



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:

Paul Anastasi

Proposal:

Change of use from Use Class E to mixed use of Class E and Sui Generis (Massage and Beauty Shop) and merging shop nos. 5-7 & 9-11 into one single unit.

Appeal Site:

5-7 Hercies Road Hillingdon

Our Ref:
Your Ref:

78371/APP/2023/3322
APP/R5510/W/24/3338978

1. Introduction

- 1.1 This appeal statement is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of the appeal against its refusal to grant planning permission.
- 1.2 The LPA refused planning permission on 16-01-24 for the following reasons (as stated on the decision notice):
 1. In the absence of detailed drawings illustrating the works required to alter the shop frontage to align with the change of operation internally, the applicant has failed to demonstrate that the proposed development would not result in significant harm upon the character and appearance of the area. The development is therefore contrary to Policies DMHB 11, DMHB 12 and DMHB 13 of the Hillingdon Local Plan : Part Two - Development Management Policies (2020)
- 1.3 The LPA's case is set out in the Planning Officer's delegated report, which should be read in conjunction with this statement. Appendix 1 contains a list of recommended conditions, should the inspector be minded allowing this appeal.
- 1.4 This statement will not repeat the delegated report and will focus on addressing matters raised in the Appellant's statement of case.

2. LPA Comments on Appellant's Statement of Case

- 2.1 Point 4.5 of the appellant's SOC references a similar case whereby the LPA did not require the submission of elevations to demonstrate the extent of works proposed to the shop front as a precedent and therefore its usual practice. Firstly, I do not consider 1 example or even a handful as a true reflection of the validation requirements of a full application. Notwithstanding this point, it is worth noting that page the Councils Validation Checklist (Appendix 2) states on page 5 under the heading Full Planning Applications, that existing and proposed elevations are a national requirement. The appellants own evidence demonstrates that the Council did at the point of validation request elevations however this was rebutted by the agent who considered that a set of elevations were not necessary. Whilst the validation checklist has been updated, the version remains as was previously adopted, it is only the date which has changed.
- 2.2 Turning to the reference to the scheme at 9-11 Hercies Road, whilst the LPA isn't required to respond to examples provided by the appellant, it will, given that the appellant will contend that weight should be afforded to it by PINS. The main concern for the Council is two-fold, does the proposal impact the character and appearance of the street and does it impact the commercial functionality of the units which could lead to occupation, vacancy issues which would then impact the character and appearance of the street scene. In the case of the appeal scheme the proposal seeks to amalgamate 4 units (or 2 double fronted units) into 1 which could significantly detract from the character and appearance of the street scene which comprises of mainly single and double fronted units. In comparison to the development approved

at 9-11 which proposed to amalgamate 2 single fronted units into 1 which is common within the street scene for the reasons mentioned above. It is for these reasons that the emphasis has been placed on the applicant to provide the information necessary to determine the application, which was requested at validation stage and rebutted.

- 2.3 Point 4.7 refers to the LPA's decision as resting upon the customer experience. Whilst this is a valid point, it only forms part of the concerns which ultimately lead to the refusal of the application. Before elaborating more on this it is key to note that the proposed floor plan (drawing ref 2023-5-7HR-PL-2) indicates that the door which serves as entry into No.11 is labelled as "Note: Door to closes at all time and not for access", now whilst difficult to understand, the LPA presume this means that the door is to remain but be closed at all times. Clearly customers, and particularly those who may use the commercial services at present may try and enter this door, to find it closed. The LPA has attempted to deploy a common-sense approach to assessment of this proposal which seeks to amalgamate 4 units both with two completely different designed shop fronts and services which they provide space for. It is interesting that the agent has referred to the Councils recent determination of the revised full application which did include elevations.
- 2.4 Setting aside the advertisements which would form part of a separate consent required should they need to be changed, it is clear from the image below that the design of the two shop fronts differs to a point where it could be confusing to potential customers that the units were indeed combined and provided the same service. It is for this reason, but not only this reason, that the LPA sought elevations which was rebutted and lead to the refusal of the planning application.



- 2.5 It was interesting to see that the agent has provided PINS with the recent decision notice for the approval of the revised application (ref: 78371/APP/2024/19) which was determined on the basis that the applicant provided elevations to demonstrate that there would be no external works to the shop front which could cause harm to the character and appearance of the street scene (this is included in the reason for refusal and cannot be disputed) and that no works to the frontage are required to maintain the functionality of the proposed amalgamation of the two double fronted units. This appears to have been provided in order to justify why the LPA's decision

was unreasonable despite the LPA attempting to obtain the plans necessary to avoid the refusal of the application and being told they were not necessary. Explaining in written form that the shop fronts would not be changed does not constitute as adequate evidence to demonstrate this which could be secured and approved within the decision notice.

- 2.6 Notwithstanding the above, if the inspector does wish to give weight to this decision, the requirement for revised plans to illustrate the actual shop front designs which were required to be sourced from the agent should also be considered as it demonstrates a lack of understanding of the site's constraints and the customer experience which adds to the vibrancy of this small shopping parade.
- 2.7 Point 4.8 and 4.9 contend that DMHB 11 and DMHB 12 are not relevant or carry little weight in the assessment of the proposal. However, it is clear that they specifically relate to a developments potential impact upon the character and appearance of the street scene, local area and the quality of the public realm. Turning to the reason for refusal which states *"In the absence of detailed drawings illustrating the works required to alter the shop frontage to align with the change of operation internally, the applicant has failed to demonstrate that the proposed development would not result in significant harm upon the character and appearance of the area"*. Furthermore, the point the concerns regarding the potential impact upon the character and appearance of the area which could be derived from the potential works to be undertaken to the shop front which apart from advertisement would constitute the need for planning consent. As set out in the rebuttal to the cost's application, the applicant was asked to submit elevations at the validation stage, this was rebutted as the agent does not consider the requirement for elevation necessary and still doesn't according to the SOC and supporting information therefore a condition would not have been agreed.
- 2.8 Point 4.12 is not agreed, the LPA sort elevations from the appellant in order to assess and potentially approve (as the LPA did with app reference 78371/APP/2024/195) and application for the amalgamation of two sets of double fronted units. The LPA's point which led formed the reason for refusal is that the appellant failed to provide satisfactory information to demonstrate that the shop frontage would remain unaltered. As such DMHB 13 is relevant as there was no evidence submitted to demonstrate that a new shop front would not be formed by undertaking works to the existing shop fronts.
- 2.9 Point 4.14 has already been addressed above but there is no breach in the NPPF. The LPA clearly sought the information which upon receipt of the revised plans eventually resulted in an approved revised application.

3. Other Matters

- 3.1 The officers delegated report and copies of the relevant planning policies (referenced in the delegated report) have been sent separately.

4. Conclusion

- 4.1 For the reasons set out in the Officers Delegated report and this statement the Inspector is respectfully requested to dismiss the appeal.
- 4.2 In the event that the Inspector considers the appeal should be allowed, and without prejudice to the Council's case, a list of recommended planning conditions is included at Appendix 1.

Appendices

Appendix 1 – The LPA's Recommended Conditions

Appendix 2 – Validation Checklist