HILLINGDON
LONDON

TOWN & COUNTRY PLANNING ACT 1990
SECTION 78 PLANNING APPEAL

STATEMENT OF CASE

PRODUCED BY TOM CAMPBELL ON BEHALF OF THE LONDON BOROUGH OF HILLINGDON

APPEAL BY: Healey Development Solutions (Hayes) Limited

SITE AT: Stanford House, 9 Nestles Avenue, HAYES

Our Ref: 51175/APP/2018/4260
Your Ref: APP/R5510/W/19/3230503

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1.0 INTRODUCTION

1.1 This appeal is against the London Borough of Hillingdon's decision to refuse planning permission for the Demolition of existing building and redevelopment to provide a building up to 10 storeys, with 868 sq.m of commercial or community space (Use Class B1 or D1) at ground floor level and 81 (44 x 1-bed, 28 x 2-bed and 9 x 3-bed) residential units to the upper floors, with associated landscaping, access, car parking and cycle parking.

1.2 This statement of case seeks to address refusal reason 1 only relating to the piecemeal nature of the development and lack of a comprehensive approach to a strategic site allocation. The remaining refusal reasons are dealt with by the relevant officers in their own statements of case.

Refusal reason 1 states:

In the absence of a comprehensive scheme, the development of this site in isolation would result in a piecemeal development that would fail to safeguard the satisfactory redevelopment of this strategic site 'B' identified within Policy SA 5 of the Emerging Local Plan: Part Two (October 2019). The proposed development is therefore contrary to Policy H1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012); Policy BE14 of the Hillingdon Local Plan: Part Two Saved UDP Policies (November 2012); and Emerging Policy SA 5 of Site Allocations (March 2019).

2.0 PLANNING POLICY (relevant only to refusal reason 1)

2.1 Following an Examination in Public held between 13 March and 30 May 2012, the Council received a subsequent Inspector's Report on 26 July 2012 which recommended that the Hillingdon Local Plan Part 1 Strategic Policies could be adopted on the basis that it met in full the requirements of Section 20 (5) of the Planning and Compulsory Purchase Act, 2004 (as amended).

2.2 On 08 November 2012 the Council took a decision to formally adopt the local plan and to retain for development control purposes those Saved 2007 Unitary Development Plan (UDP) policies which were not being replaced by the Hillingdon Local Plan: Part 1 - Strategic Policies, pending the preparation and adoption of subsequent site specific allocations, development management policies and a policies map.

2.3 The emerging Local Plan Part 2 comprises Development Management Policies, Site Allocations and Designations and Polices Map. Once adopted it will deliver the detail of the strategic policies set out in the Local Plan Part 1: Strategic Polices (2012). Together they will form a comprehensive development strategy for the borough up to 2026. The Examination in Public was held in August 2018. The Inspectors report has not yet been received but we envisage this will be taken to our Cabinet Meeting on 13th December 2019, and then adopted by Full

Council on 17th January 2020. The weight afforded to relevant emerging policies is done so in line with Paragraph 48 of the National Planning Policy Framework (NPPF) (2019).

2.4 Accordingly, the development plan for the Borough, now comprises:

a. The Hillingdon Local Plan: Part 1 - Strategic Policies adopted on 08 November 2012;
b. The extant 2007 Saved Unitary Development Plan Part 2; and the emerging Local Plan Part 2.
c. The London Plan published by the Mayor of London in July 2016.

2.5 <u>The Local Plan: Part 1 - Strategic Policies</u>

2.6 The policy relied on is Policy H1.

2.7 <u>2007 Saved Unitary Development Plan</u>

2.8 The policy relied on is BE14. Appendix 5 of the Local Plan Part 1 Strategic Policies identifies the extant 2007 Saved UDP Policies, which are now serving for an interim period as the Local Plan Part 2. All policies relied on in this case have been 'retained'.

2.9 The thrust of Policy BE14 is being retained within emerging Local Plan Part 2 Policy DMHB 11.

2.10 <u>The emerging Local Plan: Part 2 – Site Allocations Document</u>

2.11 The policy relied on is emerging Policy SA 5.

2.12 <u>Other Material Considerations</u>

2.13 *Core Submission Document: Supply of Housing Land*

2.14 The report commissioned in December 2017, considered the supply of housing land in the London Borough of Hillingdon that is available and deliverable for future residential development over the next 5 years. It demonstrates the extent to which commitments and future development sites identified in the London Strategic Housing Land Availability Assessment 2013 and the Council's emerging Local Plan contribute to a rolling 5 year supply of housing land in Hillingdon (report attached as **APPENDIX 1).** The executive summary confirms the following:

- The current monitoring target for Hillingdon is 559 residential units per annum.
- Including a 5% buffer and taking account of the 1,759 dwellings already delivered between 2015/16 - 2016/17, the 5 year housing provision target for Hillingdon amounts to 2,516 dwellings from 2017/18 - 2021/22.

- The Council has identified a healthy supply of specific deliverable sites that have the capacity to deliver 4,417 net additional dwellings over the next 5 years.
- This represents 176% of the minimum 5 year supply target (2,516 dwellings) or a surplus of 1,901 residential dwellings against the target.
- Hillingdon can demonstrate a 5 year supply of deliverable housing sites, meeting the requirements of paragraph 47 of the National Planning Policy Framework.
- Additional development capacity has been brought forward to supplement the minimum monitoring target in accordance with the requirements of London Plan Policy 3.3.

2.15 *Appeal Decision 3 Viveash Close (APP/R5510/W/18/3218824 - attached as* **APPENDIX 2***)*

2.16 The Council's position is that the proposal, the subject of this appeal, must be considered both in the current context and the future context in which development comes forward on adjacent land. This is the approach taken by the Inspector appointed by the Secretary of State for Communities and Local Government in determining a section 78 planning appeal at an adjacent site at 3 Viveash Close, Hayes. In dismissing the appeal the Inspector concludes:

Para.5. *'The Council are critical of the fact that the appeal scheme seeks redevelopment in isolation and they state that the proposal fails to take appropriate account of the desirability of a larger redevelopment'*

Para.6 *It would be built adjacent to the boundary to the south, with a blank elevation and the appellant indicates that this means that any adjacent development could be built up to that boundary also. However, this could dictate and prejudice the form and nature of the development of the larger site, without an overall comprehensive consideration being available. It is clear to me that its development in isolation would inevitably dictate and*
influence how the development of the neighbouring site could be undertaken

Para. 7 *'in addition, the Council indicates that the appeal scheme would place residential occupiers in close proximity to the commercial activities of the adjacent uses, which would not be a suitable residential environment. In my view, this is a further demonstration of the benefits that a comprehensive redevelopment would bring and the prejudicial effects of development in isolation'.*

3.0 THE CASE FOR THE COUNCIL

Context:

3.1 Within the adopted Development Plan, the site is located within an Industrial Business Area (IBA) and Strategic Industrial Land (SIL) identified as the Hayes Industrial Area within the London Plan (2016). These designations would typically render residential development in this location as inappropriate.

3.2 However, Policy 2.17 of the London Plan (2016) outlines that where part of a strategically co-ordinated process of SIL consolidation through a borough development plan document, non-industrial development may be sought within the SIL. Through the preparation of the emerging Local Plan: Part 2 – Site Allocations Document, a 16ha site is proposed for release from these industrial designations to provide new mixed use development and the required infrastructure improvements needed to create a successful new residential environment. This emerging site allocation is outlined with Policy SA 5 of the emerging Local Plan: Part 2 – Site Allocations Document. This allocation is split into three smaller sites, referred to as Site A, B and C.

3.3 Given the advanced stage of the preparation of the emerging Local Plan: Part 2 and because this proposed release is not subject to any unresolved objections, it is considered that emerging Policy SA 5 should be afforded significant weight. This follows the approach taken to the determination of planning application: 1331/APP/2017/1883 which constitutes Site A.

3.4 It is noted that the appellant is heavily reliant on a 'draft OAPF' or 'Masterplan' produced by the Greater London Authority (GLA). The process of drafting this document was ceased by the GLA towards the end of 2017. It was not supported by an evidence base, consulted upon or adopted by the London Borough of Hillingdon. It is therefore considered that material weight should not be attached to this document. The site specific framework and context for assessing this application should be emerging Policy SA 5, as well as the existing and approved development within the area.

Comprehensive Development

3.5 Emerging Policy SA 5 outlines that *'as a preference Sites A, B and C should form a comprehensive development scheme across the whole site'.* The appellant's scheme has been brought forward independently of the other landholdings within SA 5 and Site B specifically. The appellant's site constitutes only a small portion of Site B of emerging Policy SA 5, measuring approximately 0.23ha out of a total 1.76ha allocation.

3.6 However, the applicant's decision to bring the land forward for development independently is not in itself the sole justification behind Refusal Reason 1. As you will be aware from the approved planning

application for Site A (1331/APP/2017/1883) a scheme has been approved independently of the rest of the landholdings within Site SA 5.

3.7 Whilst the applicant's decision to bring forward the land independently in a piecemeal nature has undoubtedly made it much more difficult to meet the criteria within emerging Policy SA 5 and adopted Policy BE14, there is no specific Development Plan requirement for all of Site B to necessarily be bought forward simultaneously.

3.8 The justification for Refusal Reason 1 is based on the grounds that the design of the development does not safeguard the satisfactory re-development of the adjoining sites that have been identified as having development potential. Furthermore the scheme does not deliver the criteria within emerging Policy SA 5 and would restrict the ability of the remaining landholdings to achieve the objective of this policy.

Non-conformity with Policy BE14

3.9 Policy BE14 outlines that:

'*Permission will not be granted for the development of sites in isolation if the design fails to safeguard the satisfactory redevelopment of adjoining sites which have development potential'.*

3.10 For the sake of establishing the direction of travel, the thrust of this policy is retained within Policy DMHB 11, which outlines that:

'Development will be required to ensure that the design safeguards the satisfactory re-development of any adjoining sites which have development potential. In the case of proposals for major development sites, the Council will expect developers to prepare master plans and design codes and to agree these with the Council before developing detailed designs.'

3.11 The scheme fails to safeguard the satisfactory re-development of both the adjacent land to the west and north of the site. These schemes have been identified as having development potential through emerging Policy SA 5.

3.12 In terms of the adjacent land to the west specifically, the appellant's development does not provide a sufficient separation distance from its own western boundary. The Planning Appeal Statement provided by Brimelow McSweeney (Appellant's Architect) clearly demonstrates (on Page 8) how the appeal site has been designed hard-up against the western boundary of the site. Whilst it demonstrates that the minimum 21m threshold between this site and an indicative scheme to the west could be met, it is quite clear that 10.5m of this has not been met within the appellant's site. The appellant is reliant on the landowner to the west providing the majority of the separation distance, which both dictates and prejudices the design that could come forward and the level of development. This was cited as a key issue within the

Inspector's Report at the nearby 3 Viveash Close Appeal (APP/R5510/W/18/3218824) which was refused under the same policies (appeal decision attached as Appendix 2).

3.13 It is also apparent from the same drawing that the applicant is relying on land to the west to provide the majority of the landscaping and public open space for this portion of Site B. Again, this reduces the development capacity of the adjacent site and puts an unbalanced requirement on other schemes to provide the basic infrastructure required to convert an existing industrial environment to a suitable residential one.

3.14 In terms of the adjacent land to the north specifically, the Planning Appeal Statement provided by Brimelow McSweeney would suggest that a small strip of land would be available for development in addition to the continuation of the East-West pedestrian link that has been secured via the consented scheme on Site A and the resolution to grant consent on Site C. The appellant has stated that 27 units could be built on this site, without demonstrating how this is figure has been calculated or is deliverable. Presuming that this was achievable, it would still present a nominal amount in comparison to the 87 units the appellant is proposing, despite the site to the North being a bigger landholding as a whole.

3.15 It is not considered that there would be any logical incentive for the landowner of this adjacent land to demolish the existing structures and develop this indicative proposal. The landowner would be left with a limited portion of developable land and would be required to use a significant part of this as back of house facilities to service any quantum of development that could be achieved. If any residential units could be achieved on this site, they would all be north facing single aspect dwellings which would be contrary to the development plan. Again, the appellant's decision to bring forward the site in isolation and on such a large footprint results in the proposed development dictating and prejudicing the design that could come forward on this neighbouring site.

3.16 It is therefore evident that the proposal would not safeguard the satisfactory redevelopment of adjoining sites which have development potential. The scheme would also be in conflict with Local Plan: Part 1 Policy H1 as the sterilisation of adjacent sites would mean development could not make the most efficient use of brownfield land, ultimately reducing the housing quantum that could be achieved on allocated sites.

<u>Non-Conformity with emerging Policy SA 5.</u>

3.17 Emerging Policy SA 5 provides the policy context for new development in this location, including the basic infrastructure that is required to convert an existing industrial area into an area suitable for high density mixed use development. The scheme fails to demonstrate compliance

with a number of criteria established within the policy, largely as a result of the piecemeal nature of the scheme.

3.18 The modified version of emerging Policy SA 5 outlines the Council's objective of securing 300 residential units on site B as a whole. For the reasons outlined in Paragraph 3.8 to 3.15, this development would compromise the redevelopment of adjoining brownfield land and risks making the remaining areas of Site B undeliverable.

3.19 Furthermore, the scheme compromises the objective of providing pedestrian links to Hayes Town Centre and key transport nodes. This objective has been achieved on Site A (1331/APP/2017/1883) and Site C (3238/APP/2018/1145) through the introduction of an east to west pedestrian link through the developments to improve access to the new Crossrail Station at Hayes & Harlington Station. This pedestrian link through the site has also provided mitigation in the form of new well designed public open space for each of the schemes respectively.

3.20 Whilst this east to west pedestrian link is identified within the Planning Appeal Statement provided by Brimelow McSweeney, the proposed scheme provides no mechanism or incentive for the relevant landowner to bring this objective forward. For the reasons outlined within Paragraph 3.14, the indicative scheme outlined for this site would not be approved and does not create any incentive for it to be brought forward in conjunction with adjacent sites.

Conclusion

3.21 In conclusion, the piecemeal development of this site would fail to safeguard the satisfactory redevelopment of the adjacent land parcels to the north and west, as identified within emerging Policy SA 5. In turn this would result in key policy objectives outlined in emerging Policy SA 5 not being met, including failure to make most efficient use of the site and undermining the improved pedestrians links to Hayes Town Centre and Hayes & Harlington Station that have been achieved on Site A and Site C.

3.22 Whilst this Statement of Case has sought to address Refusal Reason 1 only, it is evident that the scheme's failure to provide a comprehensive scheme has resulted in non-conformity with other Development Plan policies, which have been addressed within the relevant statement for each refusal reason.

APPENDIX 1

APPENDIX 2