



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:

Mr Shloimy Shok

Proposal:

Conversion of roof space to habitable use to include a dormer extension. Conversion from a single dwelling house into two 3-bed self-contained flats

Appeal Site:

6 Brandville Road, West Drayton, UB7 9DA

Our Ref: 39409/APP/2025/818

Your Ref: APP/R5510/W/25/3368240

1. Introduction

- 1.1 This appeal statement is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of
- 1.2 The LPA refused planning permission on 13th June 2025 for the following two reasons (as stated on the decision notice):
 - (1) By reason of the layout and poor quality design of the building the proposals would fail to provide appropriate standards of living accommodation for future occupiers of the three bedroom ground floor flat in terms of daylight, sunlight, privacy and general amenity contrary to Policies DMHB 11 and DMHB 16 of the Local Plan Part 2 - Development Management Policies 2020; Policies D4 and D6 of the London Plan 2021; and the NPPF 2024.
 - (2) In the absence of a Section 106 agreement or Unilateral Undertaking to remove residents access to obtain parking permits within the surrounding streets the proposals which would not provide dedicated vehicle parking would have an unacceptable impact on highway safety and amenity contrary to Policies DMT 1, DMT 2 and DMT 6 of the Local Plan Part 2 - Development Management Policies 2020; Policies T4 and T6.1 of the London Plan 2021; and the NPPF.
- 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 is provided at Appendix 1. Copies of relevant planning policies are included at Appendix 2.
- 1.4 This statement will not repeat the delegated report and will focus on addressing matters raised in the Appellant's statement of case.
- 1.5 The main points raised within the appellant's statement of case are as follows:
 - (1) The proposed bedroom located to the side of the ground floor flat would benefit from acceptable light and outlook.
 - (2) The proposals would involve reconstruction of the ground floor extension therefore refusal based on the quality of this structure is not applicable.
 - (3) Refusal based on the absence of a Unilateral Undertaking was not justified and could have been secured by planning condition.
 - (4) Application for costs.
- 1.6 Points 1 to 3 will be addressed within Section 2 whilst matters relating to the costs claim are addressed in Section 3 of the SOC.
- 1.7 Following the submission of the appeal two planning applications have been submitted by the appellant at 6 Brandville Road, the applications are as follows:

- 39409/APP/2025/1883 - Subdivision of existing dwellinghouse into 2 no. of self-contained flats, to include conversion of roof space to habitable use with rear dormer, cycle and bin storage, amendments to fenestration and erection of replacement side extension.
- 39409/APP/2025/2065 - Subdivision of the existing dwelling house into 2 no. of self-contained flats, to include conversion of roof space to habitable use with rear dormer, rebuilding the existing side/rear extension, cycle and bin storage, and amendments to fenestrations.

1.8 The above applications are similar to the appeal proposal in relation to the scope of the development sought. In both instances amendments to the ground floor flat to exclude the ground floor bedroom located to the side of the dwelling which was subject of the first reason for refusal listed above. In both cases the description of development includes reference to the rebuilding or replacement of the side extension. In the case of 39409/APP/2025/1883 the change to the description of development was agreed once the application was submitted and re-consultation was carried out following the change to the description of development. The 8 statutory determination date for planning applications 39409/APP/2025/1883 and 39409/APP/2025/2065 are the 19th September 2025 and the 8th October 2025 respectively, unless an extension of time is subsequently agreed in writing. Consequently, a decision will not be made on either application at the time that this statement of case is submitted, however a decision may be issued on both cases prior to a decision being taken in relation to this appeal.

2. LPA Comments on Appellant's Statement of Case

Refusal Reason 1 – Residential Amenity for Future Occupiers

- 2.1 The appellants statement of case, as well as the corresponding costs claim outlines that the later timber clad extension would be demolished and rebuilt. This was not included within the description of development provided by the applicant which read as follows: *“Conversion of roof space to habitable use to include a dormer extension. Conversion from a single dwelling house into two 3-bed self-contained flats”*.
- 2.2 The emphasis is on the applicant to ensure that the description of development correctly reflects the development being applied for and that the plans accurately reflect the development proposed. The rear elevation plan of the extension (reference P03) indicates that the rear section of the extension would be built in brick to match the adjoining single storey extension, however no difference is apparent on proposed elevation drawing reference P04 compared with existing drawing reference E04. A similar lack of differentiation is apparent where comparing the existing front elevation drawing E03 with the proposed elevation drawing P03, albeit that the proposed drawings include the insertion of a window to this part of the building. Neither of these plans show brick materials, therefore it is insufficiently clear that this part of the building would be rebuilt. The change is similarly not apparent on the proposed floor plans. It is also noted that the appellant did not provide a Design and Access Statement or Planning Statement which would provide an explanation of the works proposed. The appellants application form also states that the gross internal area to be lost would be 0sqm which is inaccurate as this should have accounted for the removal of the side extension to make clear that this would be lost.

- 2.3 Email communication contained between the case officer and the appellants agent in Appendix 3 of the Appeal Statement provides evidence that this element of the proposal was queried by the case officer and that this matter was not addressed within the subsequent correspondence. Had the appellant provided sufficient clarity regarding the intention to rebuild this part of the development, the Council would have allowed the submission of amended plans and a change to the description of development, both of which would be necessary to ensure that the proposed plans were sufficiently clear and represented accurately the works being undertaken. In the Councils view this would have amount to a material change which would also need to be subject of re-consultation. Incidentally in the context of recently submitted planning application 39409/APP/2025/1883 where the rebuilding of the extension was again missing from the description of development, there was an accepted need to reconsult on the amended plans as the original description was not clear. Correspondence between the case officer and the appellants planning agent is set out within Appendix 4 of the Councils SOC.
- 2.4 The Council are required to determine the application in a reasonable timeframe and appropriate attempts were made to ascertain whether the side extension would be rebuilt, this is captured within the Correspondence set out in Appendix 3 of the SOC. Based on the information before the Council, in particular the description of development and submitted plans it would be entirely reasonable to assume that the existing side extension would remain wholly or in part and were this to remain this structure would be unsuitable for use as a habitable room.
- 2.5 Turning to the standard of amenity provided for Bedroom 1. The appellant seeks to argue that appropriate outlook is provided as the bedroom benefits from a side facing window and roof light providing dual aspect and ventilation and that this rebuts any claim of poor daylight/sunlight access. The window serving this room is front facing, rather than side facing, adjoins the north elevation of the dwelling and is located between the side wall of the property and the adjoining dwelling No.4 Brandville Road. Appendix 2 Figure 2 taken during at midday in April demonstrates that the front facing window would not benefit from appropriate daylight/sunlight. The level of daylight/sunlight provided to the roof light is also likely to be highly limited given its position between the side wall of the adjoining projecting two storey element which would be extended by way of the proposed roof dormer extension. Insufficient information is provided to demonstrate that this room would benefit from appropriate daylight or sunlight, for example through the submission of a daylight and sunlight assessment.
- 2.6 The appellant suggests that there would not be a lack of privacy as there is a side facing boundary fence, however as apparent from the site photographs provided at Appendix 2, the boundary treatment comprises of a boundary wall less than 1 metre in height up to the position where the window would be located. This does not therefore provide any meaningful privacy and any person using this access would be able to look directly into this window and therefore the occupants of this room would not be afforded an appropriate degree of privacy. The suggestion that the window could be fitted with obscure glazing or be replaced by a high-level widow is undesirable as this would further reduce outlook and daylight, compromising the amenity of this habitable room.

Refusal Reason 2 – Absence of Section 106 Agreement or Unilateral Undertaking to exclude residents access to parking permits.

- 2.7 As outlined within the officer report, it is considered necessary that the applicant enters into a Section 106 Agreement or unilateral undertaking to remove residents access to parking permits. The appellant within the statement of case has not challenged the need to enter into a unilateral undertaking and it was agreed that the appellant would be prepared to enter into a unilateral undertaking prior to the determination of the planning application. A unilateral undertaking would be necessary as the proposal does not include the provision of off-street parking for either of the two flats which would be two- and three-bedroom units and accounting for the size of the units there would be a reasonable likelihood that occupiers may park vehicles on Brandville Road or the surrounding streets.
- 2.8 The site is within a relatively sustainable location in terms of accessibility to public transport being within 650 metres of West Drayton Station (Elizabeth Line) and bus stops benefitting from regular services on Station Road and High Street. The site is also in close proximity to West Drayton Town Centre, which benefits from a variety of local services and shops. This is reflected in the sites PTAL score of 3. Several of the surrounding properties in Brandville Road and Warwick Road do not benefit from off-street parking and the number of residents parking bays are limited and there is limited availability in terms of the spaces that do exist.
- 2.9 Whilst an agreement was reached in principle with the appellant to enter into a UU, a UU had not been completed and signed prior to the decision being issued. As it was apparent that planning permission was to be refused on the basis of the first reason for refusal it was not considered appropriate or reasonable to require the applicant to complete a unilateral undertaking when the Council had already determined that the development would not be acceptable on other grounds. Notwithstanding this, in the absence of a completed UU being available at that time the development would not be acceptable on highway amenity grounds. Were the application to otherwise be considered acceptable, the Council would have been prepared to enter into a UU and would have allowed additional time for the agreement to be completed prior to the application being determined. It must be noted that the appellant has not provided a draft UU and has not otherwise sought to advance completion of such an agreement prior to making this appeal or during the appeal process and this reason for refusal remains applicable.
- 2.10 The appellant has stated that refusal reason 2 is procedurally unreasonable considering Paragraph 58 of the NPPF which encourages the use of planning conditions to make development that would otherwise be refused be acceptable. It is assumed that the appellants reference here is in relation to Paragraph 56 of the NPPF as this is applicable to the use of planning conditions, as opposed to Paragraph 58 which relates to planning obligations.
- 2.11 Paragraph 57 of the NPPF 2024 sets out that planning conditions may only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The appellant asserts that a planning condition could have been applied requiring that the applicant enter into a UU at an appropriate time, for example prior to the first occupation of the development. This however overlooks the guidance set out within

the NPPG Paragraph 010 (Use of Planning Conditions). The guidance is copied below for reference:

A positively worded condition which requires the applicant to enter into a planning obligation under section 106 of the Town and Country Planning Act 1990 or an agreement under other powers, is unlikely to pass the test of enforceability.

A negatively worded condition limiting the development that can take place until planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency.

However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes). In such cases the 6 tests should also be met.

Where consideration is given to using a negatively worded condition of this sort, it is important that the local planning authority discusses with the applicant before planning permission is granted the need for a planning obligation or other agreement and the appropriateness of using a condition. The heads of terms or principal terms need to be agreed prior to planning permission being granted to ensure that the test of necessity is met and in the interests of transparency.

- 2.12 In line with the guidance set out within the NPPG, the inclusion of a condition requiring that the appellant enter into a UU would fail the enforceability test set out in Paragraph 57 of the NPPF. Exceptional circumstances do not exist in this case that would warrant going against the guidance set out within the NPPG and the Council maintain that the reason for refusal is fully reasonable and justified on planning grounds.
- 2.13 The Council would note that were a completed UU to have been submitted at planning application stage, or at appeal stage then refusal reason 2 would have been overcome, however in the absence of a completed agreement then the refusal reason stands.

Other Matters

- 2.13 The Council accept that the proposed cycle parking provision is acceptable as set out within proposed drawings P01 and P08. Neither reason for refusal related to the provision of cycle parking. The officer report suggested that details were not shown on the submitted plans but may be secured by condition, it is accepted that details of cycle parking were included and it would be reasonable to require the implementation and retention of the cycle parking as shown were the appeal to be allowed, a condition to this effect is included in the conditions list in Section 4.

2.14 The other matters raised relating to Policy DMH 4 namely internal floor area, internal layouts and percentage concentration of other flats within the street did not form a basis for refusing planning permission and compliance with these elements of the policy is not disputed.

3. Cost Claim Rebuttal

3.1 The Council reject the grounds advanced by the appellant within their costs claim statement and consider that the grounds for costs are inaccurate and are wholly without basis. These matters are addressed below.

Alleged Factual Error Mischaracterising Bedroom 1 and Extension

3.2 The appellant states that the LPA refused the application partly on the grounds that Bedroom 1 in the ground floor flat was served by a substandard timber structure with a plastic roof and lacked daylight and asserts that this is an inaccurate assertion about the proposal's impact, contrary to PPG para 049b.

3.3 The first claim that the LPA refused the application partly on the grounds that Bedroom 1 in the ground floor flat was served by a substandard timber structure is addressed substantially in Paragraphs 2.2 to 2.4 of the LPA's Statement of Case above, however, to reiterate the above referenced points:

- The demolition and reconstruction of the side extension was not referenced within the description of development.
- The front and side elevations do not show any differentiation between the existing and proposed elevations aside from the insertion of a window.
- A design and access statement was not provided explaining the extent of development being carried out.
- The application form states that 0sqm of existing floorspace would be lost even if demolished and rebuilt this should have been included.
- The case officer directly queried in an email dated 9th May whether this element of the building would remain and this point was not addressed or made clear within revised plans that were subsequently submitted. This is included in Appendix 3 of the LPA's Statement of Case.

3.4 Given the above context it would be wholly reasonable to assume that the appellants were not seeking to rebuild the side extension as part of the proposed development. It is noted that one of the public representations received at the time of the application also highlights that this element of the plans was unclear. It must be further noted that a change to the description of development to include the erection of a replacement rear extension was agreed in relation to the recently submitted planning application 39409/APP/2025/1883 (See Appendix 4). Within the correspondence it is accepted by the appellants planning agent that this element of the proposal could have been clearer. In relation to the other recently submitted planning application (39409/APP/2025/2065) this also includes reference to the rebuilding of the side extension. The applicant is responsible for providing clear and accurate information at the planning stage and for the reasons highlighted above, this was not achieved. The claim for costs on this basis is therefore fully without merit.

Failure to Use Conditions to Secure Acceptable Outcome

3.5 The second ground for costs is on the basis that the Council prevented development that could reasonably be permitted subject to conditions. As addressed in Paragraphs 2.11 and 2.12 of the Statement of Case a planning condition requiring that an applicant enter into a UU would be directly contrary to the guidance set out within the NPPG Paragraph 010 (Use of Planning Conditions) as this would fail the test of enforceability required of planning conditions set out in Paragraph 57 of the NPPF. The reason for refusal was therefore fully justified on planning grounds and the claim for costs on this basis is clearly without merit.

3.6 The appellant has stated that the LPA made no attempt to resolve this via engagement or post-submission follow-up. No communication has been received between the determination of the application and the submission of this appeal from the appellant in respect of preparing a draft UU or proactively addressing this reason for refusal in advance of the appeal. Had the appellant done so the Council would have proactively sought to provide further advice on preparation of a UU to address this matter at the appeal stage however no engagement has been forthcoming so it cannot be argued that the Council have acted unreasonably.

Overlooking Submitted Cycle Parking

3.7 The appellant states that the decision states that no cycle parking was provided. It is assumed that this statement relates to the officer report rather than the decision notice as this does not form a reason for refusing planning permission. The decision notice refers to 'vehicle parking' not being provided in the context of there not being an agreed UU, however this could not reasonably be interpreted to refer to the provision of cycle parking as this is clearly in reference to motor vehicles and the policies referenced do not relate to cycle parking or infrastructure.

3.8 In relation to cycle parking, the report referred to there being no cycle parking being provided, although officers state in the report that details of cycle parking could be secured by planning condition were the development to be approved. The Council accept that appropriate details of cycle parking have provided, and a condition could be applied requiring that cycle parking is set out in accordance with the submitted plans were the appeal to be granted. This matter does not relate to either reason for refusal and therefore the grounds of this appeal and cannot reasonably be considered under any claim for the costs of submitting an appeal.

4. Other Matters

4.1. It is respectfully requested for the reasons outlined above that this appeal be dismissed, however if the appeal is allowed, the Council request that the following conditions be attached to the consent:

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 plans, numbers:

E 00
P 01
P 02
P 03
P 04
P 05
P 06
P 07
P 08

REASON

To ensure the development complies with the provisions of the Hillingdon Local Plan Part 1 (2012) and Part 2 (2020), and the London Plan (2021).

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the materials specified on the approved plans only and shall thereafter be retained as such.

REASON

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing building in accordance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

4. The side facing windows located at second floor level which serve Flat 2, Bedroom 2 as shown on drawing Nos. P02 and P04 shall be glazed with permanently obscured glass to at least scale 4 on the Pilkington scale and be non-opening below a height of 1.8 metres taken from internal finished floor level for so long as the development remains in existence.

REASON:

To prevent overlooking to adjoining properties in accordance with policy DMHB 11 of the Local Plan Part 2 - Development Management Policies

5. The development shall not be occupied until the cycle and refuse storage as shown on drawing nos. P01; P07 and P08 has been fully implemented. The facilities shall be permanently retained thereafter for the provision of cycle storage and waste storage respectively.

REASON

To ensure the provision and retention of facilities for cyclists to the development and hence the availability of sustainable forms of transport to the site in accordance with Part 2 Development Management Policies (2020) - Policy DMT 1, DMT 2 & DMT 6 and Policies T4 and T6 of the London Plan (2021) and for the provision of

waste storage in accordance with Policy DMHB 11 of the Local Plan Part 2 Development Management Policies (2020).

4. Conclusion

- 4.1 In relation to the original reasons for refusal set out in the decision notice and officer report and as set out in further detail within this statement of case the planning authority respectfully requests this appeal be dismissed.

Appendices

Appendix 1 – Planning Officer’s Delegated Report

Appendix 2 – Photographs of Appeal Site

Appendix 3 – Correspondence between case officer and Planning Agent relating to Rebuilding of side extension.

Appendix 4 – Correspondence between case officer and Planning Agent relating to planning application 39409/APP/2025/1883.