



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:
Mr I Deoray

Proposal:
Erection of a part 3 storey, part 4 storey building to provide 1 x 1-bed, 3 x 2-bed and 5 x 3-bed self-contained flats with associated parking, amenity space, refuse and cycle storage following demolition of existing petrol filling station/car wash

Appeal Site:
2 Midcroft, Ruislip, HA4 8ES

Our Ref:
Your Ref:

4918/APP/2021/1103
APP/R5510/W/21/3282716

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 application reference 4918/APP/2021/1103.
- 1.2 The LPA refused planning permission on 20.07.2021 for the following reason (as stated on the decision notice):
 1. The proposed development by reason of its size, scale, bulk and design would be an inappropriate development of the site that would be detrimental to the character, appearance and visual amenities of the street scene and would fail to either preserve or enhance the character or appearance of the surrounding Ruislip Village Conservation Area and the adjacent Area of Special Local Character. The proposal is therefore contrary to Policies BE1 and HE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies DMHB 1, DMHB 4, DMHB 5, DMHB 11 and DMHB 12 of the Hillingdon Local Plan Part Two – Development Management Policies (January 2020), Policy HC1 of the London Plan (2021) and the National Planning Policy Framework (2019).
 2. The proposal, fails to demonstrate that that sufficient manoeuvring and access arrangements for service delivery vehicles and car parking would be maintained for adjoining premises which would result in driver confusion and unexpected vehicle movements for other highway users and deliveries and parking taking place from the road. The development is therefore considered to be detrimental to highway and pedestrian safety and prejudicial to the free flow of traffic on the adjoining highway, including access by service delivery vehicles to the adjacent buildings at 53 - 61 High Street Ruislip, contrary to Policy DMT 1 of the Local Plan: Part 2 Development Management Policies (2020) and Policy T4 of the London Plan (2021).
 3. The proposed development by reason of its siting, layout and design would result in the provision of a habitable rooms on the ground floor with very limited levels of natural lighting, outlook and privacy that would result in a substandard form of living accommodation and reliance upon artificial means of lighting which would fail to satisfy sustainability and energy efficiency objectives and would be to the detriment of the amenity of future occupiers, contrary to Policies DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) and Policies D6 and SI2 of the London Plan (2021).
- 1.3 The LPA's case is set out in the Planning Officer's delegated report, which should be read in conjunction with this statement. A copy of the delegated report is provided at Appendix 1. Copies of relevant planning policies are included at Appendix 2.
- 1.4 This statement will not repeat the delegated 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 Section 2 of the appellants “Grounds of Appeal” statement contains the assessment of the reasons for refusal.
- 2.2 Paragraphs 2.18 to 2.89 of the Appellant’s statement of case relates to Reason for Refusal number 1 listed above. Paragraphs 2.20 to 2.25 set out the relevant policies and guidance relevant to this reason for refusal.
- 2.3 Paragraphs 2.26 and 2.29 explain the immediate locality of the site within the Ruislip Village Conservation Area and states that the Council has failed to acknowledge the improvement to the setting being proposed by virtue of the current building’s replacement with the proposed development. Paragraphs 2.34 to 2.66 provide the Council’s Conservation and Design Officer’s comments, including the statement ‘*As existing the structures on site are low-rise with a single storey built form located toward the rear and an open, deteriorating, canopy structure towards the front. The structures are of little architectural or historic merit. It is recognised that condition of the site detracts from the appearance of the conservation area, and that there is an opportunity for sensitive enhancement*’. Paragraph 2.40 of the statement of case recognises the above comments. The Council therefore clearly acknowledges the potential improvement to the setting being proposed by virtue of the current building’s replacement with the proposed development, and the Appellant recognises this in their own Statement.
- 2.4 Paragraphs 2.67 to 2.89 of the Appellant’s statement of case relate to the impact of the proposed development on the historic environment in relation to Reason for Refusal 1.
- 2.5 The site is affected by the historic environment designations Ruislip Village Conservation Area, adjacent to Midcroft, Ruislip Area of Special Local Character (ASLC), setting of Locally Listed Building – NatWest Bank, 63 High Street (non-designated heritage asset) and Ruislip Motte and Bailey Archaeological Priority Area (APA).
- 2.6 At paragraph 2.67 of the Appellant’s Statement of Case they refer to the initially proposed mansard roof. It is felt that this is a non-issue as the Appellants amended the proposed development omitting the mansard roof form. Nevertheless, initial Conservation comments (dated 26/04/2020), paragraph 4.7, clearly stated that mansard roof forms are not a characteristic roof form of the conservation area and whilst they may exist on other buildings does not mean they are appropriate features to replicate on a new development.
- 2.7 The proposed mansard roof was considered to be a poorly integrated feature, appearing as a crude add-on to the third storey. The mansard roofs to the properties opposite and adjacent are designed as part of the building, defining their form, they are materially, physically and visually different to the initial proposed development.
- 2.8 Whilst a portion of the built form along the eastern side of the site is in line with No 4 Midcroft, the ground floor terrace extends up to the forward building line of the proposed development and it is proposed to include defensible planting, which would diminish the set-back along the street scene.

- 2.9 Contrary to paragraph 2.89 of the Appellant's Statement of Case, the proposed development (as amended) would fail to positively contribute to the local character and distinctiveness of the surrounding area. It would not adequately address Hillingdon Local Plan policies SO1 and HE1 (Part 1, November 2012) and DMHB 1, 4 and 11 (Part 2, January 2020). It should be noted that the Appellant's Statement of Case has also failed to acknowledge policy DMHB 4 within paragraph 2.89.
- 2.10 The development is not considered to be of an exceptional high-quality and would not 'better reveal' the significance of the conservation area. The development would have a permanent and long-term impact of the conservation area and surrounding context, it is important the design appropriately responds to the historic environment and local context. In this instance it does not. The existing state of the site is mostly likely due to neglect by the owners of the site. As per paragraph 196 of the NPPF (2021), deliberate neglect is not a reason to accept a harmful development.
- 2.11 The development is considered to be less than substantially harmful to the conservation area. Paragraph 202 of the NPPF (2021) would be relevant in this instance. From a historic environment perspective, the development would fail to preserve or enhance the character and appearance of the conservation area.
- 2.12 Paragraphs 2.90 to 2.96 of the Appellant's statement of case refer to Reason for Refusal number 2. The Appellant refers to the land ownership/access and servicing arrangements in connection with the adjacent property 53 - 61 High Street.
- 2.13 The 'shared' vehicular crossing and access road immediately to the rear of Jebson House (51-63 High Street, Ruislip) is to remain to serve the existing surface parking facilities affiliated to and located to the rear of this address and the proposed 6 parking spaces within the appealed development site envelope.
- 2.14 As highlighted prior to determination of the application subject of this appeal, the proposed internal parking and road layout arrangement is considered broadly acceptable as it allows vehicles using the site to enter and leave in a forward gear which is the recommended best practice on operational and highway safety grounds.
- 2.15 However, the Council is of the opinion that Reason Refusal 2 is justified as the site red-line boundary denoting the extent of the site envelope excludes the allocated parking area affiliated to Jebson House (51-63 High Street, Ruislip). Thereafter, this address will be referred to as JH.
- 2.16 This demarcation line denotes the extent of the site envelope subject of this application and abuts directly against the parking bays provided for JH hence the function and use of these bays is reliant on the encroachment onto what is effectively third party land (the proposed development site envelope). As proposed, it would appear there would be an open boundary which would allow unencumbered access by vehicles using the said parking bays. However, the appellant states and believes that users of JH have no specific right to encroach their site envelope in order to access these established parking spaces. They also confirm that they could erect barriers/bollards to legitimately prevent access to the said spaces but have chosen not to do so "out of generosity".

- 2.17 The argument that JH has access to alternative parking spaces located with a basement area and therefore does not require access to the surface level spaces to the rear of JH is considered a misnomer given these surface level spaces are an established provision currently in use and are therefore specific and relevant to Reason for Refusal 2.
- 2.18 The Council considers that although the users of the parking bays affiliated to JH, can profess established and prescriptive legal rights of way to and from the said spaces in perpetuity as they have been in use for a prolonged period without challenge from the aforementioned third party, access could be withdrawn in the future by way of boundary treatment such as fencing/bollards which would sterilise the use of these bays. Such a scenario is therefore considered unacceptable given the potential parking related detriment to a neighbouring address (JH), the likelihood of resulting and protracted legal 'rights of way' implications together with potential parking displacement related impacts on the neighbouring public highway.
- 2.19 In terms of servicing, it is accepted that not all servicing occurs from the rear of JH however smaller deliveries and some related activity is expected to continue on the basis of convenience/proximity particularly in regard to the secondary access to the 'Sharps' retailer which features at the rear of JH. Hence, any removal of access rights could potentially lead to undesirable and injudicious parking on the nearby highway network as service vehicles are forcibly displaced onto the highway network thereby further justifying Reason for Refusal 2.
- 2.20 Paragraphs 2.97 to 2.105 of the Appellant's statement of case relate to Reason for Refusal number 3. The Appellant's statement considers each unit in turn with Paragraph 2.100 stating that ground floor Flat 1 would have two habitable rooms each having two windows, thus providing the rooms with good levels of outlook and access to daylight. Paragraph 2.104 of the Appellant's statement of case states that each habitable room of ground floor Flat 2 would have well positioned windows providing outlook and that there is no built form proposed to east and north. This scenario is argued to be unlikely to change given that there is no building to the east as access needs to be retained for servicing/deliveries to Nos.53-61 High Street.
- 2.21 Whilst the units are not overlooked by neighbouring properties and there is defensible space proposed, the defensible space and the terrace for Flat 1 are on the ground floor, level with the street/pavement and are adjacent to the main entrance to the building. The only window for the master bedroom of Flat 2 is adjacent to the access road noted above. These rooms and the terraces therefore need to have high level boundary treatments or screening to protect privacy for future occupants from adjacent publicly accessible areas and thus would have insufficient levels of outlook and/or daylight. Low level boundary treatments and no screening to enable appropriate outlook would not provide sufficient privacy for future occupiers of these units. Whilst a condition could be used to secure boundary treatments, this is not considered to resolve the above unacceptable arrangement.

3. Conclusion

- 3.1 For the reasons set out in the delegated report and in this statement the proposed development would be detrimental to the character, appearance and visual amenities of the street scene and would fail to preserve or enhance the character or appearance of the surrounding Ruislip Village Conservation Area and the adjacent Area of Special Local Character. The proposal also fails to demonstrate sufficient manoeuvring and access arrangements for service delivery vehicles and car parking would be maintained for adjoining premises and is therefore considered to be detrimental to highway and pedestrian safety and prejudicial to the free flow of traffic. Finally, the proposed development would result in a substandard form of living accommodation. 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 and a Unilateral Undertaking is included at Appendix 3.

Appendices

Appendix 1 – Planning Officer's Delegated Report

Appendix 2 – Copies of Relevant Planning Policies

Appendix 3 – The LPA’s Recommended Conditions

If the Inspector is predisposed to grant permission, then a Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 should be imposed based on the following text:

The development hereby permitted shall maintain unfettered vehicular access in perpetuity to the 10 formally laid out parking spaces located perpendicular and directly to the rear of Jebson House (51-63 High Street, Ruislip) immediately adjacent to the development envelope.

Recommended Conditions

Condition 1

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

Condition 2

The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

MRH/EX/400 Rev. A

MRH/PL/100

MRH/PL/101 Rev. A

MRH/PL/102 Rev. A

MRH/PL/103 Rev. A

MRH/PL/104 Rev. A

MRH/PL/105 Rev. A

MRH/PL/200 Rev. A

MRH/PL/201 Rev. A

MRH/PL/202 Rev. A

MRH/PL/203 Rev. A; and shall thereafter be retained/maintained for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions Hillingdon Local Plan Parts 1 (November 2012) and 2 (January 2020) and the London Plan (2021).

Condition 3

The development hereby permitted shall not be occupied until the following has been completed in accordance with the specified supporting plans and/or documents:

Design and Access Statement

Planning and Heritage Statement

Transport Statement

Flood Risk Assessment

Phase I Geo-Environmental Report

Archaeological Desk-Based Assessment

REASON

To ensure the development complies with the provisions Hillingdon Local Plan Parts 1 (November 2012) and 2 (January 2020) and the London Plan (2021).

Condition 4

Development shall not begin (excluding demolition and site clearance) until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with Heathrow Airport Limited. The scheme shall include: -

1. Details of Soft Landscaping

- 1.a Planting plans (at not less than a scale of 1:100),
- 1.b Written specification of planting and cultivation works to be undertaken,
- 1.c Schedule of plants (including pollution absorbing trees) giving species, plant sizes, and proposed numbers/densities where appropriate

2. Details of Hard Landscaping

- 2.a Refuse Storage
- 2.b Cycle Storage (18 spaces)
- 2.c Means of enclosure/boundary treatments
- 2.d Car Parking Layouts (including 6 car parking spaces, demonstration that 1 parking space (20%) is served by active electrical charging points and 5 (80%) are served by passive electrical charging points and 1 accessible spaces)
- 2.e Hard Surfacing Materials

3. Living Walls and Roofs

- 3.a Details of the inclusion of living walls, screens and/or roofs. The living walls, screens and/or roofs shall incorporate native nectar rich planting.
- 3.b Justification as to why no part of the development can include living walls and roofs

4. Details of Landscape Maintenance

- 4.a Landscape Maintenance Schedule for a minimum period of 5 years.
- 4.b Proposals for the replacement of any tree, shrub, or area of surfing/seeding within the landscaping scheme which dies or in the opinion of the Local Planning Authority becomes seriously damaged or diseased.

5. Schedule for Implementation

6. Other

- 6.a Existing and proposed functional services above and below ground
- 6.b Proposed finishing levels or contours

Thereafter the development shall be carried out and maintained in full accordance with the approved details.

REASON

To ensure that the proposed development will preserve and enhance the visual amenities of the locality and provide adequate facilities whilst protecting the interests of aircraft safety in compliance with policies DMAV 1, DMHB 11, DMHB 14, DMEI 1 and DMT 6 of the Hillingdon Local Plan Part 2 (2020) and Policies G5, G6, T5 and T6 of the London Plan (2021).

5. Detailed drawings or samples of materials as appropriate, in respect of the following shall be submitted to and approved in writing by the local planning authority before the relevant part of the works is begun, and the works shall not be carried out other than in accordance with the details so approved and shall thereafter be so maintained:

- (a) Samples of materials including all facing brickwork and render
- (b) Details of roof parapets, rooftiles, windows and doors
- (c) Details of balconies, railings, metal cladding, rainwater pipes
- (d) Details of signage

Sample panels required

Sample panels of facing brickwork showing the proposed colour, texture, facebond and pointing shall be provided on site, and approved in writing by the local planning authority before the relevant parts of the approved works are commenced, and the sample panels shall be retained on site until the work is completed in accordance with the panel (s) so approved.

REASON

To ensure that the development presents a satisfactory appearance in accordance with Policies DMHB 1, DMHB 4 and DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

Condition 6

Prior to development commencing, the applicant shall submit a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall comprise such combination of measures for controlling the effects of demolition, construction and enabling works associated with the development as may be approved by the Local Planning Authority. The CEMP shall address issues including the phasing of the works, hours of work, noise and vibration, air quality, waste management, site remediation, plant and equipment, site transportation and traffic management including routing, signage, permitted hours for construction traffic and construction materials deliveries. It will ensure appropriate communication with, the distribution of information to, the local community and the Local Planning Authority relating to relevant aspects of construction. Appropriate arrangement should be made for monitoring and responding to complaints relating to demolition and construction. All demolition, construction and enabling work at the development shall be carried out in accordance with the approved CEMP unless otherwise agreed in writing by the LPA.

REASON

To safeguard the amenity of surrounding areas in accordance with Policy DMHB 11 and DMT 7 of the Hillingdon Local Plan: Part 2 Development Management Policies (January 2020) and Policy T7 of the London Plan (2021).

Condition 7

(i) The development shall not commence until a finalised scheme to deal with contamination has been submitted to the Local Planning Authority (LPA) in accordance with the Supplementary Planning Guidance Document on Land Contamination, and approved by the LPA. All works which form part of the remediation scheme shall be completed before any part of the development is occupied or brought into use unless the Local Planning Authority dispenses with any such requirement specifically and in writing. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically

and in writing:

(a) A written method statement providing details of a definitive and detailed remediation scheme and how the completion of the remedial works will be verified shall be agreed in writing with the LPA prior to commencement, along with the details of a watching brief to address undiscovered contamination. No deviation shall be made from this scheme without the express agreement of the LPA prior to its implementation.

(ii) If during remedial or development works contamination not addressed in the submitted remediation scheme is identified an addendum to the remediation scheme shall be agreed with the LPA prior to implementation; and

(iii) Upon completion of the approved remedial works, this condition will not be discharged until a comprehensive verification report has been submitted to and approved by the LPA. The report shall include the details of the final remediation works and their verification to show that the works for each phase have been carried out in full and in accordance with the approved methodology.

(iv) No contaminated soils or other materials shall be imported to the site. All imported soils for landscaping purposes shall be clean and free of contamination. Before any part of the development is occupied, all imported soils shall be independently tested for chemical contamination, and the results of this testing shall be submitted and approved in writing by the Local Planning Authority. All soils used for gardens and/or landscaping purposes shall be clean and free of contamination.

REASON

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Hillingdon Local Plan: Part 2 (January 2020) Policies - DMEI 11: Protection of Ground Water Resources and DMEI 12: Development of Land Affected by Contamination.

Condition 8

No development approved by this permission shall be commenced until a scheme for the provision of sustainable water management has been submitted to and approved in writing by the Local Planning Authority. The scheme shall clearly demonstrate that sustainable drainage systems (SUDS) have been incorporated into the designs of the development in accordance with the hierarchy set out in accordance with Policy 5.15 of the London Plan and will:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall also demonstrate the use of methods to minimise the use of potable water through water collection, reuse and recycling and will:

- iv. provide details of water collection facilities to capture excess rainwater;

- v. provide details of how rain and grey water will be recycled and reused in the development.
Thereafter the development shall proceed in accordance with the approved scheme.

REASON

To ensure the development does not increase the risk of flooding in accordance with Policy DMEI 10 of the Hillingdon Local Plan Part 2 (2020) and London Plan (2021) Policy SI15.

Condition 9

No development shall take place until the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. Thereafter development shall only take place in accordance with the approved scheme. The archaeological works shall be carried out by a suitably qualified body acceptable to the Local Planning Authority.

REASON

The site is of archaeological interest and it is considered that all evidence of the remains should be recorded in accordance with Policy DMHB 7 of the Hillingdon Local Plan: Part 2 Development Management Policies (2020).

Condition 10

The development (buildings and car park areas) shall achieve 'Secured by Design' accreditation awarded by the Hillingdon Metropolitan Police Crime Prevention Design Adviser (CPDA) on behalf of the Association of Chief Police Officers (ACPO). No building shall be occupied until accreditation has been achieved.

REASON

In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000 to ensure the development provides a safe and secure environment in accordance with Hillingdon Local Plan Part 2 (2020) Policy DMHB 15 and London Plan (2021) Policy D11.