

The Beer Barrel Ltd.



47 Joel Street Northwood Hills HA6 1NZ Planning Appeal: Grounds for Appeal

December 2021
ICE19.247.301.005

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ICE Environmental Policy 2021
Objective 4: *Reduce waste and make better use of material resources*

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1.0 Introduction

- 1.1. The following Grounds for Appeal relates to the redevelopment of the lower ground floor and the land to the rear of 47 Joel Street Northwood HA6 1NZ in the London Borough of Hillingdon.
- 1.2. The Beer Barrel Ltd (the '**Appellant**'), whose registered office is at 3-4 Glenmore Parade, Ealing Road, Wembley, HA0 4PJ, is the freeholder of the property.
- 1.3. The planning application which is the subject of the appeal is application ref: 17155/APP/2021/1453 submitted on the 13/04/2021 (the '**Application**'). The application was a re-submission of an earlier planning application ref: 17155/APP/2020/3664 which was refused for identical reasons (save for the removal of a reference to a four-storey building) in March 2021.
- 1.4. Between the two submissions the Appellant reduced the height, size, and bulk of the proposed building and redesigned the commercial units and the residential space to meet the building regulation standard M4 (2) for accessibility as directed by the Council SPD 'Accessible Hillingdon' and the London Plan 2021.
- 1.5. The Application which is the subject of this appeal was refused planning consent on the 8th of June 2021 (the "**Decision Notice**").
- 1.6. The Following abbreviations are used, where appropriate, in the text:

DAS = Design and Access Statement

OR = Case Officer's Report

DN = Decision Notice

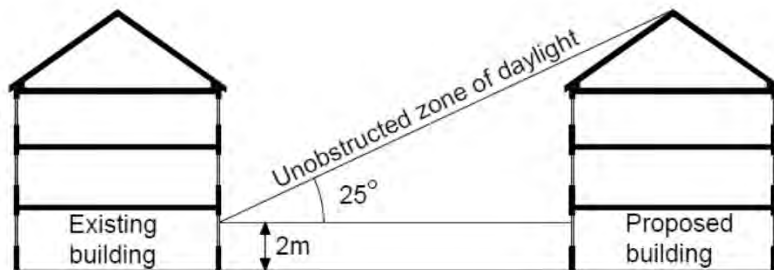
2.0 Structure of Appeal Document

- 2.1. The Grounds of Appeal are set out at Section 3.0 in respect of the Schedule of Reasons for Refusal No.1 and No.2. These deal with the physical extent of the proposed building and its impact on the amenity of the adjoining residents (Reason No.1) and the effect of the development on the surrounding area and street scene (Reason No.2).
- 2.2. Section 4.0 deals with the Reason for Refusal No.3 – the provision for the requirements of occupants with disabilities and the associated directions of the London Plan 2021 Policy D7.
- 2.3. Section 5.0. summarises the grounds for appeal and concludes.
- 2.4. Section 6.0 is a schedule of all documents referred to in the Appeal.

3.0 Grounds for Appeal – Reasons for Refusal 1 and 2.

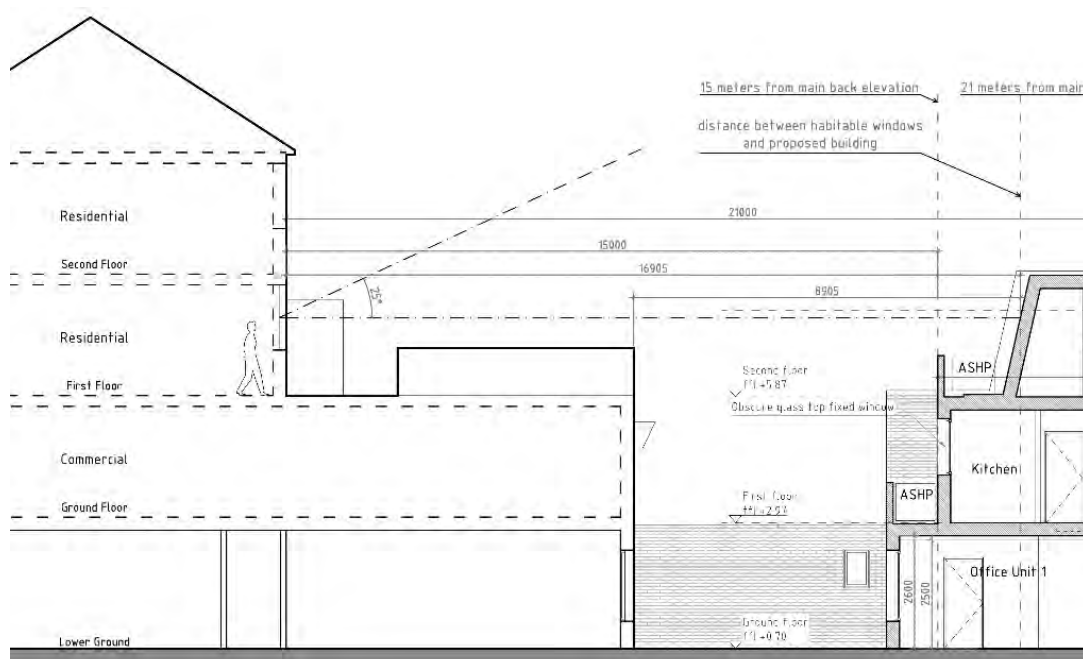
Ground 1: The Council erred in its conclusion that the development would be detrimental to the amenities of the adjoining occupiers, by reason of loss of light, and overshadowing.

- 3.1. The Appellant considers that similar issues arise with regard to the size, scale, bulk, height and overdominance in the reasons for refusal Nos. 1. and 2. This ground for appeal therefore considers matters of overshadowing and loss of light as a result of the proposed development as set out in the DN at reason for refusal No.1.
- 3.2. Daylight is natural light to illuminate internal accommodation from dawn to dusk. Whether daylight will be impaired by the siting of a new development will be a function of its relative size, positioning and distance from the affected property.
- 3.3. The Building Research Establishment (BRE) publishes guidance on sunlight and daylight in residential developments and recommends that suitable daylight to a dwelling is achieved where an unobstructed vertical angle of 25° can be drawn at the centre of the lowest window where daylight is required.
- 3.4. The image below shows the test which applies as in this case where the new development is opposite the existing building windows.



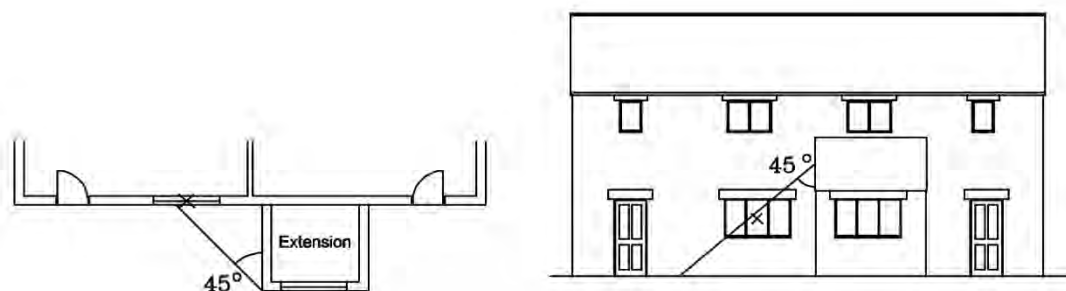
25-degree rule diagram

- 3.5. If the whole of the proposed development falls beneath the line drawn at 25° from the horizontal, then there is unlikely to be any effect on daylight in the existing property. The application of this rule to the proposed development is illustrated in the extract from application drawing PL2.06 Rev C below.



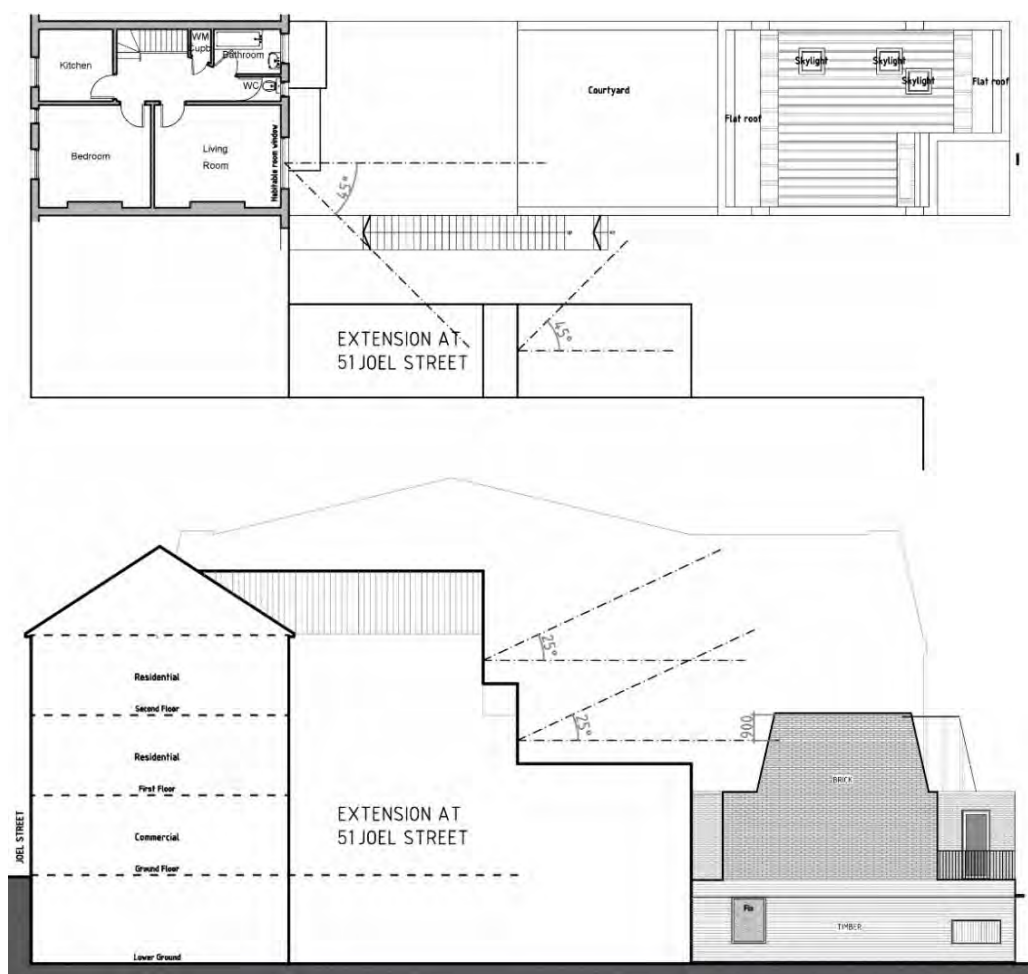
Extract from Revised Application drawing PL2.06 Rev C

- 3.6. The BRE 45-degree test is used where the new development is perpendicular to the existing building to the affected window – as in the illustration below.



45-degree rule diagram

- 3.7. If the 45-degree line from the centre of the window intersects with the extension in either the horizontal or vertical plane, then daylight and sunlight levels could be adversely affected.
- 3.8. The proposed development however is not an extension and is completely detached from the main building at No 47 Joel Street. The BRE 25degree test is therefore the metric to assess harm to existing daylight conditions.
- 3.9. No.51 already has a rear extension that breaches the 45degree test from the windows at No. 47 Joel Street, as does the 4-storey building to the rear of 53-55 The Broadway. These are set out below.



45 Degree and 25 Degree rules applied

- 3.10. The OR does not comment on the application of the BRE Daylight tests on the proposed development and provides no evidence for the reasons of loss of light, and overshadowing given in the DN reason for refusal No.1.
- 3.11. The Appellant concludes that as the BRE tests are the accepted metric to assess daylight and sunlight in site layout and development the OR has erred in their conclusion that the proposed development affects the daylight or overshadows the existing dwellings.

Ground 2: The Council erred by considering the separating distance between habitable room windows at No. 47 and the development to be the test for overlooking and loss of privacy to the existing dwellings. (OR Page 10)

- 3.12. The OR places considerable emphasis on separating distance between the existing properties and the proposed developments as a means to maintain outlook and privacy in existing dwellings which the OR concludes are detrimentally affected by the proposed development.
- 3.13. Policy DMHB 11 - Design of New Development at Paragraph 5.38 of the Local Plan Part 2 – Development Management Policies directs:

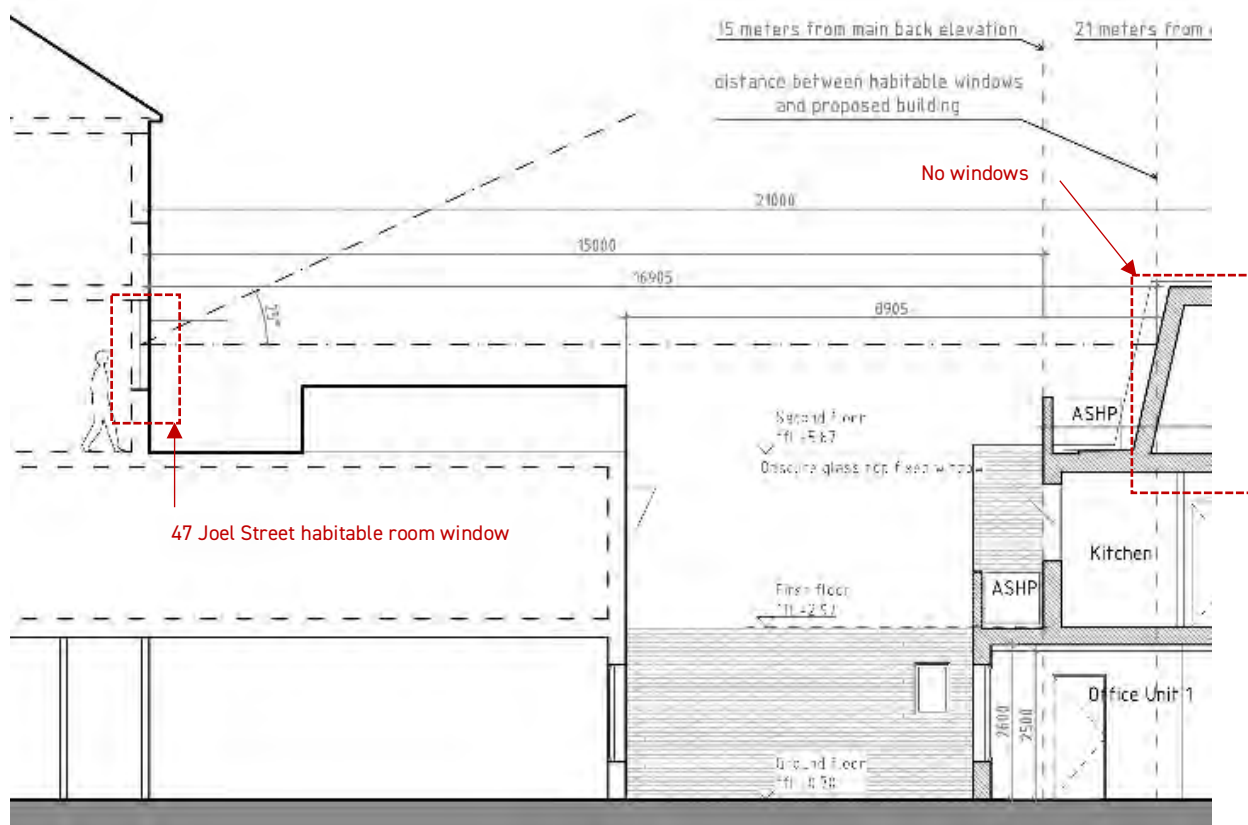
The Council will aim to ensure that there is sufficient privacy for residents, and it will resist proposals where there is an unreasonable level of overlooking between habitable rooms of adjacent residential properties, schools or onto private open spaces. A minimum of 21 metres separation distance between windows of habitable rooms will be required to maintain levels of privacy and to prevent the possibility of overlooking. In some locations where there is a significant difference in ground levels between dwellings, a greater separation distance may be necessary.

- 3.14. The OR states that the *previous application proposed a distance of approx. 4.1 metres between habitable room windows at No. 47 and the development and this has been increased to approx. 16.9m. It is considered that this distance would still be unacceptable and contrary to the Council's minimum requirement of 21.*
- 3.15. The Appellant contends that there were no parts of the previously refused proposal which were 4.1m from No.47 and such a distance has not (and could not have) been increased to 16.9m on this site.
- 3.16. The revised submission in April 2021 placed the proposed building in exactly the same position on the site as the first application in January 2021 – but one storey lower and included the revisions to allow for accessible use as set out at paragraph 1.4 above.
- 3.17. Most importantly, as shown in the extract from the back elevation below, the proposed second floor/mansard roof level does not have habitable room windows facing the existing terrace on Joel Street.



Extract from Rear Elevation of Proposed Development

- 3.18. The text of the Local Plan at 3.13 above makes it clear that the separation distance applies between 'windows of habitable rooms' and therefore is not applicable as a test for overlooking or loss of privacy on the Appellant's application.
- 3.19. The proposed section relationship is illustrated in the following extract from the application drawings. The proposed windows at first floor level in the new development directly face the commercial space at 47 Joel Street but include obscured glass to allow light but prevent a view into or out of the room.

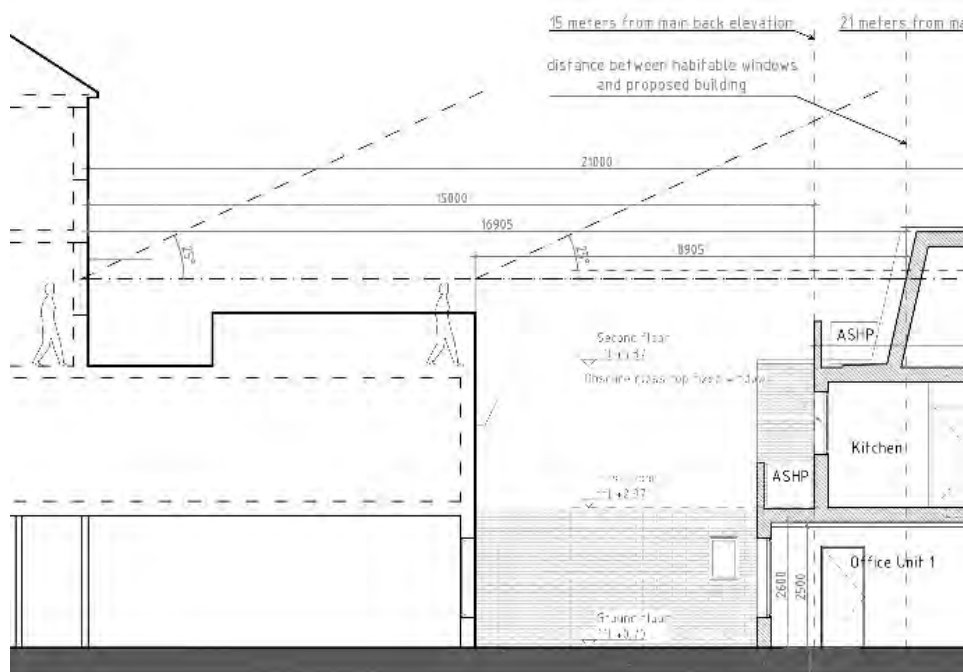


Longitudinal Section of the Proposed Development

- 3.20. The OR wrongly applies a separating distance of 21m as the test for overlooking and loss of privacy to the existing dwellings.
- 3.21. There are no windows proposed on the rear of the proposed elevation from which it is possible to overlook or cause harm to the privacy of the existing dwellings.

Ground 3: The Council erred in its conclusion that the terrace at No. 47 is a private external amenity space.

- 3.22. The OR states as follow:
Furthermore, the development would still be only 8.9m from the terrace which forms part of the occupiers residential unit. As such it is considered that this development would cause harm to the amenity of residents at No. 47.
- 3.23. As noted at paragraph 3.13 above, the Local Plan Part 2 aims 'to ensure that there is sufficient privacy for residents' and 'will resist proposals where there is an unreasonable level of overlooking onto private open spaces.'
- 3.24. As set out previously the proposed development sits below the 25-degree line to the visible sky – however even when the test is applied at the edge of the terrace – the proposed development is again below the 25-degree line as illustrated on the extract from the application drawings on the following page.



25 degree test applied to the edge of the existing terrace.

- 3.25. The Appellant contends for the development to be considered overbearing and resulting in an increased sense of enclosure and a loss of outlook it would have to breach the 25-degree line and block out part of the visible sky enjoyed at present by a resident on the terrace or in the habitable rooms in the Joel Street dwellings.
- 3.26. The above analysis demonstrates that this is not the case and the distance to the new development highlighted in the OR is the wrong metric because it appears that the OR does not fully consider the elevated nature of the existing dwellings and the maintenance of their view of the visible sky.
- 3.27. Moreover, the OR fails to recognize that the terrace is not a private external amenity space since:
- It is the access to the flats at first and second floor in No. 47 and therefore is in communal use
 - It is overlooked not just by the residents at No 47 but also by the adjoining properties.

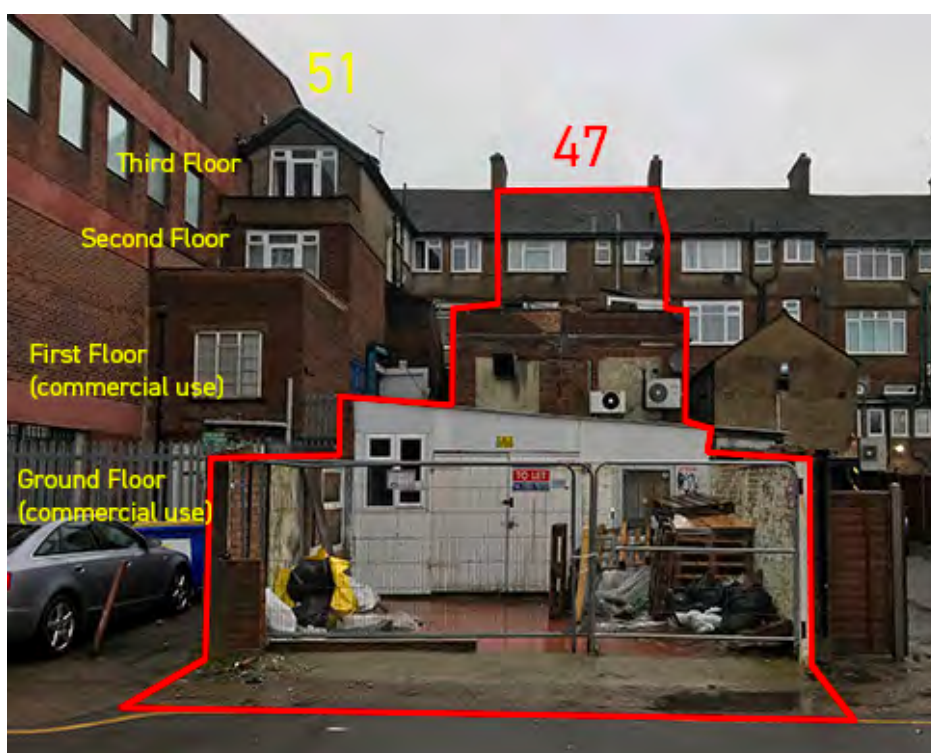


Present overlooking on the communal terrace at No 47 Joel Street

- 3.28. The Appellant thus considers that they have demonstrated that there is no basis for the OR assessment that the proposed development will cause harm to the privacy and amenity of the residents at No.47.
- 3.29. There are no windows in habitable rooms in the new development above first floor and facing the existing dwellings. The windows that are proposed at first floor have obscured glass.
- 3.30. The external terrace to the rear of 47 Joel Street is a communal entrance space and is overlooked by all the adjacent buildings. The proposed development therefore causes no harm to the amenity of this external space nor to the residents that may use it for periodic recreation.

Ground 4: The Council erred in its conclusion that the development would cause harm to the amenity of residents of the property at No.49 (OR Page 10 last paragraph).

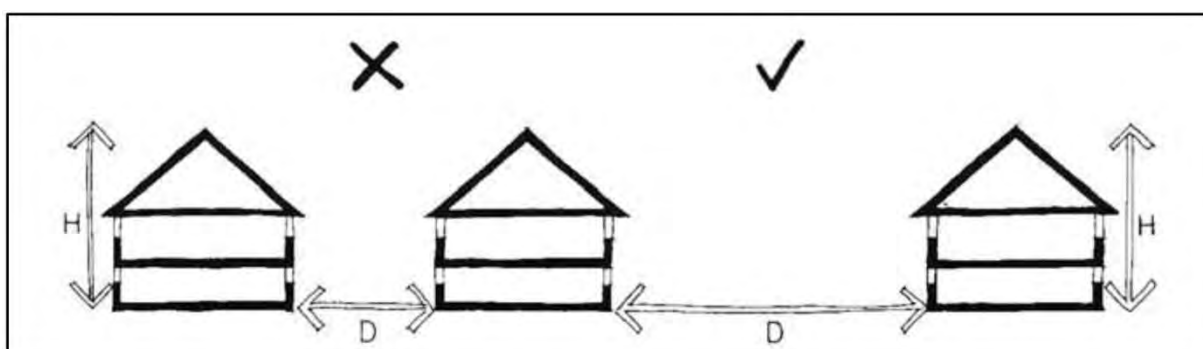
- 3.31. There is some confusion in the documents about the adjacent property numbers at Joel Street as the OS Plan includes property numbers for Ferndown and Joel Street. In the OR because it refers to 10m to the proposed development and abutting to 53-55) – the OR is referring to the effect of the development on the rear extension to No.51 Joel Street and not on 49 Joel Street as stated in the text.
- 3.32. Further in the view of the Appellant the OR wrongly refers to ‘two large habitable windows’ in No.49 (read No.51) as potentially affected by the development. As can be seen from the annotated site picture below the only residential window and terrace possibly affected by the development is at the second floor of 51 Joel Street since the terrace and window at the third floor is a storey higher than the proposed development.



Rear view of from Ferndown – application site outlined in red.

- 3.33. The windows at ground and first floor relate to the commercial use at these floors.
- 3.34. Reference to the two large habitable room windows was made in the OR on the previous application (Ref: 17155/APP/2020/3664) where a four-storey development was proposed on the Appellant's site. The Appellant considers that it is likely that the OR on the appealed development simply copied the text of the earlier OR and did not give sufficient weight to the new lower and less prominent proposal in assessing the effect on the property at 51 Joel Street.

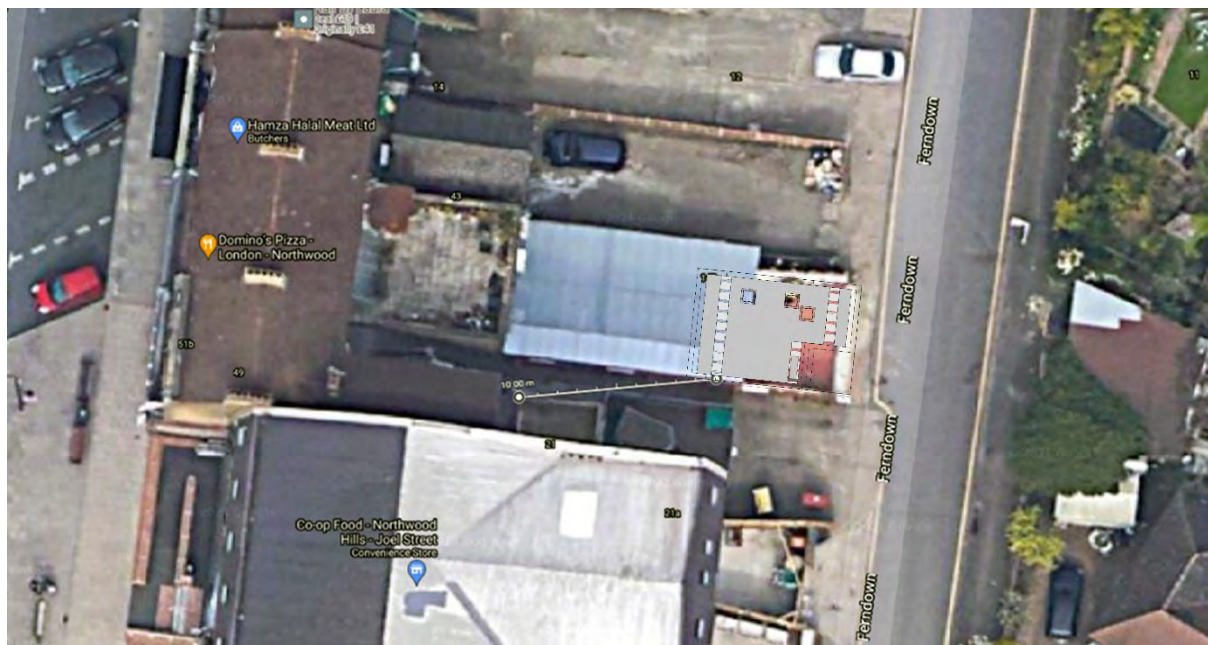
- 3.35. The OR concludes: *The development would also be only 10m away from the rear of No. 49 where there are two large habitable room windows and a terrace. As such it is considered that the development would cause harm to the amenity of residents of that property. This property abuts the existing 4 storey building at no 53-55 Joel Street, and as such already has a restricted outlook.*
- 3.36. Policy DMHB 11: *Design of New Development*, paragraph 5.40 of the *Local Plan Part 2* defines outlook as *the visual amenity enjoyed by occupants when looking out of their windows or from their garden. The Council will expect new development proposals to carefully consider layout and massing in order to ensure development does not result in an increased sense of enclosure and loss of outlook. Single aspect dwellings should be avoided.*
- 3.37. The Appellant understands from this definition that outlook is the visual amenity afforded by a dwelling's immediate surroundings, and that this can be adversely affected by the close siting of another structure or by the incompatible treatment of adjoining land. As noted in the policy additional care is needed when dealing with the outlook requirements of single aspect dwellings as they have no alternative provision.
- 3.38. However, as the policy makes clear this consideration does not extend to the preventing changes in the view from a dwelling and logically if any development is to occur what is seen from the dwelling will change before and after development.
- 3.39. The Local Plan policy refers to a sense of enclosure and the Appellant notes the reference to the full plot and high development at 53-55 Joel Street which clearly provides such a sense of enclosure to the dwellings at 51 Joel Street and limits the outlook from the property to that to the north and west.
- 3.40. Since the outlook is at present to the north and west – the proposed development has two impacts: (1) it adds a roof profile to the outlook at a distance of approximately 10m from the habitable room window in No.51, and (2) it removes a large lower ground floor roof to the west of the habitable room and replaces it with an open courtyard at ground level.
- 3.41. Whether the roof profile added to the outlook at (1) is harmful to the outlook wholly depends - in the view of the Appellant - on its distance from the habitable space and its height relative to the habitable room window.
- 3.42. The harmful effects on existing outlook and enclosure are considered as a function of the relative height of the new and existing buildings and the distance between them as illustrated in the diagram below reproduced from the planning guidance in another local authority. As a general rule harm is avoided where the height (H) of the new development is equal to or lower than the distance (D) between the new and existing buildings.



Relation between height of buildings and distance between buildings

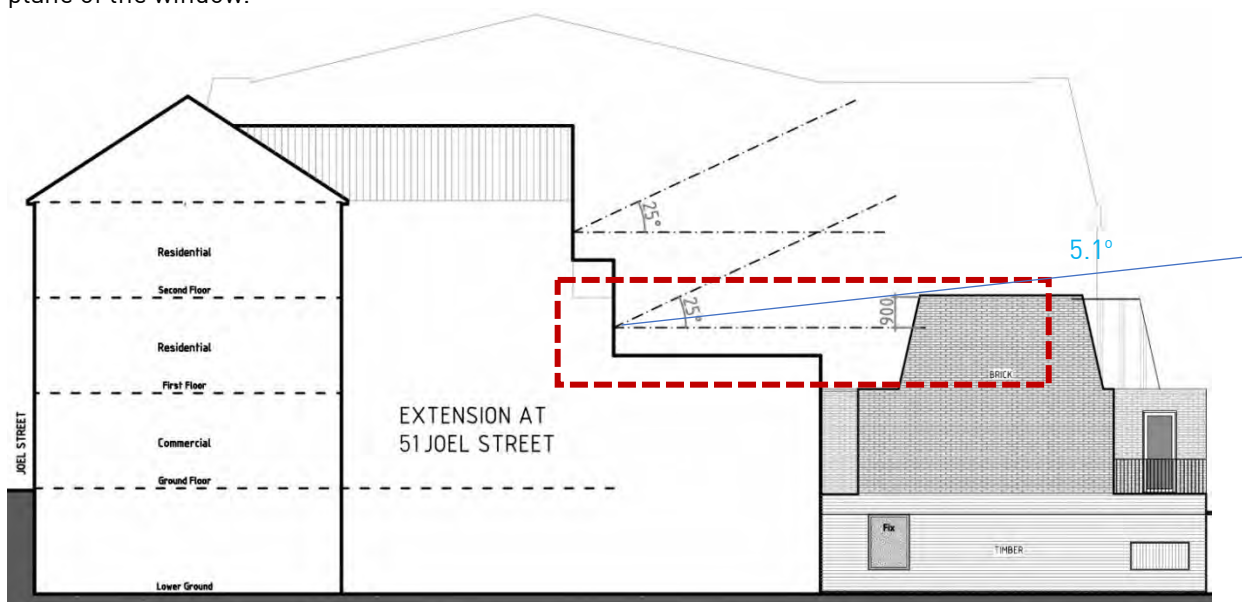
- 3.43. As noted above the proposal already satisfies the 25-degree test for daylight and overshadowing – both important aspects of outlook.

- 3.44. The annotated satellite image below shows the separation distance between the proposed development and the residential back extension at No 51, as approximately 10 meters.
- 3.45. The view also shows the large lower ground floor roof (blue tone) which will be partly removed to create a courtyard between the proposed building and the existing terrace on Joel Street – a development the Appellant contends is a positive outcome for the outlook from the rooms at No. 51.



Distance between proposed development and back extension at No 51.

- 3.46. As previously noted at paragraph 3.9 above, the mansard roof of the new development is set at only 900 mm above the centre of the 'affected window' at 51 Joel Street – an impact 10m away from the plane of the window.



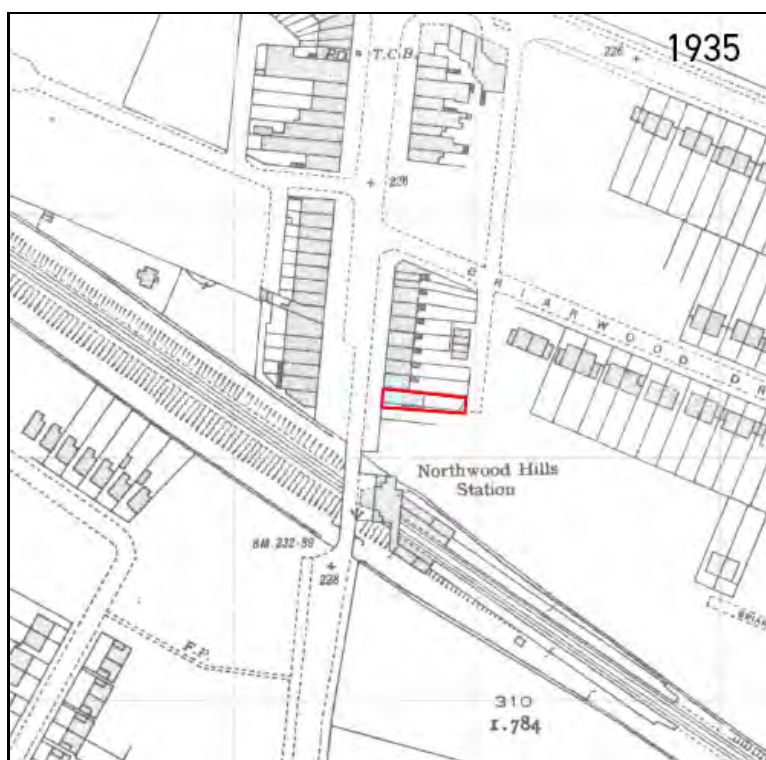
Mansard roof exceeding 900mm above the centre of the 'affected window'

- 3.47. This is an angle of 5.1 degrees to the centre of the 'affected' window at No.51. Since an angle of 25 degrees is considered not to have an impact on light and overshadowing the Appellant concludes that an alteration in outlook which impacts at an angle of 5.1 degrees to the viewer has no perceivable impact on enclosure and visual amenity.

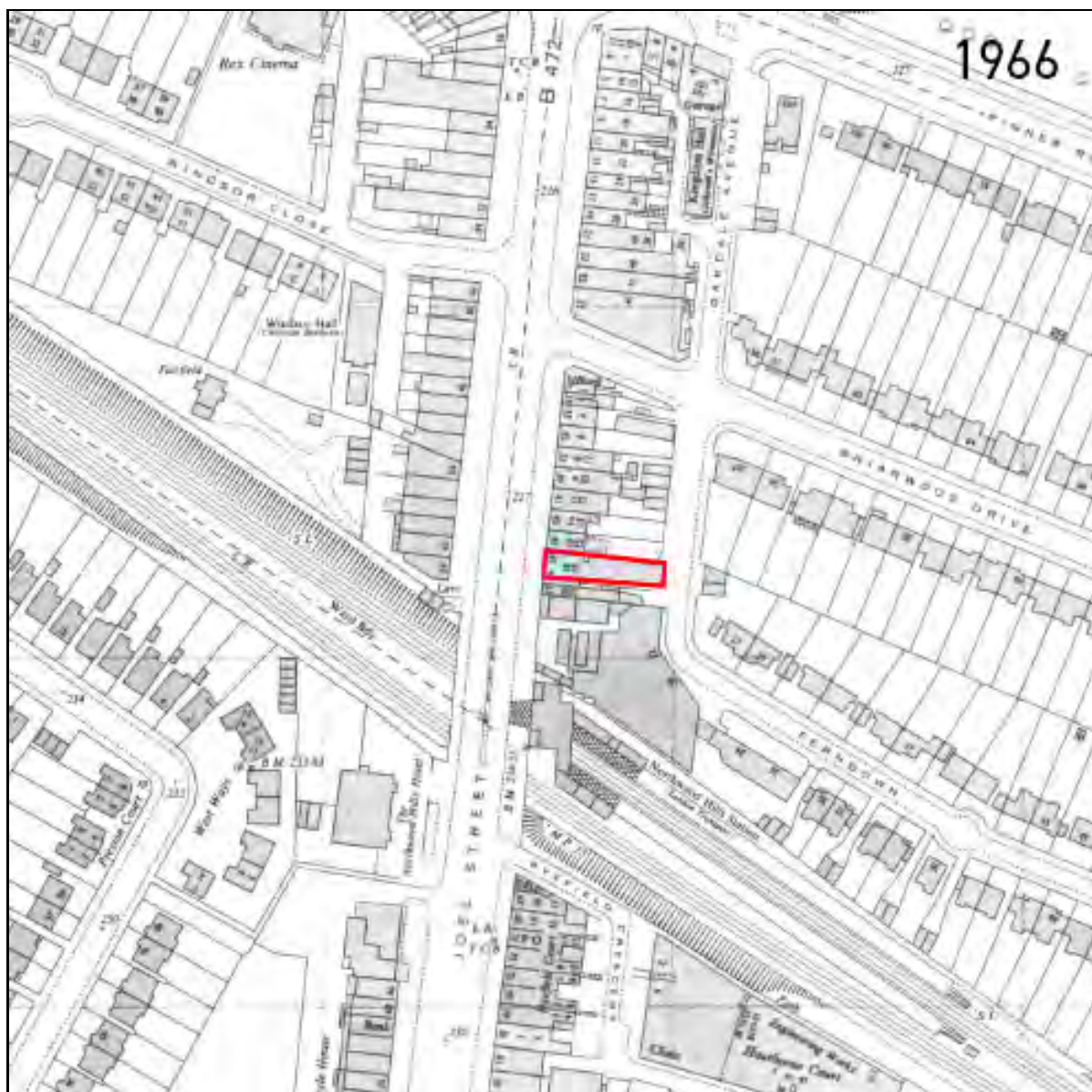
- 3.48. Further the Appellant argues that visual amenity is improved by the development in the reduction in the large lower ground floor roof and its replacement with a landscaped courtyard.
- 3.49. The Appellant considers that it is not a viable proposition - (nor the intention of the Local Plan Policy on outlook noted above at paragraph 3.36) – to protect the occupant of a second floor flat from minor changes (a 5.1-degree impact) to the rooflines of adjacent buildings as a result of new developments.
- 3.50. This is particularly the case where that flat is situated in a Local Centre with a transport node in Greater London and where the Local Plan seeks to direct that new development be concentrated in such locations for sustainable outcomes. An outlook over the roofs of adjacent buildings would not be an unusual outlook for a second floor flat in greater London.

Ground 5: The Council erred in its conclusion that the proposed development would be an incongruous addition which would be unduly overly dominant and out of scale with the character and appearance of the area

- 3.51. Ferndown, the street to the back of Joel Street has redevelopment potential close to the Local Centre and transport node at Northwood Hills. The Appeal site is presently visually unattractive and an inefficient use of land where redevelopment would represent good planning.
- 3.52. The nature of the street and the pattern of urban development close to the Local Centre is for commercial or service uses on the ground floor with residential on the upper floors. The Appellants application followed this development typology which is the pattern of the historic development of suburbs in greater London such as Northwood Hills.
- 3.53. The 'Hidden London' website describes the development of Northwood Hill as follow:
The Metropolitan Railway agreed to build Northwood Hills station on condition that the developer indemnified it against all losses for five years, but such was the project's success that the requirement was soon waived. The station opened in November 1933 and the construction of houses nearby began almost immediately afterwards and continued for two decades.
 (Source: <https://hidden-london.com/gazetteer/northwood-hills/>).
- 3.54. An extract from the 1935 Ordnance Survey Map with the Appeal site highlighted is below.

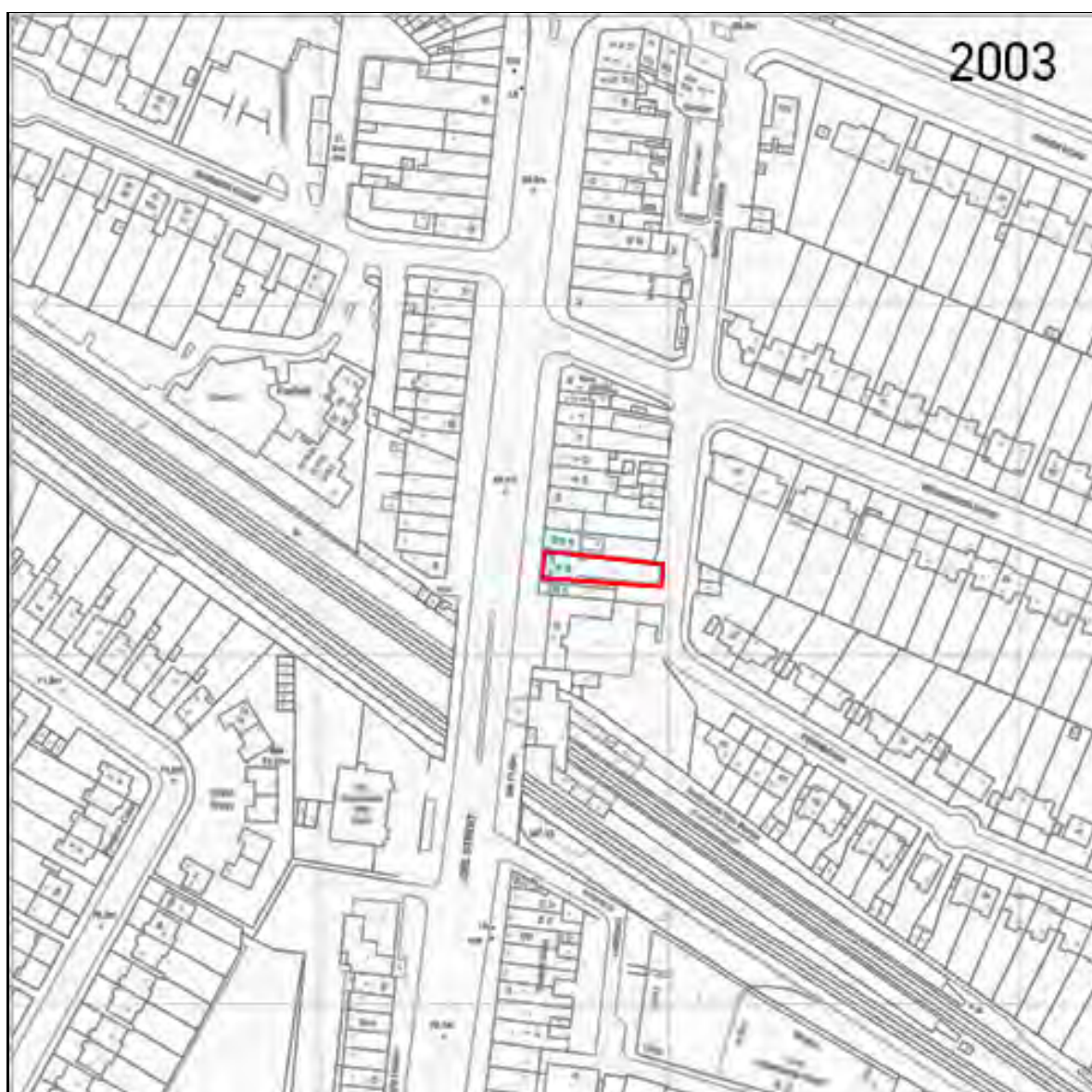


- 3.55. Development continued on Joel Street and in adjacent roads even to the point where the adjacent roads had building frontage before Joel Street. In 1966 there were full site developments at the Appellants site and at 53-55 Joel Street though this latter plot had a frontage to Ferndown and not to Joel Street.



- 3.56. The 1966 OS Plan also appears to show a full height development on the Appellants site since there is no break line to the terrace of buildings along Joel Street and the existing concrete footings presently on site appear to be of a scale to support a higher than single story building.
- 3.57. The 1966 OS Plan above shows a significantly higher degree of enclosure to Ferndown than is found in the present condition with buildings for service or industrial use.
- 3.58. The rear extension to 51 Joel Street with the habitable rooms and terraces is also visible and constructed and this rearward development of the plot is likely to have been required because No.51 has a very narrow frontage to Joel Street, and this was the most pragmatic solution to achieve daylight for residential use between two large buildings (at the Appellants site and at 53-55) either side to the rear.

- 3.59. The present building large building at 53-55 Joel Street was constructed following planning consent in January 1987 – application reference 86/1725 – which is recorded on the Council’s on-line planning record but there are no documents to establish the nature of the development or why such a large building was allowed in close proximity to the residential use and terraces at 51 Joel Street.
- 3.60. The only plausible explanation is that the development at 53-55 in 1987-88 replaced a high building on the site at 53-55.
- 3.61. Although the planning policy context of 1986-87 (The Northwood Local Plan 1985) is not available on-line for reference – the succeeding document The Hillingdon UDP of 1998 includes policies BE20 & BE21 which require new developments to safeguard daylight, sunlight and residential amenity which are threatened by new development bulk or proximity.
- 3.62. The Appellant concludes therefore that the present building at 53-55 could only have gained consent because it was a replacement for an existing building. There is further evidence for this conclusion in the surviving three storey industrial buildings at Ryefield Crescent – immediately south of the site on the other side of the railway tracks – noted as engineering works on the 1966 OS extract above.
- 3.63. The 2003 OS shows the competed development in the form surviving on site:



- 3.64. The 2003 OS also shows that the development of a rear plot at 37-39 Joel Street was approved by the Council in 2004 – Application Reference: 58995/APP/2003/2748. The development replaced four single storey garages with a two-storey office building – Lynx House.
- 3.65. The Appellant accepts that Lynx House is a two-storey building with a flat roof – and 53-55 is a four-storey building with a mansard roof
- 3.66. However, the Appellant contends that a full consideration of the character and scale of buildings in the area would conclude that the Appellants proposed development of a three-storey including mansard roof between Lynx House and 53-55 Joel Street (a four-storey including mansard) is an appropriate transition scale and character response to the wider streetscape on Ferndown.
- 3.67. There is further evidence that this is an appropriate urban design strategy since the Planning Authority has approved a three-storey building on the other side of 53-55 Joel Street on the car park site between this building and 22 Ferndown to the south -east of the site.
- 3.68. This approval – application reference 5564/APP/2020/847 – was approved on 19 January 2021 and follows an earlier appeal on this site where an inspector concluded (in Appeal Decision reference APP/R5510/W/19/3240243) that a two and a half storey building would represent a logical step down in height between the scale of the buildings on Joel Street (including 53-55) and the surrounding two storey dwellings on Ferndown.
- 3.69. Extracts from the application drawings for the 2020 Appeal Application for 53-55 Joel Street and the subsequently approved application (2021) for an amended scheme are set out below.

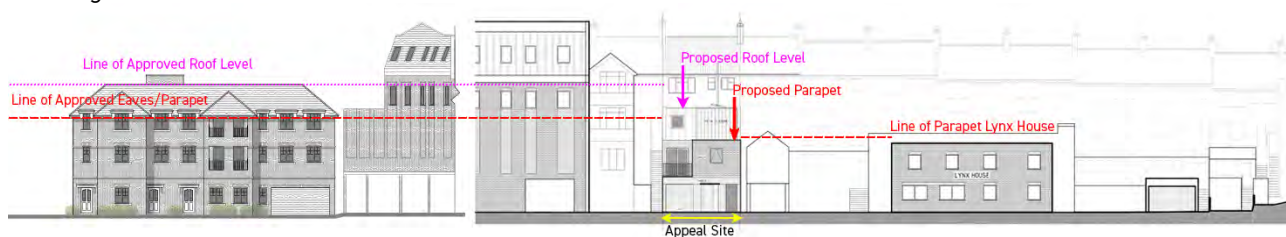


*Extract from Approved Drawing FLU.653.08 Rev K for site on Ferndown
53-55 Joel Street on the right, 22 Ferndown on the left*



*Extract from 2020 Appeal Application 2020 drawing FLU 653.04 Rev L – concluded by Inspector at Appeal as not to
result in harm to the character and appearance of the surrounding area.*

- 3.70. The Approved scheme at 53-55 now under construction is compared with the Appellant's scheme in the diagram below:



This demonstrates that the Appellant's proposal is lower than both the ridge and the eaves of the approved proposal on the other side of 53-55 Joel Street. Indeed the overall height of the Appellant's development (to the top of the mansard) is almost at the height of the eaves of the approved development.

- 3.71. The development adjacent to 53-55 Joel Street is now under construction as shown in the site photographs below taken in December 2021:



New development at rear of 53-55 Joel Street on Ferndown to second floor window level – December 2021

- 3.72. The Appellant concludes that it is not logical for the Planning Authority to approve a three storey plus roof apartment building on one side of the four-storey building at 53-55 Joel Street and then to refuse consent for a two storey plus mansard roof development on the Appellant's site.
- 3.73. Further – at the date of the determination of the Appellant's scheme – June 2021 – the Planning Authority already had the Inspector's decision in the Appeal with regard to the development of the land to the rear of 53-55 Joel Street (see 3.68 above) that a two and a half story building would not cause harm to the character and appearance of the surrounding area.
- 3.74. While the Appellants understands that each application must be determined on its merits – on the matter of harm to the surrounding area recent decisions on a similar point for a site almost adjacent to the Appellant's site are material considerations in the interests of good planning and in maintaining public confidence in the planning system.
- 3.75. The Appellant contends that the Planning Authority therefore has no reasonable basis on which to conclude – as it did in Reason No.2 in the DN that the Appellant's development is *unduly prominent, overly dominant and out of scale with the character, appearance and visual amenities of the surrounding area and street scene*.
- 3.76. Paragraph 3.1.2 of the London Plan 2021 directs:
Understanding the existing character and context of individual areas is essential in determining how different places may best develop in the future. An evaluation of the current characteristics of a place, how its past social, cultural, physical, and environmental influences have shaped it and what the potential opportunities are for it to change will help inform an understanding of an area's capacity for growth and is crucial for ensuring that growth and development is inclusive

- 3.77. The Appellant considers that the historic evidence of building along Ferndown is that the edge of the plots provided frontage to Ferndown for larger and more industrial building uses in the past.
- 3.78. This mode of development is characteristic of the place and will accommodate residential use on the upper floors and small service/commercial uses at ground floor – uses which are consistent with the Local Centre at Northwood Hills – and are typical of the form development which took place when the Northwood Hill suburb developed in the period 1933-1966.
- 3.79. In 2019 the Appellant commissioned a feasibility study of the form of development which might be extended to the neighbouring plots along Ferndown, with a simple reproduction of a building typology and use to complement the development at Lynx House and to complete the street in the manner of the historic development of Northwood Hills.
- 3.80. A street elevation was incorporated in the feasibility study and is reproduced below for comparison with the current street scene satellite view on the following page.



Proposal for a joint development along Ferndown – Feasibility Study 2019



Current Street Scene along Ferndown

- 3.81. The Appellant thus concludes that the proposed development is an appropriate response to the current setting in Ferndown, is informed by an analysis of the historic development of the area – as suggested by the London Plan – and is a model for the longer-term improvement of the street and the wider area.
- 3.82. The proposed development would enhance the street scene, which is not particularly attractive at present, and positively respond to continued demand for housing and ancillary commercial space in the area.

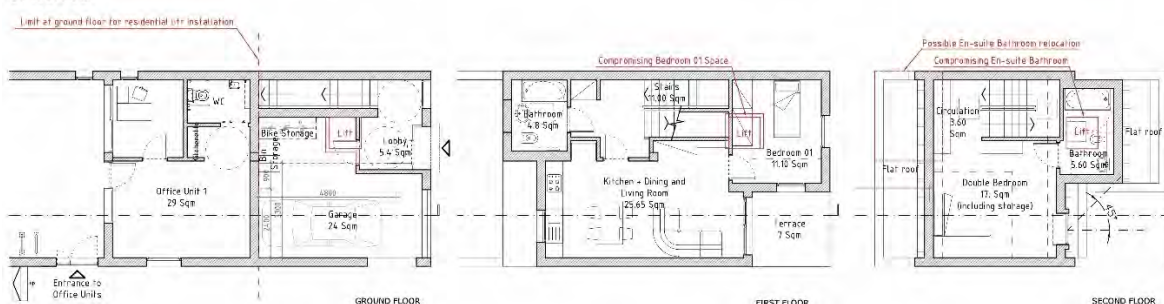
- 3.83. The proposal is also good planning for a site with excellent infrastructure which is currently derelict and is consistent with the Appeal Inspector's findings in an adjacent application that no harm is caused to the character and appearance of the surrounding area by a two storey with habitable roof development – as proposed by the Appellant's development.

4.0 Grounds for Appeal – Reasons for Refusal 3

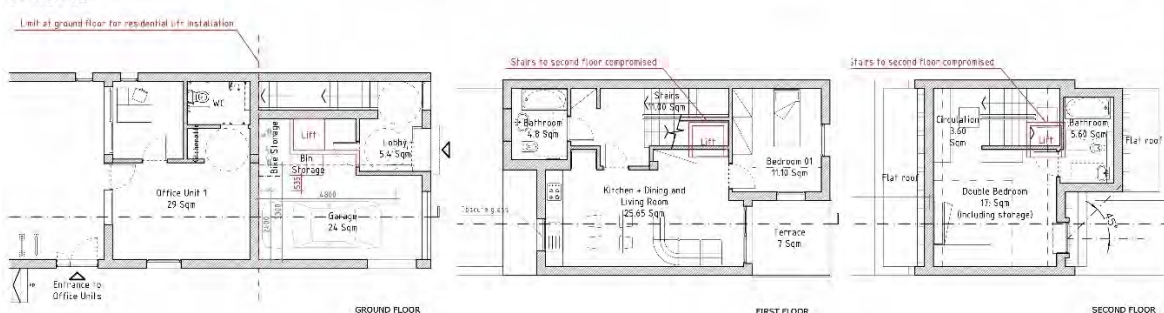
Ground 6: The Council erred in its conclusion that the proposed development would be contrary to the London Plan policy D7

- 4.1. The OR reviews the accessibility of the proposal against the London Plan 2021 Policy D7 at pages 6 and 7. The Access Officer appears to wrongly conclude that there was no justification in the submitted application for the lack of a lift access to the residential unit above ground floor.
- 4.2. Paragraph 12.16 of the DAS includes plans to consider the provision of a lift in the proposed development. The plans included in the DAS are set out below.

OPTION 01



OPTION 02



Planning Studies for the installation of a lift in the maisonette area

- 4.3 In the first option the installation of a lift would completely jeopardise the practical use of bedroom 01 while in the second option the introduction of the lift would compromise the position and practicality of the staircase to the second floor.
- 4.4 The above design studies show that on a small urban site with constraints of plot width and adjacent buildings, the provision of a lift will increase the amount of circulation space relative to the habitable space resulting in an unviable development.
- 4.5 The Appellant is aware that in principle the London Plan, (and the Local Plan), expects the installation of a lift to allow step – free access into new dwellings.
- 4.6 Paragraph 3.7.6 of the London Plan 2021 directs as follows:
In exceptional circumstances the provision of a lift to dwelling entrances may not be achievable. In the following circumstances – and only in blocks of four storeys or less – it may be necessary to apply some flexibility in the application of this policy:
- *Specific small-scale infill developments (see Policy H2 Small sites)*
 - *Flats above existing shops or garages*
 - *Stacked maisonettes where the potential for decked access to lifts is restricted*

- 4.7 The proposed development is a block of less than four storeys and is:
- A specific small-scale infill development
 - A stacked maisonette where the potential for decked access to lifts is restricted
- 4.8 The OR fails to acknowledge that the development meets the criteria to allow flexibility in the requirements of D7.
- 4.9 As the installation of a lift is not viable the Appellants sought to provide an alternative way to provide step free access to the residential unit.
- 4.10 Paragraph 3.7.7 of the London Plan 2021 directs that where the flexibility identified in 3.7.6 is warranted the affected dwelling would be required to satisfy the mandatory building regulations requirements of M4(1) via Building Control process.
- 4.11 The residential unit has therefore been designed to be adaptable (in compliance with M4(2)). The DAS made this design intention clear and set out how the proposal met the requirements of Lifetime Homes (DAS paragraph 12.17).
- 4.12 The OR refers to SPD 'Accessible Hillingdon' which was adopted in 2017 and still refers to the 2016 London Plan. The earlier version of the London Plan provided less direction than the present version as to how to assess applications on the matter of accessibility.
- 4.13 The SPD 'Accessible Hillingdon' directs as follows:
To ensure that residential accommodation offers standards of accessibility that can be relied upon, and to ensure that homes are adaptable without the need for post-construction alterations, the Council requires that all new homes are designed to the standards set out in Approved Document M to the Building Regulations M4(2).
- 4.14 The proposed development complies with Building Regulations M4(2) therefore complies with this requirement of the SPD 'Accessible Hillingdon'.
- 4.15 Furthermore, in the section headed *Private Stairs and Level Changes Within a Home* the SPD requires that *Step free access is to be achieved to all rooms and facilities on the entrance storey. Level changes should be avoided on all other floors. To continue the provision of possible step free access from the entrance level to a storey above or below (where a main bedroom and bathroom is located), private stairs should be designed to accommodate future stair-lift installation.*
- 4.16 The proposed development is designed to accommodate a future stair-lift installation and therefore complies with the SPD 'Accessible Hillingdon'.
- 4.17 The Appellant therefore argues that the proposed development is on a small site and meets the criteria for flexibility in the application of D7 as set out in the London Plan 2021.
- 4.18 The DAS examined the viability of the provision of a lift in the proposed development and included plans to show the impact this had on circulation and on viable habitable space. These drawings show the negative consequences of a lift provision yet the OR records at Page 14 that the DAS *'includes plans to demonstrate that a lift can be provided in the future if required'*.
- 4.19 This is a complete misunderstanding of the evidence in the DAS.
- 4.18 The DAS also shows that the development achieves a higher standard (M4 (2)) than the London Plan requires where flexibility is warranted and this is in direct response to the Council's own SPD 'Accessible Hillingdon' which allows for step free access to be provided by a design which can accommodate a future stair-lift installation and is built to the building regulations standard M4(2)

5.0 Conclusion and Summary of Appeal

- 5.1. The existing land to the rear of 47 Joel Street off Ferndown is next to the highway but presently derelict. The existing long deep basement at the property has little natural light and has been difficult to let because of this and because of the depth of the space.
- 5.2. This is an inefficient use of space in a local centre location next to a transport mode – and thus there are good planning reasons for redevelopment.
- 5.3. A review of the historic development of Northwood Hills demonstrates that in the period 1933-1966 large full plot building were constructed right up to the boundary with the highway on Ferndown for engineering and industrial use.
- 5.4. These building fell into disuse as the industrial activities relocated and the buildings were demolished. There was one such building on the Appellant's site and there are surviving examples of these buildings in another street off Joel Street at Ryefield Crescent.
- 5.5. The form of development proposed by the Appellant has already been approved and constructed at Lynx House at 1-4 Ferndown – albeit to a height of only two storeys.
- 5.6. The Appellant has made a previous proposal for the development of the site which was refused in March 2021 because of the scale of the development and because the Council concluded that there was insufficient evidence regarding access provisions.
- 5.7. This Appeal relates to a refusal in June 2021 where the Appellant submitted revised proposals which reduced the number of commercial units and lowered the development by one story compared to the previous application.
- 5.8. The height, scale and mass of the revised proposal reflects the immediate site characteristics of the two-storey development at Lynx House, the two storey and pitched roof semidetached houses along Ferndown, and the four-storey building including mansard to the rear of 53-55 The Broadway Joel Street. Further an Appeal Inspector considering the development of a two storey with habitable roof on a site to the rear of 55=3-55 Joel Street concluded that the scheme would not harm the character and appearance of the area.
- 5.9. The proposal includes small business space (Use Class E) which the London Borough of Hillingdon promotes through policy provisions in the Local Plan.
- 5.10. The Appellant considers that a positive and reasonable response has been made to the matters identified in the previous proposal as reasons for refusal, and further improvements have been made to the scheme through the introduction of local emission free air source heat pumps as the heating energy source for both commercial and residential units.
- 5.11. The Appellant believes the Council made significant errors in the determination of the revised application as follows:
 - By concluding that loss of light and overshadowing to the existing dwellings would occur when the standard BRE tests were applied in the DAS and showed that no loss of light or overshadowing would occur,
 - By applying a 21m separating distance between habitable room windows in the proposed and existing dwellings as a test of overlooking and effect on privacy even though the proposed development had no windows to habitable rooms facing the existing dwellings. The windows that are proposed in the rear elevation of the new development face the commercial space and have only translucent glass and thus can cause no harm to residential amenity.

- By considering the terrace to the rear of 47 Joel Street as a private amenity space when it is clearly a communal space as it is the access to the residential units in 47 Joel Street, and is already overlooked by the adjacent buildings,
- By determining that the proposed development would cause harm to the amenity of the residents of 51 Joel Street (not 49 as stated in the OR) when the only impact is a change in the outlook of an angle of 5.1 degrees from the centre of the habitable room – (an increase of height of the proposed roof above the parapet of the terrace of 0.9m – 10m from the habitable room window). Such an increase is a barely perceptible change in the overall outlook and not an unusual development for the resident of a second floor flat in greater London.
- By concluding that the development will be an overly dominant and out of scale with the character and appearance of the area - when there is a higher four storey building adjacent to the site at 53-55 which appears to have been a replacement for a high building constructed on the site in the 1960s. To the contrary the Appellant considers that the scale of the proposal is an appropriate transition between this building and the previously approved Lynx House at 1-4 Ferndown – an approach already approved by the Planning authority between 53-55 and 22 Ferndown by the approval of a three-storey apartment block with pitched roof - now under construction.
- By determining that the proposed development would cause harm to the character and appearance of the area when in an adjacent application close to the site a Planning Inspector had determined that a similar two storey development with habitable roof did not cause harm and was an appropriate transition to local two storey buildings and further that this determination was available to the Planning Authority up to one year before the Appellant's application was refused consent.

- 5.12. Further the Council appears to have misunderstood the evidence included in the DAS with regard to the provision of a lift in the proposed residential unit to comply with London Plan Policy D7.
- 5.13. The Appellant provided plan studies to show the impact the installation of a lift would have on the usability and viability of the proposed development, but the Access Officer appears to have understood these plans to show that a lift could be provided.
- 5.14. The Appellant considers that the provision of a lift for one residential unit would rarely be viable, and the London Plan recognises this by identifying conditions which allow flexibility in the application of the requirements of D7. The proposed development meets two of the three conditions for flexibility with the third relating to existing buildings and thus not being applicable to the proposed development.
- 5.15. In response to the requirement of the London Plan and the Council's own SPD 'Accessible Hillingdon' the Appellant provided a scheme which complies with building regulation M4 (2) and provides the facility to install a stair lift as recommended by the SPD.
- 5.16. The Appellant requests that in consideration of these Grounds for Appeal the Planning Inspectorate grant consent for the development to enable this derelict site to be brought back into use and to provide an exemplar for the remaining plots on the street.
- 5.17. The majority of the rear plots to Ferndown are at present unattractive visually and inefficiently used considering the local infrastructure, the proximity to the Local Centre and the transport node, the demand for housing, and the need for small local business units following the effects of the national pandemic.

6.0 Schedule of Documents referred to in Appeal

	Document	First referral paragraph
6.1	OR Appeal Application reference 17155/APP/2021/1453	1.3
6.2	OR previous application 17155/APP/2020/3664	1.3
6.3	SPD 'Accessible Hillingdon'	1.4
6.4	DN dated 8 June 2021 for Appeal Application	1.5
6.5	BRE ' <i>Site Layout Planning for Daylight and Sunlight</i> ' A Guide to Good Practice Paul Littlefair (2011)	3.3
6.6	Application Drawing ICE19.247 PL2.06 Revision C	3.5
6.7	Application Drawing ICE19.247 PL2.02 Revision C	3.9
6.8	Application Drawing ICE19.247 PL2.03 Revision C	3.9
6.9	The Hillingdon Local Plan Part 2	3.13
6.10	Ground floor Plans of refused planning application (2020/3664 – Drawing PL2.01 Revision A) and Appeal Application (2021/1453 Drawing PL2.01 Revision C) showing proposed development in same location in both applications.	3.16
6.11	Application Drawing ICE19.247 PL2.05 Revision C	3.17
6.12	Woking Council SPD on Outlook, Amenity, Privacy and Daylight (2019)	3.42
6.13	Ordnance Survey Plans for Northwood Hills for 1932, 1966 and 2003 supplied by OS Licence holder – Groundsure Insights (www.groundsure.com)	3.54
6.14	Approval for development of land to the rear of 53-55 Joel Street: application reference: 5564/APP/2020/847 and earlier Appeal Inspector's decision reference: APP/R5510/W/19/3240243	3.68
6.15	The London Plan 2021	3.76
6.16	Feasibility Study for Appellant for whole street development (ICE 2019)	4.2
6.17	DAS as originally submitted with the Appeal Application – document reference: ICE19.247.301.004 April 2021	4.2

Copies of all of the above documents are provided in a separate appendix except for the following:

- 6.5 BRE *Site Layout Planning for Daylight and Sunlight* because it is an 88-page document. The 25 diagram from section 8 of the paper has been attached as a screenshot as the PDF is protected by the BRE for reading only.
- 6.9 The Hillingdon Local Plan Part 2 is available at: <https://www.hillingdon.gov.uk/local-plan>
- 6.12 Woking Council SPD on Outlook, Amenity, Privacy and Daylight is available at: <https://www.woking2027.info/supplementary/outlookspd>
- 6.14 The Approved Planning application for the site to the rear of 53-55 Joel Street can be seen at: <https://planning.hillingdon.gov.uk/OcellaWeb/planningSearch>
The Appeal decision can be seen at: <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3240243>
- 6.15 The London Plan is available at: <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/london-plan-2021>
- 6.16 The Appellant's feasibility study for the whole street development has not been published pending further discussions with the adjoining owners.

Document ends.

