



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:
Betty Ackland

Proposal:
Demolition of existing house and garage and construction of a block of five purpose-built apartments

Appeal Site:
32 Kingsend, Ruislip, Middlesex, HA4 7DA

Our Ref:
Your Ref:

9894/APP/2023/3569
APP/R5510/W/25/3362372

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 the demolition of existing house and garage and construction of a block of five purpose-built apartments.

1.2 The LPA refused planning permission on 30th September 2024 for the following reasons (as stated on the decision notice):

1 The proposal will result in more than 10% of properties on Kingsend consisting of flatted developments with adverse implications for the character of the streetscene and neighbour impacts, contrary to Policy DMH 4 of the Hillingdon Local Plan (Part 2) 2020.

2 The proposed development, by virtue of its failure to provide an adequate provision of private external amenity space, would have a harmful effect on the living conditions of future occupants. The development would therefore be contrary to Policies DMHB 16 and DMHB 18 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020), Policy D6 of the London Plan (2021) and Paragraph 135f) of the National Planning Policy Framework (2023).

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. A copy of the delegated report and copies of relevant planning policies are provided separately.

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 Within their statement of case the appellant has raised the following summarised points:

- A double standard bias against intensification of housing density
- [Local Policy DMH 4] conflicts with the London Plan and the NPPF
- The improper interpretation of the policy
- Inconsistent and improper application of the policy, without sufficient justification.
- With openable rear patio doors, the proposed redevelopment is fully compliant with all relevant local, regional and national policy relating to outdoor amenity space.

2.2 Officers have reviewed the appellants SOC, it mostly contains references to policies and quotes from the officer report. The Inspector will be provided with copies of both the Development Plan Policies and the Officer Report, in fact it forms part of the evidence submitted by the appellant in part. The LPA's SOC will not regurgitate the policy references or section of the Office Report but instead will respond directly to the points raised which are not covered in detail with the evidence already before the inspector.

Principle of development

2.3 The appellant in their statement of case appears to be aggrieved by the relevance of Policy DMH 4 of the Local Plan to the appeal proposal. The policy is part of the current development plan and is relevant to the appeal proposal as it relates directly to the description of development being proposed. The appellants opinion that the policy contributes to a double standard bias against this form of development is irrelevant and fails to recognise the aim of the policy, which is to control the loss of family accommodation by limiting the number of residential conversions and the size of the original residential units from which conversions are achieved.

2.4 Point 4.2.1.3 of the Appellants SOC, states "Local Policy DMH 4 is only applied to flatted developments, it is not applied to any other type of development." (officers' emphasis) Clearly the appeal scheme proposes a flatted development therefore the appellant themselves inadvertently admits that the policy is relevant.

2.5 The appellant in their statement of case provide commentary regarding the Council's housing delivery and that the development should be supported as it makes effective use of land. It should be noted that the Council is currently able to demonstrate a five-year supply of deliverable housing sites. As such, the "tilted balance" as set out in Paragraph 11d) of the Framework is not engaged. Therefore, as detailed in the case officer's report, the principle of development is considered to be unacceptable.

2.6 Whilst the appellant considers the policy to represent an 'artificial barrier to the effective use of 'previously-developed or 'brownfield' land", the current local plan is not out-of-date and the policy was, through its adoption in 2020, determined by the planning inspectorate to be sound and not in conflict with the framework or the London plan. The Council strongly disagree with the appellant's suggestion that the application of the policy in the determination process would be unlawful.

- 2.7 Moreover, the proposal would result in a building which would occupy part of the existing garden space. Gardens are deliberately excluded from the definition of previously developed land due to the considerable contribution they make towards the provision of good standards of living accommodation and therefore safeguards them from potential overdevelopment. As the proposal would result in some loss of garden space the proposal in the round cannot be considered as an optimisation of previously developed or brownfield land which is what the development plan provides support for.
- 2.8 The appellant in their statement of case suggests that the total number of redeveloped properties on Kingsend totals 8.45% and for this reason and considers that the policy has been incorrectly applied. The appellant does not however acknowledge that there are not 71 properties on Kingsend which overcounts the number of properties used in their own calculation.
- 2.9 The case officer's report for the current appeal proposal identifies 8 out of 68 properties on Kingsend have been redeveloped to flats. The quoted figure in the case officer's report for the current appeal proposal should read a total of 67 properties on Kingsend.
- 2.10 The committee report for application ref: 63221/APP/2012/878 which proposed the conversion of 2no dwellings at Nos. 16 and 18 to flats, identified 7 properties that were already redeveloped to flats. The report quotes the number of approved redevelopments would rise to 13.4% (i.e. the total would be 9 out of 67 properties on Kingsend) in the event of permission being approved. The 2012 application was refused by the LPA however allowed on appeal under PINS Ref: APP/R5510/A/13/2197430.
- 2.11 To clarify, as no further dwellings on Kingsend have been redeveloped to flats since this appeal decision and the implementation of the 2012 appeal proposal at Nos. 16 and 18, based upon the above calculation, the appeal proposal would then bring the number of redeveloped properties on Kingsend to 14.9%.
- 2.12 Therefore in light of the above, it is evident that the appeal proposal would contribute to a significant proliferation of flatted developments on Kingsend, far exceeding the Policy limit of no more than 10%, which results in adverse implications for the character of the streetscene.

Private amenity space

- 2.13 The quantum of potential amenity space is acknowledged in the officer's report and is not disputed. The floorplans submitted however do not indicate any opening doors that lead out to space which demonstrates that the potential amenity space to the rear is not readily accessible to occupants.
- 2.14 Whilst the appellant dismisses the reason for refusal as being simply due to the submitted erroneous drawings that fail to show door arcs, the onus is on the appellant to provide accurate drawings for the purposes of the application. The appellant has suggested the submission of revised plans showing the rear doors on the proposed ground floor plan could be covered by condition. It is considered that the arrangement would be unacceptable for the reasons set out below.

2.15 The appellant in their statement of case suggests that access could be provided to the rear amenity space through the two pairs of rear doors however this would only provide direct access to the rear of the site by occupants of the two ground floor flats. Other than having to walk round the side of the building from the front entrance, no access would be afforded to the occupants of the other three flats which results in substandard living conditions.

3. Conclusion

- 3.1 For the reasons set out in the delegated report and this statement, the appeal proposal would result in more than 10% of properties on Kingsend consisting of flatted developments with adverse implications for the character of the streetscene and fail to provide an adequate provision of private external amenity space resulting in a harmful effect on the living conditions of future occupants.
- 3.2 The Inspector is therefore respectfully requested to dismiss the appeal.
- 3.3 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 (overleaf).

Appendix 1 – The LPA’s Recommended Conditions

For the reasons set out in this appeal statement, the decision notice and the case officers’ delegated report, the Inspector is respectfully requested to dismiss the appeal.

In the event that the Inspector is minded to allow the appeal, the Council ask that the following conditions be considered for inclusion on any planning permission:

1 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 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted drawing numbers 32K, A101, A102, A103, A105 and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions of the Local Plan: Part Two – Development Management Policies (2020) and the London Plan (2021).

3. Notwithstanding the approved plans, no development shall take place until details of all materials and external surfaces, including details of windows and doors have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details and be retained as such. Details should include information relating to make, product/type, colour and photographs/images.

REASON

To ensure that the development presents a satisfactory appearance in accordance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

4. Notwithstanding the approved plans, no development shall take place until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: -

1. Details of Soft Landscaping:

1.a Planting plans (at not less than a scale of 1:100);

1.b Written specification of planting and cultivation works to be undertaken; and

1.c Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate.

1.d Biodiversity enhancements

2. Details of Hard Landscaping:

2.a Refuse Storage;

2.b Cycle Storage;

2.c Means of enclosure/boundary treatments;

2.d Hard Surfacing Materials;

2.e External Lighting.

3. Details of Landscape Maintenance:

3.a Landscape Maintenance Schedule for a minimum period of 5 years;

3b Proposals for the replacement of any tree, shrub, or area of surfacing/seeding within the landscaping scheme which dies or in the opinion of the Local Planning Authority becomes seriously damaged or diseased.

4. Schedule for Implementation

Thereafter the development shall be carried out and maintained in full accordance with the approved details.

REASON

To ensure that the proposed development will preserve and enhance the visual amenities of the locality and provide adequate facilities in compliance with policies DMHB 11, DMHB 12, DMHB 14, DMEI 1 and DMT 2 of the Hillingdon Local Plan Part 2 (2020) and Policy G5 of the London Plan (2021).

5. The development hereby approved shall ensure that step free access via the principal private entrance, and all other points of entry and exit, is achieved and maintained for the life of the building.

REASON

To ensure that an appropriate standard of housing stock, in accordance with the 2021 London Plan policy D7 is achieved and maintained.

6. The ground floor dwellings hereby approved shall accord with the requirements of Policy D7 of the London Plan and shall not be occupied until certification of compliance with the technical specifications for an M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010) 2015, has been submitted to, and approved in writing, by the Local Planning Authority. All such provisions must remain in place for the life of the building.

REASON

To ensure that an appropriate standard of housing stock, in accordance with the 2021 London Plan policy D7 is achieved and maintained.

7. Prior to development commencing, the applicant shall submit a construction management plan to the Local Planning Authority for its approval. The plan shall detail:

- i) The hours during which development works will occur;
- ii) Measures to prevent mud and dirt tracking onto footways and adjoining roads;
- iii) Traffic management and access arrangements (vehicular and pedestrian) and parking provisions for contractors during the development;
- iv) Measures to reduce the impact of the development on local air quality and dust through minimising emissions throughout the construction process.

The approved details shall be implemented and maintained throughout the duration of the construction process.

REASON

To ensure that the construction of the development does not result in significant impacts upon the local highway network in accordance with Policies DMT 1 and DMT 2 of the

Hillingdon Local Plan: Part Two - Development Management Policies (2020) and T4 of the London Plan (2021).

8. No development approved by this permission shall be commenced until a scheme for the provision of sustainable water management has been submitted to and approved in writing by the Local Planning Authority. The scheme shall clearly demonstrate that sustainable drainage systems (SUDS) have been incorporated into the designs of the development in accordance with the hierarchy set out in accordance with Policy SI 13 of the London Plan (2021) and will:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and
- iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall also demonstrate the use of methods to minimise the use of potable water through water collection, reuse and recycling and will:

- a) provide details of water collection facilities to capture excess rainwater; and
- b) provide details of how rain and grey water will be recycled and reused in the development.

Thereafter the development shall be implemented and retained/maintained in accordance with these details for as long as the development remains in existence.

REASON

To ensure the development does not increase the risk of flooding in accordance with Policy DMEI 10 of the Hillingdon Local Plan Part 2 (2020) and Policy SI 13 of the London Plan (2021).

9. Prior to the commencement of development, a scheme shall be submitted to the Local Planning Authority for approval in writing, which sets out details of sound insulation and/or other appropriate mitigation measures to ensure the proposed flats future occupants enjoy a residential environment which provides satisfactory insulation from traffic noise. Thereafter, the development shall only be carried out in accordance with the agreed details and retained/maintained as such.

REASON

To ensure an appropriate level of residential amenity for future occupiers of the development in accordance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

10. Prior to the commencement of the development hereby permitted, details of the existing and proposed ground levels of the site and the proposed finished floor levels of the development shall be submitted to the Local Planning Authority for approval in writing. Thereafter, the development shall only be carried out in accordance with the approved details.

REASON

To ensure that the development presents a satisfactory appearance in accordance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England)Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additional windows, doors or other openings shall be constructed in the walls or roof slopes of the development hereby approved.

REASON

To prevent overlooking to adjoining properties in accordance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

12 Trees, hedges and shrubs shown to be retained on the approved plan(s) 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 (or after) construction, or is found to be seriously diseased or dying, another tree, hedge or shrub shall be planted at the same place or, if planting in the same place would leave the new tree, hedge or shrub susceptible to disease, then the planting should be in a position to be first agreed in writing with the Local Planning Authority 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 3998:2010 'Tree work - Recommendations' 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 DMHB 14 of the Hillingdon Local Plan Part 2 (2020) and to comply with Section 197 of the Town and Country Planning Act 1990.

13 The development shall be carried out in strict accordance with the approved Tree Protection Plan, Rev C Dec 2022, GHA Trees.

REASON

To ensure that trees and other vegetation can and will be retained on site and not damaged during construction work and to ensure that the development conforms with Policy DMHB 14 of the Hillingdon Local Plan Part 2 (2020)

14 The development hereby approved shall be carried out strictly in accordance with the recommendations contained within the approved Preliminary Ecological Appraisal and Potential Roost A Full Bat Survey, September 2022, Ecoline and Badger Survey, Report Number: ASW/BGA/146/26/2023 March 2023, ASW Ecology Ltd.

REASON

In order to encourage a wide diversity of wildlife on the existing semi-natural habitat of the site in accordance with Policy DMEI 7 of the Hillingdon Local Plan Part 2 (2020) and Policy G5 of the London Plan (2021)

15 The dwelling(s) shall achieve 'Secured by Design' accreditation awarded by the Hillingdon Metropolitan Police Crime Prevention Design Adviser (CPDA) on behalf of the Association of Chief Police Officers (ACPO). No dwelling shall be occupied until accreditation has been achieved.

REASON

In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in excising its planning functions; to promote the well being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000, to ensure the development provides a safe and secure environment in accordance with Policy DMHB 15 of the Local Plan Part 2 (2020) and Policy D12 of the London Plan (2021).

16 The development hereby approved shall not be occupied until it has achieved an energy efficiency standard of a minimum of 10% CO2 improvement over Building Regulations requirement Part L 2013 (TER Baseline).

REASON

In the interest of energy conservation and to comply with Policy DMEI 2 of the Hillingdon Local Plan: Part 2 - Development Management Policies (2020).

INFORMATIVES

1 Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development is liable to pay the London Borough of Hillingdon Community Infrastructure Levy (CIL) and the Mayor of London's Community Infrastructure Levy (CIL). This will be calculated in accordance with the London Borough of Hillingdon CIL Charging Schedule 2014 and the Mayor of London's CIL Charging Schedule 2012. Before commencement of works the development parties must notify the London Borough of Hillingdon of the commencement date for the construction works (by submitting a Commencement Notice) and assume liability to pay CIL (by submitting an Assumption of Liability Notice) to the Council at planning@hillington.gov.uk. The Council will then issue a Demand Notice setting out the date and the amount of CIL that is payable. Failure to submit a valid Assumption of Liability Notice and Commencement Notice prior to commencement of the development may result in surcharges being imposed. The above forms can be found on the planning portal at:

www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

Pre-Commencement Conditions: These conditions are important from a CIL liability perspective as a scheme will not become CIL liable until all of the pre-commencement conditions have been discharged/complied with.