



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:
Erindale Ltd.

Proposal:
Three storey side extension and two storey rear extension to create a retail unit and 4 x 2-bed self-contained flats with associated amenity, cycle and refuse store

Appeal Site:
1-2 MARLBOROUGH PARADE
UXBRIDGE ROAD

Our Ref:
Your Ref:

19108/APP/2020/3815
APP/R5510/W/21/3271012

1. Introduction

- 1.1 This appeal statement is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of the appeal against the non-determination of planning application reference 19108/APP/2020/3815 submitted on 8 January 2021.

2. LPA Case

Site and Surroundings

- 2.1 The application site is a large commercial unit occupied by ATS Euromaster Tyre and Exhaust Centre situated on a corner plot between Marlborough Road and Uxbridge Road.
- 2.2 The site forms part of a parade of commercial units and is situated along the Uxbridge Road where there is a mix of residential and commercial premises. There are residential dwellings at first floor level.

Relevant Planning History

- 2.3 19108/APP/2019/936 - Three storey side extension and two storey rear extension to create ground floor retail unit, 2 x studio flats, 2 x 2-bed flats and 1 x 3-bed flat with associated amenity, cycle and refuse store was refused for the following reasons:
1. The proposed development, by reason of its excessive size, scale, bulk, height, depth and width in this open prominent position which projects forward of the return building line along Marlborough Road, would fail to appear as a subordinate addition, resulting in the closing of a gap characteristic to the area and a cramped appearance. The proposal is, thus, contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies BE13 and BE19 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policies 7.1 and 7.4 of the London Plan (2016) and the Council's adopted Supplementary Planning Document HDAS: Residential Layouts.
 2. The proposal would result in a poor level of light and outlook to the future occupants of Mews Flats Numbers 2 and 3 having regard to the close proximity of rear facing windows serving habitable rooms to the flank wall of 2 Marlborough Road. Furthermore, in view of the restricted outlook to the front of unit 3 given the close proximity of the proposed privacy screen the future occupants of this property would suffer an unacceptable level of light and outlook. The proposal is therefore contrary to policies BE19, BE20 and BE21 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), the Council's adopted Supplementary Planning Document HDAS: Residential Layouts and Policy 3.5 of the London Plan (2016).
 3. The proposal would result in an unsatisfactory level of overlooking of the communal amenity space and front windows of proposed Mews flat 2 and 3 from the rear facing window to Number 3 Marlborough Parade, resulting in an unacceptable

loss of privacy to future occupiers. The proposal is therefore contrary to Policy BE24 of the Hillingdon Local Plan: Part Two - Unitary Development Plan Saved Policies (November 2012) and the adopted Supplementary Planning Document HDAS: Residential Layouts.

4. The proposal fails to provide amenity space of sufficient size and quality commensurate to the size and layout of the said units. As such the proposal would provide a substandard form of accommodation for future residents contrary to Policy BE23 of the Hillingdon Local plan - Saved UDP Policies (November 2012), and the Council's HDAS (SPD): 'Residential Layouts',

5. The proposed development, by reason of the lack of a step free access to upper floor flats, would fail to provide facilities for people with disabilities and would result in a development which is accessible and inclusive contrary to Policy 3.8 of the London Plan (2016), the Mayor of London's adopted Supplementary Planning Guidance - Housing (March 2016) and the adopted Supplementary Planning Document HDAS: Accessible Hillingdon.

An appeal was subsequently dismissed

Impact upon Residential Amenity of Neighbouring Properties

- 2.4 Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) states that development proposals should not adversely impact on the amenity, daylight and sunlight of adjacent properties and open space.

Concerns were previously raised that the development would result in a poor level of light and outlook to the future occupants of Mews Flats Numbers 2 and 3 having regard to the proximity of rear facing windows serving habitable rooms to the flank wall of 2 Marlborough Road. Furthermore, in view of the restricted outlook to the front of unit 3 given the proximity of the proposed privacy screen the future occupants of this property would suffer an unacceptable level of light and outlook.

The Inspector advised:

"The development proposes 3 rear-facing 'mews' units that would be in close proximity to the side elevation of No 2 Marlborough Road. The front windows to those units would face directly onto a 2-storey brick wall at close quarters. This would result in very poor levels of outlook from those rooms which would create a harmful and oppressive sense of enclosure to future occupiers. Whilst side facing views would be available from first floor oriel windows, these would only be visible to someone stood directly in those windows. This would not adequately mitigate the poor outlook to those rooms, nor would any mitigation be provided at ground floor level.

A Daylight & Sunlight Assessment has been submitted in support of the development. This concludes that all habitable rooms would meet recommended Average Daylight Factor levels. However, that does not alter my concerns in relation to outlook.

Separately, a rear facing window to No 3 Marlborough Parade would be positioned opposite the living/kitchen/dining room window to Unit 3. This would allow for clear intervisibility between those rooms at a very narrow distance, which would undermine the privacy of both properties. Whilst a privacy screen could be installed to restrict mutual overlooking, this would create an overbearing presence that would dominate the outlook from the window to Unit 3 along one side."

The applicant has contended that this revised proposal steps back at ground floor level, providing each unit with private access from street level. Units 1-3 each have private amenity spaces which are accessed from the rear alley and form entrance courtyards for the units. This allows the built form to be set back from the site boundary and the buildings opposite. Units 2 and 3 each have further private amenity space at first floor level."

- 2.4 The revised current appeal proposal also increases the level of light and outlook to the future occupants of Mews flats 2 and 3. The entrance courtyards at ground floor level create a buffer zone between the Mews flats and the dwellings across the alleyway, this allows the windows of the living space to be further from the privacy screens of the courtyard, thus allowing more light into the building itself. On first floor level this allows for more windows into the bedrooms at different angles with non-overlooking sideways views. Also, the greater distance between them and the dwellings across the alleyway results in no overlooking and thus greater privacy.
- 2.5 However, concerns remain about the levels of outlook to the habitable rooms serving Mews Flats Nos. 2 and 3. Bedrooms 2 of these units would still remain sited just 5m away from the flank wall of Number 2 Marlborough Road which would present poor standards of outlook for the occupants of said units. The side facing windows to both of these rooms are shown to be obscure glazed and would not provide an outlook, Furthermore the bedroom windows to bedroom 1 and the living area below would only achieve a separation distance of 9m which would again present a limited level outlook for the proposed occupants of the development.
- 2.6 The proposal would result in a poor level of light and outlook for the future occupants of Mews Flats Nos. 2 and 3 having regard to the close proximity of rear facing windows serving habitable rooms to the flank wall of 2 Marlborough Road. The proposal is therefore contrary to policy DMHB11 of the Hillingdon Local plan - Part two (2020 and Policy D6 of the London plan (2021).

Impact on the street scene

- 2.7 The NPPF (2021) notes the importance of achieving design which is appropriate to its context stating that '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.'
- 2.8 Policy D3 of the London Plan (2021) requires that development proposals should: Form and enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.

- 2.9 Policy D4 of the London Plan (2021) states 'Development should have regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. It should improve an area's visual or physical connection with natural features. In areas of poor or ill-defined character, development should build on the positive elements that can contribute to establish an enhanced character for the future function of the area.'
- 2.10 Policy GG4 of the London Plan (March 2021) seeks to ensure that London's housing needs are met. This objective is reiterated in the Mayor of London's Supplementary Planning Guidance (SPG) on Housing, although it is noted that in achieving housing targets, full account must be given to other policy objectives.
- 2.11 Policy H1 of The London Plan (2021) promotes the optimisation of housing output within different types of location. Policy H10 of The London Plan encourages the Council to provide a range of housing choices in order to take account of the various different groups who require different types of housing. Consideration will also be given to the accessibility of the site to services and amenities.
- 2.12 Policy BE1 of the Hillingdon Local Plan (November 2012) requires that all new development achieves a 'high quality of design in all new buildings, alterations and extensions'.
- 2.13 Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) states that All development, including extensions, alterations and new buildings will be required to be designed to the highest standards and, incorporate principles of good design including: i) harmonising with the local context by taking into account the surrounding: · scale of development, considering the height, mass and bulk of adjacent structures; · building plot sizes and widths, plot coverage and established street patterns; · building lines and setbacks, rooflines, streetscape rhythm, for example, gaps between structures and other streetscape elements, such as degree of enclosure; architectural composition and quality of detailing; local topography, views both from and to the site; and impact on neighbouring open spaces and their environment. ii) ensuring the use of high quality building materials and finishes; iii) ensuring that the internal design and layout of development maximises sustainability and is adaptable to different activities; iv) protecting features of positive value within and adjacent to the site, including the safeguarding of heritage assets, designated and un-designated, and their settings; and v) landscaping and tree planting to protect and enhance amenity, biodiversity and green infrastructure.
- 2.14 Concerns were previously raised by the Council in terms of the visual impact of the proposal. The Inspector however advised:
- "The development would extend the existing parade to the side and would infill a small gap that is currently used for bin storage and car parking. The extension would be set down in height, and set back from the front elevation, and it would be subordinate in appearance in my view. Its design would also be in keeping with the parade when viewed from along Uxbridge Road. Whilst it would extend the building up to the back edge of the footway it would not create an unduly imposing feature within the street. In this regard, I note that the existing garage building is already positioned next to the footway.

When viewed from along Marlborough Road, the development would have a very similar built footprint and height to the existing building. In this regard, it would have no greater effect on the building line than at present. In any case, the building line along Marlborough Road is stepped in this location, and the appeal site is positioned directly opposite an existing outbuilding at the back edge of the footway. In this context, it would not appear out of keeping.

For the above reasons, I conclude that the development would not significantly harm the character and appearance of the area. It would therefore accord with Policies 7.1 and 7.4 of the London Plan, Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (2012), and the relevant sections of Policies DMHB 11 and DMHB 12 of the Hillingdon Local Plan Part 2 - Development Management Policies (2020). These policies seek to ensure that new development is designed to the highest standards and is well integrated with the surrounding area."

- 2.15 Having regard to the Inspectors comments and the extant development at the opposite end of the terrace, the appeal proposal is not considered to result in a visually incongruous form of development and the proposed scheme would accord with the provisions of Policies DMHB11, DMHB12 and DMHD1 of the Hillingdon Local plan - Part Two (2020).

Car Parking and Traffic Impact

- 2.16 Policy DMT 2: Highways Impacts states:

Development proposals must ensure that:

- i) safe and efficient vehicular access to the highway network is provided to the Council's standards;
- ii) they do not contribute to the deterioration of air quality, noise or local amenity or safety of all road users and residents;
- iii) safe, secure and convenient access and facilities for cyclists and pedestrian are satisfactorily accommodated in the design of highway and traffic management schemes;
- iv) impacts on local amenity and congestion are minimised by routing through traffic by the most direct means to the strategic road network, avoiding local distributor and access roads; and
- v) there are suitable mitigation measures to address any traffic impacts in terms of capacity and functions of existing and committed roads, including along roads or through junctions which are at capacity.

Policy DMT 6: Vehicle Parking states:

A) Development proposals must comply with the parking standards outlined in Appendix C Table 1 in order to facilitate sustainable development and address issues relating to congestion and amenity.

The Council may agree to vary these requirements when:

- i) the variance would not lead to a deleterious impact on street parking provision, congestion or local amenity; and/or

ii) a transport appraisal and travel plan has been approved and parking provision is in accordance with its recommendations.

B) All car parks provided for new development will be required to contain conveniently located reserved spaces for wheelchair users and those with restricted mobility in accordance with the Council's Accessible Hillingdon SPD.

The appeal proposal has been reviewed by the Highway Authority who are satisfied that the proposal would not exacerbate congestion or parking stress, and would not raise any highway safety concerns, in accordance with policies DMT2 and DMT6 of the Hillingdon Local plan - Part Two (2020).

Housing Standards

2.17 Policy DMHB 16: Housing Standards states:

All housing development should have an adequate provision of internal space in order to provide an appropriate living environment. To achieve this all residential development or conversions should:

meet or exceed the most up to date internal space standards, as set out in Table 5.1. All proposed flats would meet the minimum standards.

Policy DMHB 18: Private Outdoor Amenity Space states:

All new residential development and conversions will be required to provide good quality and useable private outdoor amenity space. Amenity space should be provided in accordance with the standards set out in Table 5.2.

2.18 The previous scheme was refused on the grounds that the communal amenity space provision was inadequate. The current appeal proposal involves private amenity space for the proposed flats. 3 of the flats fall short of the minimum 25 square metres standard set out in Policy DMHB 18 (10m², 14m² and 18m²). Whilst it is accepted that the under provision is less than previously proposed, concerns remain in terms of this amenity space provision which is considered unacceptable and provides evidence that the proposed development constitutes an overdevelopment of the site. Accordingly, the proposed development is considered contrary to the provisions of Policy DMHB18 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020).

Landscaping

2.19 Policy DMHB 14: Trees and Landscaping requires:

A) All developments will be expected to retain or enhance existing landscaping, trees, biodiversity or other natural features of merit.

B) Development proposals will be required to provide a landscape scheme that includes hard and soft landscaping appropriate to the character of the area, which supports and enhances biodiversity and amenity particularly in areas deficient in green infrastructure.

C) Where space for ground level planting is limited, such as high rise buildings, the inclusion of living walls and roofs will be expected where feasible.

D) Planning applications for proposals that would affect existing trees will be required to provide an accurate tree survey showing the location, height, spread and species of trees. Where the tree survey identifies trees of merit, tree root protection areas and an arboricultural method statement will be required to show how the trees will be protected. Where trees are to be removed, proposals for replanting of new trees on-site must be provided or include contributions to offsite provision.

- 2.20 The Landscape Officer has advised that the external amenity space in this urban location is limited, however, some private amenity space is to be provided. In the event of an approvable scheme, a landscaping condition would be imposed to secure details of landscaping.

Access

- 2.21 The previous application raised concerns in terms of a step free access. The appellant has advised that all units are accessible directly from the ground floor. Each unit can be retrofitted with stair lifts if required. As such the provision for disabled access has been met without the need for a lift. The London Plan (2021) recognises that the application of M4(2), which requires lift access (a step free approach to the principle private entrance), may have particular implications for developments of four storeys or less where historically the London Plan may not have not required a lift. Local Planning Authorities are therefore required to ensure that dwellings accessed above or below the entrance storey in buildings of four storeys or less have step-free access. Research indicates that the provision of a lift does not necessarily have a significant impact on viability and does not necessarily lead to a significant increase in service charges. The supporting statement confirms the provision of a step free development is not possible. However, no statement has been submitted to justify non-viability for lift provision. As such the proposed development, by reason of the lack of a step free access to upper floor flats, would fail to provide facilities for people with disabilities and would result in a development which is accessible and inclusive contrary to Policy D7 of the London Plan (2021).

3. Conclusion

- 3.1 For the reasons set out in the in this statement, the appeal proposal would result in a poor level of light and outlook to the future occupants of Mews Flats Numbers 2 and 3 having regard to the close proximity of rear facing windows serving habitable rooms to the flank wall of 2 Marlborough Road. The proposal would also fail to provide amenity space of sufficient size and quality commensurate to the size and layout of the proposed development and would fail to provide facilities for people with disabilities and would result in a development which is accessible and inclusive. The Inspector is therefore respectfully requested to dismiss the appeal.
- 3.2 In the event that the Inspector considers the appeal should be allowed, and without prejudice to the Council's case, a list of recommended planning conditions is included at Appendix 1.

Appendices

Appendix 1 –The LPA’s Recommended Conditions