

Final Comments - Appellant App/R5510/W/22/3301645

August 2022

0.0 Introduction

- 0.1 An Appeal has been filed for determination by the Planning Inspectorate of Application Ref 23469/APP/2022/144 submitted to the LB of Hillingdon. The application was for *“Erection of new 3 bedroom bungalow with dormers and rooflights serving accommodation in the roof on land to the front of existing dwelling.”*
- 0.2 The Appeal was made for non-determination of the application by the Council. Since submission of this Appeal, Hillingdon Planning sent the case to the Planning Committee on 12.07.22 with a recommendation for refusal. The Appellant was notified of this and provided a copy of the Officer’s Report on 04.07.22, just a week before the meeting. Representations to the Committee Members were made by a neighbour, a Local Councillor and the Appellant’s Agent. Material prepared for that representation will form part of these Final Comments as the Appellant had not previously been provided any details of the Planning Officer’s consideration of the case, comments from statutory consultees or objections raised by neighbours. Debate in camera by the Committee produced a 4th objection based on Members’ perceived threat to public safety from a new proposed crossover to the public highway which is in conflict with the detailed consideration by Council’s Highways Officer.
- 0.3 The Officer’s Report has now also been supplemented by the Council’s Statement of Case together with 2 No. Representations received from interested parties (neighbours in this case). These Final Comments will respond to these collective documents rather than raise new points, as required by the procedures of the Planning Inspectorate.
- 0.4 The first reason for refusal has been given as: *“Due to its size, siting, position, defined curtilage and unsympathetic design, the proposed dwelling would form an uncharacteristic and visually incongruous form of development which would obscure the host dwelling, reduce openness and subsequently fail to harmonise with the established character of the area and appearance of the streetscene. The proposal would therefore be detrimental to the visual amenities of the streetscene and character of the surrounding area,…”*
- 0.5 A second reason for refusal has been given as: *“By virtue of the position, siting and design of the proposed dwelling, in addition to the relative ground levels and limited separation distances, the proposal would give rise to harmful overlooking and loss of privacy between the*

proposed dwelling and numbers No.170 and 172 Harefield Road. This relationship would provide an unacceptable residential environment for the future occupiers of the new dwelling, in addition to causing significant harm to the residential amenities of the neighbouring occupiers, ...”

- 0.6 A third reason for refusal has been given as: *“The proposal fails to provide a step free access for the new dwelling and fails to meet the internal floorspace and layout standards set out in Diagram 28 of Approved Document M to the Building Regulations...”*
- 0.7 A final reason for refusal, supplemented to the original Officer’s recommendations by Council Members, has been given as: *“Due to its siting and design, the proposed in/out dual access and parking arrangement would be detrimental to both highway and pedestrian safety, ...”*
- 0.8 At all times during the application’s consideration by LB Hillingdon the Appellant’s offers to discuss the scheme have not been taken up and it is only the formal appeal which has generated a statement of the Council’s position. Minimal notice was provided of the Committee date which did not engage in any debate of the issues involved, but rather provided a platform for attacks on the Appellant’s motivations with particular satisfaction in devising an additional reason for refusal which directly contradicts the professional judgment of the Council’s statutory consultee. The application is now nearly 5 months past its original target date for determination of 15.03.22.

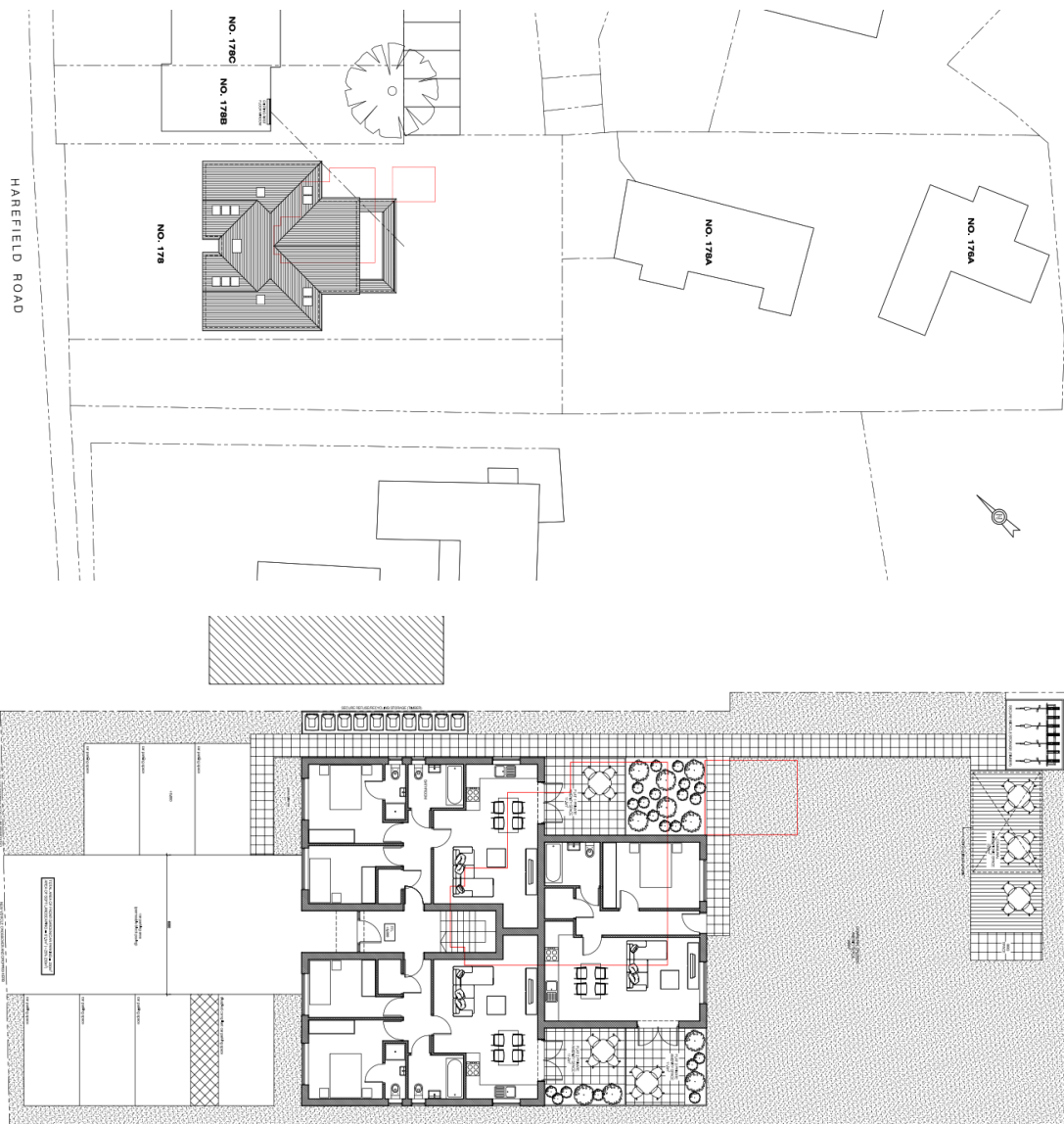
1.0 Aspects of the Scheme Deemed Acceptable

- 1.1 The Officer’s Report notes that the proposed 3 bedroom dwelling would meet the general need for family size dwellings identified in the Hillingdon Strategic Housing Market Assessment (2108).
- 1.2 The Officer confirms with respect to the proposal that “its overall design as a standalone building is... considered to be acceptable.” While other factors lead to a conclusion that the proposal should be refused, it is important to note that the scheme fundamentally complies with internal & external space standards and overall design.
- 1.3 With respect to the impact of the development on neighbours “it is considered that the proposed dwelling would not result in a harmful impact on the outlook ... or be unduly overbearing such as to warrant a refusal of planning permission on those grounds.” Further, “it is not considered that there would be an unacceptable loss of light to numbers 170 or 172 Harefield Road...” and “...the relationship with other neighbouring properties would be acceptable...”

- 1.4 The Landscaping Officer, as a statutory consultee, raises no objections to the proposal and confirms the presence of “mature hedges around the front garden” which could be removed. Neighbour objections and both the Officer’s Report and Statement of Case proceed to identify non-existent trees which the applicant is alleged to have removed. Google Maps readily identifies that no trees ever existed on the plot, and it is blatantly misleading for the Officer to reinforce this claim in conflict with the Council’s own Landscaping Officer.
- 1.5 The Council’s Highways Officer was formally consulted as part of consideration of the application. The conclusion that they “are satisfied that the proposal would not discernibly exacerbate congestion or parking stress, and would not raise any measurable highway safety concerns...” has inexplicably disappeared from the Statement of Case together with much of the detailed assessment of the professional consultation. This matter will be addressed in more detail below in Section 5.0.

2.0 Impact of the Development – Character & Appearance

- 2.1 The previously submitted diagrams illustrating the continuity of the street wall on Harefield Road and the double and triple tiering of dwellings accessed via shared driveways provide strong evidence of the character of the local context. The scale and format of dwellings is equally varied.
- 2.2 In fact, the 30M+ front setbacks of No.’s 168-172 are themselves exceptional making those properties uncharacteristic. A prominent garage block to the front of No.168 already reinforces the very strong street wall, and the very narrow break in front of 170-172 limits the visual impact of these properties on the conventional concept of street scene, framed as it is by dense planting to adjoining properties. The frontage of No.172 is a shared driveway with No.172a making it, in reality, a backland property.
- 2.3 The Officer’s Report refers to Policy DMHB11 of the Hillingdon Local Plan (2020) for analysis of the proposed scheme. The Appellant contends that this policy has been followed very closely, particularly the following:
- harmonising with the local context by taking into account the surrounding scale of development, height, mass and bulk of adjacent structures;
 - building plot sizes and widths, plot coverage and established street patterns;
 - building lines and setbacks, rooflines, streetscape rhythm;
 - architectural composition and quality of detailing



Location plan & site plan for development at 178 Harefield Rd; previous building outlined in red

- 2.4 The Council has previously demonstrated resistance to siting of new buildings closer to the road such as at 178 Harefield Rd (Ref 46205/APP/2019/3418 & APP/R5510/W/20/3255652). The Planning Inspectorate in that case granted consent for the scheme finding that both the siting and car parking were consistent with the local context.
- 2.5 The claim that the proposal would “reduce openness” is in effect a prescription against all development and particularly so where the new dwelling would simply reinforce an existing street line. Characterising the plot as a “cramped and unusually small plot” is inaccurate and misleading – we refer the Inspector to No.’s 166 and the terraced properties at 178 & 180. Claiming that No.’s 170-172 Harefield Road are “one of many other pairs of architecturally symmetrical semi detached dwellings within the area” does not demonstrate accurate analysis of the context in which this typology is actually quite rare.

- 2.6 The Officer's Report states that the loss of the front garden to No.170 "would result in significant harm to the character and appearance of the area..." One third of the area was already paved by the previous owners to provide car parking to the front of the existing dwelling with the balance largely laid to lawn. As a visual feature this lawn represents a unique land use in the local context. The front garden of the neighbouring property No.168 provides a large area of hardstanding for parking cars as well as a very large detached garage which is set forward to the main house in a position not dissimilar to the proposed bungalow at No.170. Equally, there is no lawn to the front of No.172 which is a fully paved driveway leading to No.'s 172 & 172a. The last similar front garden to the private dwelling at No.178 was consented for replacement with car parking serving a new block of flats. In fact the oversized and historically unused front garden space is completely unique on Harefield Road and very much out of character in the existing street scene. It is therefore difficult to argue that the loss of the lawn at No.170 would provoke 'significant harm' where it represents such an atypical and unique amenity.



Illustration of hardstanding areas to front of neighbouring dwellings

3.0 Amenity for Future Dwelling - Overlooking

- 3.1 The separation distance between the ground floor accommodation and garden of the proposed dwelling are considered to suffer from harmful overlooking and loss of privacy. As previously noted, the historical development of the local context through subdivisions and insertions

has resulted a relatively unique pattern of development, with dwellings in closer proximities than would ordinarily be considered. The overlay below demonstrates a pattern of development not dissimilar to that proposed by this scheme. In fact, a number of properties are sited much closer than would ordinarily countenanced.



Proximity analysis presented at Committee of local context – No.170 located to lower left corner

- 3.2 As noted in the Appellant's Statement of Case, The Appellant has undertaken to proceed with boundary planting to demonstrate the efficacy of providing adequate screening between the adjoining properties. This will be open for inspection as part of a site visit to the property. We note that the potential boundary between the properties has been set out to enable planting to either side of the fence so that both properties can maintain and enhance suitable planted screening. The planting has been placed in the garden of the proposed bungalow since that property would greatest interest in its maintenance.

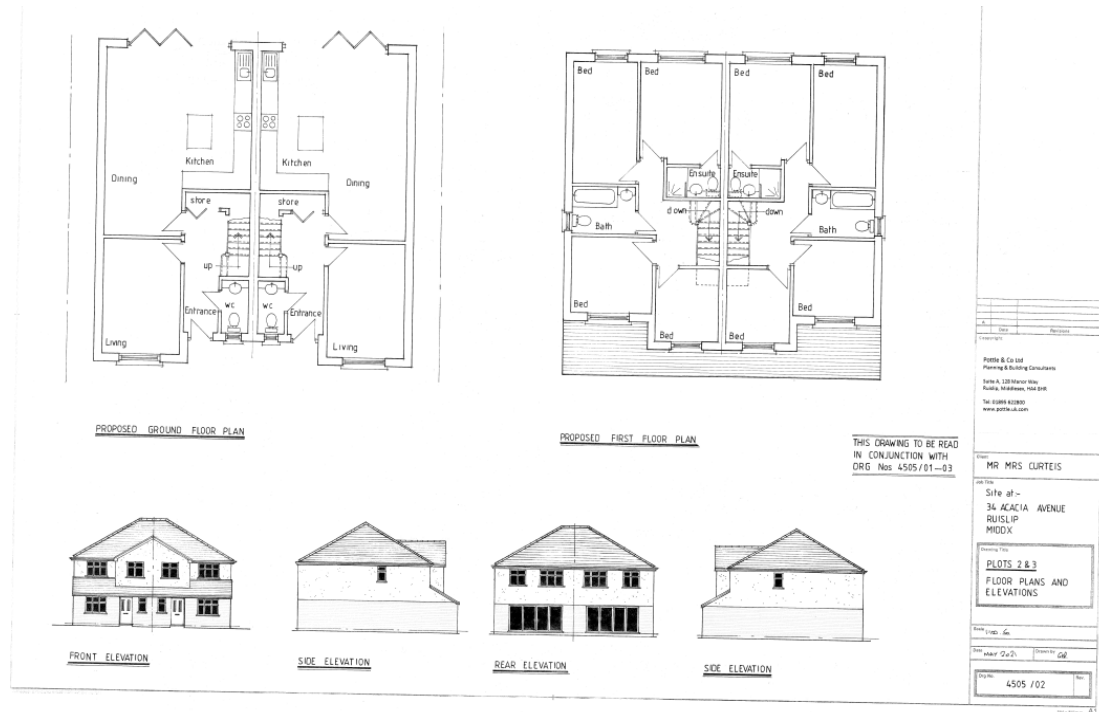


Views of planting screen along proposed shared boundary

4.0 Compliance with Approved Document M

- 4.1 The Officer's Report and Council's Statement of Case both maintain that the scheme submitted does not demonstrate compliance with Building Regulations Approved Document M, specifically requirements of Part M4(2) which provides requirements of "accessible and adaptable dwellings." Specific reference is made to step free access to the ground level of the dwelling, the size of the entrance level w/c and required clear access zones. The Appellant's Statement of Case has previously covered this point and submitted a draft layout of the ground floor. Since the information provided by the Council now states more clearly that full compliance with the Approved Document at planning stage should be demonstrated, the layout of the full dwelling has been included in these Final Comments to illustrate that only minor internal alterations are required to confirm compliance.
- 4.2 The Council's Statement of Case cites a recent appeal decision for 34 Acacia Avenue in Ruislip (APP/R5510/W/3286382, LPA Ref 1788/APP/2021/3141) to support inclusion of this reason for refusal of the application. This scheme provided notably small ground floor w/c's in a townhouse dwelling type with no scope for alteration to provide the full shower room adaptation outlined under Part 4(2). The Inspector noted "the limited size of the W/C would be a significant obstacle to a less mobile person." She also acknowledged that although such compliance would normally form part of the Building Regulations stage of a project, "however, without the information before me, I am not convinced that the proposal would meet the required accessible

standards to provide access for everyone.” It is for this reason that the Appellant has submitted detailed layouts demonstrating compliance for the scheme at Harefield Road.

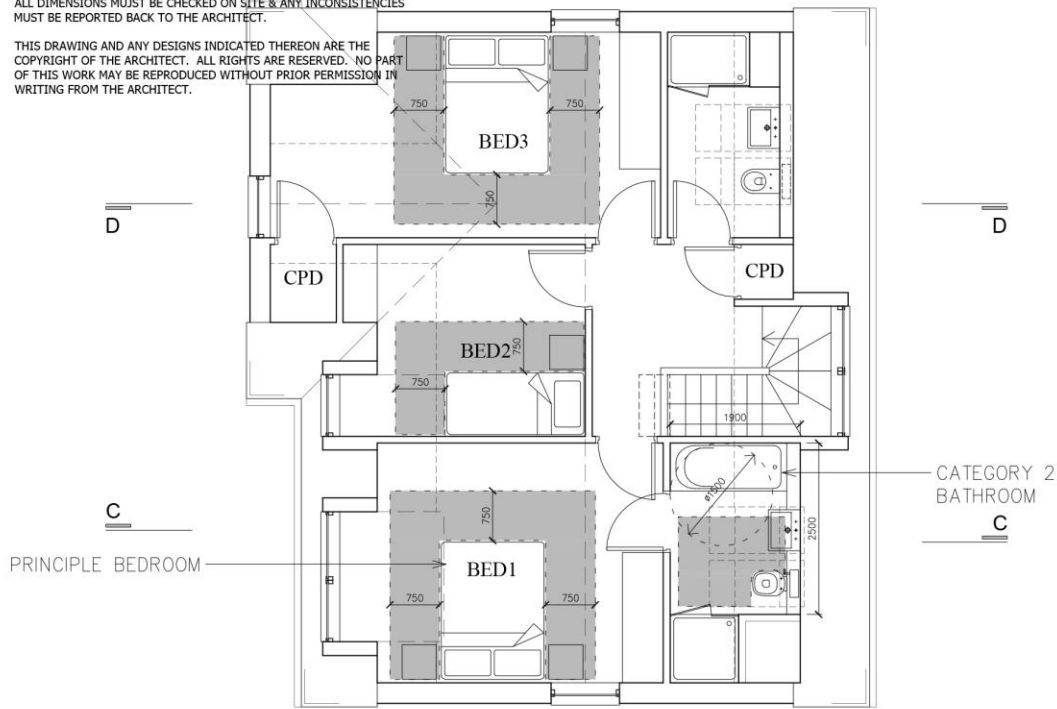


Appeal cited by Council for 34 Acacia Avenue, Ruislip

- 4.3 The Access Officer's own assessment of the application provided within the Statement of Case was that "revised plans which demonstrate that the prescribed standards referred to above can be successfully incorporated should be reviewed as a prerequisite to any approval". Contrary to this Consultee advice, the planning officer inexplicably offered no opportunity to address these points.
- 4.4 The reason for refusal is also hastily and poorly drafted: there is no "diagram 27" in Part M4(2) and even if diagram 2.7 is intended that would be irrelevant since the scheme evidently complies with this layout for the Category 2 bathroom through the ensuite to the primary bedroom at 1st floor.

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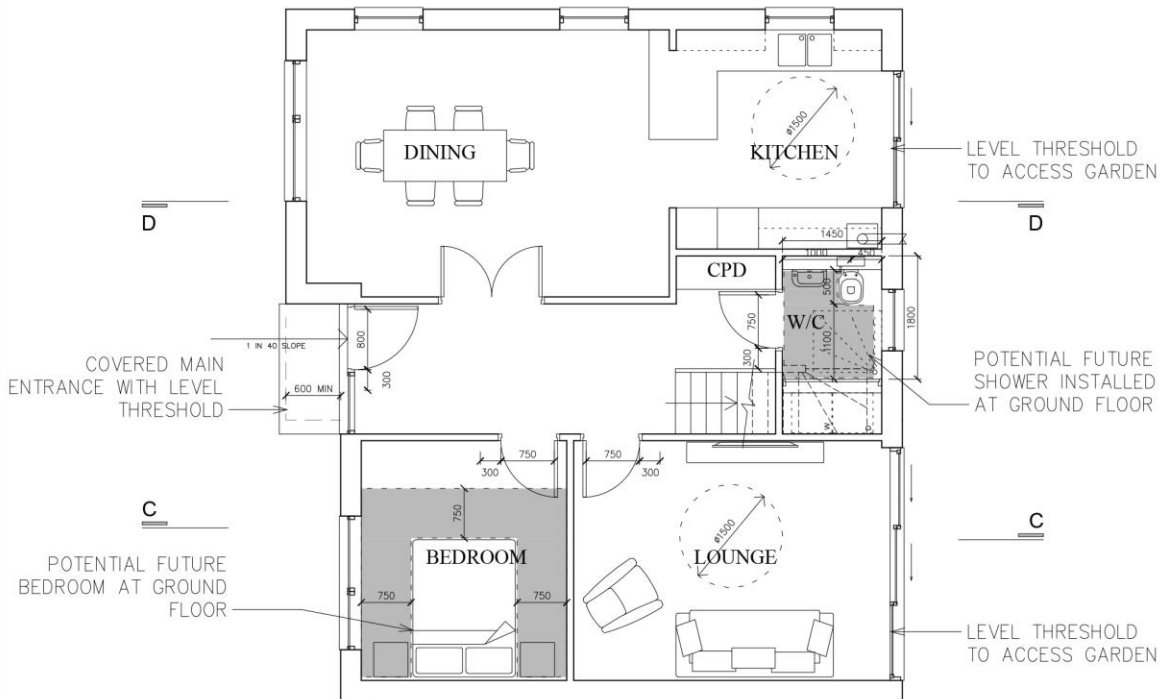
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2

PROPOSED FIRST FLOOR PLAN

1 : 100



1

PROPOSED GROUND FLOOR PLAN

1 : 100

Bchitecture

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LOCATION

Land to the Front of
170 Harefield Rd
Uxbridge UB8 1PP

DRAWING TITLE

PROPOSED GROUND
FLOOR PLAN -
PART M4(2) COMPLIANCE

DATE

Jun 2022

SCALE

1:100
@A4

JOB NO

2009

DWG NO/REV

SK3/A

- 4.5 The requirement for step free access to the main entrance and rear garden of the dwelling would appear to have been judged non-compliant on the basis of 1:100 elevation drawings which simply show the door threshold raised above the base cut line of the elevation. This convention does nothing more than illustrate the minimum 150mm dimension for the DPC of the main dwelling which is routinely bridged with local ramping and secondary drainage solutions at level thresholds. This level of detail was deemed sufficient as part of the recently consented dwelling granted to the rear of No. 170 Harefield Road where a Condition was attached requiring submission of a detail demonstrating inclusion of a level threshold prior to implementation.
- 4.6 The internal layout of the ground level W/C has been amended to demonstrate compliance with Part M4(2) standard. Manoeuvring circles have been added to the primary habitable rooms and clear dimensions and offsets to the door handle approaches are illustrated on the attached plan. Lifetime Homes standards (no longer a requirement) which called for adaptability to provide a bed space at ground floor level has also been incorporated although the intention would remain to provide a 3 bed dwelling as part of this application. Space standards in bedrooms including the principle bedroom at 1st floor level have also been shown. The ensuite bathroom to this principle bedroom also illustrates compliance with Category 2 standard as required.
- 4.7 The Appellant contends that all provisions of Part M4(2) are readily incorporated with minimal amendments to the layout of the dwelling requiring no external changes and only very minimal internal ones. As such this reason for refusal did not need to be imposed. Citation of the Appeal precedent at 34 Acacia Avenue is not particularly relevant since compliance of that scheme could only be achieved through moving the ground floor W/C to a different location in the layout.

5.0 Highways and Public Safety

- 5.1 The final reason for refusal of the application from the Statement of Case contends that the parking arrangements with a single new crossover to Harefield Road would result in threats to both highway and pedestrian safety. The Council's Domestic Vehicle Footway Crossover Policy (April 2019) is cited in support of this conclusion. The Appellant was present at the Committee Meeting on 12.07.22 at which this additional reason for refusal was proposed and seconded by Members. No referral was made at this stage to the Highways Officer for a professional opinion on this conclusion.
- 5.2 The Appellant wishes to draw the Inspector's attention to the substantial amendments to the consultation comments and conclusions of the Highways Officer included in 2 documents: the Officer's Report; and the Statement of Case.

- 5.3 Prior to the Committee Meeting the Highways Officer provided comments running to approximately 2 pages which provided background on Local Policy and assessed the following: parking provision, electric charging points, cycle parking, vehicular and pedestrian access, vehicular trip generation, refuse storage and construction logistics. In contrast the Statement of Case replaces this assessment with a single paragraph with its conclusion attributed to the Highway Authority. This concludes with the statement that “the existing crossover provides reasonable access already and the common law right of access has been met” which has been copied from the policy.
- 5.4 The comments in the Statement of Case cite provisions of London Plan 2021 Policy T4 which require that “development proposals should not increase road danger.” It is not clear what professional assessment has determined that the proposal would result in such an outcome since none has been provided in the Council’s Statement of Case. In fact, the Highways Officer had concluded pre-Committee that “the application has been reviewed by the Highway Authority who are satisfied that the proposal would not discernibly exacerbate congestion or parking stress, and would not raise any measurable highway safety concerns...” This conclusion was judged in accordance with the same Local Plan policies DMT2 & DMT6 and Policy T4 of the London Plan to which it is now deemed to be contrary.
- 5.5 The conclusions from the consultation prior to Committee considered the parking layout “a suitable layout hence there is conformity to the standard”. Use of the existing and new secondary crossovers for an in/out arrangement was judged “in physical and practical terms, this arrangement broadly aligns with DfT ... best practice for road and parking layouts given the respective low traffic flows involved. Hence in design terms, there is no objection in principle to the ‘in & out’ layout...and is welcomed.” The new crossover was not considered a problem for public safety provided it would conform with site-line requirements (which are readily accommodated). Finally, the additional vehicle movements resulting from the proposal were assessed at just 1-2 two-way movements “marginal in generation terms... without notable detriment to traffic congestion and road safety.”
- 5.6 Since Hillingdon’s Domestic Vehicle Footway Crossover Policy (Apr 2019) does not appear to have been provided to the Planning Inspectorate by the Council, the Appellant will forward a copy. The comments state that the policy “allows only one crossover per dwelling...” but Section 3.4 of the policy actually continues with “except where in the interest of public/road safety.” The inclusion of a new crossover in this proposal enables vehicles to exit in forward gear which the Highways Officer previously “welcomed” on “safety grounds”.
- 5.7 The Council has objected to provision of the new crossover on the basis that the proposed property would be served by 2 crossovers,

however we note that this only comprises a single NEW crossover serving a single NEW dwelling, precisely in accordance with the policy. The single crossover to No. 170 Harefield Road currently serves 3 existing dwellings and some balancing via a dedicated exit for the new property would actually reduce the concentration of vehicle movements, thereby contributing positively to pedestrian safety.

- 5.8 Section 4.11 of the policy addressing provision of “in and out” drives limits provision to a single crossover per property, however it is clear from reading the full section (see below) that the presumption here is for single occupancy properties, unlike the shared drive currently used by 3 independent properties. The continuation of Section 4.11 is also directly applicable to this circumstance and would allow a second crossover in any event since: Harefield Road is a Classified Road; the frontage is just under 15Metres; and there is not on-street parking. However, there is no need for the new crossover to be justified on an exceptional basis since the application only proposes a single new crossover for the one new dwelling as the second entrance is via the existing shared, private access road.

4.11 Provision of second crossovers and ‘in and out’ drives

To limit any adverse impact on pedestrians using the adjoining footway and to minimise the loss of kerb side parking, only one crossover will be permitted per property and requests for additional crossovers will be rejected. This is on the basis that reasonable access already exists as a result of the construction of the first crossover and the common law right of access has been met.

However a second crossover may be permitted where all relevant planning, highway safety and amenity criteria have been satisfied and:

- The property fronts a Classified Road where a second crossover would allow vehicles to enter and exit in a forward gear;
- The property frontage abutting the highway is at least 12m wide.
- There is no practical loss of on-street parking or amenity from a second access and it is possible to park a vehicle between the two points of access.

Excerpt from Hillingdon’s Domestic Vehicle Footway Crossover Policy

- 5.8 The new proposed crossover would readily conform with all other requirements for size, minimum separation distances and construction details. The raising of the additional reason for refusal at the Planning Committee Meeting represented a rather transparent effort to find additional arguments against the proposal for the benefit of the appeal. The amendments to the assessment by Hillingdon’s Highways Authority lose credibility in the absence of proof that these come directly from that source, especially given the open contradictions with their previous much more detailed assessment.

- 5.9 How can it be considered acceptable for the previously issued Highways Authority assessment to be replaced by the Council with text removing all assessments in favour of the proposal, and with a single conclusive objection to be raised without detailed analysis and based on a fundamentally flawed interpretation of the Crossover Policy?

6.0 Representations from Interested Parties

- 6.1 A representation has been submitted by the neighbour at 172 Harefield Road. The Appellant would disagree that the Council's delay in determination of the application is reasonable due to dealing with a backlog of cases following the pandemic. The minimal responses forwarded by the Planning Officer during the statutory period for consideration of the case demonstrated that public consultation had been completed and preliminary assessment made of the scheme. The Officer confirmed his attention to send the application to Planning Committee but did not correspond any further with the Appellant. After over 3 months of delay the Appellant had little choice other than to appeal for non-determination in order to move the application forward. Indeed, following receipt of the Appeal the Council has managed to comply with all deadlines of the procedure and devoted Committee time to obtaining Member's confirmatory position. We therefore must question why the Council has refused to engage with the Appellant in order to resolve any of the issues outlined above.
- 6.2 A second representation has been received from the neighbour at 168 Harefield Road. Various statements made have been addressed in the previous Statement of Case as well as the Final Comments above. With respect to allegations of road damage and delivery problems during construction of the new dwelling to the rear of No. 170, these are matters which have been taken up through (frequent) referral to the Planning Enforcement department of Hillingdon Council. The relationship between the Enforcement Officer and developer has been cordial and constructive with a perception almost of harassment from neighbours to the construction project. Misleading reference was made at the Committee Meeting to outstanding enforcement matters, however, the Appellant has had a constructive relationship with Enforcement Officers who have not had cause to pursue any investigations. In fact the Officer suggested that the real motivation of numerous complaints was to cause delay and financial costs to the Appellant.
- 6.3 Damage from construction traffic to existing domestic roadways is an unfortunate result of building works, however, as promised this previously poorly maintained surface has been replaced at the conclusion of the project to a higher standard than existed originally. Construction logistics are a matter usually controlled by planning condition and with access directly from Harefield Road erection of the proposed new dwelling would be considerably easier than the previous project. The reference to Right to Light the Appellant respectfully notes

that the recent planted screen is located over 7Metres away from the front of No. 170.

7.0 Suggested Conditions Drafted by Hillingdon Council

- 7.1 Condition 6 included in the suggested conditions states that “no first floor side elevation windows shall be inserted into the walls of the hereby approved property.” The Appellant would ask for clarification that this excludes any openings included on the design drawings submitted as part of the application. The Officer’s Report identified that these were acceptable, albeit the side window looking toward No. 174 might need to be obscure glazed.