming Part Of 39 Rushdene Road Eastcote Pinner
ERECTION OF A FIVE-BEDROOM HOUSE

Decision: 07-07-2000 Refused

51162/APP/2001/852 Forming Part Of 39 Rushdene Road Eastcote Pinner
ERECTION OF A FIVE-BEDROOM DETACHED HOUSE (INVOLVING GABLE ENDS)

Decision: 25-07-2001 Refused **Appeal:** 04-12-2001 Dismissed

51162/APP/2002/77 Forming Part Of 39 Rushdene Road Eastcote Pinner
ERECTION OF A FIVE-BEDROOM DETACHED DWELLING WITH INTEGRAL GARAGE

Decision: 27-05-2004 Refused **Appeal:** 18-02-2005 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 2001
(ERECTION OF A FIVE-BEDROOM DETACHED HOUSE) (RETROSPECTIVE APPLICATION)

Decision: 11-03-2008 Refused

Appeal: 26-01-2009 Dismissed

51162/APP/2007/512 Forming Part Of 39 Rushdene Road Eastcote Pinner
FIVE BEDROOMHOUSE

Decision: 05-11-2007 Withdrawn

51162/APP/2008/425 41 Rushdene Road Eastcote
ERECTION OF A REAR CONSERVATORY (RETROSPECTIVE APPLICATION).

Decision: 22-04-2008 Refused

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: 02-04-2009 Withdrawn

Comment on Relevant Planning History

Planning application ref 51162/APP/1999/2320 for the erection of a five bedroom detached house on the site was approved by the north committee on the 7th July 2000. This established the principle of a house on the site. The eaves were shown to be 5.4m, with a ridge height of 8.8m and incorporating a rear dormer. The dwelling was shown to be flush with the side boundary (with No 43) at ground floor and set in by 1.5m at first floor. In relation to No.39, the dwelling maintained a 1.5m gap to the boundary for its full height.

Since this approval there have been four further submissions for a detached house on the site, all of which were refused, with three dismissed at appeal:

2000/620 - Refused on the 7th July 2000 by the Planning Committee on the grounds of; overshadowing; loss of light to No 43; and over dominant and being visually obtrusive.

2000/1899 - Refused under delegated powers on the 2nd October 2000 on the grounds of; loss of sunlight to No 39 and over dominance to No 43. An appeal was subsequently dismissed, the inspector stated:

"I consider it unlikely that the mass of the property would increase the overshadowing immediately behind the house to the extent that would justify a refusal of planning permission"

This proposal extended by 5.5m beyond the rear wall of No 43, although the first floor was 1m less, and was inset from the side boundary by 1m. The inspector considered this would have an over dominant impact to No 43, however the inspector did not consider the scheme to be more cramped than the existing approved scheme.

2001/852 - Refused on the 25th February 2001 by the Planning Committee on the grounds of; cramped development in the street scene and the design of the roof would represent a

visually intrusive development. An appeal was subsequently dismissed, the inspector considered that the gable end roof would appear incongruous and unsympathetic and the development would not leave sufficient separation distances between the new house and its neighbours.

2002/77 - Refused on the 27th April 2002 by the Planning Committee on the grounds of; cramped development in relation to No 43; the size and design would result in an incongruous and visually intrusive development and the proposed garage failed to meet the Council's standards. An appeal was subsequently dismissed, the inspector considered that the design of the windows, chimney stacks and external doors when combined with the overall bulk as seen from the street and would not harmonise, compliment or improve the street scene or character of the area.

Work commenced on the building of a detached house on 26th May 2005, just before the expiry of the five-year period of planning permission (51162/APP/1999/2320). However, in July 2006 it was brought to the attention of the authority that the development was not being built in accordance with the approved plans.

A further application was received (51162/APP/2007/2544) which sought to regularise the house as built, and whilst the siting of the house in relation to the boundaries of the application site and its overall dimensions had been altered from the approved scheme, it was not considered to materially impact on the street scene or adjoining occupiers in terms of the Council's policies. However, this application was refused for the following reasons;

- > The front porch and rear conservatory by reason of their siting, size, bulk and design resulted in an overdominant form of development.
- > The rear conservatory, by reason of its overall length and depth would have a material impact on the amenities of the adjoining neighbours.
- > The excessive number of roof lights on the single storey side element would result in an incongruous form of development.
- > The enlarged window to the dormer is out of scale with the windows in the rear elevation of the existing property and would create a greater perception of overlooking of adjoining properties.
- > The side facing window (towards No 43), by reason of its full opening results in overlooking and therefore loss of privacy.

An appeal was lodged (14th August 2008) against this decision, and was subsequently dismissed (26th January 2009), on the following grounds;

- > 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
- > The conservatory is at odds with the mono pitch roof structure of the rear projection and results in an unsatisfactory and unbalanced appearance. Furthermore, due to the extent of the building in relation to No.43 together, with the extent and height of the conservatory the proposal would have an intrusive impact on the gardens of adjoining properties and as such would cause a significant loss of residential amenity.

With regard to the other issues, the inspector concluded he found no significant harm in respect of the porch or the roof lights to the side, and took the view that the side window could be dealt with by condition.

Whilst this appeal was being considered an enforcement notice was served (17th October

2008), which required the conservatory to be demolished, the side window(facing No 43) to be fixed shut and the window in the dormer to be reduced. This notice has now been complied with.

4. Planning Policies and Standards

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. |
| BE22 | Residential extensions/buildings of two or more storeys. |
| BE23 | Requires the provision of adequate amenity space. |
| BE24 | Requires new development to ensure adequate levels of privacy to neighbours. |
| BE38 | Retention of topographical and landscape features and provision of new planting and landscaping in development proposals. |
| AM7 | Consideration of traffic generated by proposed developments. |
| AM14 | New development and car parking standards. |
| HDAS | Residential Layouts Residential Extensions |
- LPP 4A.3 London Plan Policy 4A.3 - Sustainable Design and Construction.

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

28 neighbours consulted and a petition of 20 signatures and 9 responses have been received that make the following comments:

1. The overall height of the conservatory is higher than my property, the house and conservatory extends approx. 27 ft from my lounge. Even with the amended roof it will not alter the overall size of this dominant and oppressive building;
2. All my privacy has been taken away at ground level and the conservatory base is 2ft higher than

my property, overlooking my lounge/kitchen/patio and conservatory, unless this is altered it will be like living in a goldfish bowl;

3. I have had 3 years of continuous harassment from the applicant needing to access my property to complete building works. I am concerned this will continue in future to maintain his property;
4. The size of the construction will have a negative impact on the natural sunlight received on my home and surrounding garden;
5. The current application still represents an over development of the site, some of the more intrusive features have now been toned down but the conservatory is still very large and the dormer window still overlooks adjoining property;
6. The conservatory is still the same depth as the existing, and simply changing the roof line does not alter the underlying fact that it extends way beyond the rear wall of the house;
7. The previous appeal decision should be taken into account;
8. The reduction in width of the dormer window is welcomed, however, the changes to the internal layout will mean this would no longer be for a stairwell but now a habitable room, this increases the perception of overlooking of adjoining properties;
9. In the approved plans the second floor bedroom only had roof lights which did not overlook adjoining property, now the amended room layout means this room would overlook, however, this could be overcome by a condition requiring the dormer to be non opening and obscure glazed. We would therefore ask that the revised dormer is rejected, or if approved conditioned as mentioned previously;
10. The deviation from the original plans is an absolute disgrace. On the exterior every elevation varies in size, style and the numbers of windows to that approved. The roof is wider and the front porch extends in front of the building line. The whole appearance is out of keeping with the surrounding properties. Internally, all three floors have been modified, including the positions of the staircases;
11. The owner has shown a total disregard and contempt for the planning approval process;
12. Since the construction differs so greatly from the approved plans and is not too far advanced for anything other than minor alterations, I request the council orders the demolition and rebuilding to the approved plans, otherwise this will set a precedent for others to follow. However, if it is granted then permitted development rights should be removed;
13. I share a fence with the above property and I am the person directly affected by the antics of the applicant and the authority's inability to contain them. The applicant is a property developer with various properties. He has no interest in the aesthetic value of the surroundings, only to maximize his profits;
14. This monstrosity he is building, leads to overlooking of my living room, by virtue of its height;
15. There are no doors or windows in the ground floor rear elevation which suggests further alterations are planned;
16. Due to the size and number of rooms, it suggests this property will probably be converted into a multi occupancy/residential home in the near future, affecting my residential amenities;
17. The road is characterised by semi-detached houses of 3 bedrooms and a few smaller bungalows. The loss of visual amenity created by such an intrusive detached block is significant. It towers above surrounding properties, is wider, further forward, with totally unsympathetic elevations, detail, fenestration, roofline/structure and materials;
18. We all know, that if permission is granted, the first thing that would be added would be a massive conservatory, followed by a garden development;
19. Would any of you fancy living next door to this illegal development, not to mention the years of continuous noise, work, debris, dust and rubbish.
20. The Council has powers under sections 94-96 of the Town & Country Planning Act 1990 to issue a completion notice in respect of uncompleted developments. Also the Council, as billing authority for council tax, has the powers to issue a Completion Notice for Council tax purposes if the building could be completed and ready for occupation within 3 months. The Council should use one or both of these powers.

Officer comments:

Whilst the conservatory has now been removed these comments/objections are still considered to be relevant with regard to the determination and whether permitted development rights should be controlled. Points 3, 11, and 19 are not material considerations in the determination of this application. With regard to point 20 there is such a thing as completion notices but these are only justified in cases where the uncompleted development is adversely affecting the area and members would need to be convinced that this applies with Rushdene Road. Furthermore, there is no planning permission for the house as built therefore it would be difficult to enforce such a notice. The remaining points are addressed in the full report.

Eastcote Residents Association were consulted and have commented as follows:

1. The resultant building extends significantly beyond the rear elevations of the adjoining dwellings, and I note the conservatory is seen from No.43 and its garden.
2. The extent of the development and the height of the conservatory is over intrusive, causing a loss of residential amenity;
3. Although the roof shape has been altered (conservatory), the height is still the same. The significant projection of the conservatory has been built up to the level of the ground floor (of the dwelling) which gives it greater prominence;
4. It also appears that the fenestration of the rear of the building is to be changed;
5. It is considered there is very little change in the over dominance of the proposal and the application should be refused;
6. The residents have been harassed by this developer for 10 years, submitting 13 applications, and all that has been achieved is an unfinished dwelling and a street scene that resembles a slum;
7. Recently residents had to contact the skip hire company to remove a skip that had been in the front garden for about a year because it was attracting rats;
8. Building works started in June 2005, with residents subjected to constant construction work, which is still continuing, how can this be allowed?;
9. The building has not been built in accordance with the approved plans and is therefore unauthorized and does not benefit from permitted development rights;
10. As the July 2000 application has now expired, the current application should be treated as purely retrospective, without referring to the 2000 approval, and the current guidance should be used;
11. The dwelling by its height, size and bulk is detrimental to the street scene, and the closeness to No.43 is un-neighbourly and the application should be refused and action taken to remove this building;

Comments on the submitted drawings:

- a) Drawing 1 gives an incorrect position of the house in relation to the boundary with number 43 Rushdene Road. There is a small gap of a few centimetres at the front of the dwelling diminishing to no gap at all at the rear of the building;
- b) The distance from number 39 Rushdene Road is only 1 metre, the developer has removed the garage belonging to 39, and removed the side access;
- c) The height to the ridge of this dwelling is 1-2 metres higher than the adjacent buildings;
- d) The building line is at least 2 metres beyond the existing building line of the original houses;
- e) There is a very large gable over the front bedroom, whereas elsewhere in the area a hipped roof is used;
- f) Drawing 5 the ground floor plan, shows the footprint for a conservatory. This conservatory was considered unacceptable by the Planning Inspectorate, and its removal was authorised;
- g) The developer has submitted 17 pages of additional information, which appears to deal only with the amount of windows to be installed in the dormer. Originally 4 windows were installed, latterly reduced to 2 windows. The roof benefits from several roof lights. Therefore, 2 windows in the dormer which are larger than the other windows on the 1st floor should be sufficient to allow enough natural light and ventilation;
- h) There are four shower rooms and one bathroom in this house. This leads one to believe that it is not destined to be a family home, but a house of multiple occupancy.
- i) If this application should be permitted we would ask that Permitted Development Rights are

withdrawn from the site. If they are retained the developer will then erect the conservatory as shown on the ground floor plan, although no details of elevations are given. The number of windows in the dormer will be increased and a gym, open to the public, built in the garden. This has been mentioned in previous applications by the developer, Section 106 payments could also be requested as according to drawing 5 the front reception room is classed as a bedroom therefore this is a six bedroom dwelling.

Officer Comments:

Whilst the conservatory has now been removed these comments/objections are still considered to be relevant with regard to the determination and whether permitted development rights should be controlled. Point (h) is not a material consideration in the determination of this application and the remaining points are addressed in the full report.

Ward Councillor has requested that the application be referred to the North Planning Committee.

Internal Consultees

Tree/Landscape Officer

The Beech pollard at the front of the site is protected by TPO 614 and is retained on site (as required under the previous approval). There is scope for landscaping of the front garden/space. The scheme is acceptable subject to conditions TL2, TL5 and TL6.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The site is located in a developed area, wholly residential in nature. The principle of residential development is therefore acceptable subject to compliance with the policies and standards as set out in the UDP Saved Policies September 2007 and the Supplementary Planning Documents HDAS: Residential Layouts and HDAS: Residential Extensions.

The principle of the erection of a five bedroom house was established by the approval of application reference 51162/APP/1999/2320.

A further application, reference 51162/APP/2007/2544, was refused on the basis of the size, bulk and design of the porch and conservatory, the excessive number of rooflights along the single storey side element, the enlarged window area to the rear dormer, and the side facing first floor window (towards No 43). It was not refused on the principle of the development or the overall size, scale, bulk or design of the property. This refusal, thus, established that other than the elements mentioned, the remaining elements of the scheme were considered acceptable. The reasons for refusal were tested at appeal and the inspector considered no undue harm resulted from the porch or the rooflights to the side, therefore also establishing the principle of these two elements.

7.02 Density of the proposed development

The scheme would have a residential density which would not exceed the minimum requirements of the London Plan's recommended guidelines having regard to the sites Public Transport Accessibility Level (PTAL) score of 1 (which suggests a level of 150-200 hrpha, 30-50 units per hectare). Furthermore, it would be compatible with the density of the surrounding residential development and as such, the proposal is considered to comply with Policy 4B.3 of the London Plan.

7.03 Impact on archaeology/CAs/LBs or Areas of Special Character

N/A to this application

7.04 Airport safeguarding

N/A to this application

7.05 Impact on the green belt

N/A to this application

7.06 Environmental Impact

N/A to this application

7.07 Impact on the character & appearance of the area

Policy BE13 of the Adopted Hillingdon UDP (Saved Polices, September 2007) states that development will not be permitted if the layout and appearance fail to harmonise with the existing street scene, and BE19 states that the Local Planning Authority will seek to ensure that new development within residential areas compliments or improves the amenity and character of the area.

The adopted Supplementary Planning Document (SPD): New Residential Layouts: Section 3.4 states this type of development must seek to enhance the character of the area. Section 4.10 of the SPD explains careful consideration should be given to the height of new buildings and the surrounding building lines, as a general rule the front and rear building lines should be a guide for the siting of new dwellings.

The dwelling as constructed has been the subject of a retrospective application (2007/2544), this application was refused due to the size bulk and design of the porch and conservatory, the excessive number of rooflights along the single storey side element, the enlarged window area to the rear dormer, and due to the fact the side facing first floor window fully opened (towards No 43). This established the remaining elements of the scheme to be acceptable. Members also considered the changes from the approved scheme when considering the application for the retention of the dwelling under application reference 2007/2544 at the North Planning Committee Meeting of the 11th March 2008. The report to this committee commented

"The set back of the two-storey house from the street scene has not changed from the previously approved scheme. The two storey element which has been built is only 0.12m deeper and 0.15m wider than the approved scheme and the overall height of the building has been reduced by 0.5m. The siting of the house in relation to the boundaries of the application site and its overall dimensions has not therefore substantially changed from the approved scheme. Furthermore, the relationship of the built single storey side projection to No.43 is considered to represent an improvement on the approved scheme.

The flank wall of this element has now been inset by 500mm from the side boundary with this property and the gable end roof has been changed to a hipped roof. The alterations to the roof lights above the two-storey house, ground and first floor rear elevation and flank elevation facing 39 Rushdene Road are also considered to be minor alterations, which do not significantly affect the character and appearance of the house."

All of the changes explained above were considered to be acceptable by members and the application was only refused on the basis of the elements of the scheme mentioned in the above paragraph. subsequently, these reasons for refusal were tested at appeal and the inspector considered no undue harm resulted from the porch or the rooflights to the single storey side element, therefore also establishing the principle of these further two elements.

The Inspector commented:

"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."

The conservatory has now been removed from the scheme and the fenestration of the dormer window has been reduced by 50% and would now be in line with that approved in 2000. As such, it is considered that the design of the proposed dwelling would not cause undue harm to the character or visual amenities of the area and would comply with policies BE13 and BE19 of the UDP (Saved Policies September 2007) and the Supplementary Planning Document HDAS: Residential Layouts.

7.08 Impact on neighbours

With regard to the impact of the amenities on the adjoining occupiers, Sections 4.9 of the SPD: Residential Layouts, in relation to new dwellings, states all residential developments and amenity space should receive adequate daylight and sunlight, including habitable rooms and kitchens. The daylight and sunlight available to adjoining properties should be adequately protected. Where a two or more storey building abuts a property or its garden, adequate distance should be maintained to overcome possible over-domination, and 15m will be the minimum acceptable distance. This proposal would comply with this advice as the depth of the rear garden would be in excess of 28m.

The two storey house, which has been built, largely replicates the depth and relationship of the two storey development that was allowed in 2000 and does not project beyond the 45 degree line taken from the mid-point of the windows of the adjoining properties (Nos 39 and 43) at first floor level. Taking into consideration to dimensions of the approved scheme, it is considered that the bulk and mass of the development that has now been constructed has not resulted in a form of development which would have a harmful impact on the amenities of the adjoining occupiers.

With regard to the conservatory that had been constructed to the rear of the dwelling, and that was considered in the 2009 appeal decision. The inspector commented:

"The rear ground floor elevation of No 41 extends a significant amount beyond that of the ground floor elevation of No 43 and the conservatory extends some 3.7m beyond that. The resultant building extends significantly beyond the rear elevations of the adjoining dwellings and I noted that the conservatory is readily seen from the house at No 43 and more particularly the garden. I have formed the view that the extent of the development and the height of the conservatory result in an over-intrusive impact on the gardens of the adjoining property and cause a significant loss of residential amenity."

This element has been removed from the scheme under consideration and the conservatory has been demolished. As such, due to the negative impact any further additions would have to neighbouring properties it is considered that if members wish to approve the application a condition is added removing permitted development rights in relation to extensions to the proposed dwelling.

Therefore, subject to condition the proposal would comply with policies BE20 and BE21 of the UDP (Saved Policies September 2007) and the SPD HDAS: Residential Extensions.

With regard to loss of privacy, the SPD HDAS: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, the properties situated to the rear of the development would be over 50m away and it is therefore not considered that a material loss of privacy would arise.

With regard to the fenestration of the dormer window, the Inspector in the 2009 appeal decision, considered that the size of the window in the dormer led to a greater perception of being overlooked 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 of adjoining properties. This window has now been reduced in size by 50% and would conform with the size of the window shown in the development that was allowed in 2000.

In relation to the side facing windows at first floor level and those in the roof slopes, these would be either secondary windows to rooms or serve bathrooms. Therefore a condition requiring these openings to be obscure glazed and non opening below top vent is recommended to avoid any overlooking concerns. Furthermore, if an approval were considered appropriate a further condition could be attached to restrict the insertion of any additional openings to avoid any future overlooking concerns, and as such no material loss of privacy would arise. Therefore the proposal would comply with policy BE24 of the UDP (Saved Policies September 2007) and the SPD HDAS: New Residential Layouts: Section 4.12.

7.09 Living conditions for future occupiers

Section 4.7 of the SPD HDAS: Residential Layouts, states careful consideration should be given to the design of the internal layout and that satisfactory indoor living space and amenities should be provided. The proposed internal floor space for the new dwelling would be over 200m² (not including the integral garage). The SPD states the minimum amount of floor space required for a 5-bedroom three storey house would be 108m² and therefore the proposal would comply with this advice.

With regard to the size of the garden, the SDP, Section 4.15, states that a 4+ bed house should have a minimum garden space of 100m², and the development would comply with this advice, with a rear usable garden area of over 100m² for the proposed new dwelling. Therefore the proposal would comply with this advice and with Policy BE23 of the Hillingdon UDP (Saved Policies, September 2007).

7.10 Traffic impact, car/cycle parking, pedestrian safety

The internal width of the garage at 2.8m wide does not conform with the 3m width guideline, but a 2.75m wide integral garage has been previously approved in July 2000 (51162/APP/1999/2320) and was also considered acceptable by an Inspector in 2000 (51162/APP/2000/1899). Furthermore this was not raised as a reason for refusal in 2007 (51162/APP/2007/2544). As such, it is not considered that a reason for refusal could be justified on this ground.

7.11 Urban design, access and security

As above

7.12 Disabled access

Disabled access will be provided at ground floor via a level threshold and there would be a wheelchair accessible WC at ground floor. This is considered to satisfy Lifetimes Homes

standards. Therefore the proposal would comply with Policy 3A.4 of the London Plan and the Council's HDAS: 'Accessible Hillingdon'

7.13 Provision of affordable & special needs housing

N/A to this application

7.14 Trees, Landscaping and Ecology

The Council's Trees and Landscape Section raise no objection to the proposal subject to conditions TL2, TL5 and TL6 and, in tree preservation and landscape terms, the proposal complies with policy BE38 of the Hillingdon Unitary Development Plan (Saved Polices, September 2007).

7.15 Sustainable waste management

The proposal concerns a single family dwelling, hence a communal bin storage facility does not need to be provided.

7.16 Renewable energy / Sustainability

It is considered that all the proposed habitable rooms, would have an adequate outlook and source of natural light, and therefore comply with the SPD HDAS: Residential Layouts: Section 4.9 states and Policy 4A.3 of the London Plan (2008).

7.17 Flooding or Drainage Issues

N/A to this application

7.18 Noise or Air Quality Issues

N/A to this application

7.19 Comments on Public Consultations

See Section 6.1

7.20 Planning Obligations

This is a retrospective application following an appeal decision dated 26th January 2009. The current application seeks to receive a formal consent for the house as constructed. No planning obligations were requested on the previous applications and therefore it is not considered appropriate to pursue any new requests under the current scheme.

7.21 Expediency of enforcement action

n/a

7.22 Other Issues

None

8. Observations of the Borough Solicitor

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The

specific parts of the Convention relevant to planning matters are 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).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

9. Observations of the Director of Finance

As there are no S106 or enforcement issues involved, the recommendations have no financial implications for the Planning Committee or the Council. The officer recommendations are based upon planning considerations only and therefore, if agreed by the Planning Committee, they should reduce the risk of a successful challenge being made at a later stage. Hence, adopting the recommendations will reduce the possibility of unbudgeted calls upon the Council's financial resources, and the associated financial risk to the Council.

10. CONCLUSION

The proposal seeks retrospective consent for the dwelling as constructed.

Planning permission was refused under application No 51162/APP/2007/2544, which sought to regularise the house as built, and whilst the siting of the house in relation to the boundaries of the application site and its overall dimensions had been altered from the approved scheme, it was not considered to materially impact on the street scene or adjoining occupiers in terms of the Council's policies. However, this application was refused due to the size and appearance of the porch, conservatory, rooflights to the ground floor side element, window to the dormer, and side window facing no 43. An appeal was lodged (14th August 2008) against this decision, and was subsequently dismissed (26th January 2009), in relation to the rear dormer window and conservatory.

Whilst this appeal was being considered an enforcement notice was served (17th October 2008) which required the conservatory to be demolished, the side window to be fixed shut (facing No 43), and the window in the dormer to be reduced. This notice has now been fully complied with.

Despite compliance with the enforcement notice, the dwelling as constructed does not actually have planning permission as it does not comply with the plans that were granted permission. As such, the applicant is now seeking retrospective planning permission to regularise the situation. The dwelling as it currently stands, and following the appeal decision on application reference 51162/APP/2007/2544, is not considered to impact on the street scene or the adjoining occupiers and, subject to the appropriate conditions, the

application is recommended for approval.

11. Reference Documents

Hillingdon Unitary Development Plan Saved Polices September 2007

HDAS: Residential Layouts: July 2006

HDAS: Residential extensions: July 2006

HDAS: Accessible Hillingdon: July 2006

The London Plan (2008)


Appeal decision in relation to application reference 51162/APP/2007/2544

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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/2009/466 | 1:1,250 |
| Planning Committee | Date |
| North | May 2009 |

**LONDON BOROUGH
OF HILLINGDON**

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Community Services**

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