



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:

Michael Oakes Architects Ltd.

Proposal:

Demolition of existing bungalow and erection of 1x 3 bedroom two-storey dwellinghouses and 2x 1 bedroom two-storey dwellinghouses, with associated landscaping and parking provision.

Appeal Site:

1 Alpha Road, Uxbridge, UB10 0QP

Our Ref:
Your Ref:

41903/APP/2024/2570
APP/R5510/W/25/3363649

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 bungalow and erection of 1x 3 bedroom two-storey dwellinghouses and 2x 1 bedroom two-storey dwellinghouses, with associated landscaping and parking provision.

1.2 The LPA refused planning permission on 27th November 2024 for the following reasons (as stated on the decision notice):

1 The development, by reason of its height, siting, massing and design, would be incongruous, visually prominent and harmful to the character and appearance of the area and the visual amenities of the street scene. As such the proposed development is contrary to Policy BE1 of the Hillingdon Local Plan Part 1 - Strategic Policies (2012), Policies DMHB 11 and DMHB 12 of the Hillingdon Local Plan Part 2 - Development Management Policies (2020), Policy D3 of the London Plan (2021) and Paragraph 135 of the National Planning Policy Framework (2023).

2 The proposed layout fails to demonstrate that it would be designed and constructed as an accessible and adaptable dwelling in accordance with M4(2) technical specifications as set out in Approved Document M to the Building Regulations (2015 edition). As such the proposed development is contrary to Policy D7 of the London Plan (2021).

3 The proposed layout in terms of the lack of policy compliant floor to ceiling heights, inadequate outlook and amenity and insufficient information relating to daylight and sunlight levels within the proposed units, would result in inadequate living conditions for the future occupiers of this development. As such the proposed development is contrary to Policies DMHB 11 and DMHB 16 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020), Policy D6 of the London Plan (2021) and Paragraph 135 of the National Planning Policy Framework (2023).

4 The applicant has failed to demonstrate that the development is air quality neutral and that the harm and demands created by the proposed development in respect of air quality can be mitigated. As such the proposed development is contrary to Policy EM8 of the Hillingdon Local Plan: Part 1 (2012), Policy DMEI 14 of the Hillingdon Local Plan: Part 2 (2020) and Policy SI1 of the London Plan (2021).

5 In the absence of satisfactory biodiversity net gain information, it has not been demonstrated that the proposal would deliver at least a 10% increase in biodiversity value relative to the predevelopment biodiversity value of the onsite habitat. As the proposed development fails to provide an appropriate biodiversity net gain, it is contrary to Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021), Policy G6 of the London Plan (2021), Policy EM7 of the Hillingdon Local Plan Part 1 - Strategic Policies (2012) and Policy DMEI 7 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 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 in response to the reasons for refusal, which are discussed in turn below.

Character and appearance

- 2.2 Reason for refusal 1 states – ‘The development, by reason of its height, siting, massing and design, would be incongruous, visually prominent and harmful to the character and appearance of the area and the visual amenities of the street scene’.
- 2.3 In response to this reason for refusal, the commentary in the appellants grounds of appeal provides general disagreement to what the appellant describes as a subjective judgement. The appellants grounds of appeal however rests primarily on the agents own subjective opinion. Please refer to the case officer's report for an assessment of the impact of the appeal proposal on the character and appearance of the area.
- 2.4 The appellants statement of case utilises drawings and photographs taken from carefully selected angles to present a distorted view of the development which wouldn't reflect how the development would be viewed from the street. This is not considered to be an appropriate basis for any assessment.
- 2.5 The imagery in the appellants statement of case includes photographs of nearby properties that comprise grey (not blue) slates and nearby properties that comprise gable ends on both sides. The photographic examples of nearby properties included within the appellants statement of case are not reflective of the appearance of the appeal proposal and clearly emphasise the incongruity of the appeal proposal within the wider street scene.
- 2.6 The LPA consider that the appellants grounds of appeal fails to address the reason for refusal.

Accessibility

- 2.7 As covered in the case officer's report, the Access officer considered that ‘Revised plans which demonstrate that the prescribed standards referred to above can be successfully incorporated should be reviewed as a prerequisite to any approval’ (section 5 refers). As the development was found to be unacceptable during the application process, revised plans were not sought to address the matter.
- 2.8 Revised plans have not been submitted to address the reason for refusal. The amendments to the floor plans could result in material changes to the scheme, which would require reconsultation with the access officer and further consideration of the impact on living conditions. As such, a condition would fail the relevant tests.
- 2.9 This matter is therefore considered to remain unresolved.

Living conditions

- 2.10 The appellants suggestion that a daylight and sunlight assessment could be provided post-decision would fail the relevant tests. An assessment of the living conditions of future occupants post-decision would be wholly inappropriate and points to a lack of care regarding the living conditions of future occupants and compliance with relevant standards.
- 2.11 As per paragraph 3.6.2 of the London plan – ‘The space standards are minimums which applicants are encouraged to exceed. The standards apply to all new self-contained dwellings’. A section drawing has been appended to the appellants statement of case demonstrating compliance with the 2.5metre London Plan standard.
- 2.12 Whilst the floor to ceiling standard may be achievable, the other matters concerning daylight and sunlight, outlook and amenity (including the overlooking of rear garden areas of the proposed units from the angled windows) have not been addressed.
- 2.13 The reason for refusal has therefore not been overcome.

Air quality

- 2.14 As covered in the case officer’s report, the site lies within the Hillingdon Air Quality Management Area (AQMA) and Uxbridge Road Air Quality Focus Area. No air quality assessment has been provided that demonstrates that the development would be air quality neutral.
- 2.15 The appellant suggests that the existing 3bedroom dwelling is served by parking for 4no vehicles. This level of provision would far exceed current parking standards and goes against current fundamental planning aims of reducing car reliance and improving air quality. It is also highlighted that whilst there may be space within the existing front drive to accommodate more than 1-2 vehicles, a single family dwelling is unlikely to generate such a level of vehicle movements that would require parking provision beyond the adopted car parking standards.
- 2.16 An assessment of transport emissions associated with the development on the basis of adopted car parking standards would suggest a significant uplift in transport movements. Under Local plan standards, the existing dwelling would require a maximum of 2no parking spaces. The London plan parking standards are less than the local plan and up to 1 space per 3+ bed dwelling would be required. Taking a baseline of 1.5no parking spaces versus the 4no parking spaces proposed, it is evident that there would be a worsening of air quality which is what the London Plan guidance seeks to avoid.
- 2.17 The appellant suggests that the appeal proposal qualifies as ‘excluded development’ which the LPA disagrees with. The appellants statement of case also proposes a suggested condition for the pv panels, air source heat pumps and electric vehicle charging points to be installed and tested by a building inspector. Whilst these carbon reduction measures are supported, they do not directly address the air quality impacts. This suggested condition is therefore not wholly relevant to addressing the matter and does not suitably overcome the reason for refusal.

2.18 No information has been provided with regards to the construction and transport emissions that would be associated with the appeal proposal. It is also highlighted that should an air quality assessment determine that an air quality contribution would be required, such a contribution would require calculation using the GLAs guidance and the sum agreed by the appellant and the LPA. Further, any air quality contribution would be secured by way of a legal agreement. The absence of such an agreement would ordinarily constitute a further reason for refusal.

2.19 In view of the above, it cannot be agreed that this matter is sufficiently resolved.

Biodiversity net gain

2.20 In England, Biodiversity Net Gain (BNG) is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). It became mandatory for small sites on 2 April 2024. The application was received by the Council on 25 September 2024. The development would not fall under any BNG exemptions and it is noted that the appellant does not contest this.

2.21 The appellants statement of case suggests a BNG plan demonstrating a 10% increase in biodiversity value could be secured by condition. The suggested condition would fail the relevant tests and goes against published BNG guidance which states - 'Biodiversity net gain, however, is not just a post-permission matter'.

2.22 The BNG guidance requires developers to submit the BNG minimum information as set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015. It is noted that no BNG information has been submitted with the appeal. The minimum information was not submitted during the application process. Consequently, the baseline biodiversity value and the BNG requirements of the appeal proposal have not been determined.

2.23 It is also highlighted that should off-site habitat units be required to achieve the 10% BNG gain, such provision would be secured by a legal agreement. The absence of such an agreement would ordinarily constitute a further reason for refusal.

2.24 For the above reasons, this matter is therefore considered to remain unresolved.

Planning balance

2.25 The appellants statement of case also refers to the BBCs reporting on the Council's new homes and planning approval statistics which are considered to be irrelevant.

2.26 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 NPPF (2024) is not engaged.

2.27 Whilst the appeal proposal seeks to provide a more efficient use of a residential plot and widen the choice and type of homes within a sustainable urban area, given the quantum of development, this benefit would be limited and should not come at the expense of the harm identified.

3. Conclusion

- 3.1 For the reasons set out in the Case officer's report and this SoC, the appeal proposal is unacceptable and conflicts with planning policy at a national, regional and local level. 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 1.

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 Location Plan, 0432-PLA-50-B, 0432-PLA-51-B, 0432-PLA-52-B, 0432-PLA-53-B, 0432-PLA-54-B, 0432-PLA-55-B, 0432-PLA-56-B, 0432-PLA-57-B, 0432-PLA-58-B, 0432-PLA-59-A, 0432-PLA-60-A, 0432-PLA-61-A, 0432-PLA-62-A, 0432-PLA-63-A, 0432-PLA-70-A 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 a section drawing demonstrating a floor to ceiling height of 2.5metres for at least 75 per cent of the Gross Internal Area of each dwelling. Thereafter the development shall be carried out in accordance with the approved details.

REASON

To ensure that the development provides adequate living conditions in accordance with Policy D6 of the London Plan (2021)

4 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).

5 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;
- 1.c Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate.
- 1.d Biodiversity enhancements in conjunction with condition 16

2. Details of Hard Landscaping:

- 2.a Refuse Storage;
- 2.b Cycle Storage (2no secure and accessible spaces for the 3-bedroom unit and 1no secure and accessible space for the 1-bedroom units);
- 2.c Means of enclosure/boundary treatments;
- 2.d Hard Surfacing Materials;
- 2.e Car parking layouts including details of the 3 'active' with 1 'passive' electric vehicle charging points.

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 surfing/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).

6 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 Policy D7 of the London Plan (2021).

7 The 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 Policy D7 of the London Plan (2021).

8 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 9 Hillingdon Local Plan: Part Two - Development Management Policies (2020) and T4 of the London Plan (2021).

9. 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).

10. The development hereby permitted (excluding demolition, site clearance and initial ground investigation works) shall not commence until a scheme to deal with unacceptable contamination, (including asbestos materials detected within the soil), has been submitted to and approved by the Local Planning Authority (LPA). All works which form part of any required remediation scheme shall be completed before any part of the development is occupied or brought into use unless the Local Planning Authority dispenses with any such requirement specifically and in writing. The scheme shall include the following measures unless the LPA dispenses with any such requirement specifically and in writing:
a) A desk-top study carried out by a competent person to characterise the site and provide information on the history of the site/surrounding area and to identify and evaluate all potential sources of contamination and impacts on land and water and all other identified receptors relevant to the site.

(b) A site investigation, including where relevant soil, soil gas, surface water and groundwater sampling, together with the results of analysis and risk assessment shall be carried out by a suitably qualified and accredited consultant/contractor. The report should also clearly identify all risks, limitations and recommendations for remedial measures to make the site suitable for the proposed use; and

(c) A written method statement providing details of the remediation scheme and how the completion of the remedial works will be verified shall be agreed in writing with the LPA prior to commencement, along with the details of a watching brief to address undiscovered contamination. No deviation shall be made from this scheme without the express agreement of the LPA prior to its implementation.

(ii) If during remedial or development works contamination not addressed in the submitted remediation scheme is identified an addendum to the remediation scheme shall be agreed with the LPA prior to implementation; and

(iii) Upon completion of the approved remedial works, this condition will not be discharged until a comprehensive verification report has been submitted to and approved by the LPA. The report shall include the details of the final remediation works and their verification to show that the works have been carried out in full and in accordance with the approved methodology.

(iv) No contaminated soils or other materials shall be imported to the site. All imported soils for landscaping and/or engineering purposes shall be clean and free of contamination. Before any part of the development is occupied, all imported soils shall be independently tested for chemical contamination, and the factual results and interpretive reports of this testing shall be submitted to and approved in writing by the Local Planning Authority.

REASON

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies DMEI 11 and DMEI 12 of the Hillingdon Local Plan: Part 2 (2020).

11 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).

12 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).

13 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.

14 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 exercising 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).

15 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).

16 No development shall take place on any part of the site until a written 30 year Habitat Management Plan (HMP) for the site has been submitted to and approved in writing by the Local Planning Authority. The approved HMP shall be strictly adhered to and development commenced and operated in accordance with it. The HMP should, as a minimum, include;

- a) Description and evaluation of the features to be managed;
- b) Aims, objectives and targets for management
- c) Description of the management operations necessary to achieving aims and objectives;
- d) Prescriptions for management actions;

- e) Preparation of a works schedule, including annual works schedule;
- f) Details of the monitoring needed to measure the effectiveness of management;
- g) Details of the timetable for each element of the monitoring programme; and
- h) Details of the persons responsible for the implementation and monitoring;
- i) Reporting to the Council routinely as to the state of the Biodiversity Net Gain requirements of the development on years 1 (post completion), 3, 5, 10, 20 and 30, with biodiversity reconciliation calculations at each stage.

REASON

To ensure the development delivers a biodiversity net gain within the borough and secures the protection and effective management of the remaining habitat on site in accordance with Policy EM7 of the Hillingdon Local Plan: Part 1, Policies DMEI 7 and DMHB 14 of the Hillingdon Local Plan: Part 2 (2020), Policy G6 of the London Plan (2021) and Schedule 7A of the Town and Country Planning Act 1990 and the Environment Act 2021.

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

2 The development hereby approved includes the carrying out of alterations to a vehicular access. Prior to undertaking work on the adopted highway you will require a Section 184 licence from the Highway Authority. The works shall be to the specification and constructed to the satisfaction of the Highway Authority. Fees are payable for the approval of the highway details, and inspection of the works. Further information and an application form are available on the London Borough of Hillingdon website <https://www.hillingdon.gov.uk/dropped-kerb-form>.