



HILLINGDON

LONDON

**TOWN & COUNTRY PLANNING ACT 1990
SECTION 78 PLANNING APPEAL**

STATEMENT OF CASE

**PRODUCED BY STEPHEN VOLLEY 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 A detailed description of the appeal site, its environs, the planning history of the site and the proposed development is contained in the Officers report already submitted to the Planning Inspectorate with the Council's questionnaire and attached for ease of reference as **APPENDIX 1** to this statement.
- 1.3 The application was placed before Planning Committee dated 19th June 2019, with a recommendation to refuse planning permission. Had the appellant not submitted a non-determination appeal prior to the Planning Committee meeting then it would have refused the application for reasons set out in section (2) of the Committee report.
- 1.4 Following the lodging of this appeal a statement of common ground has been agreed between the main parties. The following list sets out those refusal reasons that remain contentious to the Council and those where common ground has been reached either in full or in part and no longer forms part of the Council's case at appeal subject to planning conditions:

Refusal Reasons	Policy Reason
Refusal Reason 1	Piecemeal development remains contentious
Refusal Reason 2	Affordable Housing remains contentious although negotiations are currently taking place.
Refusal Reason 3 -	Scale and Bulk remains contentious
Refusal Reason 4	Design remains contentious
Refusal Reason 5	Noise - A technical note by Mayer Brown has been submitted at appeal but does not address the Council's objection
Refusal Reason 6	Car parking remains contentious
Refusal Reason 7	Highway safety - (i-Transport) technical note has been submitted at appeal but does not overcome the Council's objections

- 1.5 The Council now accepts that the following refusal reasons can be resolved by planning conditions, either fully or partly.

Refusal Reasons	Policy Reason
Refusal Reason 8	Highway safety (manoeuvrability) is conceded. A revised plan depicting compliance with minimum standards for vehicular movements within the site overcomes the Councils objection
Refusal Reason 9	External amenity space is conceded in part with the Childrens Playspace objection now overcome.
Refusal Reason 10-	SUDS is conceded - A revised SUDS scheme has been submitted at appeal and overcomes the Councils objection subject to conditions.
Refusal Reason 11	s.106 is conceded - The heads of terms and financial contributions have been agreed and secured by a Unilateral undertaking.

- 1.6 This statement of case seeks to address refusal reason 9 only relating to the poor standard of external amenity space being provided on this site and the potential for loss of privacy to future occupiers. The remaining refusal reasons are dealt with by specialist officers in their own statements of case.

Refusal reason 9 states:

The proposed development fails to provide onsite private and communal amenity and children's play space of a quantity and quality commensurate to the size and layout of the proposals. Furthermore, the communal amenity areas are situated directly outside habitable rooms and balconies which would result in overlooking from communal spaces into balconies and habitable rooms. Such an arrangement would be detrimental to the residential amenity of the future occupiers the proposal would provide a substandard form of accommodation for future residents contrary to Policies BE21 and BE23 of the Hillingdon Local Plan: Part Two - UDP Saved Policies (November 2012), emerging policy DMHB 1 of the Local Plan Part 2 (March 2019), the adopted Supplementary Planning Document HDAS: Residential Extensions and Policy 7.1 of the London Plan (2016).

- 1.7 Emerging policy DMHB 1 has been referred to in error and should read DMHB 11, which relates to 'Design of new Development'.

2.0 PLANNING POLICY (relevant only to refusal reason 9)

- 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 Policies Map. Once adopted it will deliver the detail of the strategic policies set out in the Local Plan Part 1: Strategic Policies (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 The weight afforded to relevant emerging policies is done so in line with paragraph 48 of the National Planning Policy Framework (NPPF) 2016.
- 2.5 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.
- 2.6 The Hillingdon Local Plan: Part 1 - Strategic Policies
- 2.7 No policies relied on.
- 2.8 2007 Saved Unitary Development Plan
- 2.9 The policies relied on are BE21 and BE23. Appendix 5 of the Local Plan Part 1 Strategic Policies identifies the extant 2007 Saved UDP Policies, which are relied on in the interim period until the Local Plan

Part 2 is adopted. All policies relied on in this statement of case have been 'retained'.

2.10 The emerging local plan policy relied on is DMHB 11. There are no main modifications attached to this policy.

2.11 Adopted London Plan

2.12 The policy relied on is Policy 7.1

2.13 Council's Adopted Supplementary Planning Document

2.14 Hillingdon Design and Accessibility Statement (HDAS) 'Residential Layouts'.

2.15 All policies and documents referred to above have already been submitted to PINS with the Council's questionnaire. The aims and objectives of these policies are dealt with in the main body of this statement.

3.0 THE CASE FOR THE COUNCIL

- 3.1 One of the three overarching objectives for achieving sustainable development in the recently published NPPF is *'to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being (social objective).* Section 12, paragraph 127 (Achieving well designed places) states that Planning Policies and decisions should ensure that developments *'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'* (my emphasis).
- 3.2 Both the London Plan and the Hillingdon Local Plan reinforce these key objectives by seeking to achieve a high quality of design in all new buildings, both internally and externally. The policy requirements and supporting supplementary planning documents are referred to in their proper context in the following sections of this statement. There are no other material considerations that would enable a departure from the Development Plan.

3.3 Children Playspace

- 3.4 Policy 3.6 of the London Plan (2016) requires development proposals make provision for play and informal recreation based on the expected child population generated by the scheme.
- 3.5 In calculating the child yield of the proposal the Council originally considered the affordable housing units based on a social rented product, rather than an intermediate product, which attracts a higher yield. Following the lodging of the appeal this matter was discussed between the parties with the conclusion being that Discount Market Rented units are not managed by a registered provider so cannot be considered to form part of the social housing sector. A recalculation of the child yield as an intermediate product attracts an on-site provision of 62.4sqm, (GLA formula for intermediate child yield attached as **APPENDIX 2**). A dedicated children's play area is envisaged on the fifth floor terrace with informal play features. Based on the GLA play space calculator the following provision is required:

4 x under 5s;
2 x 5-11 year olds;
1 x 12+

- 3.6 This equates to 70m² of playspace to be provided on the terrace, which has a total area of 110m². The proposal is therefore policy compliant and this has been agreed between the parties in the statement of common ground.

3.7 Poor standard of outdoor amenity space

- 3.8 London Plan policy 7.1 relates to 'Lifetime Neighbourhoods', which encourages good quality environments to meet the recreational needs of future occupiers and enable people to live healthy active lives. Equally, the emerging Local Plan Part 2 policy DMHB 11 seeks all new buildings to be designed to the highest standards and, incorporating principles of good design. Part 2 saved UDP policies BE21 and BE23 require new residential buildings to provide external amenity space which is sufficient to protect the amenity of future occupants and neighbouring occupiers, which is useable in terms of its shape and siting. The accompanying text to Part 1 UDP policy BE23 explains that amenity space is important for the operation of household functions and recreation and all residential developments should therefore provide adequate external amenity space for residents, taking account of the guidelines set out in the Local Planning Authority's Supplementary Planning Guidance on design guides. The tests are based on the 'quality' of the external amenity space being provided for future occupiers and the 'quantum' proposed.

3.9 Quantum

- 3.10 The application proposal seeks full planning permission for the demolition of the existing warehouse and redevelopment of the site to provide a residential led mixed use scheme comprising 81 residential self contained build to rent units. The need for external amenity space provision is therefore triggered and to accord with the requirements of the development plan the following external amenity space standards (set out in para 4.17 of the Councils 'Residential Layouts' SPD) are required for flats.

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|-------------------------|------------------|
| • Studio/1 bedroom flat | 20 sq.m per flat |
| • 2 bedroom flat | 25 sq.m per flat |
| • 3+ bedroom flat | 30 sq.m per flat |

- 3.11 Based on the current accommodation schedule the required amenity space provision for the 81 proposed units would be as follows:

- | | | |
|----------------------|---------|-------------------|
| • Studio/1 bed flat; | 44 x 20 | = 880sq.m |
| • 2 bed flat; | 28 x 25 | = 700sq.m |
| • 3 bed flat; | 9 x 30 | = 270 sq.m |
| Total required= | | 1,850 sq.m |

- 3.12 The proposal identifies 1,076sq.m of amenity space provided through balconies and rooftop communal terraces, which equates to a deficit of 774sqm. The 1,328sqm figure stated by the appellant is contested

following the case Officers detailed calculation from plan, but in any event the minimum standard has not been met. A linear park envisaged at ground floor level is also included, but for the reasons identified in the following section of this statement the Council has excluded this external area from its calculations.

- 3.13 The Council is mindful of the Mayor's Housing SPG (2016) and the London Housing Design Guide (2010), which recommends that a minimum of 5sqm of private outdoor space be provided for 1-2 person dwellings and an extra 1sqm for each additional occupant. In accordance with the London Design Guide this would equate to a requirement of 414 sq m, which has been achieved. The Council would however highlight that more weight should be attached to the HDAS SPD (Residential Layouts) as this policy is inspired by good design that can help deliver places that are desirable to live in and can improve the quality of the existing environment. The SPD (Residential Layouts) takes into account the surrounding area when considering external amenity space, which is important to ensure Policy 7.1 of the London Plan 2016 is complied with as well as the aims and objectives of adopted and emerging local plan policies BE21 BE23 and DMHB 11. It is also relevant that the Council is an outer London borough therefore greater levels of external amenity space standards for new residential developments is expected.
- 3.14 Notwithstanding the above, in cases where the quantum of on-site external amenity space is deficient the Council's SPD 'Planning Obligations' explains that *'Planning obligations can be used as compensation for the failure to meet on-site amenity space requirements as set out in HDAS'*. Following the lodging of this appeal a financial contribution of £16,596.90, has been agreed and will be secured via a unilateral undertaking and will assist in future improvement works at the nearby Cranford Park.
- 3.15 Whilst this agreed financial contribution is welcomed and addresses the deficit in quantum as identified at paragraphs 3.10-3.12 above the Council argues that the quality of the external amenity space proposed on site is of such poor standard that it does not fully address the Council's objection under refusal reason 9 and therefore the appeal must be dismissed.
- 3.16 **Quality**
- 3.17 As part of the Council's strategic approach for all new development to improve and maintain the quality of the built environment (in order to create successful and sustainable neighbourhoods), Part 2 local plan policies BE21 and BE23 of the Hillingdon Local Plan which seek to safeguard residential amenity and to secure private external amenity space for all our residents. The accompanying text to policy BE23 states: *'Amenity space is important for the operation of basic household functions and recreation and all residential developments should therefore provide adequate external amenity space for*

residents, taking account of the guidelines set out in the Local Planning Authority's Supplementary Planning Guidance on design guides'.

3.18 Sections 4.17 – 4.20 of The Council's *Supplementary Planning Guidance* 'Residential Layouts' provides specific guidelines for 'Garden Space for Flats' (this document has already been submitted to PINs with the Council's questionnaire) In short, the guidance requires such development to incorporate usable, attractively laid out conveniently located garden space in relation to the flats they serve. Paragraph 4.16 (2) of the guidance states that areas that are closely overlooked from roads, footpaths, or windows to habitable rooms of adjoining properties will not be included in calculations of private useable garden space.

3.19 The external amenity areas being proposed comprise a Parkland amenity area fronting Nestles Avenue, rooftop communal terraces and private balconies.

3.20 Parkland amenity area

3.21 A 'parkland amenity area' is proposed at the front of the appeal site fronting Nestles Avenue (relevant plan attached as **APPENDIX 3**). It comprises semi-mature tree planting and is laid to grass with a public access route linking the site to its immediate neighbours. In the Council's view this 'amenity area' is far from being private, usable, attractively laid out and conveniently located in relation to the flats it serves as users will be closely overlooked from roads, footpaths and windows serving residential/offices contrary to the aims and objective of the Council's *Supplementary Planning Guidance* 'Residential Layouts'. The fact that refuse bins will be stationed and collected from this 'amenity area' on a weekly basis also adds to the Council's concerns.

3.22 Rooftop communal Areas

3.23 In the case of the rooftop communal terraces it can be clearly seen from the floor plan and elevational drawings (attached as **APPENDIX 4**) that a poor relationship exists between the communal outdoor areas and the close proximity of windows serving main habitable rooms. This is the case at fourth, fifth and eighth level. The worst case scenario is depicted in the contextual drawing copied over page, which shows the potential for loss of privacy due to direct views gained from the communal areas into main habitable rooms. The policy aim is to create usable, attractively laid out conveniently located garden space in relation to the flats they serve but this arrangement will lead to direct overlooking and possible conflict making the amenity areas less attractive and at worst unusable. It is interesting to note from the contextual drawing that the blinds have been drawn in the apartment closest to the play area with its outdoor private terrace standing empty.

3.24 The only defensible space afforded to the owner/occupier is in the form of low level screening and planters, which does not prevent direct

overlooking at eye level (even with children). An increase in the height of the screening would reduce the level of natural light and outlook from the habitable rooms and is therefore not a solution. Equally, the glazing (or part glazing) of windows is not an option for similar reasons. Indeed, the Council's SPD at para. 4.13 states that '*privacy can, in certain circumstances, be protected by careful layout and screening, including the use of obscure fixed and obscure glazing. Obscure windows are only acceptable to non-habitable rooms such as kitchens and bathrooms*' (my emphasis added).

- 3.25 Conclusion: It has been demonstrated above that the proposal is deficient in the quantum of external amenity space being proposed on site but this has been partly addressed by a financial contribution to assist in future improvement works at the nearby Cranford Park. Notwithstanding this, usable, attractively laid out amenity space cannot be achieved on this site due its poor relationship with windows serving main habitable rooms and being closely overlooked from roads and footpaths. This arrangement is completely at odds with the aims and objectives of London Plan policy 7.1 and adopted and emerging local plan policies BE21, BE23 and DMHB11.

4.0 SUGGESTED PLANNING CONDITIONS

- 4.1 The Council is firmly of the opinion that planning permission was correctly refused and the Inspector is respectfully requested to uphold the Council's decision and dismiss the appeal. If, however, the Inspector is minded to grant planning permission then the planning conditions contained in the agreed statement of common ground should be imposed.

APPENDIX 1

APPENDIX 2

APPENDIX 3

APPENDIX 4

APPENDIX 5