



Appeal Decision

Site visit made on 26 February 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2024

Appeal Ref: APP/R5510/W/23/3327919

Tavistock Works, Tavistock Road, Yiewsley, West Drayton, UB7 7QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Linea UB7 Ltd against the decision of London Borough of Hillingdon.
- The application Ref is 35810/APP/2023/219.
- The application sought planning permission for the demolition of existing building and replacement with an up to 8-storey building comprising residential units, landscaping, and amenity space without complying with conditions attached to planning permission Ref 35810/APP/2021/1234/Appeal Ref APP/R5510/W/21/3288333, dated 21 September 2022.
- The conditions in dispute are Nos 2, 3, 5 and 17 which states that: 2: The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers; 0010-AD-XX-00-DR-A-0001 Rev 03, 0010-AD-XX-01-DR-A-0101 Rev 05 0010-AD-XX-02-DR-A-0102 Rev 08, 0010-AD-XX-03-DR-A-0103 Rev 05 0010-AD-XX-04-DR-A-0104 Rev 05, 0010-AD-XX-05-DR-A-0105 Rev 05 0010-AD-XX-06-DR-A-0106 Rev 06, 0010-AD-XX-07-DR-A-0107 Rev 06 0010-AD-XX-08-DR-A-0108 Rev 03, 0010-AD-XX-ZZ-DR-A-0225 Rev 03 0010-AD-XX-ZZ-DR-A-0275 Rev 05, 0010-AD-XX-ZZ-DR-A-0276 Rev 03 0010-AD-XX-ZZ-DR-A-0278 Rev 03, 0010-AD-XX-ZZ-DR-A-0277 Rev 04 and 0010-AD-XX-00-DR-A-0100 Rev 14. Thereafter the development shall be retained/maintained in accordance with these details for as long as the development remains in existence. 3: The development hereby permitted shall not be carried out except in complete accordance with the specified supporting plans and/or documents: Flood Risk Assessment and Surface Water Management Report dated February 2021, Transport Assessment dated March 2021 and Travel Plan dated March 2021. Thereafter the development shall be retained/maintained in accordance with these details for as long as the development remains in existence. 5: No development, save for demolition and site clearance, shall take place until a landscape scheme (in general conformity with the Landscape Strategy 21075-GUA-DOC-L-001), has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include details of Hard and Soft Landscaping, a Car Parking Layout that includes two disabled bays and for 20% of all parking spaces to be served by electrical charging points with the remaining spaces being served by passive electrical charging points, cycle stands for 58 bicycles, boundary treatments, details of landscape maintenance and a schedule for implementation of all works, an ecological enhancement plan and full specification and design of the Green Roof. Thereafter the development shall be carried out and maintained in full accordance with the approved details. 17: The residential units hereby approved shall not be occupied until a parking allocation scheme and maintenance plan for the car parking stacker has been submitted to, and approved in writing by, the Local Planning Authority. The parking allocation scheme shall, as a minimum, include a requirement that all on-site car parking shall be allocated and dedicated for the use of each of the residential units hereby approved and

shall remain allocated and dedicated in such a manner for the life-time of the development.

- The reasons given for the conditions are: 2 and 3: for clarity and certainty. 5: in the interests of the character and appearance of the area. 17: to ensure the proposed development functions well in the interests of the living conditions of future occupiers.

Decision

1. The appeal is dismissed.

Procedural Matters

2. During the appeal process, a Planning Obligation by way of a Unilateral Undertaking made under Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted covering various matters relating to the scheme. I return to this matter below.
3. The second reason for refusal as set out on the decision notice includes failure to make the maximum reasonable (in-lieu contribution) of affordable housing. However, the appellant has agreed to pay the fee for the review of the revised Financial Viability Assessment which has been undertaken. The review confirms that the payment in lieu secured by the legal agreement attached to the appeal consent remains the maximum reasonable. As a result, the Council's Statement of Case explains that reason for refusal 2 would fall away. It is not therefore necessary for me to consider that matter further.

Background

4. Planning permission was granted for the demolition of existing building and replacement with an up to 8-storey building comprising residential units and associated car parking, landscaping, and amenity space. Conditions relating to the approved plans, supporting plans and documents, landscape scheme and car parking allocation scheme were imposed for clarity and certainty; in the interests of the character and appearance of the area and to ensure the proposed development functions well in the interests of the living conditions of future occupiers. The full wording of which is set out above.
5. A subsequent non-material amendment application was submitted under Section 96A of the Town and Country Planning Act 1990 (as amended), to amend planning inspectorate decision letter so that the description of development changes *from "demolition of existing building and replacement with an up to 8-storey building comprising residential units and associated car parking, landscaping and amenity space"* to *"demolition of existing building and replacement with an up to 8-storey building comprising residential units, landscaping and amenity space"*. This was approved on the 14 March 2023 under reference 35810/APP/2023/444 and thus the reference to *"associated parking"* included as part of the approved description of development is no longer required.
6. The proposed development seeks to vary the wording of conditions 2, 3 and 5 and remove condition 17 to facilitate minor material amendments to the scheme which would replace the 9 on site car parking spaces of which one is an accessible bay with two additional residential units.

Main Issues

7. The main issues are whether the proposed amendments to the conditions would:
 - Provide adequate provision of disabled access parking designated to future occupiers of the development; and
 - Provide contributions towards the improvement of services and facilities and mitigation measures as a consequence of demands created by the proposed development.

Reasons

Disabled access

8. As set out, planning permission was granted at appeal which comprised a residential development of 32no. residential units of which 4no. would be fully accessible M4(3) units. This development would provide 8no. standard car parking spaces and one disabled persons' space.
9. Policy T6.1 of the London Plan, 2021 (LP) explains amongst other matters that disabled persons parking should be provided for new residential developments. Residential development proposals delivering ten or more units must, as a minimum: 1) ensure that for three per cent of dwellings, at least one designated disabled persons parking bay per dwelling is available from the outset; 2) demonstrate as part of the Parking Design and Management Plan, how an additional seven per cent of dwellings could be provided with one designated disabled persons parking space per dwelling in future upon request as soon as existing provision is insufficient. This should be secured at the planning stage. Policy T6.1 of the LP goes further to explain that all disabled persons parking bays associated with residential development must: 1) be for residents' use only (whether M4(2) or M4(3) dwellings); 2) not be allocated to specific dwellings, unless provided within the curtilage of the dwelling; 3) be funded by the payment of a commuted sum by the applicant, if provided on-street (this includes a requirement to fund provision of electric vehicle charging infrastructure); 4) count towards the maximum parking provision for the development; 5) be designed in accordance with the design guidance in BS8300vol.1; 6) be located to minimise the distance between disabled persons parking bays and the dwelling or the relevant block entrance or lift core, and the route should be preferably level or where this is not possible, should be gently sloping (1:60-1:20) on a suitable firm ground surface.
10. Applying these standards to the proposal, the proposed development would require 1no. designated disabled persons parking space from the outset and a Parking Design and Management Plan that shows how an additional 2no. designated disabled persons parking spaces could be provided in the future upon request as soon as existing provision is insufficient. The development would be completely car-free, with no on-site parking proposed including for disabled persons. I am aware of the specific wording of the different policies of the development plan including DMT 6 of the Hillingdon Local Plan: Part 2, 2020 as well as the wording contained within supplementary guidance. I also note the lack of reference to blue badge parking within the National Planning Policy Framework (the Framework). However, there is a clear need and requirement to ensure the development provides adequate levels of living

accommodation for occupants and specifically those who require an accessible parking space. The LP has a number of specific requirements in relation to disabled persons parking and based on the evidence before me whilst taking all relevant matters into account, I find the LP to be wholly relevant to the determination of this appeal. Previous discussions that may have taken place during the course of the previous scheme would not alter my findings on this.

11. I am aware of the claims regarding the ability for blue badge holders to park unrestricted within close proximity of the site as well as eligibility matters and at my site visit, I observed the parking situation surrounding the appeal site. Single yellow lines are located to the direct south of the appeal site that prohibits parking midday to 1pm Monday to Friday together with 5 No. pay and display spaces. Double yellow lines are located on the opposite side of the road and further west, more than 50 meters away, a parking management scheme is in operation which restricts parking Monday to Saturday 9am to 6pm to residents that are permit holders only. At the time of my site visit, whilst only a snapshot in time, I noted several cars parked along the single yellow lines with the 5 No. pay and display spaces being well used with a regular flow of traffic along Travistock Road.
12. A car parking survey has been undertaken which involved counting the number of on-street car parking spaces available and the number of vehicles parked within 200 metres walking distance of the site. This has been complete in order to determine if there would be capacity for a disabled person to park on street. The Council's Highways Officer explains that for an able-bodied person a 200-meter parking catchment is appropriate, but for a disabled person the highway authority reduces this to 50 metres taking into account that they may experience mobility difficulties. I have no reason to disagree with this. Based on the results of the parking survey, there are very limited on-street car parking spaces within 50 meters of the proposals main entrance particularly given that the double yellow lines are not considered a parking option because the maximum amount of time a blue badge permit holder could park is limited with parking overnight not possible. Parking spaces are largely confined to the pay and display spaces and 1 space along single yellow lines. On the days when the surveys were carried out, the majority of the spaces were indeed occupied which indicates high parking stress within 50 metres of the site. Additionally, none of these spaces would be designated to the occupants of the development given that others could indeed use these spaces including those using town centre amenities and the nearby station as well as general visitors. I have had regard to the statistics provided by the Council relating to travel and trip lengths including to workplaces and that in West Drayton, 73.6% of households have a car or van available and need somewhere to park. The average for Greater London is just 58.4% and thus there would be some reliance on the private car for trip making. It is therefore demonstrated that there would be an expressed demand for on-plot designated disabled persons parking despite the sustainable location of the site.
13. The policy does not stipulate for accessible spaces to be provided within the site boundary and the scheme proposes an on-street accessible bay for blue badge provision outside the red line boundary along with a commitment from the appellant to funding and securing it via a legal mechanism. This is not however within the developer's control, so there is no guarantee that such provision could be achieved, and further discussions would need to be had with the appropriate bodies in this regard. Assumptions regarding its acceptability

does not provide sufficient comfort that this could be achieved even considering the previous scheme and provisions made. Crucially and even if there was an agreement in place, any agreed on-street parking would be a standard undesignated blue badge parking space which could not be designated to the occupants which is a specific requirement under policy T6.1 of the LP. This would mean that any such provision could be freely available for any blue badge holder to legitimately use on a first come first served basis. It can also not be assumed that occupation of the space by anyone not a resident of the site would be unlikely with limited demand even if other generators of demand is served by its own blue badge parking as it could still be used by others including general visitors to the area. Consequently, there would be no guarantee that a disabled person living in the proposal would be able to park at any given time even if a standard blue badge space is created.

14. The proposal includes the provision of a car club which would be located on street, and this was secured as part of the legal agreement attached to the main consent. However, this would still not provide a designated disabled persons parking bay for residents use only as per the policy requirements. Whilst the car club widens the travel choice for all those living nearby and is deliverable as the Council is able to draft a Traffic Regulation Order to allow its creation, it is different to a designated blue badge space which is essential to the proposal being self-sufficient in transport terms and I am mindful of the difficulties in terms of the delivery of this having regard to the specific regulations. The site location is one which benefits from available public transport infrastructure which accommodates mobility impaired persons although it cannot be assumed that disabled persons would use public transport particularly for occupants with physical/mobility difficulties.
15. Policy T6 of the LP explains that car free development has no general parking but should still provide disabled persons parking in line with Part E of this Policy. Part E subsequently explains that appropriate disabled persons parking for blue badge holders should be provided as set out in Policy T6 .1 residential parking to Policy T6 .5 non-residential disabled persons parking. Reference to on street provision does not detract from the policy requirement for the designation of an accessible parking space. The appellant does not have the ability to achieve this unless it is within land they control or can provide evidence of an agreement in place in this regard.
16. I am aware of previous case law relating to conflict with a single policy whereby it does not mean that the proposed development is necessarily in conflict with the development plan as a whole. In the particular circumstances of this appeal, the conflict with Policy T6.1 of the LP together with the above findings, would mean that the proposed development would not provide adequate levels of living accommodation for occupants and specifically those who require an accessible parking space. This is a clear and consistent theme running through local policy and thus the proposals would not accord with the development plan as a whole.
17. My attention has been drawn to several examples across London where similar proposals have been accepted either with or without a legal mechanism. Whilst information relating to the schemes and the officers' reports have been provided, I still do not have all of the information which would have been before the decision maker in those cases where a full assessment would have been had depending on various factors. The acceptance of such other schemes

would also not justify the development particularly as I cannot be certain that such schemes have not experienced difficulty in parking as a result.

Additionally, such schemes vary in terms of quantity of development and overall accessibility with certain references made to low demands, constraints to the redevelopment of the site and monitoring of spaces with the outcome unknown at a number of these sites. Overall, such other schemes are not considered directly comparable to the appeal before me which I have considered on its own merits.

18. Bringing everything together, the loss of disabled parking provision onsite designated to the occupants of the development would lead to a disabled resident needing to drive around to look elsewhere to park if there are no spaces available within close proximity of the site. This includes instances where the proposed standard undesignated blue badge parking space has been used by other blue badge holders which could reasonably occur. For some, parking further and making their way to the site would be difficult and for others impossible. This would result in inadequate levels of living accommodation to serve the percentage of accessible units.
19. For the above reasons, I therefore conclude that the proposed development would not provide adequate provision of disabled access parking designated to future occupiers of the development. It would therefore be contrary to Policies T6.1, D5 and D7 of the LP which together, amongst other matters, sets out the residential parking standards whilst explaining that development proposals should achieve the highest standards of accessible and inclusive design by being convenient and welcoming with no disabling barrier, providing independent access without additional undue effort, separation, or special treatment. For the same reasons, the proposed development would also be contrary to the Best Practice Guidance 'wheelchair accessible housing', 2007, Standard 18 of the Mayor of London Housing Supplementary Planning Document, 2016 and the Hillingdon Local Plan Accessible Hillingdon Supplementary Planning Document, 2017.
20. Whilst Policies D5 and D7 of the LP do not specifically mention accessible parking requirements, the policies do relate to inclusive design and accessible housing. I therefore find these policies including their supporting text to be relevant in the particular circumstances of this appeal.

Services and facilities and mitigation measures

21. I am aware that amendments were required to the legal agreement attached to the previous appeal scheme covering various matters including amongst others, those relating to highway works, open space contributions, affordable housing including viability review provisions as well as an update of the planning application reference to reflect the most up to date consent.
22. As part of this appeal, a Unilateral Undertaking has been signed and submitted in relation to the above matters as well as others and I am satisfied that this is a completed version. On this basis, I conclude that the proposed development would provide contributions towards the improvement of services and facilities and mitigation measures as a consequence of demands created by the proposed development. It would therefore comply with Policy DMC17 of the Hillingdon Local Plan Part 2 Development Management Policies, 2020 and Policy DF1 of the LP relating to planning obligations. For the same reasons, the development would also comply with the Hillingdon Supplementary Planning

Document Planning Obligations, 2014 and paragraphs 55-58 of the Framework relating to planning obligations.

Other Matters

23. The site is a brownfield allocation site, designated for comprehensive redevelopment. The proposed development would deliver housing within a sustainable location and would provide additional contributions towards public open space which would be a benefit as well as increasing 1 bed units. Contributions towards affordable housing, air quality mitigation and carbon offsetting remain as previously agreed. Given that the scheme relates to only two additional units over and above that already granted, the extent to which these factors would be beneficial is limited and the modest contribution of a further two units would not be sufficient to outweigh the harm identified.
24. A lack of harm in relation to privacy, outlook, daylight and sunlight, impact on street scene, unit mix, density, minimum space requirements, private amenity space matters, principle of development etc are all neutral factors in my decision and would not weigh in favour of the appeal.

Conclusion

25. Although the development would provide contributions towards the improvement of services and facilities and mitigation measures as a consequence of demands created by the proposed development, I have found that the proposed development would not provide adequate provision of disabled access parking designated to future occupiers of the development. It follows that the proposal conflicts with the development plan when read as a whole and there are no material considerations, including the advice of the Framework, which outweighs this conflict.
26. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR