



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:

Mr K Kohli, Kholi Investments

Proposal:

Appeal against the LPA's decision to refuse planning permission for:

Change of use of storage room in existing shop to additional habitable accommodation for
the first floor flat (Retrospective)

Appeal Site:

Village House, 13-15 Swakeleys Road, Ickenham

Our Ref:
Your Ref:

19121/APP/2021/103
APP/R5510/W/21/3274376

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 to retain a change of use of a storage room in an existing shop to additional habitable accommodation for the first floor flat.
- 1.2 The LPA refused planning permission on 31.03.2021 for the following reason (as stated on the decision notice):
 - 1) The proposal, by reason of the siting of the ground floor flank window, given its proximity to the side boundary and the flank wall of the adjoining property and the fact that the window would face directly onto the service road, would result in the provision of a habitable room with very limited levels of outlook and natural lighting that would suffer from additional noise and loss of 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. to the detriment of the amenities of current and future occupiers, contrary to Policies DMHB 11 and DMHD 1 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 was submitted to the Planning Inspectorate with the appeal questionnaire, as well as copies of the relevant planning policies.
- 1.4 This statement will not repeat the delegated report but will focus on addressing additional matters raised in the Appellant's statement of case.

2. LPA Comments on Appellant's Statement of Case

- 2.1 The Appellant's statement of case (SoC) focusses on the reason for refusal. For ease of reference the LPA's comments address each paragraph in the SoC in turn.
- 2.2 In respect to the LPA's concerns with outlook, the appellant notes (paragraph 6.2) that the separation distance between the subject window and the opposite flank wall is 3.8m rather than the 3m stated in the officer's delegated report. The LPA acknowledges that this erratum should be approximately 3.8m, based on the submitted proposed block plan. However, it is maintained by the LPA that despite this typographical error, the impact assessment is still accurate in that outlook and light penetration would be poor and oppressive given the proximity.
- 2.3 The appellant further states that it is important to note that the outlook from this ground floor window is identical to that which is obtained from the first floor window of this same flat, and that the LPA had previously considered this first floor outlook to be acceptable (paragraph 6.3). However, the outlook from these two windows are not comparable. The first-floor window while still compromised to some extent, would have an outlook of visible sky above the adjacent roof tops. This provides better outlook, and sunlight and daylight. Conversely, the subject window is enclosed on the ground floor with outlook to a tall flank wall and a service way.
- 2.4 It is acknowledged that the proposal is not a creation of a new unit (as stated in paragraph 6.3 of the appellant's SoC). However, as stated in the officer's delegated report the converted room is large enough to be used as other habitable rooms, such as a bedroom. It is noted that the existing flat does not have a living room (only bedrooms) and most of the rooms have outlook onto the service way / car park or the flank wall of the adjacent building. Therefore, while the occupants "have the ability to utilise the rest of the flat, which itself provides different outlooks from other windows" (paragraph 6.3), the poor-quality provision of the proposed habitable accommodation would worsen the living conditions to a standard that is harmful to future occupiers.
- 2.4 Paragraph 6.4 raises questions as to how the LPA considers that there would not be sufficient levels of natural light and provides photos of the light within the subject room. Given the proximity to the window, from the centre of this window, the adjacent building would subtend an angle of more than 25 degrees to the horizontal. In accordance with BRE guidance, this means that diffuse daylighting may be adversely affected. This is evident in the photographs submitted by the appellant that shows the room encased in shadow with no light penetration into the room itself. The appellant notes that policy D6 states that sunlight and daylight to new housing should be "appropriate for its context". However, it is asserted by the LPA that the ground floor rear of a commercial unit adjacent an accessway is not an appropriate context for residential use and is better suited to its pre-existing commercial use. Contrary to paragraph 6.5, the LPA maintains that the poor light provision to this habitable room is a substantive contributing factor to the reason for refusal.
- 2.5 In response to paragraphs 6.6 and 6.7 it is maintained that this ground floor room served by the window adjacent the accessway would be subjected to notable levels of noise, disturbance and loss of privacy from vehicles, pedestrians and other services such as refuse arrangements (the refuse area is shown in the photograph

submitted by the appellant). As can be seen in the photograph the first-floor windows would not be subjected to the same levels of disturbance or loss of privacy, real or perceived.

- 2.6 In respect to paragraphs 6.8 and 6.9, Policy D6 of the London Plan is most relevant as it requires new development to provide sufficient daylight and sunlight. As noted above in paragraph 2.4 of this appeal statement, the light provision to the proposed habitable room would be substandard. This would require the extensive use of artificial lighting by occupants, particularly when compared to its pre-existing use as a storeroom. In general terms, this is not consistent with the aims of sustainable development and sustainable energy use.

3. Other Matters

- 3.1 The London Plan (2021) was adopted in March 2021, the same month that this application was determined. The policies referred to in the Officer's Delegated Report are the adopted policies.

4. Conclusion

- 4.1 For the reasons set out in the delegated report and this statement, the proposed conversion of the storeroom would result in the provision of a habitable room with very limited levels of outlook and natural lighting that would suffer from additional noise and loss of privacy, that would result in a substandard form of living accommodation and reliance upon artificial means of lighting which would fail to satisfy wider sustainability and sustainable energy objectives. This would be contrary to the planning policies outlined in the decision notice. The Inspector is therefore respectfully requested to dismiss the 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.
- 4.3 The planning officer's delegated report and copies of the relevant planning policies have already been provided to the Planning Inspectorate at the time that the appeal questionnaire was submitted.

Appendix

Appendix 1 – The LPA’s Recommended Conditions

1. Accordance with Approved Plans

The development hereby permitted shall be carried out and retained in accordance with drawing nos.

PA-01 Rev. A - received 11 Jan 2021

And shall thereafter be retained/maintained for the life of the development.

Reason: For the avoidance of doubt, and in the interests of proper planning.