



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:

Ms Paramjit Sidhu

Proposal:

Erection of a twostorey building with habitable roofspace to consist of 6 x 2-bed and 1 x 3-bed self-contained flats with parking and amenity space, involving demolition of existing dwelling.

Appeal Site:

279 Swakeleys Road, Ickenham, Uxbridge, UB10 8DR

Our Ref:
Your Ref:

30255/APP/2020/4275
APP/R5510/W/21/3282070

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 its refusal to grant planning permission.
- 1.2 The LPA refused planning permission on 22.04.2021 for the following reason (as stated on the decision notice):
1. The proposed development, by reason of its scale and prominence would result in an uncharacteristic form of development that would fail to harmonise with the local character of the surrounding area. The proposed development would therefore have a detrimental impact on the character, appearance and visual amenities of the area contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies DMHB 11 and DMHB 12 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020), Policies D4 and D5 of the London Plan (2021) and the NPPF (2019).
 2. The proposed car parking and functional requirement for hard surfacing, together with the footprint of the building, is disproportionate to the residual areas of usable soft landscaped space, with limited space for boundary planting and replacement trees. Such limited landscaped areas when combined with the need to provide external cycle and bin stores would be considered prejudicial to the character and appearance of the streetscene and wider area. As such the proposal fails to comply with Policies DMHB 11 and DMHB 18 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020).
 3. The proposed development, due to its layout, fails to provide onsite private or communal amenity space of a quantity and quality commensurate to the size of the proposals. Cumulatively, the shortfalls identified result in a poor quality of accommodation and residential amenity for the future occupiers contrary to Policies BE1 of the Local Plan: Part One (2012), Policies DMHB 11 and DMHB 18 of the Local Plan Part Two - Development Management Policies (2020), Policy D6 of the London Plan (2021) and the NPPF (2019).
 4. No information has been provided for a clear, well evidenced and compelling case as to why lift access cannot be provided. Therefore, the application cannot be supported because the proposal fails to comply with Policy D7 of The London Plan 2021.
 5. The proposal is likely to result in a material loss of privacy for occupiers of No. 277 Swakeleys Road by reason of overlooking. Therefore, the proposal fails to comply with the aims of Policy BE1 (Built Environment) of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policy DMHB 11 of the Local Plan:

- 1.3 The LPA's case is set out in the Planning Officer's committee report, which should be read in conjunction with this statement. A copy of the committee report and relevant planning policies have been submitted to the Planning Inspectorate with the appeal questionnaire. Without prejudicing the Council's case, a list of recommended planning conditions is included at Appendix 1, should the inspector be minded to allow this appeal.
- 1.4 This statement will not repeat the committee report and will focus on addressing matters raised in the Appellant's statement of case.

2. LPA Comments on Appellant's Statement of Case

- 2.1 The appellant has submitted a revised proposal for the appeal, which was not the scheme considered and refused by the LPA. Paragraph 5.12 of the appellant's appeal statement discusses the bulk of the refused and revised schemes, stating that "the proposal has a greater bulk and mass, but as submitted, it was only 1.5m taller than the existing house. The current dwelling is 9m tall to the ridge. As submitted the ridge was approximately 10.5m and now with cropped top it would be 9.5m tall. This is hardly out of character with other buildings in the vicinity". Here the appellant suggests that the revised scheme with 9.5m ridge height is not out of character, whilst simultaneously implying that the height of the scheme subject to this appeal (10.5m) is out of character. The LPA maintains refusal reason 1 of the decision notice and all references in the officer's report to the proposed building being unduly large to the detriment of the area's appearance.
- 2.2 The appellant observes that there is a 79.5sqm total deficit in amenity space for future occupiers of the flats, however they suggest that the amenity space could be provided on site through amendments to the appeal plans (In paragraphs 5.20 to 5.24 of their appeal statement). The amended scheme submitted for this appeal would include 100sqm of additional communal amenity space through the removal of proposed trees on the site. 39sqm of communal space is also shown south east of the site near the proposed parking area. However, these leftover strips of land would not provide quality amenity space, as discussed more below.
- 2.3 It is important to note that the amended scheme submitted for the appeal was not the proposal that was considered by the LPA and refused at the planning committee. As such, the amended proposal should not be considered as part of this appeal. Nevertheless, the proposed trees to be sited in the north west of the site (as per the scheme considered by the LPA), serve to soften the visual impact of the oversized building from the street and reduce its prominence. These would also provide a verdant outlook from the proposed flats.
- 2.4 Their removal (as shown on the revised scheme) to create amenity space would result in the development being more harmfully prominent in the Swakeleys Road street scene, worsening the developments visual impact on the area and strengthening refusal reason 1. Loss of the trees to create amenity space would therefore swap one problem for another. Furthermore, the 39sqm of amenity space

shown on the revised scheme is considered to be of poor quality as it would abut the cycle parking store and vehicle parking so is unlikely to be genuinely usable. Similarly, the 100sqm of shared garden space would be a leftover strip of land between the street frontage and the boundary treatment of the gardens of the ground floor flats on this elevation. Again, this space is unlikely to be genuinely usable by occupants of the development. It is therefore still considered that inadequate amenity space would be provided for future occupants of the proposal as set out in refusal reason 3.

2.5 As mentioned above, the appellant has submitted a set of revised plans as part of the appeal and has stated the following in paragraph 6.9 of their statement “Lastly there is the matter of the revised plans. They incorporate revisions and clarifications which respond to the council’s misgivings and all of which would have been made had the council engaged during the application process. They pass the Wheatcroft Test and they are commended to the inspector”.

2.6 Annexe M of the NPPG Procedural Guide: Planning Appeals (2021) outlines the Wheatcroft Principles and when they are applicable, the relevant sections are below:

M.2.1 If an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people’s views were sought.

M.2.2 Where, exceptionally, amendments are proposed during the appeals process the Inspector will take account of the Wheatcroft Principles when deciding if the proposals can be formally amended. In the ‘Wheatcroft’ judgment the High Court considered the issue of amendments in the context of conditions and established that “the main, but not the only, criterion on which... judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation” (Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]. This decision has since been confirmed in Wessex Regional Health Authority v SSE [1984] and Wadehurst Properties v SSE & Wychavon DC [1990] and Breckland DC v SSE and T. Hill [1992]). It has subsequently been established that the power to consider amendments is not limited to cases where the effect of a proposed amendment would be to reduce the development (See Breckland DC v. Secretary of State for the Environment (1992) 65 P&CR.34).

M.2.3 Whilst amendments to a scheme might be thought to be of little significance, in some cases even minor changes can materially alter the nature of an application and lead to possible prejudice to other interested people.

2.7 In response to the above the following should be noted. The appellant’s revised plans include alterations to the height of the building, chimneys, fenestration detailing, subdivision of the rear garden into several gardens, the removal of proposed trees on the sites north west boundary (trees which aid in softening the visual impact of the oversized building from the main road). Additionally, the development site is to be enlarged through changes to the red line site plan. Changes which are clearly visible when comparing the original location and landscape plans with the revised location

and landscape plan (which the appellant wishes to be considered). Changing the red line site plan alone, would prejudice neighbouring properties and would require re-consultation. Together, the plethora of changes outlined above would require re-consultation as the scheme would be materially different from the original scheme. The creation of new communal garden areas and private garden areas next to No.277 Swakeleys could lead to increases in noise and disturbance when compared with the original scheme (subject of this appeal). These changes would therefore prejudice this adjacent neighbour, as well as the submitters of the 18 representations, and signatories of 3 petitions received during the application process, which objected to the proposed scheme. It is therefore considered that the revised plans would prejudice third parties and should therefore not be taken into consideration as part of this appeal, in line with guidance outlined in Annexe M of the NPPG Procedural Guide: Planning Appeals (2021).

- 2.8 The majority of the appeal statement refers to remedies (shown on revised plans) which the appellant believes would make the appeal scheme acceptable. As those remedies were not part of the original application and are not immaterial changes, they cannot be taken into consideration as part of this appeal, like most of the appellant's appeal statement.

3. Other Matters

- 3.1 It should be noted that NPPF has been updated since the application was determined. This appeal statement has been assessed against the legislation in place at the time of the determination.

4. Conclusion

- 4.1 For the reasons set out in the committee report, the decision notice and this statement, it is considered that the proposed development would be detrimental to the character, appearance and visual amenities of the street scene and the wider area. It would also be harmful to neighbouring amenities, the amenities of future occupiers (with regard to amenity space provision and lift access). Any perceived benefits of the scheme would not outweigh the harm identified, warranting refusal of the original application and the dismissal of this appeal.
- 4.2 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