



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:
Mr & Mrs Natt

Proposal:
Part single; part two-storey rear extension to the host dwelling (following demolition of rear extension); part single part two-storey side/rear extension to form an attached new dwelling (following demolition of side extension); raising of overall ridge height; removal of front gable to host dwelling; sub-division of site; hard and soft landscaping; boundary treatment; new vehicular crossover including alterations to the existing parking provision and refuse/cycle storage (amended description)

Appeal Site:
26 Windsor Avenue, Hillingdon, UB10 9AT

Our Ref: 75963/APP/2024/1397

Your Ref: APP/R5510/W/25/3361642

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 for: Part single; part two-storey rear extension to the host dwelling (following demolition of rear extension); part single part two-storey side/rear extension to form an attached new dwelling (following demolition of side extension); raising of overall ridge height; removal of front gable to host dwelling; sub-division of site; hard and soft landscaping; boundary treatment; new vehicular crossover including alterations to the existing parking provision and refuse/cycle storage (amended description)

Please note that this appeal statement is made in respect to Appeal Ref: APP/R5510/W/25/3361642

- 1.2 The LPA refused planning permission on 11-10-24 for the development for the following reasons (as stated on the decision notice):

1. The proposed dwellings by reason of their size, scale, siting, design and appearance in this open prominent position, would result in the loss of an important gap characteristic to the area and appear overbearing, cramped and visually intrusive within the street scene, and would harm the architectural composition of the original dwelling. The proposal would therefore represent a visually incongruous overdevelopment of the site to the detriment of the appearance of the original dwelling, the character and visual amenities of the street scene and the wider area. Therefore, the proposal is contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies DMHB 11, DMHB 12 and DMHD 1 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020), Policy D3 of the London Plan (2021) and the National Planning Policy Framework (2023).
2. The proposed new dwelling at number 26A Windsor Avenue would have an insufficient amount of Gross Internal Area which would therefore subject future occupiers to cramped internal living accommodation to the detriment of their amenities, contrary to Policy D6 of the London Plan (2021) and Policy DMHB 16 of the Hillingdon Local Plan: Part 2- Development Management Policies (2020).

- 1.3 The LPA's case is set out in the Planning Officer's Delegated Reports, which should be read in conjunction with this statement. A copy of the delegated report is provided at Appendix 1.

- 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 The Local Planning Authority (LPA) has conducted a comprehensive assessment of the application, as detailed in the Officers Report. Many of the examples cited in the appellant's Grounds of Appeal have already been addressed within the Officers Report

at the time of the application's submission. Therefore, this Statement of Case will not reiterate its content.

- 2.2 The application site has been subject to numerous refused applications, highlighting the constraints of this prominent corner plot. As noted in the appellant's Grounds of Appeal and addressed in the Officers Report, the application is a re-submission of a previously refused scheme (reference 75963/APP/2021/1243), which was subsequently dismissed by the Inspector (reference APP/R5510/W/22/3296325) on 16/08/2022. This previous refusal carries substantial weight in the decision of this application. While refusal reasons 2 and 3 have been sufficiently addressed, the design of the development has not overcome refusal reason 1.
- 2.3 In response to paragraph 2.3 of the appellant's Grounds of Appeal, the LPA contends that the appellant has placed undue emphasis on the Inspector's comment that "the appeal site is not typical of the area," while overlooking the Inspector's statement that "the site makes a positive contribution to openness and thus the character and appearance of the otherwise densely developed area." Although other corner plots in the area have been developed and infill development is present, the openness of the appeal site is a key feature within the street scene that should be preserved to maintain its character.
- 2.4 Throughout the Grounds of Appeal, the appellant refers to the site as "brownfield" land and emphasises the National Planning Policy Framework (NPPF) (2024) directive to utilise such sites to meet housing needs. The LPA disagrees with this characterisation, asserting that the appeal site is part of the garden of No.26 and should be considered garden land. Policy DMH 6 of the Local Plan (2021) states that "There is a presumption against the loss of gardens due to the need to maintain local character, amenity space, and biodiversity." Paragraph 75 of the NPPF (2024) states that "Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area." As discussed in the Officers Report and identified in refusal reason 1, the proposed development is considered to harm the character and appearance of the surrounding area.
- 2.5 The appellant has provided a set of amended drawings, including reducing the height of the proposed dwellings and modifying the internal layout to provide a satisfactory level of internal amenity. The appellant's SOC does not provide any reference to the case law which sets the bar for submitted additional information including amendments. The LPA strongly disagrees with the appellants submission of revised plans which seek to address the reasons for refusing the case, on two grounds. The first reason is that the appeal process is not the appropriate procedure to introduce a fundamental change to the proposal. Paragraph 16.3 of the Planning Appeals Procedure Guide states:
- 2.6 As per the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018), which refined the "Wheatcroft principles" set out in *Bernard Wheatcroft v Secretary of State for the Environment* (1982), two tests will be considered:
- Substantive - whether the proposed amendment(s) involves a "substantial difference" or a "fundamental change" to the application. If the Planning Inspectorate's

judgement is that the amendment(s) would result in a “different application”, then it is unlikely that the amendment could be considered as part of the appeal. It is also possible that a series of small incremental amendments to a scheme could result in a “substantial difference” or a “fundamental change”

- Procedural – whether, if accepted, the proposed amendment(s) would cause unlawful procedural unfairness to anyone involved in the appeal (i.e. since consultation is a statutory requirement at the application stage, if the scheme is amended at appeal, it may be unfair on interested parties and consultees whose views and comments were about the original proposals, not the amended proposals). The change need not be ‘substantial’ or ‘fundamental’ to require re-consultation. Even potentially beneficial changes may need to be subject to re-consultation, so that interested parties can consider whether that would be the case. The decision on whether to accept the amendment without re-consultation will be taken in the context that consultation is an important part of the planning system, the nature and extent of the changes and the potential significance to those who might be consulted.

- 2.7 In determining this planning application reference 75963/APP/2024/1397 neighbours were consulted, objections were received stating strong concerns regarding the scale, bulk and mass of the development, its subsequent impact upon the character and appearance of the area and the established pattern of development which presented a clear overdevelopment of the site.
- 2.8 The applicants request to submit revisions to address the reasons for refusal would result in a fundamentally different proposal. Furthermore, these changes should be subject to a full consultation not only due to the nature of the changes proposed but also due to the public interest in the application by those who have raised concerns with the development.
- 2.9 The site has been subject to a pre-application advice request which drew an objection, a prior application (75963/APP/2021/1243) which was subsequently refused and upheld at appeal, on the grounds of the overdevelopment of the site and its impact upon the character and appearance of the area, established pattern of development and failure to provide a layout which complied with the minimum accessible standards. As such the appellant has had ample opportunity to come forward with a revised scheme which addressed the concerns which drew an objection during the pre-application review and the previous reasons for refusal. Rather than engaging with Officers and undertaking due process the appellant seeks to use the appeal process as a mechanism for agreeing a scheme which departs from policy without a public consultation.
- 2.10 To summarise the points in response to the submission of new information, the changes are clearly substantial to the assessment and determination of the application which was refused. They present a different scheme to what was submitted, consulted upon and determined to which a full statutory, internal and importantly public re-consultation would have been issued if submitted with the planning application. As such the LPA consider that the additional information would fail to comply with the Wheatcroft principles. As such the LPA respectfully requests PINS to deny the submission of this additional information.

- 2.11 In response to paragraph 6.4 of the appellant's Grounds of Appeal, the appellant refers to the previously dismissed appeal (APP/R5510/W/22/3296325) and states that the current form is considered out of character with the character and appearance along Windsor Avenue and Victoria Avenue. The LPA disagrees with this statement, noting that No.26 and No.28 Windsor Avenue are prominent detached properties located on corner plots with spacious plots to the side. These properties are focal points within the street. While other corner plots have been developed, these two sites are important characteristics of the street scene that should be protected from overdevelopment.
- 2.12 Paragraphs 6.4 – 6.10 of the appellant's Grounds of Appeal provide examples of "similar" corner plot development. These have been sufficiently covered within the Officers Report. Similar refused schemes at No. 2 Windsor Avenue are also mentioned which provides further justification over the LPA's decision.
- 2.13 Furthermore, the appellant fails to provide any reference to the application at 104 Windsor Avenue or 1 Sedgwick Avenue which is located a road away from Windsor Avenue, within the site context. There are other examples of refused applications for back land / garden land development within this area which could be used to counter the appellants examples, but these relate specifically to corner plots and have been conveniently left out of the appellants SOC.
- 2.14 The application at 104 Windsor Avenue (4516/APP/2022/2283) is extremely relevant, the site bares a distinctly similar character, the application was for the same development (a house on the end of an existing dwelling to the side of the plot to provide new residential accommodation), the application was subsequently refused and upheld at appeal under reference APP/R5510/W/23/3318219. A copy of the drawings, decision notice, delegated report and PINS decision letter is included within Appendix 3.
- 2.15 The application at 1 Sedgwick Avenue (18794/APP/2023/1934) is important to consider in this appeal case as the officer report explains the importance of reviewing the character and appearance of the street scene including examples of poor development to ensure that future decisions do not contribute to the degradation of the character and appearance any further. In this case the applicant relied upon the redevelopment of the corner plot opposite (No.2) to provide a new attached dwelling house as justification for the redevelopment of the application property. However, Officers concluded that this was not reasonable grounds for approving a development given that the proposal remained a departure from the prevailing character and appearance and established pattern of development. Moreover, the example presented as justification was clearly an example of poor development which contributed poorly to the character and appearance of the street scene. A copy of the delegated report, planning drawings and decision notice have been included in Appendix 4.
- 2.16 To summarise the LPA's points on the presentation the appellant makes in appendix A, examples existing of similar proposals on distinctly similar sites where not only has the LPA refused the application but also been successful in defending an appeal. The appellant conveniently leaves these out and has failed to present the facts in order to suit their narrative. The examples provided cannot be considered as making a valued contribution to the character and appearance of the streetscene and there is a clear example on a neighbouring road where the LPA has refused an application for the

redevelopment of a corner plot to provide new residential accommodation, on this basis.

2.17 In response to paragraphs 6.15-6.19 of the appellant's Grounds of Appeal, refusal reason two relating to the internal amenity space of the dwelling was justified. The internal layout had been revised from the previously refused scheme, and an additional refusal reason was identified as the dwelling would be classified as a 3-bed, 5-person unit with undersized living accommodation. The appellant has provided revised drawings within their submission, where the new dwelling would be a 3-bed, 4-person unit with an adequate Gross Internal Area (GIA) to satisfy Policy D6 of the London Plan (2021). These drawings were not presented at the time the original application was submitted, and thus refusal reason 2 was valid.

2.18 In response to paragraph 7.0-7.2, the highway concerns did not form a refusal reason and as such no further comment is made.

2.19 The other points raised with the appellants SOC have been sufficiently covered within the Officers Delegated Report.

3. Conclusion

3.1 For the reasons set out in the Officers Delegated Report and this statement the Inspector is respectfully requested to dismiss the appeal.

3.2 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 2.

Appendices

Appendix 1 – Planning Officer's Delegated Report

Appendix 2 – The LPA's Recommended Conditions and List of Relevant Planning Policies

Appendix 3 – Copy of the drawings, decision notice, delegated report and PINS decision letter associated with 104 Windsor Avenue

Appendix 4 – A copy of the delegated report, planning drawings and decision notice associated with 1 Sedgwick Avenue