



APPEAL BY:
Mr Ryszard Sokolowski

AGAINST THE LONDON BOROUGH OF HILLINGDON COUNCIL'S REFUSAL
TO GRANT PLANNING PERMISSION FOR:

*Erection of a two storey 3-bedroom house with amenity provisions
and single off-street parking*

AT:

107 Victoria Avenue, Hillingdon, UB10 9AJ

London Borough of Hillingdon Council's Reference: 7828/APP/2022/3326

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

October 2023

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1.0 INTRODUCTION

- 1.1 This statement has been prepared by RJS Planning, on behalf of Mr Ryszard Sokolowski, in support of the appeal lodged against the refusal of planning application reference 7828/APP/2022/3326.
- 1.2 The application was dated 27th October 2022 and sought planning permission for the ‘Erection of a two storey 3-bedroom house with amenity provisions and single off-street parking’ at no. 107 Victoria Avenue in Hillingdon. The application was refused under delegated authority on 16th June 2023 for the following reasons:
1. *The proposal does not make adequate provision for the protection and long-term retention of the adjacent off-site protected Oak tree which, due to its position and associated shading and dominance of the proposed house and garden, would be likely to result in requests to fell or reduce the tree, to the detriment of the amenity and character of the area. Furthermore, the layout for the front garden fails to provide for any soft landscaping. The proposal is thus contrary to Policies DMHB 11, DMHB 12, DMHB 18 and DMH 6 of the Hillingdon Local Plan Part Two (2020).*
- 1.3 These grounds of appeal will address the central concerns raised within the council’s reasons for refusal, notably:
- Whether the proposal would make adequate provision for the protection and retention of the off-site protected Oak tree; and
 - Whether the tree due to its position, shading and dominance would like result in requests to fell or reduce the tree; and
 - Whether a failure to provide any soft landscaping in the front garden would be harmful.
- 1.4 By way of background to the site previous applications dating back to 2011 and 2012 have also proposed the construction of a two-storey, 3-bed, end of terrace dwelling. The most recent of those scheme ref 68199/APP/2012/2798 was refused for 4 reasons impact on character, TPO impacts, overlooking impacts and highway safety impacts.
- 1.5 Taking into account the previous concerns the current proposal has overcome 3 of the 4 reasons for refusal.
- 1.6 To set some context, this statement will first provide a description of the appeal site and the proposed development. This statement will then discuss the relevant national and local planning policy before responding to the council’s concerns.

2.0 THE SITE

- 2.1 The appeal site is located on the eastern side of Victoria Avenue. The site is within a predominantly residential area although it is not within a conservation area or within the curtilage of a listed building.



Aerial view of the appeal site and surrounding area

- 2.2 No. 107 is an end of terrace property with detached single storey garage. To the southern side of the site is a protected Oak tree.



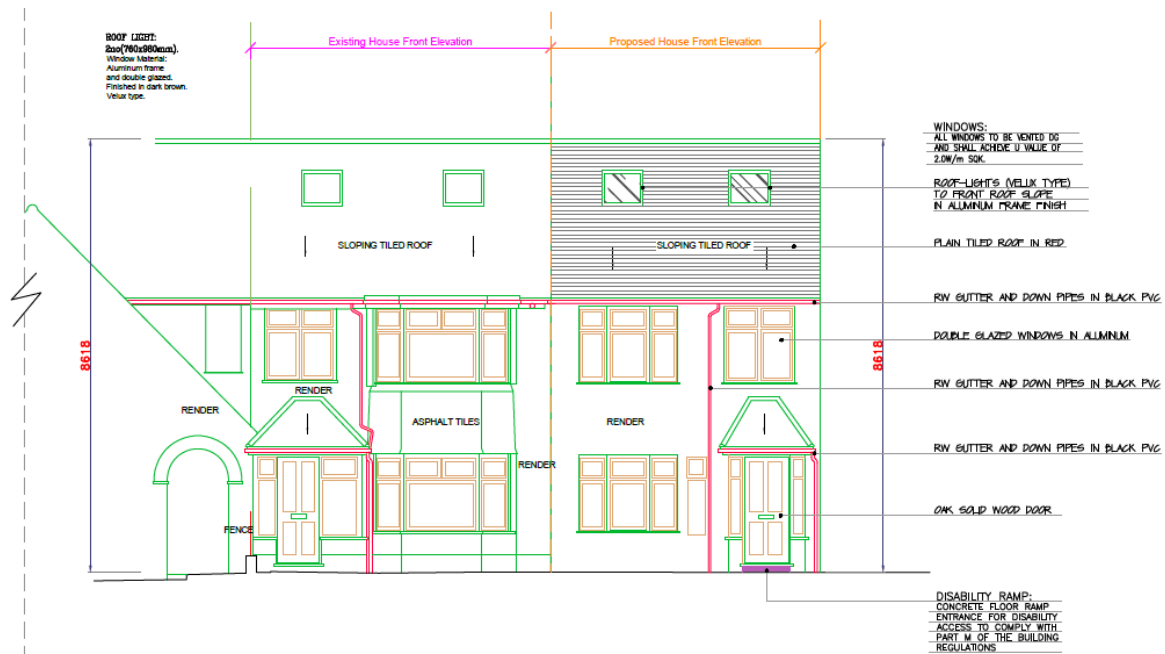
End of terrace no. 107 Victoria Avenue

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3.0 THE PROPOSED DEVELOPMENT

3.1 The appeal proposal sought planning permission for the '*Erection of a two storey, 3-bedroom house with amenity provisions and single off-street parking*' at no. 107 Victoria Avenue.



3.2 The proposed dwelling would measure 5.491m wide x 7.8m deep. The eaves and ridge line would match that of the host building with a maximum 8.618m height. The window pattern would match the existing horizontal cill and header lines in the host property, and the extension would be built in matching materials.

3.3 A flat roof dormer would be added to the rear roof slope measuring 4.4m wide x 2.6m high x 2.9m deep. The dormer would be clad in roof tiles to match the existing property. Two rooflights would be installed on the front roof slope.

3.4 The layout indicates that the development would create a 3-bedroom/4-person dwelling with an approximate 92m² GIA. The accommodation would comprise:

- Ground floor: Hallway, open plan reception/kitchen and shower room
- First floor: 2x bedrooms, family bathroom and study
- Second floor: master bedroom with ensuite shower room

3.5 Off-street parking for one car and bin storage would be positioned to the front of the house. Cycle storage would be located to the side of the proposed dwelling. A private rear garden of 127.7m² would also be available for future occupants.

4.0 RELEVANT PLANNING POLICY

4.1 The reason for refusal refers to policies DMHB 11, DMHB 12, DMHB 18 and DMH 6 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

4.2 Although not referred to within the given reasons for refusal the NPPF is also considered relevant. The following paragraphs provide a brief summary of the relevant policies. The paragraphs are in a hierarchical order relative to the importance of national and local planning policy.

National Planning Policy Framework (NPPF) 2023

4.3 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

Presumption in Favour of Sustainable Development

4.4 Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Decision-making

4.5 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way.

Delivering a sufficient supply of homes

4.6 Paragraph 60 states *"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing*

requirements are addressed and that land with permission is developed without unnecessary delay”.

Achieving well-designed places

- 4.7 Section 12 of the NPPF refers to design, with paragraph 126 describing how the Government attaches great importance to the design of the built environment, stating that *“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*
- 4.8 Paragraph 130 states that planning policies and decisions should ensure that developments:
- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
 - c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
 - d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
 - e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
 - f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

Conserving and enhancing the natural environment

- 4.9 Section 15 states planning policies and decisions should contribute to and enhance the natural and local environment.

Hillingdon Local Plan: Part Two - Development Management Policies

- 4.10 The Local Plan Part 2 Development Management Policies and Site Allocations and Designations were adopted as part of the borough's development plan at Full Council

on 16 January 2020. Policies DMHB 11, DMHB 12, DMHB 18 and DMH 6 were referred to within the given reason for refusal.

Policy DMHB 11: Design of New Development

- 4.11 All development, including extensions, alterations and new buildings will be required to be designed to the highest standards and, incorporate principles of good design.
- 4.12 Good design should include landscaping and tree planting to protect and enhance amenity, biodiversity and green infrastructure.

Policy DMHB 12: Streets and Public Realm

- 4.13 Development should be well integrated with the surrounding area and accessible. It should include landscaping treatment that is suitable for the location, serves a purpose, contributes to local green infrastructure, the appearance of the area and ease of movement through the space.

Policy DMHB 18: Private Outdoor Amenity Space

- 4.14 All new residential development and conversions will be required to provide good quality and useable private outdoor amenity space. Amenity space should be provided in accordance with the standards set out in Table 5.3.

Policy DMH 6: Garden and Backland Development

- 4.15 There is a presumption against the loss of gardens due to the need to maintain local character, amenity space and biodiversity. In exceptional cases a limited scale of backland development may be acceptable, subject to the following criteria:
- i) neighbouring residential amenity and privacy of existing homes and gardens must be maintained and unacceptable light spillage avoided;
 - ii) vehicular access or car parking should not have an adverse impact on neighbours in terms of noise or light. Access roads between dwellings and unnecessarily long access roads will not normally be acceptable;
 - iii) development on backland sites must be more intimate in mass and scale and lower than frontage properties; and
 - iv) features such as trees, shrubs and wildlife habitat must be retained or re-provided.

5.0 THE APPELLANT'S CASE

Introduction

5.1 The appellant's case will focus on the central concerns of the reasons for refusal, notably:

- a) Whether the proposal would make adequate provision for the protection and retention of the off-site protected Oak tree; and
- b) Whether the tree due to its position, shading and dominance would like result in requests to fell or reduce the tree; and
- c) Whether a failure to provide any soft landscaping in the front garden would be harmful.

5.2 The main considerations in the determination of this appeal are:

- Background
- Impact on trees and landscaping
- Impact on occupant amenity

Background

5.3 To recap, by way of background to the site previous applications dating back to 2011 and 2012 have also proposed the construction of a two-storey, 3-bed, end of terrace dwelling. The most recent of those scheme ref 68199/APP/2012/2798 was refused for 4 reasons shown below:

1. *The proposed dwelling, by reason of its position, size, scale, bulk, design and proximity to the side boundary of the site, would result in a development of cramped appearance, thus representing an overdevelopment of the site, which fails to harmonise with the existing street scene, to the detriment of the visual amenity, character and appearance of the surrounding area. As such, it is contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies BE13, BE19 and BE22 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) and to the adopted Supplementary Planning Document HDAS: Residential Layouts.*
2. *The proposal does not make adequate provision for the protection and long-term retention of the adjacent off-site protected Oak tree*

which, due to its position and associated shading and dominance of the proposed house and garden, would be likely to result in requests to fell or reduce the tree, to the detriment of the amenity and character of the area. Furthermore, the layout for the front garden fails to provide for any soft landscaping. The proposal is thus contrary to Policy BE38 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) and to the adopted Supplementary Planning Document HDAS: Residential Layouts.

3. *The proposal would fail to protect the privacy of neighbouring occupiers of Nos. 2, 3 and 4 Brighton Close, and would result in the direct overlooking of those properties and their gardens. It is thus contrary to Policy BE24 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) and to the adopted Supplementary Planning Document HDAS: Residential Layouts.*
4. *The proposed development fails to demonstrate that sufficient off street parking provision which meets the councils approved parking standards to service the proposed and existing dwellings could be provided. The development would therefore lead to additional on street parking, in an area where such parking is at a premium, and vehicle manoeuvres to the detriment of public and highway safety and is therefore contrary to Policy AM14 of the Hillingdon Local Plan: Part Two - Saved Unitary Development Plan Policies (November 2012) and to the Councils adopted car parking standards.*

5.4 Due to changes to the scheme and additional supporting information by virtue of a Parking Statement the current proposal has overcome reasons 1, 3 and 4 of the abovementioned decision.

5.5 However, as the council consider that reason for refusal no. 2 has not been addressed the following statement will seek to demonstrate that the council's concerns are unjustified.

Impact on trees and landscaping

5.6 The NPPF states that planning policies and decision should seek to conserve and enhance the natural environment.

5.7 Local Plan Part Two policies DMHB 11 (Design of New Development) and DMHB 12 (Streets and Public Realm) require development to include landscaping. Whilst policy DMHB 18 (Private Outdoor Amenity Space) requires good quality amenity space and

policy DMH 6 (Garden and Backland Development) states that features such as trees, shrubs and wildlife habitat must be retained or re-provided.

- 5.8 The council refused the development citing that the development does not make adequate provision for the protection and long-term retention of the protected Oak tree which due to its position, shading and dominance over the house and garden would likely result in requests to fell or reduce the tree.
- 5.9 The appellant asserts that he is fully aware of the value of the trees and the positive contribution the protected Oak tree makes to the character of the area. As a result, he commissioned a Tree Survey and Arboricultural Implications Assessment to ensure that trees in and around the site would be protected during the construction process. The proposed protection would ensure their future health and the layout of the property is designed so that they could be retained without increased pressure to prune.



Appeal site and protected Oak

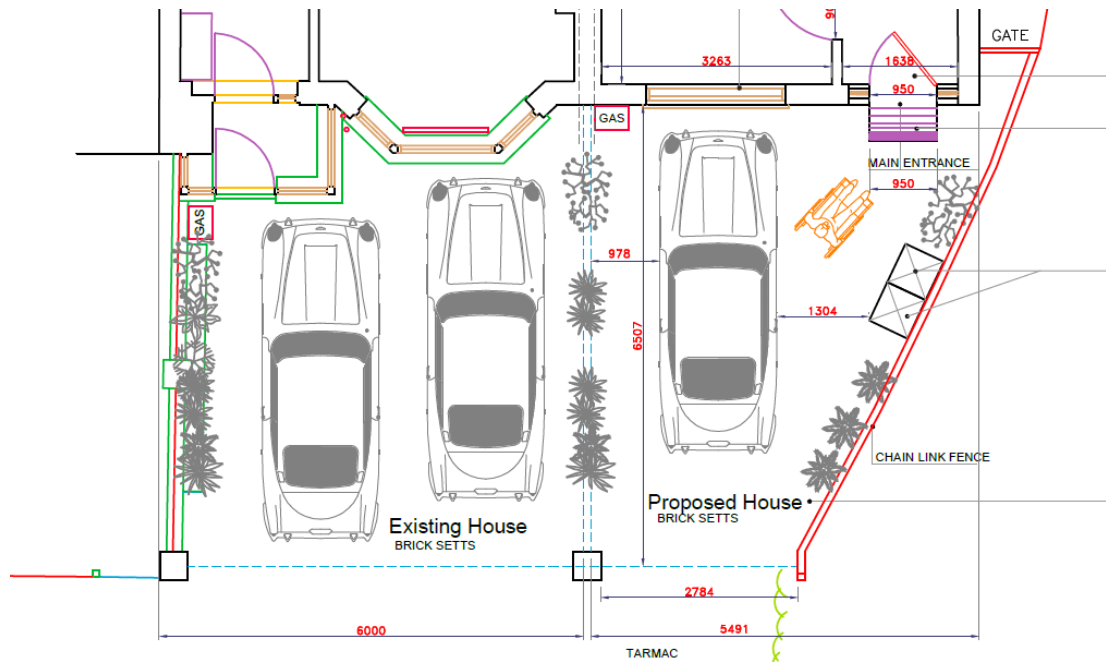
- 5.10 As highlighted within the Assessment the proposed dwelling would be built on pile/pad and beam foundations which reduces the impact on tree roots and also negates the need for excessive crown raising during the construction phase. Ground protection measures would also be utilised to protect the ground from impact where it may be subject to direct pedestrian/vehicular movements.

- 5.11 The Tree Protection Plan indicates the current crown spread and as the proposed dwelling would maintain the front and rear building lines of the original host property it would not affect or be affected by the Oak tree. Furthermore, given that the Oak is classed as over mature its crown would be unlikely to spread significantly further and therefore, in the future it should be relatively straightforward just to tip reduce any branches, subject to consent, without affecting the health, appearance or amenity value of the tree.



Appeal site

- 5.12 Therefore, if the proposal is implemented in accordance with the recommendations set out in the report, neither the Oak nor the wider landscape would be adversely affected.
- 5.13 The council also refused the development citing that the layout for the front garden fails to provide any soft landscaping.
- 5.14 In response, the appellant states that the council have clearly failed to take into account the planting shown on the Proposed Ground Floor Layout Plan and Proposed Block Plan.



Proposed layout

- 5.15 As shown in the above plan excerpt, the scheme proposes to include plants along the shared boundary between the host property and new dwelling and retain planted borders to both the northern and southern side of the front curtilage. The appellant is willing to submit details relating to the soft landscaping through a condition of approval.
- 5.16 Furthermore, the existing front garden has a large hardstanding area and as a result the development would not significantly reduce the area of soft landscaping.



Existing front curtilage of the appeal site

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- 5.17 In addition, some of the neighbouring sites have hardstandings to the front with very little soft landscaping and therefore, the appeal proposal would not appear out of place or unacceptably affect the character of the streetscene.



Streetscene character of this section of Victoria Avenue

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- 5.18 Moreover, council policy does not stipulate percentage areas for soft landscaping of front gardens and whilst policy DMH 6 (Garden and Backland Development) states that features such as trees, shrubs and wildlife habitat must be retained or re-provided the appellant considers that the level of soft landscaping proposed would be adequate in this instance.
- 5.19 However, if the Inspector considers that additional habitat features should be installed such as bird boxes the appellant would willingly also accept this as a condition of approval.
- 5.20 In summary, subject to conditions the development would be compliant with the aims of the NPPF and Local Plan: Part 2 policies DMHB 11, DMHB 12, DMHB 18 and DMH 6 which collectively seek to maintain the character of the area through the retention of trees and adequate soft landscaping.

Impact on occupant amenity

- 5.21 Paragraph 130 f) of the NPPF states that planning policies and decision should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 5.22 Local Plan: Part Two policy DMHB 18 (Private Outdoor Amenity Space) states that all new development and conversions should provide good quality and useable amenity space.
- 5.23 The council refused the scheme citing that due to the protected tree's position, and in their opinion its possible associated shading and dominance of the proposed house and garden, it would likely result in requests to fell or reduce the tree.
- 5.24 In response, the appellant states that the tree is a positive feature which benefits the visual amenities of the site and brings wildlife to the area. The existing tree does not unacceptably affect living conditions within the existing dwelling or rear garden and therefore, the appellant rejects the council's claims that the tree would have an unfavourable impact on the proposed dwelling and its garden.
- 5.25 The proposed subdivision of the site would provide a relatively large private garden area of 127.7m² to the rear of the new property.
- 5.26 Whilst the protected tree is not within the appeal site it is positioned to the southern side of the rear garden. However, the tree is not so large that it has a dominant or

overbearing impact and nor would it create an unacceptable level of shadowing to the garden of the proposed dwelling.

- 5.27 Any shadowing created by the tree would be dappled and thus provide a natural filter from the complete unobstructed, direct sunlight, providing a pleasing garden environment for future occupants.
- 5.28 As evident from the following photograph the tree's canopy is relatively narrow, and when stood to the southern end of Victoria Avenue its canopy is not visible and could certainly not be described as appearing dominant. Consequently, the appellant states that the tree would not have an unreasonable impact on the proposed dwelling and therefore, there would not be an increased pressure to prune or remove the protected Oak.



View towards the appeal site from southern end of Victoria Avenue

- 5.29 Any future pruning or removal would first require planning consent and therefore, its retention is under council control.
- 5.30 In summary, as demonstrated above the existing Oak tree would not detrimentally impact on the amenity of future occupiers. Moreover, the protected Oak tree is a positive feature that brings numerous benefits to the site including improving amenity for existing and future occupiers. Therefore, the development would comply with the aims of the NPPF and policy DMHB 18 of the Hillingdon Local Plan: Part Two: Development Management Policies (2020).

6.0 CONCLUSION

- 6.1 As demonstrated in the Tree Survey and Arboricultural Implications Assessment, the proposal makes adequate provision for the protection and long-term retention of the adjacent protected Oak tree.
- 6.2 Furthermore, due to the maturity of the tree its crown would be unlikely to spread significantly further and by reason of the design of the property the tree would not create any unacceptable shading or dominance that could be deemed harmful to amenity; as a result there would not be increased pressure to prune or remove it.
- 6.3 Moreover, the tree is a positive feature that enhances the visual amenity of the site and it would not completely block light or outlook from the dwelling creating dappled shading to just parts of the rear garden.
- 6.4 The front curtilage would also provide a suitable level of soft landscaping that would be in keeping with the prevailing character of Victoria Avenue. However, if the Inspector considers that additional mitigating habitat measures are required the appellant is willing to install bird and insect boxes.
- 6.5 Taking the above points into account the appellant asserts that the council's reason for refusal is unsound as the appeal scheme has been demonstrated to be consistent with the aims of the National Planning Policy Framework and policies DMHB 11, DMHB 12, DMHB 18 and DMH 6 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).
- 6.6 The National Planning Policy Framework (NPPF) states that decision-makers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development. The proposed development would not be contrary to national or local planning policy, and for the above reasons it is politely requested that this appeal is allowed.