

Our Ref: SJB/nm/21046_01

22 October 2021

Mr M Joyce
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Dear Mr Joyce

TOWN AND COUNTRY PLANNING ACT 1990
APPEAL BY MS PARAMJIT SIDHU
279 SWAKELEYS ROAD, ICKENHAM UB10 8DR
APP/R5510/W/21/3282070

Thank you for your letter of 12 October attaching the Council's Statement and third-party representations. We have considered these and respond below.

Third Parties

There were five individual letters submitted to PINS either directly or via the LPA (Councillor Hensley). Insofar as they make points reflecting the reasons for refusal, these are dealt with in the appeal submissions already made for the appellant. Insofar as they raise other matters (highways, the "10% rule") that were assessed by the Council and not found wanting with regard to the appeal proposal, we have nothing to add.

The Petition

With regard to the petition, sent separately to us on 13 October, neither it nor its signatures are dated and it is on a Hillingdon proforma and lists the (appeal) application (LPA) reference number. It is assumed to have been completed in response to the lodging of the appeal, but does include some people or households who also made individual objections (ie 254, 269A and 273 Swakeleys Road) at this stage.

It is not clear if the signatories were shown the appeal plans (either as submitted to the LPA or the appeal set), but their support was sought to request a "refusal" on the grounds of "over-development and traffic issues". In this regard, and as with the individual respondents, "over-development" forms the basis of the LPA

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case and has been addressed and the Council is not relying on “*traffic issues*” to resist the case.

We now turn to the Council’s Statement.

The Statement of the LPA

General Points

The substance of the Council’s case comprises eight paragraphs (and one of these is mostly a quote from the PPG), which is largely critical of the revised plans, albeit expressing planning related views in respect of some, and in particular, alleges alterations/enlargement of the redline plan, which it considers must require neighbour consultations.

On the matter of the redline and **the** redline plan, this has not changed. It remains as per that submitted with the planning application and copied in the appeal submission. It is not revised for the consideration of the Inspector and it is the definitive redline plan.

What has happened in preparing revisions to some of the other ‘flat’ plans (ie those portraying the site as opposed to the elevations of the proposed building), is that two of those revisions mis-draw the redline. The architects apologise for this and any confusion or alarm it may, or actually has, occasioned.

The plans in question are: SR/1000/CP/A (Concept Plan for Landscaping) and 177/113/Revision A and these are reattached showing a redline consistent with **the** redline plan. They have not been given a further revision suffix because the drawing itself and its content remains unaltered. The site layout plan does, however, now have an October 2021 date as opposed to June 2021. There is no requirement that these plans do show a redline, it was carried over onto them to assist. Hopefully this matter is now clarified and the appellant is making no attempt to redefine or enlarge the extent of the site which is, in any event, very clear to see on the ground being bound by fences/walls and highways land on three sides and the boundary fence with 277 Swakeleys Road on the fourth.

On the matter of the principle of revised plans and their acceptability, the “*Wheatcroft Principle*” is referred to by both parties and it is clear that the power to consider amendments is not limited to cases where the effect of a proposal is to “*reduce*” development, but whether alterations prejudice the interests of third parties (see 2.6 of the LPA Statement). The revisions proposed do “*reduce*” the scheme in terms of its height and bulk, but also impact (the removal of windows which could cause overlooking perceived or otherwise); matters explored in our main submission, but also further below.

A consideration which was also outlined in the main submissions made on behalf of the appellant has been the Council's consistent failure to engage with her agent via this and earlier applications. The revisions made to the appeal plans are something of a last resort owing to the Council not responding and elaborating its concerns following the pre-app or the withdrawn scheme. This current refusal, which followed no prior post submission contact with the applicant's agent, was the first opportunity to make revisions to either clarify matters or address concerns. It is not something done lightly but in principle it is entirely justified and for reasons set out already, repeated above, and elaborated on below in response to the Council's paragraphs, they are considered to be Wheatcroft compliant.

Detailed Response to Content of Revisions

LPA 2.1

There was no *"implying"*, as is suggested, that the 10.5 main ridge height (our Statement of Case [SOC] 5.12) was out of character. The point being made is that if the Inspector, as decision maker, accepts the Council's position, the revised ridge (incorporating a small flat-top) addresses that concern. Should he or she not concur, the original drawings are before him/her.

LPA 2.2-2.4

The matter of amenity space was discussed in paragraphs 5.18-5.25 of the appellant's SOC. The *"deficit"* was the amenity space not provided by the balconies to flats 4-6 (first floor) and 7 (second floor). It is indeed 79.5m, but as the revised plans show, in addition to parking, landscaping, paths, bin stores and private ground floor flat gardens, the grounds provide a total of 139m² usable, communal garden, considerably more than is required.

Having clearly demonstrated this on the appeal plans, the Council is dismissive and considers these areas to be 'leftover strips' and their use requiring the removal of previously proposed trees. Notwithstanding the existing retained trees, there remains space for appropriately sized trees which, given the open aspect and orientation of both the front and rear communal gardens, would provide some shade. It is nonsense to suggest otherwise, likewise, to suggest no one will use a garden next to a bike store or a private car parking space. That is the situation in many a flatted development and it would be entirely acceptable and appropriate.

LPA 2.5-2.7

Wheatcroft – dealt with above.

LPA 2.7

The changes to the roof are addressed above. With regard to the fenestration, should the Inspector not accept the revised plans, there are two alternatives. A condition can be imposed to effectively delete the windows in question (all are secondary) with the following possible wording:

"Notwithstanding the north-east facing windows in Flats 6 and 7 on drawings _____ revised plans should be submitted and approved showing them removed, etc."

Alternatively, a condition can be imposed to the effect that these windows are obscure glazed and fixed shut prior to first occupation and remain so in perpetuity. Indeed, the LPA has suggested just this (No.9 in its recommended conditions).

The question of garden sub-division was surely anticipated. It is a flatted development, wherein this is reasonable and appropriate, the revisions merely show it clearly. Similarly, raising the matter now of noise and disturbance associated with the gardens could and should have been signalled at the application stage when the space was deemed to be inadequate.

It is simply not understood how the refinement of the garden areas, with no attendant changes to their extent or location and certainly none to the parking and access, can prejudice any interested parties including objectors to the current proposal. It is simply an exercise of clarification and transparency as to the quality and quantity of that space.

LPA 2.8

Dealt with above. It is also noted that the Council remains silent on the matter of the inclusion of a lift. This has no external manifestations and is of no interest to third parties.

On the matter of the plans, and to recap, the 'flat' plans are revised to clarify, explain and show the arrangements for amenity space. The only other plan change is the inclusion of the lift on the floor plan.

All the elevations are changed, but only to accommodate the altered roof and the deleted windows. The changes not being as great as the Council seems to consider. It is now for the Inspector to decide, but the Council is wrong to suggest that the scheme may only be approved in relation to the submitted plans as its recommended condition No.2 suggests. In other respects, No.9 is referred to above and the others are acceptable although, No.8 appears superfluous as flats do not benefit from normal domestic pd rights.



It is unfortunate that the LPA continues to be non-proactive and is dismissive of the genuine attempts made to deal with its reasons for refusal. The 'clarification' plans are no more and are commended to the Inspector. The 'revision' plans are available principally to allay any concerns about the height and bulk of the roof. The windows may be dealt with by applying a condition to the submitted plans, should they be considered, to warrant approval in other respects.

With the completion of the main timetable, we look forward to receiving details of the Inspector's site visit in due course.

Yours sincerely

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Att'd: Dwg SR/1000/CP Rev A – Aug 21
Dwg 177/113 Rev A – Oct 21

cc: Ms P Sidhu
Mr R Morton