

WRITTEN REPRESENTATIONS APPEAL STATEMENT
(APPEAL MADE AGAINST THE REFUSAL OF PLANNING PERMISSION)
UNDER SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

APPELLANT: MR S KUMAR

LOCATION: CARTER HOUSE, COLHAM MILL ROAD, WEST DRAYTON

PROPOSAL: CHANGE OF USE OF FIRST FLOOR FROM RESIDENTIAL
(USE CLASS C3) TO RESTAURANT (USE CLASS A3)

LPA REFERENCE: 2963/APP/2019/1830

PLANNING REFUSAL DATE: 26 JULY 2019

STATEMENT DATE: 19 AUGUST 2019

Prepared by:

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1. INTRODUCTION

a. This appeal statement has been prepared by OPS Chartered Surveyors on behalf of Mr S Kumar to support an appeal under section 78 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) against the refusal of planning permission for a planning application.

b. The planning application (with reference 2963/APP/2019/1830) was refused planning permission by London Borough of Hillingdon on 26 July 2019, and it proposed the following development: *the change of use of first floor from residential (Use Class C3) to restaurant (Use Class A3)*. A copy of the decision notice is appended with this statement as 'Appendix 1'.

c. The reason(s) specified by the Council for refusing planning permission is as follows:

The proposal results in the loss of 3 residential units (which could be occupied with or without adaptation) in a sustainable location, resulting in the diminution of the Borough's housing stock, contrary to policy H3 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012), Policy DMH1 of the Hillingdon Local Plan: Part Two – Development Management Policies with Modifications (March 2019), Policy 3.14 of The London Plan (2016) and the NPPF.

2. SITE DESCRIPTION & RELEVANT PLANNING HISTORY

a. The appeal site, which presently comprises of a two storey flat-roofed building, is located on the northern side of Colham Mill Road, on the corner with Station Road, and lies within the Developed Area and Primary Town centre location as identified within the Hillingdon Local Plan. The building has a restaurant/cafe at ground floor level and 3 studio flats above at first floor level. The building backs onto an elevated section of the mainline overground railway, but it mainly fronts onto and is adjoined to the west by two storey residential properties of varying styles and design. There is allocated car parking to the western side of the site (in excess of 3 parking spaces) with additional 'Pay & Display' parking spaces along Station Road. There are good transport links in the area with the West Drayton overground railway station being a short walking distance away. A copy of the Site Location Plan (with scale 1:1250) and Block Site Plan (with scale 1:500), which accompanied planning application reference 2963/APP/2019/1830, is appended with this statement as 'Appendix 2'.

b. The current use of the first floor of the appeal building as 3 Class C3 studio self-contained flats was obtained through prior approval consent from the Council (prior approval not required) with reference 2963/APP/2015/927 on 1 May 2015. The current use of the ground floor as a Class A3 restaurant was granted planning permission by the Council on 30 September 2015 with reference 2963/APP/2015/3643.

3. APPEAL PROPOSAL

The appeal proposal, which was the subject of refused planning application reference 2963/APP/2019/1830, seeks planning permission for the change of use of the 3 Use Class C3 studio self-contained flats on the first floor level to associated ancillary space for the lawful Use Class A3 restaurant on the ground floor. As proposed, a main entrance opening would be provided in the building to form access for the ground and first floor levels, additional toilet facilities, storage, back office, serverly and restaurant areas. There would also be additional car parking (in addition to the existing) and secured cycle storage to the western side of the building.

The opening hours for the restaurant would still remain shop as follows:- 8.00am – 11.30pm on Mondays to Saturdays, and 10.00am – 6.00pm on Sundays, Public and/or Bank Holidays.

A copy of the Existing and Proposed Floor(s) Plan (drawing number 2019-13CMR-2 Rev 1.0), which accompanied planning application reference 2963/APP/2019/1830, is appended with this statement as 'Appendix 3'.

4. POLICY CONTEXT FOR THE APPEAL

This appeal statement will be considered in line with relevant policies contained in the Hillingdon Unitary Development Plan Saved Policies (September 2007) as incorporated into the Hillingdon Local Plan (2012) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan (2016) – The Spatial Development Strategy for London consolidated with alterations since 2011 (2016) and national guidance. It is instructive to note for the Inspector's attention that this also formed the policy basis employed by the Council in its determination of planning application reference 2963/APP/2019/1830.

Hillingdon Local Plan: Part One – Strategic Policies (November 2012):

PT1.BE1 (2012): Built Environment

Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012):

H3: Loss and replacement of residential accommodation

AM7: Consideration of traffic generated by proposed developments

AM14: New development and car parking standards

BE13: New development must harmonise with the existing street scene

BE15: Alterations and extensions to existing buildings

BE19: New development must improve or complement the character of the area

BE20: Daylight and sunlight considerations

BE21: Siting, bulk and proximity of new buildings/extensions

BE24: Requires new development to ensure adequate levels of privacy to neighbours

OE1 Protection of the character and amenities of surrounding properties and the local area
OE3 Buildings or uses likely to cause noise annoyance - mitigation measures
OE5 Siting of noise-sensitive developments

Hillingdon Local Plan: Part Two London Borough Of Hillingdon Local Plan Part 2 Development Management Policies with Modifications (March 2019):

DMH1 (Emerging): Safeguarding existing housing

LDF-AH: Accessible Hillingdon, Local Development Framework, Supplementary Planning Document, adopted January 2010

The London Plan (2016)

The Housing Standards Minor Alterations to The London Plan (March 2016)

Mayor of London's adopted Supplementary Planning Guidance – Housing (March 2016)

National Planning Policy Framework (NPPF) (February 2019)

5. CASE FOR THE APPELLANT

In making the submission of planning application reference 2963/APP/2019/1830 to the Council, the appellant submitted that the principle of the proposal is acceptable on the grounds that the 3 first floor studio self-contained flats provide internal floor areas of unsatisfactory sizes for the occupiers, and give rise to a substandard form of living accommodation to the detriment of present and future occupiers, contrary to relevant related policies of the Council's local plan and The London Plan (2016).

Given that the use of the first floor as 3 studio flats was obtained through prior approval not being required in 2015, the appellant submitted that changing the use of the first floor from the substandard living accommodation to ancillary space for the ground floor Class A3 restaurant would bring about several benefits to the local community, including the elimination of unsuitable and cramped accommodation and the provision of additional floor area space for an already viable and vibrant restaurant facility in the community.

The appellant brings to the attention of the Inspector the fact that the Council accepted the appellant's submission about the substandard sizes of the first floor residential accommodation in the delegated Officer report preceding the decision (a copy of which is appended to this statement as 'Appendix 4'). Nevertheless, the Council opined that the principle of the proposal is not acceptable and that the provided justification in respect of the substandard sizes is not reason enough for the loss of the first floor flats. The reason for refusal of the application proposal is reproduced below:-

'The proposal results in the loss of 3 residential units (which could be occupied with or without adaptation) in a sustainable location, resulting in the diminution of the Borough's housing stock, contrary to policy H3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policy DMH1 of the Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019), Policy 3.14 of The London Plan (2016) and the NPPF'.

In refusing the principle of the application proposal, the Council took recourse to the guidance contained within Policy H3 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012), emerging Policy DMH 1 of the Hillingdon Local Plan: Part 2 Development Management Policies with Modifications (March 2019) and Policy 3.14 of The London Plan (2016) in respect of the safeguarding and retention of existing housing stock in London's boroughs.

As outlined in the Council's delegated Officer's report, Policy H3 of the local plan specifies that 'the loss of residential accommodation (which could be occupied with or without adaptation) will only be permitted if it is replaced within the boundary of the site. An increase in the residential accommodation will be sought, subject to other policies in the plan.'

Emerging Policy DMH 1 of the local plan (with modifications) specifies that:

A) 'The net loss of existing self-contained housing, including affordable housing, will be resisted unless the housing is replaced with at least equivalent residential floorspace.'

Policy 3.14 of The London Plan (2016) specifies et al:

'Strategic

A. The Mayor will, and boroughs and other stakeholders should, support the maintenance and enhancement of the condition and quality of London's existing homes.

'Planning decisions and LDF preparation

B. Loss of housing, including affordable housing, should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floorspace.

C. This policy includes the loss of hostels, staff accommodation and shared accommodation that meet an identified housing need, unless the existing floorspace is satisfactorily re-provided to an equivalent or better standard.'

The Council opined as outlined further in the delegated Officer's report that 'given the shortage of residential units across London, it is and has been for a considerable period of time a fundamental policy throughout London to safeguard existing housing. The proposal would result in the loss of 3 residential units (which could be occupied with or without adaptation) which is clearly in conflict with policy H3 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012), Policy DMH 1 of the Hillingdon Local Plan: Part Two - Development Management Policies

with Modifications (March 2019), Policy 3.14 of The London Plan (2016) and the NPPF. The applicant has provided justification for the change of use on the grounds that the 3 units are of sub-standard size and do not meet the London Plan Housing Standards. However, this in itself is not considered sufficient justification to allow the loss of the residential accommodation and the principle is therefore considered unacceptable.'

In light of the outlined objectives of the above mentioned policies (as elucidated by the Council in justifying its refusal of the related planning application), the appellant submits to the Inspector that the Council's reason for refusal contradicts some of the key objectives of the said policies in respect of the maintenance of existing housing provision. Policy H3 of the local plan emphasises the need for increased replacement accommodation where loss of existing residential accommodation is proposed; following on from this, emerging Policy DMH 1 of the local plan (with modifications) and Policy 3.14 of The London Plan both emphasise that the loss of existing residential accommodation will be resisted, unless the existing floorspace is satisfactorily re-provided to an equivalent or better standard. As the Inspector will note from the Gross Internal Areas (GIAs) of the 3 studio flats as annotated on the attached existing / proposed floor plans, the studio flats have GIAs of 16, 17 and 19 square metres respectively. These GIAs are significantly less than the minimum GIA of 37 / 39 square metres required for a '1 bed-1 person' as specified in Table 3.3 of The Housing Standards Minor Alterations to The London Plan (March 2016) and the Government's Technical housing standards – nationally described space standards (November 2015). If the appellant were minded to provide replacement accommodation on the first floor with the existing combined usable GIA of 52 square metres, they would be restricted to the provision of only a 1 bed-1 person unit; the combined GIA of 52 square metres would be less than the required minimum of 58 square metres for a '1 bed-2 persons' unit at two-storey level. Even if the combined GIA was adequate to provide a 1 bed-2 persons unit, the resultant number of replacement unit(s) that could be provided would be less than the existing number of 3 units on the first floor. In this regard, the appellant submits that it is not practically possible to provide increased replacement accommodation of a satisfactory living standard, in line with the objective of Policy H3. Indeed, the appellant submits that the retention of the 3 studio flats with their substandard GIAs does not achieve the objectives of emerging Policy DMH 1 and London Plan Policy 3.14, as it would not be practically possible to provide an equivalent or higher number of satisfactory and / or enhanced high-quality residential units on the first floor.

Following on from the above, the appellants further submits that the retention of the 3 studio flats, which are essential 1-person residential units, does not align with the objectives of Policies 3.8 and 3.14 of The London Plan (2016), which specify that London boroughs should provide a mix of affordable housing types to serve the needs of different and particular communities. Indeed, both policies point out that there is a proliferation of one-person residential units in London, and that Councils should wherever possible, work to ensure the retention and enhanced provision of family sized dwellings / flats to cater for the high demand of single and large family accommodation. It is also instructive to note that the related housing policies in the

Council's local plan also mention the need for the Council to have a retained and enhanced housing stock characterised mainly by single family sized dwellings and / or residential units. In terms of the provision of self-contained flats, it is generally acknowledged in The London Plan and by Local Planning Authorities that self-contained flats with a minimum of '2 bed-3 person' occupancy constitutes a single family sized residential unit. The appellant submits that the existing residential accommodation on the first floor would not be adequate to ensure the provision of satisfactory family sized accommodation, as the combined usable GIA of 52 square metres of the 3 first floor studio flats is far less than 70 square metres, which is the minimum GIA required for a '2 bed-3 person' unit at two-storey level.

The appellant therefore submits to the Inspector that given the impracticality of providing high-level family sized accommodation on the first floor of the appeal building, the Council's presumption against single person units in maintaining its housing stock and the substandard quality of the existing first floor residential accommodation, they refute the Council's assertion that its housing stock would be diminished by the loss of the 3 single-person studio flats in the building. The appellant therefore submits that the principle of the proposal, which is in respect of the conversion of the first floor residential accommodation to ancillary restaurant use, does not conflict with the objectives of Policy H3 of the Hillingdon Local Plan: Part Two – Saved UDP Policies (November 2012), emerging Policy DMH 1 of the Hillingdon Local Plan: Part 2 Development Management Policies with Modifications (March 2019) and Policy 3.14 of The London Plan (2016).

One of the Core Planning Principles of the NPPF is to "encourage the effective use of land by reusing land, which has been previously developed", and has a presumption in favour of sustainable development that involves 'seeking positive improvements in the quality of the built environment and peoples' quality of life'. The appeal site is located close to a local shopping parade, which forms part of the Borough's shopping hierarchy, and which seeks to maximise a range of shopping within walking distance of people's homes and workplaces, as well as to provide attractive and accessible facilities to encourage use of modes of transport that help to reduce CO2 and emissions.

It is instructive for the Inspector to note that in terms of potential noise and disturbance, the Council's Environmental Protection Unit (EPU) previously raised no objection to the use of the ground floor as a cafe, subject to conditions controlling the hours of operation and no ventilation equipment being installed without details being submitted. This being the case, the Council opined that the appeal proposal would not result in any unacceptable noise and disturbance to neighbouring properties, and as such would not conflict with Policies OE1 and OE3 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012). The proposal does not involve any external alterations to the appeal building and as such, does not conflict with Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) and policies BE13 and BE15 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012). The Council also considered during the determination of the refused application that the proposal does not conflict with the

objectives of policies AM7 and AM14 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) in respect of the provision of adequate off-site car parking and covered cycle spaces (which could be secured by way of condition).

Following on from the above considerations therefore, the appellant respectfully submits to the Inspector that the appeal should succeed, and that planning permission should be granted for the appeal proposal.

6. CONCLUSION

The appellant respectfully submits to the Inspector that there should be no policy objection to the principle of the proposed change of use, as it complies with the guidance contained in national, The London Plan and local plan policies.

The proposed change of use is considered to be appropriate for the appeal site, given it is so easily accessible by a number of transport modes. It is considered that the proposed change of use would safeguard and contribute to the vitality and viability of the local parade, where there are sufficient on-site and off-site parking, and which would help to reduce parking impact and road safety of the area significantly. Adopting the view of the Council when granting the above planning permission, it is considered that there would be no substantial harm arising from the proposed development, which would outweigh the benefits which it would deliver. The scheme is therefore considered to be acceptable in principle, in compliance with relevant policies in the NPPF, the London Plan 2016 and the Hillingdon Local Plan.

7. APPENDICES

Appendix 1 – Decision Notice for refused planning application 2963/APP/2019/1830

Appendix 2 – Location Site Plan / Site Block Plan

Appendix 3 – Existing / Proposed Floor Plans (Drawing No.2019-13CMR-2 Rev 1.0)

Appendix 4 – Officer Report for refused planning application 2963/APP/2019/1830