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## Appeal Decision

Site visit made on 28 June 2023

**by Helen O'Connor LLB MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 04 July 2023**

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**Appeal Ref: APP/R5510/W/22/3308880**

**5 Carfax Road, Hillingdon, Hayes UB3 4RB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Mahesh Mangara against the decision of the Council of the London Borough of Hillingdon.
  - The application Ref 2359/APP/2022/1585, dated 16 May 2022, was refused by notice dated 11 July 2022.
  - The development proposed is a change of use for the existing rear outbuilding from ancillary use to a residential self-contained residential studio unit with amenity and parking space.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effect of the proposal on the living conditions of future residents having regard to outlook, privacy, layout and amenity space.
  - The effect of the proposal on the character and appearance of the area.
  - Whether the proposal makes suitable provision for car and cycle parking having regard to road user's safety.

### Reasons

#### *Living conditions*

3. The appellant confirms in his appeal submission that the proposal would create a studio dwelling for a single person. On that basis, it would exceed the minimum floor area for one bed, one person studios required by Table 3.1 of the London Plan, March 2021 (LP) and Table 5.1 of the London Borough of Hillingdon Local Plan, Part 2, January 2020 (LP2). He also confirms that the proposal would achieve the minimum ceiling height, and I have little basis to find otherwise. In addition, approximately 40m<sup>2</sup> of outdoor space would be provided, which would accord with the minimum private outdoor amenity space required by Table 5.3 and policy DMHB18 of the LP2.
4. Consequently, in these quantitative terms the proposal would meet the expectations specified in the development plan. Nevertheless, paragraph 130f) of the National Planning Policy Framework (the Framework) stipulates, amongst

other things, that planning decisions should ensure that developments create places with a high standard of amenity for future users. Such an assessment is not confined to a series of measurements and therefore allows for qualitative assessment.

5. This is reflected in policy D6B and Table 3.2 of the LP which confirm that qualitative aspects of a development are key to ensuring successful sustainable housing and set out the key qualitative aspects which should be addressed in the design of housing developments. It is in relation to some of these that the proposal would fail to achieve the requisite high quality standard outlined in the Framework and policy D6 of the LP.
6. Firstly, most of the windows lighting the proposed studio dwelling would be obscure glazed or higher level roof lights. This would leave only the clear glazed kitchen window and access doors on the front elevation through which notable views out of the dwelling would be available to future residents. A 1.8m timber fence would be positioned in such proximity to the glazed access doors that it would dominate the outlook from the main entrance. Effectively, this would mean that only one window would have a longer view outwards, and as that window would have the kitchen sink in front of it, the main living space and bedroom areas would be denied a reasonable outlook.
7. Moreover, the view from the kitchen would be largely contained by boundary fencing either side of the narrow garden space, which would result in a tunnelling effect.
8. Amongst other things, table 3.2 of the LP states that the site layout, orientation and design of individual dwellings should be orientated to optimise opportunities for visual interest through a range of immediate and longer range views, with the views from individual dwellings considered at an early design stage. The evidence before me indicates that the outlook available from the studio dwelling would be particularly poor, providing limited visual interest. Consequently, it would provide a meagre living environment for future residents, and therefore would unacceptably compromise their quality of life.
9. Secondly, the linear narrow shape of the outdoor space provided would be flanked by boundary treatments either side to safeguard the privacy of other neighbouring residents. However, this configuration, a notable section of which provides a pedestrian path to the dwelling, would constrain the usability of the space as well as lead to notable shadowing from the fences at certain times of the year. In addition, there are three upper rear facing windows of no.5 from which direct views over the garden area would be possible. Even though two were obscure glazed, the larger of these had a casement opening which would allow for views. Overall, this configuration would allow for an intrusive degree of overlooking to the modest garden area for the proposed dwelling. These factors would be likely to limit the activities, privacy and degree of sunlight that future occupants could enjoy.
10. These are all aspects that paragraph 5.72 of the LP2 confirms are relevant when considering whether proposals constitute good quality and useable private outdoor amenity space as required by policy DMHB18 of the LP2.
11. Thirdly, the proposed car parking arrangements across the width of the frontage would leave only limited space between parked vehicles if all were occupied. This would present difficulties for pedestrians and/or cyclists seeking

to gain access to the proposed dwelling, garden of no.5 and the respective cycle storage shown. Hence, the layout would fall short of providing a clear and convenient route for future occupants as detailed in table 3.2 of the LP.

12. Even if amendments were made such that the gap between cars was widened to 1.5m as suggested<sup>1</sup>, this would still signal the precedence given to parked vehicles rather than the convenience and ease of pedestrians or cyclists seeking to access the proposed dwelling. Accordingly, the arrangement would detract from rather than enhance the living conditions of future occupants.
13. In combination, for these reasons I find the proposal would result in an unacceptably poor quality living environment for future residents. Although I find no conflict with the quantitative standards contained in policy DMHB16 of the LP2, there would be conflict with policies D6 of the LP and DMHB18 of the LP2.

#### *Character and appearance*

14. Carfax Road and immediate surroundings is predominantly comprised of two storey semi-detached and short terraces of housing of a conventional form and appearance. Coherence is derived from the underlying ordered layout with a regularity of plot widths whereby dwellings present fairly close to the street with longer rear gardens behind. Many properties have outbuildings and/or garages towards the end of the garden, with some served by a rear access lane. These outbuildings are mostly functional in appearance and subordinate in scale to the main dwelling they serve. Accordingly, there is a hierarchy in the form and function of buildings inherent in the layout. This reinforces the ordered sub-urban character and appearance of the area.
15. This is recognised in paragraph 5.69 of the LP2 which states that the pattern of houses and gardens in Hillingdon's 'metroland' and other suburban areas form an important and positive attribute of the Borough's residential character and quality.
16. Nevertheless, I did observe that many dwellings have hard surfaces along their frontage and probable former front garden area which is used for car parking. This has tended to give prominence to the presence of vehicles in the street scene and leaves little space for greenery, both of which adversely detract from the residential character described.
17. 5 Carfax Road and the present outbuilding are consistent with the prevailing character and appearance of the area. The appeal building is a detached outbuilding used as an ancillary gym and storage area to no.5. It has a plain functional appearance and is situated at the bottom of the rear garden.
18. The proposal would subdivide the residential plot. Policy DMHB11 of the LP2 requires development to harmonise with the local context by taking into account, amongst other things, building plot sizes and widths. 1.8m high timber fencing would delineate the divided rear garden to create a broadly inverted L shaped plot for the proposed studio dwelling. This would reduce the width of the area associated with no.5 and provide a narrow garden area for the proposed dwelling. The resulting plot pattern would be more complex and alien in dimensions to the established pattern and so would not harmonise with

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<sup>1</sup> Paragraph 7.39 Appellant's Planning Appeal Statement

it. Although the additional fencing would not be readily apparent from the street, it would be seen from surrounding houses.

19. It is put to me that the fencing could be erected under permitted development rights for no.5, to enclose a play area or space for pets. Be that as it may, I am not convinced that this would be likely to utilise 1.8m solid timber fencing to the extent shown. Even if that were the case, given that the single residential plot would remain intact in such a scenario, it would be less likely to lead to such a permanent or obvious visual differentiation as the scheme before me, which would relate to separate households. Hence, the possibility of such a fall-back situation would not justify the harm that would arise in this case.
20. An appeal decision has been referred to by both parties<sup>2</sup> in which the Inspector dismissed a proposal to subdivide an existing dwelling to provide an additional residential unit. The appellant highlights that the case concerned a side extension to the dwelling and was in a different location within the Borough. I accept that these factors distinguish it from the circumstances of the appeal proposal. Therefore, it has had only a limited bearing on my determination. Nevertheless, I find that the proposed sub-division would be problematic on its own merits for the reasons outlined.
21. In addition, it is proposed to use the outbuilding as a main dwelling. The appellant points out that only minor physical changes would be made to the building. Therefore, its functional appearance and secondary scale relative to no.5 would remain. Hence, incongruity would arise from the discrepancy between the functional form and secondary position of the building and its proposed use. This would harmfully undermine the hierarchy and legibility evident in the established pattern of development which is intrinsic to the character of the area.
22. Furthermore, the proposal would formalise off-street parking arrangements to the front of the site, whereby three car parking spaces would span the width of the plot close to the road. Their presence would be clearly visible from the street thereby exacerbating a negative component of the street scene.
23. Whilst I acknowledge that such parking arrangements are not uncommon in the vicinity, policy BE1 of the Local Plan: Part 1, Strategic Policies, November 2012 (LP1) states amongst other things, that all new development should make a positive contribution to the local area in terms of layout. The proposal would fail to do so.
24. Drawing these points together, I find that the proposal would be harmful to the character and appearance of the area. Therefore, it would conflict with policies D6 of the LP, BE1 of the LP1, DMHB11 and DMHB12 of the LP2 which, taken together and amongst other matters, seek to ensure a high quality of design for new development that respects and positively contributes to the character and appearance of the local area.
25. Refusal reason 1 on the Council's decision notice also cites policy D4 of the LP and DMHD2 of the LP2. Policy D4 concerns delivering good design and primarily outlines the design process and scrutiny. The latter sets out criteria against which to assess proposals for outbuildings. Therefore, I do not find either policy

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<sup>2</sup> Appeal reference APP/R5510/W/21/3277068, Appendix B, Appellant's Planning Appeal Statement

to be directly relevant to the proposal. It follows that no direct conflict would result.

*Car and cycle parking*

26. The proposal includes three off-street car parking spaces along the front of the site, with one space for the proposed dwelling and two for no.5. Cycle stores for the properties would be provided within the respective garden areas.
27. There is no dispute that in relation to car parking, the more recently adopted policy T6 of the LP takes precedence over the vehicle parking policy in the LP2. The general approach to car parking in the LP is one of control to provide the minimum necessary in the circumstances. The setting of maximum standards is consistent with that approach.
28. The Public Transport Accessibility Level (PTAL) rating for the appeal site is 1b, which is towards the lower end of the scale indicating relatively poor access to public transport services. Although the appellant contends that this does not reflect accessibility to public transport, little compelling evidence has been provided as to what the rating ought to be. Hence, there is little basis to set the rating aside. The Council's Transport Planning and Development Officer (TPDO) states that this gives rise to a higher dependency on the ownership and use of the private car. As such, it is recommended that one parking space should be provided for the studio dwelling and two for no.5.
29. This view is consistent with the prevalent use of residential plot frontages for car parking which has generally been drawn to my attention<sup>3</sup>. Moreover, I observed several examples of cars parked on the street encroaching onto the footway. Hence, I consider the recommendation of the TPDO to be realistic and appropriate in these circumstances.
30. The parking configuration shown is problematic in that it omits to show suitable pedestrian visibility splays. Furthermore, as previously mentioned the limited space between the car parking areas would present an obstacle to pedestrians and cyclists seeking to access the rear of the site. An alternative arrangement<sup>4</sup> suggested by the appellant could provide a 1.5m gap which would meet the absolute minimum width recommended by the TPDO. Although this also omits to show a pedestrian visibility splay, given the generally open aspect and low boundaries to frontages, I have little reason to doubt that suitable visibility could be achieved.
31. The proposal would create an additional dropped kerb access, and the TPDO does not support multiple vehicle accesses serving a single site, preferring instead a layout that would utilise a single vehicle access. Be that as it may, the evidence before me does not show that the proposed access arrangements would be inherently unsafe to road users. Given the concentration of such crossovers already in evidence in the vicinity, it is difficult to see how the proposal would markedly alter the established situation.
32. Overall, this leads me to find that had the proposal been otherwise acceptable, the concerns in relation to the safety of road users arising from the car parking configuration is a matter that could have been addressed by imposing a planning condition to agree alternative car parking details. Nevertheless, this

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<sup>3</sup> Paragraph 7.35, Appellant's Planning Appeal Statement

<sup>4</sup> Paragraph 7.39, Appellant's Planning Appeal Statement

would not overcome the harm I have already found, partially in connection with car parking arrangements, relating to the preceding main issues of living conditions and character and appearance.

33. Nevertheless, I find the proposal would not conflict with the vehicle parking requirements set out in policy T6 of the LP or DMT6 of the LP2 having regard to road user's safety.

### **Other matters**

34. The main benefit arising from the proposal would be the addition of a smaller dwelling to the overall housing supply and mix, thereby increasing provision and choice for people seeking accommodation. Moreover, given the single ground storey nature of the proposed dwelling, it could be suitable for occupants with mobility constraints. However, the benefit accruing from such a single dwelling would be modest, and so it attracts limited positive weight in favour of the proposal.
35. The appellant contends that the proposal would not result in harm to the living conditions of neighbouring residents. However, the absence of such harm as articulated by the appellant, cannot be taken to be a benefit of the proposal, as this would be required in any event by other local and national planning policies.

### **Conclusion**

36. Planning law requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise<sup>5</sup>. Although I considered that concerns in relation to car parking were surmountable, I have nevertheless found that the proposal conflicts with the development plan taken as a whole. There are no other material considerations that would outweigh that finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Helen O'Connor*

Inspector

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<sup>5</sup> Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.