

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

On behalf of Mr Tarsem Singh Dillon against the decision of

THE LONDON BOROUGH OF HILLINGDON

For the refusal of Planning Permission for;

“Addition of a second floor for use as storage”

at

**15B STATION ROAD, HAYES TOWN INDOOR MARKET
UB3 4BD.**



**PINS APPEALS SERVICE:
WRITTEN REPRESENTATIONS APPEAL.
PINS REF: APP/R5510/W/19/3242523.**

1.0 BACKGROUND

1.1 This planning appeal is made within the terms of Section 78 of the Town and Country Planning Act 1990, by way of the Written Representations, and the Fast-track ***Householder Appeals Service (HAS)*** procedure. The appeal has been lodged on – line, on 4th December 2019 via the Planning Portal, along with the relevant Decision Notice, application forms, plans and other supporting reports and documentation, and we were provided with an acknowledgement letter from the Planning Inspectorate, and the Planning Appeal (PINS) Case Reference:

APP/R5510/W/19/3242523

1.2 The original planning application relating to this appeal was submitted to the London Borough of Hillingdon on 5th August 2019 and was allocated planning file reference: 17297/APP/2019/2228.

1.3 Unfortunately, and despite further discussions with the Council, the application was subsequently refused by the London Borough of Hillingdon, on 30th October 2019, for the THREE reasons shown on the Decision Notice, which were forwarded to the Planning Inspectorate, as part of the submission of this appeal on – line.

1.4 However, for the purposes of this appeal, we have also provided the reason in full for the Inspector below, taken directly from the Decision Notice:



TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

REFUSAL OF PLANNING PERMISSION

Application Ref: 17297/APP/2019/2228

SCHEDULE OF REASONS

- 1 - The proposed development, by reason of its size, scale, bulk, design in particular the roof profile(s) would fail to appear as subordinate additions and would result in incongruous additions which would be detrimental to the architectural composition of the original building, the visual amenities of the street scene and the character and appearance of the wider Area. The proposal is therefore contrary to Policies BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies BE13, BE15 and BE19 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy DMHB 11 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019).
- 2 - The proposed building by virtue of its size, scale, bulk, height and proximity, would be detrimental to the amenities of the adjoining occupiers by reason of loss of daylight/sunlight, visual intrusion, overdominance, loss of outlook and loss of privacy. Therefore the proposal would be contrary to Policies BE20, BE21 and BE24 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) and Policy DMHB 11 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019).
- 3 - In the absence of an appraisal relating to parking demand and vehicular activity linked to the proposal, the application fails to demonstrate that the scheme would not result in harm to the local highway network and is therefore considered contrary to Policies AM2, AM7 and AM14 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012) and Policies DMT1, DMT2 and DMT6 of the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019).

- 1.5 An Informative was added to the Decision Notice referring to the National Planning Policy framework, the relevant policies of the Adopted Unitary Development Plan, which is the Hillingdon Local Plan (November 2012), and in addition, we may also refer to Hillingdon's Supplementary Planning Documents (SPD) entitled **Hillingdon Design and Accessibility Statement (HDAS)**.

1.6 Copies of the relevant policies and SPD will be provided by the London Borough of Hillingdon, as part of their questionnaire. So, this appeal is made on the grounds that the development could take place in accordance with:

1. The Adopted 2012 Unitary Development Plan, (Saved Policies) BE4, BE13, BE15 and BE19 and;
2. The Hillingdon Supplementary Planning Document (SPD), Design and Accessibility Statement (HDAS), entitled ***Residential Extensions*** and as such would not adversely affect the character and appearance of the Area.

1.7 So, we will may also refer to the new ***National Planning Policy Framework (NPPF), March 2012*** which replaced ***Planning Policy Statement No5 'Planning for the Historic Environment'***, and which now continues to provide guidance to Local Planning Authorities (LPA's) such as Hillingdon on dealing with applications that affect both "*designated and undesignated Heritage Assets*", which includes, inter-alia, Conservation Areas.

2.0 THE APPEAL PROPERTY:

- 2.1 No15b Station Road is located in the “commercial” area of Hayes Town Centre, which is located within the London Borough of Hillingdon, and is a typical “inter – war” suburban style of shopping parade, with typical Commercial, retail, leisure, religious uses and buildings in the area, and with typical rear service roads serving these various uses/buildings/shops.
- 2.2 As can be seen below, No15b Station Road is situated to the rear of Station Road, and forms part of a larger building in this attractive well landscaped street, with large and spacious front and rear gardens, and facing north east towards Milton Road, with its rear garden facing south west, as shown below:



- 2.3 So, No15 forms part of this larger indoor market located via an archway from Station Road, which leads to this particular building, currently in use as a large shoe storage – retail facility, but now seeking to create small retail units and add a second floor too, by creating a new flat roof, to create a further 8 modest store – retail units for local retailers.
- 2.4 We will therefore respond to the reasons above, as raised by the Local Planning Authority (LPA) in respect of the unwarranted concern regarding the potential adverse impact upon the character and appearance of the area, neighbouring properties or levels of car parking in the area.
- 2.5 The appeal property is located within the defined urban area of, and Administrative area of the London Borough of Hillingdon.
- 2.6 Now, as a Planning Consultant asked to prepare, lodge and monitor this appeal, then this seems an extremely subjective decision to refuse this application, particularly bearing in mind this building is completely concealed and enclosed by the frontage buildings along Station Road, and thus this building is barely discernible from the outside world. Surely then its visual impact must be negligible?
- 2.7 We would also contend that the National Planning Policy Framework (NPPF) as amended July 2018 is quite implicit in its guidance to Local Planning Authorities in that they should not get involved in detailed design issues, but should “enable” new development to take place. However, we will refer to this matter shortly in making our case.

2.8 Also for the purpose of this appeal, an extract of the Ordnance Survey is shown below, showing how this building sits behind the Station Road frontage, and therefore even this roof alteration at second floor level will have little or no impact upon the ‘street-scene’, neighbours or the wider area:



2.9 Indeed, the only ‘Public’ views = access to this building is via a narrow walkway between the frontage buildings in Station Road, as shown on our cover photograph, or via a narrow walkway from the north, which itself runs alongside a large – high imposing multi-storey car park, which further completely obscures this building, providing context for this appeal case.

2.10 The Case Officers Delegated report into the application provides some further background to this property:

“The application site is located on the east side of Station Road, to the rear of the commercial units at Nos.13 and 15 Station Road. It comprises a two storey detached building previously used for 3 car spaces at ground floor and a storage distribution area at first floor level (both related to the A1 retail unit of No.15 Station Road). The ground floor is now in use as a A1 retail unit.

The site is accessed through an arched alleyway between the commercial units of Nos.11 and 15 Station Road. A corrugated sheeted roof (which is not apart of the application) covers the passageway between the application building and the arched alleyway.

To the west, lies the main Hayes Town Centre with the application site situated in between A2 Office (Thomas Cook Travel Agents No.11 Station Road) and a Class A1 retail unit (No.15 Station Road). Directly above the commercial units on this parade are residential properties which face directly onto the application site.

Two external stairways provide access to these residential units to the front of the application site. Directly to the north, to the rear of the shops is an area of hard standing used for vehicular parking. The application site lies within the Hayes Primary Shopping Area and a developed area as designated by the policies of the Hillingdon Local Plan (2012).”

- 2.11 So, this application sought to simply change the roof shape from the shallow pitched roof to a slightly taller flat roof, to provide further modest retail units for local businesses – retailers, particularly given the location of the property/building, to the rear of this extremely popular and busy (and defined Hayes Primary Shopping Parade).

3.0 RELEVANT PLANNING POLICY & HISTORY:

3.1 The current Development Plan of the London Borough of Hillingdon comprises the **London Borough of Hillingdon Local Plan, Part one – Strategic Policies and Part two, Saved UDP Policies, (November 2012).**

3.2 The relevant policies referred to in the single reason for refusal include policies from Part 1 and Part 2:

- ❖ *Policy BE1: General Principles;*
- ❖ *Policy BE4: New Development in Conservation Areas;*
- ❖ *Policy BE13: New development to harmonise with street scene;*
- ❖ *Policy BE15: New development to harmonise with scale, form, architectural composition and proportions of building, and;*
- ❖ *Policy BE19: New Development compliments or improves amenity and character of area.*

3.3 We remain of the view the proposed extensions subject to this appeal statement are compliant with BE1 of Part 1 of the adopted plan, and saved policies BE4, BE13, BE15 and BE19 of part 2 of the Adopted Plan. These state respectively:

“....All new development should: Achieve a high quality of design in all new buildings, alterations, extensions and the public realm which enhances the local distinctiveness of the area....

...be designed to be appropriate to the identity and context of Hillingdon’s buildings..and make a positive contribution to the local area in terms of layout, form, scale and materials...(BE1)

“Development will not be permitted if the layout and appearance fail to harmonise with the existing street scene....” (BE13)

“Proposals for alterations to existing buildings will be permitted where they harmonise with the scale, form, architectural composition and proportions of the original dwelling.” (BE15)

“...new development within residential areas compliments or improves the amenity and character of the area.” (BE19)

3.4 Also in this case, then as the property is located just behind the frontage parade, which we understand is a designated Primary Shopping Area, so we will also refer to this, as it seeks to improve and upgrade such buildings in these ‘retail centres’. Whilst we also note the National Planning Policy Framework (NPPF) guidance to Local Councils is also relevant in relation to “*design*” as mentioned earlier.

3.5 As of 28th September 2007 it should be noted that the Local policies were saved as being in conformity with national or regional policy. Copies of these policies will be provided by Hillingdon Council, and consequently we may also refer to these documents when necessary as part of this appeal. As of September 2007, these policies in the Adopted Unitary Development Plan, were ‘saved’ and were brought forward in to the 2012 Local Plan.

3.6 PLANNING HISTORY: We have taken the relevant planning history relating to this site from the Case Officers report. It seems this original building was formed in 2004 (2004/2485), by “*Erection of a two storey ancillary storage building (for No15 Station Road) with car parking (involving demolition of existing workshop building)*”:

17297/APP/2000/444 15b Station Road Hayes
ERECTION OF A TWO STOREY BUILDING FOR USE AS A FOOD MANUFACTURING
PLACE (CLASS B1 USE) WITH ANCILLARY STORAGE AND OFFICE FACILITIES

Decision: 17-08-2000 Refused

17297/APP/2004/2485 15b Station Road Hayes
ERECTION OF A TWO STOREY ANCILLARY STORAGE BUILDING (FOR NO.15 STATION
ROAD) WITH CAR PARKING (INVOLVING DEMOLITION OF EXISTING WORKSHOP
BUILDING)

Decision: 04-11-2004 Approved

17297/APP/2011/2231 15b Station Road Hayes
Change of Use from Use Class B8 (Storage and Distribution) to Use Class A1 (Shops) covered
car park to retail shop

Decision: 14-02-2012 Refused **Appeal:** 25-07-2012 Allowed

17297/APP/2013/3265 15b Station Road Hayes
Change of use of the existing retail unit (A1 use) to a restaurant (A3 use).

Decision: 14-11-2013 Refused

17297/B/88/1091 15b Station Road Hayes
Continued use of unit for car repairs including panel beating & paint spraying

Decision: 26-07-1988 Refused **Appeal:** 14-04-1989 Dismissed

Comment on Planning History

The application site benefits from a range of enforcement actions and planning
applications seeking planning consent from as early as 1988.

4.0 PLANNING CONSIDERATIONS:

4.1 Firstly, we must start by referring to the relevant National Government Guidance, in the form of the **National Planning Policy Framework (NPPF) Amended July 2018** which reaffirms and updates the previous versions of the NPPF, and National objectives/guidance regarding ‘design’, at Paragraphs 127 and 130 stating respectively:

“.. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) 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...”*

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.”

4.2 **REASON 1: ‘*Detrimental to the architectural composition*’:** So, in accordance with the NPPF above, we remain of the view that the Council are being over-prescriptive, and that the change of this roof from a shallow pitched roof to a slightly taller flat roof would not be out of keeping with the wider street-scene, particularly as this building appears completely concealed on all sides from any short or long range ‘Public’ views, given its location;

(A) to the rear of the much taller properties along Station Road;

(B) screened on all sides, including the multi-storey car park to the rear – east;

(C) the fact it forms part of a larger flat roof building and (D) the location of mature trees surrounding the building.

4.3 So, we believe the “subordinate” nature of the side and rear elevations, would clearly ensure that there would indeed be a distinct break between the original “core” of this detached storage building and the new second floor roof extension, such that in our view they would indeed relate very well to the original storage building, as required by the Development Plan policies outlined earlier.

4.4 Now, as a Chartered Planning Consultant, having viewed the appeal property from all angles we feel that the proposed roof alterations would be barely discernible and therefore Hillingdon are indeed being over prescriptive, and are not “guiding” the overall “size, scale, bulk and design” of these extensions, which we feel would not fundamentally alter the character and appearance of the “host” building or the wider area.

4.5 The Council refer to the new flat roof being “incongruous” however as discussed, apart from the frontage building with its taller 2 1/2 storey pitched roof, the surrounding roofs are all flat roof, whilst obviously the multi storey car park immediately screening this new roof from the east and south is also flat. Therefore, how quite this new roof would not “subordinate” as stated in the first reason for refusal is difficult to understand, and we cannot agree with this conclusion.

4.6 **REASON 2: This refers to a perceived impact upon neighbours;** however equally this new roof extension at second floor level would simply increase the roof height by just 1 metre, from 8m to the existing shallow pitched ridge to 9m, as shown on the submitted plans.

4.7 However, using Google Street View and its 3D ‘Globe View’ we can see that the increased roof would still be 7-8 metres away from the rear facing windows of residential flats in the second floor of Station Road, so no overshadowing of these flats. The Case Officer report refers to two issues in terms of impact upon neighbours:

(A) Increased noise from Customers ‘coming and going’: Clearly any commercial – retail use of the upper floors could controlled by condition in the usual way? The Appellant advised the Council they were happy to (without prejudice) to adhere to an appropriate condition restricting hours of opening in the usual way, and can confirm again such a condition would be acceptable and would ensure the premises close – open an sensible times, which would protect neighbours amenities.

(B) Such a condition is so common, necessary AND enforceable by Local Planning Authorities across the UK, entirely in accordance with Circular 11/95 'The use of Planning conditions'...

(C) Somehow the LPA also refer to the potential for overlooking from "customers standing outside the first and second floor unit", yet there is not, and never has been any intention to provide external access for staff or customers to the roof? **The proposal is for additional storage**, so there is simply absolutely no need for shoppers or other people to go out onto the roof, other than for occasionally maintenance!! Therefore, equally there would be no potential to overlook the rear windows or gardens – courtyards of properties – flats fronting Station Road.

4.8 As such, this modest roof extension would not result in overlooking or indeed a "perception" of overlooking of neighbours.

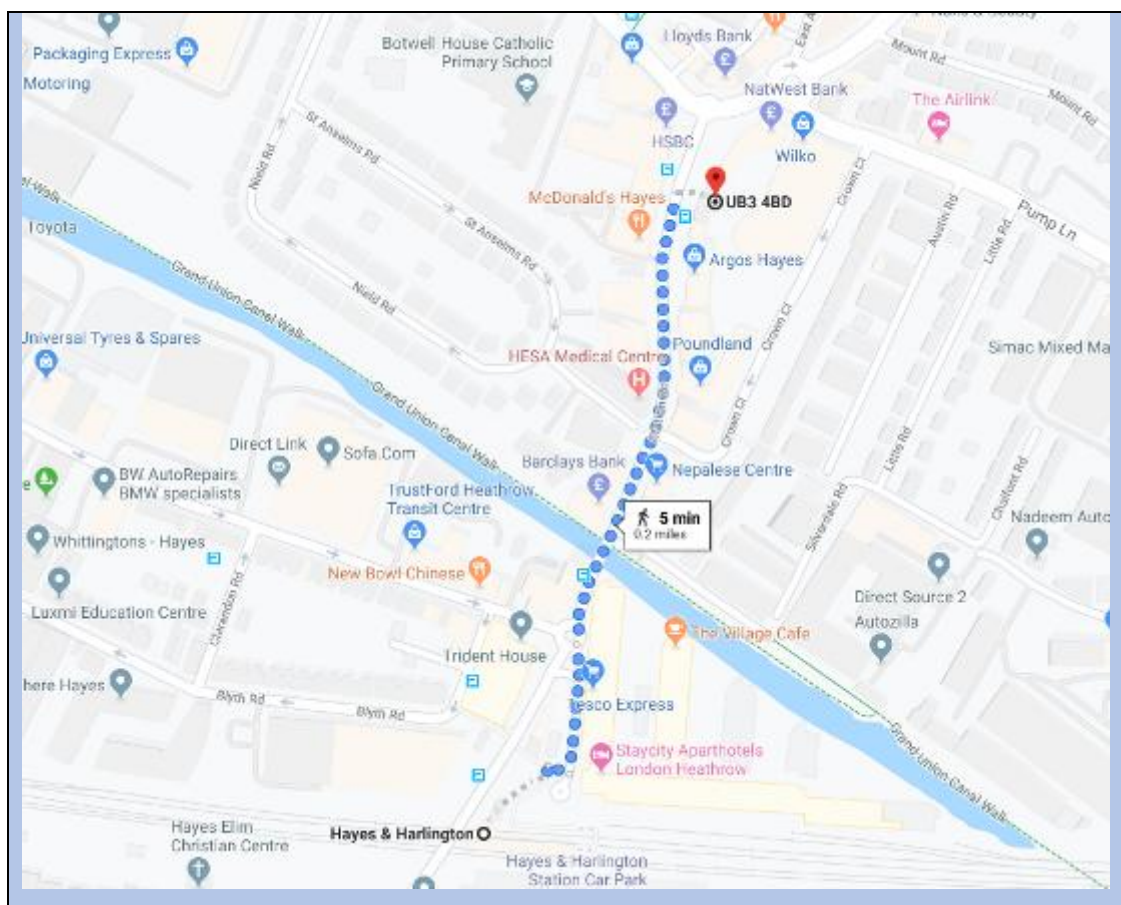
4.9 **REASON 3: Parking Demand:** This refers to the Applicants not having undertaken some form of detailed car parking Traffic Impact Assessment (TIA). Our response with regards to this third reason is that, as with all shops within the defined Hayes Town Centre Primary Shopping Area or indeed most older traditional retail centre – parades in the UK, they have ZERO parking. It is entirely the nature of these town centre environments.

4.10 None of the shops and other premises along Station Road provide off street parking for their Customers, particularly as there is a large multi – storey car park immediately to the rear (east) and south of these premises, with direct pedestrian access to Station Road through the archway – walkway directly alongside No15 Station Road.

- 4.11 There is absolutely no need to provide a TIA, given the location of these potential retail and existing retail units to Hayes Town Centre, where there are regular buses and train services; indeed the NPPF advocates reduced car parking and even zero parking in such sustainable locations;

THE SUSTAINABLE LOCATION:

- 4.12 Although this has not been cited as a reason for refusal, we must also refer to the National Planning Policy Framework (NPPF) (as amended) which advocates new homes being built in sustainable locations, close to “non-car modes of transport” (Public Transport) then we note the property is located extremely close to Hayes and Harlington Underground Station, 5 minutes walk away to the south:



THE Supplementary Planning Document:

- 4.13 **Paragraph 4.4(iii)** of the SPD refers to the ‘...**accessibility**...’ of sites, which should be located close to public transport, shops, services, infrastructure, etc, where other modes of Transport than the car are available, which reflects the guidance contained in the NPPF.
- 4.14 So, as discussed earlier and as demonstrated by the “Streetview” map below, the property is located less than 5 minutes walk from Hayes and Harlington Tube Station, and the defined Primary Shopping area, whilst the tube station connects the area to central London, and all its employment, retail, cultural and leisure uses, approximately 40 minutes away by Tube.
- 4.15 These centres contain all the necessary commercial, community, religious and leisure services needed by local residents in the area, and therefore, these new retail units would be in an extremely accessible location in accordance with the National Planning Policy Framework and more local policies.
- 4.16 Essentially, therefore given this sustainable location then a TIA was not considered necessary, as the scheme would not suddenly increase car parking demand or indeed “*result in harm to the local highway network*” as stated by the Council.

4.17 So, without prejudice to the outcome of this appeal, the LPA could impose necessary and relevant condition(s) requiring the “submission of and approval of materials”, and in order to ensure:

- A. The extensions would match the existing building below and neighbouring flat roof buildings;
- B. No direct access would be possible to the roof of the building;
- C. An hours of opening condition(s) be imposed to ensure the premises close at reasonable (and enforceable) hours, so not as to disturb local residential units.

4.18 So, bearing in mind the advice contained in Circular 11/95 ‘*Use of Planning Conditions*’ we can confirm that the appellant would adhere to a condition(s).

4.19 So then overall, and in our view as a Planning Consultant, then it would surely positively enhance the wider “street-scene”, and so the appeal proposal for a modest “subordinate” second floor REAR roof extension remains subordinate in ALL respects to the original property, in accordance with the Adopted Local plan policies:

- ❖ Still being of a subordinate flat roof height, which is still lower than the frontage Station Road shops and flats;
- ❖ The subordinate extension creates a natural and distinct break between original & new;
- ❖ Having the same flat roof as many of its neighbours AND the multi storey car park;
- ❖ Having the same window proportions and colour;

4.20 Therefore, in our view and for the reasons highlighted in this statement, it is maintained that this extension would accord with the objectives of the Adopted UDP, saved policies, November 2012.

4.21 These are referred to in the reason for refusal, in particular Policies BE13, BE15 and BE19, and we therefore conclude the scheme would indeed meet these 3 policies, which state respectively:

‘Development will not be permitted if the layout and appearance fail to harmonise with the existing street scene...’;

‘Proposals for alterations and extensions to existing buildings will be permitted where they harmonise with the scale, form, architectural composition and proportions of the original dwelling.’ and;

‘...new developments within residential areas compliments or improves the amenity and character of the area.’

4.22 In our view, for the above reasons, the proposed roof alteration accords with National Policy Guidance, in the form of the National Planning Policy Framework (NPPF), and in particular also would not adversely affect the neighbours or highway safety/parking levels in the area, and we therefore maintain that it would not conflict with the NPPF or more local SPD, or the Adopted local Unitary Development Plan policies 2012, as described above.

4.23 Consequently, in consideration of this submission and having regard to these reasons it is respectfully requested that the Inspector upholds this appeal, and grants Planning Permission for the roof alteration, as submitted to the London Borough of Hillingdon.

5.0 CONDITIONS:

5.1 Without prejudice to the Inspectors decision, the following conditions are recommended, should the appeal be upheld:

- 3 year time limit;
- materials to be submitted to and approved by the LPA;
- no further windows to be inserted without the written consent of the Local Planning Authority;

6.0 DOCUMENTS:

- (1) Copies of the forms and Decision Notice will be attached electronically to the on – line forms, along with this statement, using the Planning Portal.