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## Appeal Decisions

Site visit made on 12 June 2023

**by Elaine Benson BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decisions date: 27 July 2023**

### **Appeal A Ref: APP/R5510/W/22/3307584 72 Harefield Road, Uxbridge UB8 1PL**

- 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 Twiglets Developments Ltd against the decision of the London Borough of Hillingdon Council.
- The application Ref 25767/APP/2022/1400, dated 29 April 2022, was refused by notice dated 15 July 2022.
- The development proposed is demolition of existing dwelling and erection of a building to provide 3 x 1-bed and 6 x 2-bed flats with associated parking and amenity space.

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### **Appeal B Ref: APP/R5510/W/23/3314366 72 Harefield Road, Uxbridge UB8 1PL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Twiglets Developments Ltd against the London Borough of Hillingdon Council.
- The application Ref 25767/APP/2022/3190, is dated 13 October 2022.
- The development proposed is demolition of existing dwelling and erection of a building to provide 2 x 1-bed, 6 x 2-bed and 1 x 3-bed flats with associated parking and amenity space.

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### **Decisions**

1. Appeal A - The appeal is dismissed.
2. Appeal B - The appeal is dismissed and planning permission is refused.

### **Preliminary Matters**

3. The two appeals relate to the same site and are for different residential developments. In the interest of brevity, I have dealt with the appeals together, except where otherwise indicated.
4. Appeal B is an appeal against the failure of the Council to determine the appeal application. The Council resolved that it would have refused the application if it had had the opportunity to do so. The main issues in this case are based upon the reasons set out in the Committee's resolution.
5. In respect of Appeal B, the appellant submitted amended drawings which were intended to address the Council's concerns relating to windows in the north-east and rear elevations of the proposed block. These amended drawings were

not accepted by the Council and were not considered when the Council made its resolution. This matter is discussed below.

### **Main Issues**

6. Main issues in both appeals are the effect of the proposed developments on the character and appearance of the surrounding area and their effects on the living conditions of neighbouring occupiers in respect of overlooking, outlook and loss of light. Further concerns in Appeal B are whether there would be noise and disturbance resulting from the use of the access to the parking area and whether the proposed development would provide satisfactory accommodation for future residents. An additional main issue in Appeal A is whether the proposal would provide a satisfactory mix of housing.

### **Reasons**

7. The appeal site is a spacious plot containing a somewhat dilapidated house. In respect of both appeals, there is no objection in principle to its loss or to the intensification of the residential use within this established residential area to deliver additional housing with the associated positive social and economic benefits.

### ***Character and Appearance***

8. The existing house is of modest size and is set back behind a deep front garden. It is set in by some distance from both side boundaries. The front garden contains trees and other landscaping which also extend along the sides of the property. The site slopes steeply up towards the rear and is at a lower ground level than the neighbouring properties.
9. The planning history for the appeal site includes a 2022 dismissed appeal for a development of 9 flats (APP/R5510/W/21/3283640). The previous Inspector stated that the modest scale of the existing house, its front garden and the spacing between buildings contributed towards the verdant appearance of the part of the road around the appeal site, providing relief from the built form further along the road. I agree that this is an important consideration in determining whether the appeal proposals would be appropriate in their context.
10. To the north are 2 pairs of converted 4-storey period villas with outriggers at the rear (No 74-80). These buildings are imposing in the street scene due to their scale and elevation above the road. To the south is a 1960's 3-storey purpose-built linear apartment block of somewhat utilitarian design (No 56-60). This development is also set back from the road and as it is partially screened by trees and other landscaping it is less visually dominant. The neighbouring buildings are of markedly different scales and styles. Both developments have parking to the rear.
11. Within the wider area are properties of various ages, scale and design, including different roof types and styles. Whilst the majority of buildings, particularly those opposite the appeal site, are 2-storey, the wider streetscape also includes a number of 4 storey buildings, with the pairs at No 74-80 appearing to be the largest. Several recently completed developments in the locality and some recent planning permissions, including an appeal decision at nearby 47 Fairfield Rd, indicate a general transition towards larger scale developments where they fit comfortably within their contexts. Taking these factors together, the

character of the surrounding area can be described as having a varied scale, form and grain.

*Appeal A*

12. This proposal would be around 1.5m lower than the previously dismissed appeal scheme, the roof form has been changed and the width of the rear of the block reduced. Nevertheless, it is necessary to assess the current appeal proposal afresh and on its own merits.
13. The proposed front building line would reflect that of No 74-76 and the eaves and ridge would be below those of its neighbour. A swept/mansard roof with shallow hips is proposed. However, the development would have an incongruously bulky and somewhat boxy appearance due to its overall width and depth. This would be further emphasised by the closeness of the development to the site boundaries.
14. I am not convinced that the removal of a bay feature has simplified the design sufficiently or that the proposed development would have a more lightweight appearance. Furthermore, the proposed design features are out of proportion both with the elevation and with the features of the neighbouring property No 74-76. In particular, the fenestration would appear incongruous in this location. In my judgement the overall scale and main elevation of the proposal do not constitute a well-considered design.
15. Moreover, the development would extend much further into the rear garden than the existing house and would result in a significant overall increase in built form on the plot, especially when compared to the modest 2 storey house. Furthermore, as the proposed building would extend beyond the existing rear building lines, its substantial massing and overall footprint would also appear out of character and excessive when viewed in the context of No 74-76. Whilst this in itself is a substantial building, it has a more slender outrigger projection at the rear which is set in further from the flank wall than the rear of the appeal proposal. I do not accept that the bulky rear projection could reasonably be compared to the period outrigger.
16. Overall, the amount of development proposed on the site would not reflect the existing pattern of development in the area around the appeal site. Notwithstanding that there would be limited views of the rear of the development from the public realm; it would be most apparent in views from windows in the neighbouring apartments and from their amenity and parking areas. Furthermore, the absence of public views does not lessen the requirement for high quality design in new development.
17. The Yew tree and other landscaping at the front of the proposed building would now be retained. Nonetheless, the additional width, bulk and mass of the proposed block would screen views of the groups and individual trees that frame the site. The resulting form of development would not maintain the verdancy previously identified as important to local character.
18. The appellant refers to recently completed developments and appeal decisions in the vicinity of the appeal site where the resulting developments are or would be greater in height and massing than the previous developments on the plots. I have considered these examples when assessing the context of the wider area. It is clear that there is no objection in principle to a more intensive

development on the appeal site. However, the examples given have no direct influence on the current appeal, as the context and characteristics of each of the sites are quite different and the appeal proposal has been determined on its own merits, taking account of the site-specific circumstances.

19. I conclude that the Appeal A proposal would not amount to the good design required by local policies and national guidance. For the reasons given it would harm the character and appearance of the surrounding area contrary to the provisions of Policy BE1 of the Hillingdon Local Plan Part One Strategic Policies (HLPSP), Policy DMHB 11 and Policy DM HB12 of the Hillingdon Local Plan Part Two Development Management Policies (HLPDMP) and Policies D3 and D4 of the London Plan (2021) (LP) which collectively and in summary require high quality, design-led development that harmonises with its context and responds positively to local distinctiveness whilst optimising site capacity. For the same reasons there would be conflict with the design objectives of the National Planning Policy Framework (the Framework).

#### *Appeal B*

20. The proposed building would have a 'mansion house' style over 4-storeys, with dormer windows at roof level. The floorplan depths would decrease with each storey. The access to the parking spaces at the rear would be constructed along the side of the property, rather than using the previous undercroft design approach. Therefore, when compared to the previous proposals for the site, this scheme would have a reduced scale, a different layout and an amended elevational design. Whilst acknowledging that this latest proposal would be significantly different from its predecessors, it is nevertheless necessary to consider it anew on its individual merits.
21. The apartment block would be some 3m lower than No 74-76 and a similar height to the flats to the south. This height would satisfactorily manage the transition between the 2 neighbouring properties. The space required for the proposed access drive between the proposed development and No 74-76 would broadly reflect the rhythm of buildings and spaces in the street scene. However, the proposed block would be wider than its neighbour, thereby disrupting this rhythm.
22. The factors that contribute towards the verdant appearance of the site, as noted by the previous Inspector, are an important consideration in this appeal. This proposal would retain the trees and other landscaping at the front of the building. However, the modest house would be replaced by a building of a much greater scale which would extend close to the boundary with No 56-60. The extent of development over 4 storeys would severely limit views of the greenery to the sides and rear of the appeal site. As a result, the verdant 'welcome relief from the built form further along the road' identified by the Inspector would be lost.
23. The proposed 'mansion house' style roof would reference the roofs of terraced properties on the opposite side of Harefield Rd as well as other schemes in the wider locality. In my opinion, the first-floor balcony on the front elevation would not be an unusual design feature in the vicinity. The varied character of the wider area identified above provides an opportunity for a variety of design responses to the appeal site. I consider that these detailed design elements of the front elevation would relate satisfactorily to its immediate visual context.



24. The proposed development would extend significantly further towards the rear than the existing house and would be wider. Development plan policies require that the scale of new development should take account of the height, mass, bulk and plot coverage of adjacent structures. The appeal site's context includes No 74-76 which is itself a substantial building as described above. The overall size and scale of No 74-76 would be exceeded by the significant depth of built form and the bulky overall footprint of the appeal proposal. I have indicated above that the rear projection of No 74-76 and the wide rear elevations proposed in the 2 appeals are not comparable in design terms. Overall, I consider that the Appeal B proposal would not appropriately relate to the existing pattern of development. Furthermore, the somewhat confused, poor design of the rear and side elevations appear to me to be somewhat contrived, rather than following the design-led approach required by the LP.
25. Notwithstanding that much of this development would be at the rear of the site; it would be most apparent in views from the neighbouring apartments and their grounds. Moreover, the absence of public views does not lessen the requirement for high quality design in new development.
26. Accordingly, I conclude that the overall scale and mass of the development in Appeal B, the extent of its projection to the rear and design of the rear and side elevations would harm the character and appearance of the surrounding area contrary to the provisions of HLPSP Policy BE1, HLPDMP Policies DMHB 11 and DM HB12, LP Policies D3 and D4 and the design objectives of the Framework.

### ***Living Conditions***

#### *Appeal A*

27. Turning to the effect of the proposal on neighbouring occupiers, the projection of the development towards the rear would not be as deep as in the previous appeal scheme. The 3<sup>rd</sup> and 4<sup>th</sup> floor separation distances from the neighbouring properties would be improved and there would also be more space at each side of the building. Nonetheless, its footprint and depth would still be much greater than those of the existing house. The significant increase from 2 to 4 storeys and the resulting greater footprint would inevitably change the relationship between the appeal site and the adjacent properties, bringing significantly more massing over additional floors closer to the neighbouring apartments.
28. There are side and rear windows in the flank elevation of No 74 in both the main building and the outrigger which look out onto the appeal site. Based on the evidence submitted with the 2 appeals before me, along with my observations made at the site visit, it appears that the majority of the flank windows in the apartments of No 74 either serve bathrooms or are secondary windows to habitable rooms which have larger windows in the rear elevations. However, the evidence also shows a side facing single window to a kitchen in the main block. Given the extent that they are often used, kitchens can in my view be considered as important as habitable rooms in an assessment of amenity impacts. It appears that there may more evidence on this point with this appeal than was available to the previous Inspector when they considered the impact of the earlier proposal on light, outlook and sense of enclosure.
29. But in any event, whatever the status of the overlooking windows, the Appeal A scheme would represent an encroachment of significantly greater development

than currently exists. This would amount an overbearing and oppressively large development that would harm the living conditions of the occupants of No 74. I have reached this conclusion notwithstanding the scheme's broad compliance with the Council's 45-degree test which is generally used to determine the effect of proposed development on daylight and sunlight levels. This assessment can only be used as a 'rule of thumb' in circumstances requiring careful judgement, as in this case. Although there would be a change to light levels, I am not convinced that there would be an unacceptable loss of daylight or sunlight to the occupiers of No 74 resulting from the proposal.

30. In terms of the relationship of the proposed development with the apartments at No 56-60, I have considered their respective locations and the absence of side facing windows in No 56-60. I agree with the previous Inspector that there would be no adverse effect on these neighbouring light levels. However, the proposed building would extend well beyond the rear of the neighbouring block, including at its upper levels. This would lead to an unacceptably overbearing effect on the neighbouring occupiers, notwithstanding that this would be reduced slightly by the TPO protected trees close to the boundary. I have considered the concerns of neighbours relating to a loss of privacy due to the presence of balconies at the rear. They would however be provided with side screening which would remove the potential for harmful overlooking.
31. Overall, I conclude that the scale and massing of the proposed development in Appeal A would harm the living conditions of neighbouring occupiers in respect of loss of outlook, its overbearing effect and visual intrusion. For these reasons, the proposal conflicts with Policy DMHB 11 of the HLPDMP and the objective of the Framework to protect residential amenities from the adverse effects of new development.

#### *Appeal B*

32. In respect of Appeal B, the block would be shorter and lower at the rear than in the dismissed scheme and in Appeal A. Nonetheless, as previously indicated, the proposal should also be determined on its own individual merits.
33. The reduction in the overall size and scale of the proposed development and the pulling in from the side boundary with No 74 would lessen the impacts on outlook and enclosure that have already been identified and would not adversely affect daylight and sunlight levels. However, the scheme would still introduce significant development onto land that is currently occupied by modest 2-storey development and its garden. The effect of the significant scale and massing of such development over the extensive depth proposed, would have an unacceptably intrusive and overbearing effect on the occupiers of No 74 from within the facing flats and when using the amenity space.
34. The ground floor of the proposed development would dissect a 45-degree line taken from the rear of the flats at No 56-60. I have taken into account the difference in ground levels and the distances between the blocks, together with the extent of landscaping between them, which would be further reinforced. Whilst landscaping, particularly when outside the site, should not be relied upon to make an otherwise form of development acceptable, I agree with the previous Inspector and am satisfied that there would be no harm to the living conditions of the occupiers of No 56-60 in terms of loss of light.

35. The access to the parking area would be at the side of the proposed block and would reflect other access and parking arrangements in the locality. It would run alongside the existing access to the parking area behind No 74-76. Furthermore, the proposed access would be lower than No 74-76 and the approximately 1.4m high boundary wall would remain between them. Together, they would adequately attenuate vehicle noise. In combination I do not consider that additional vehicular movements in the proposed location would harm neighbouring amenity in terms of noise and general disturbance to the neighbouring occupants.
36. In conclusion, the scale and massing of the proposed development in Appeal B would harm the living conditions of neighbouring occupiers in respect of loss of outlook, its overbearing effect and visual intrusion. For these reasons, the proposal conflicts with Policy DMHB 11 of the HLPDMP and the objective of the Framework to protect residential amenities from any adverse impacts of new development.

### **Internal accommodation standards**

37. The Council's resolution identifies a third 'reason for refusal' relating to the compromised outlook from the windows in some of the proposed flats, privacy from side facing windows and loss of privacy from the front balcony. The revised drawings, which were not accepted by the Council, amended the north-east and rear elevations of the proposed block to include obscured glazing in some side facing windows and to insert rear windows in the rear elevations of the affected rooms. The proposed front balcony would have side privacy screening added to protect neighbouring living conditions. Notwithstanding that the scheme has been found otherwise unacceptable, I am satisfied that these amendments would have addressed the Council's concerns in this regard and overcome this 'reasons for refusal'. Accordingly, there would be no conflict with LP Policy D6 or the objectives of the Framework to provide satisfactory standards of accommodation.

### ***Housing mix***

38. Appeal A proposes the delivery of 3 x 1 bed and 6 x 2 bed flats which the appellant considers would reflect diversity in the area. However, the development would result in the loss of a family dwelling and would contain no 3 bedroomed family units for which there is an identified demand in the Borough. In this regard the scheme conflicts with Policy DMH2 of the HLPDMP and LP Policy H10, which in summary seek to ensure that new development contributes towards mixed and balanced communities and the similar objectives of the Framework.

### **Other Matters**

39. There are positive aspects of both proposals, including the delivery of new housing, with associated economic and social benefits and the creation of a level access to that housing. The intensified reuse of the plot would also increase density in compliance with the broad objectives of the London Plan. Nonetheless, these factors do not outweigh the harms identified, or the requirement for high quality, well-designed new development set out in the development plan and the Framework. Development would in any event be expected to meet the Council's standards in terms of size and the type of accommodation provided and this is neutral in the overall planning balance.

40. A petition and other objections to the proposals from local residents have for the most part been addressed above. Concerns about their effect on traffic generation and parking are not supported by the Highway Authority or the Council. The number of parking spaces complies with the Council's parking standards. There are no justified reasons for taking a different view on these matters. The demand for school places and other infrastructure requirements arising from the developments would be appropriately addressed by the Community Infrastructure Levy. The proposal would not amount to the development of green space as attested. Accordingly, these representations do not affect my conclusions.

### **Conclusions**

41. For the reasons set out above and having regard to all other matters raised, the appeals are dismissed.

*Elaine Benson*

INSPECTOR