

Supplementary Planning Statement

Site Address: 72 Star Road Uxbridge UB10 0QN

Planning application ref: 494/APP/2020/2954

Proposed Development

Demolition of existing bungalow and erection of 2-storey building with habitable roofspace to create 2 x 3-bed and 2 x 2-bed self-contained flats with associated amenity space and parking, including installation of vehicular crossover to front.

Purpose of statement:

Applicant's case as to why lift access cannot be provided to first floor for this minor development proposal.

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20 November 2020

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1 INTRODUCTION and GENERAL BACKGROUND

- 1.1. The planning application is presently under consideration by the local planning authority ("LPA"). This statement supplements the design and access statement previously submitted with the plans to the LPA and is in response to the request by the case officer for the Applicant to provide a statement justifying why lift access has not been provided as part of the proposal.
- 1.2. This statement should be read in conjunction with the plans, photographs and statements submitted to the LPA as part of the application together with all the development plan or national policy references, representations now being submitted and case law referred to.

2 APPEAL PROPERTY, LOCATION AND PLANNING HISTORY

- 2.1. In the interests of brevity, the Applicant refers to the design and access statement submitted as part of the application; this provides a description of the site in terms of its size, scale, curtilage and the prevailing site context.

3 DEVELOPMENT PLAN

- 3.1. Under section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, the statutory development plan polices are deserving of primacy with relevant material considerations to be taken into account in the planning balance.
- 3.2. The development plan is tiered and comprises: 1) the regional spatial strategy or the London Plan 2016¹ together with its Housing Supplementary Planning Guidance, SPG, and 2) the development plan documents making the London Borough of Hillingdon Local Plan ("LP") comprising Local Plan Part 1 adopted 2012 and Local Plan Part 2 adopted January 2020.
- 3.3. The LPA made the following commitment to the examining inspector of the Local Plan Part 2 as stated at paragraph 14 of the examination report dated 22 October 2019: "The HLPP2 is a plan that is intended to implement the strategy and objectives of HLPP1. It was widely accepted at the hearings that during the course of plan preparation there had been material changes in both national and London-wide policy along with a significant increase in growth in the Borough. Therefore, the Council have committed to an early review of the Local Plan in response to the emerging new London Plan..."

¹ The New London Plan ("NLP") Intend to Publish version December 2019 is awaiting final approval from the Secretary of State ("SoS") before its publication; its policies are a material consideration deemed by the SoS since April 2020 to be deserving of significant weight where there are no SoS directions.

- 3.4. Policy 3.8 (Housing Choice) of the London Plan 2016 states: "A. Londoners should have a genuine choice of homes that they can afford and which meet their requirements for different sizes and types of dwellings in the highest quality environments." Part B stipulates in part (emphasis added): c) ninety percent of new housing meets Building Regulation requirement M4 (2) 'accessible and adaptable dwellings' and d) **ten per cent of new housing meets Building Regulation requirement M4 (3) 'wheelchair user dwellings'**, i.e. is designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users.
- 3.5. Supporting paragraph 3.48 states: "Many households in London already require accessible or adapted housing in order to lead dignified and independent lives: 28,000 are attempting to move to somewhere more suitable to cope with a disability and more than 267,000 need a home adaption. More Londoners are living longer and more older people are choosing to remain in their own homes rather than go into residential institutions. To address these and future needs, 90 per cent of London's new build housing should be built to Building Regulation requirement 'M4 (2): Accessible and adaptable dwellings' and the remaining 10 per cent of new build housing should be built to Building Regulation requirement 'M4 (3): Wheelchair user dwellings' "
- 3.6. Flexibility is available under supporting paragraph 3.48A especially for minor developments where viability and cost factors are a material consideration in the overall planning balance (emphasis added): "As set out in Approved Document M of the Building Regulations - Volume 1: Dwellings, to comply with requirement M4 (2), step free access must be provided. Generally this will require a lift where a dwelling is accessed above or below the entrance storey. **The application of requirement M4 (2) has particular implications for blocks of four storeys or less, where historically the London Plan has not required lifts.** Boroughs should seek to ensure that dwellings accessed above or below the entrance storey in buildings of four storeys or less have step-free access. **However, for these types of buildings this requirement may be subject to development-specific viability assessments and consideration should be given to the implication of ongoing maintenance costs on the affordability of service charges for residents. Where such assessments demonstrate that the inclusion of a lift would make the scheme unviable or mean that service charges are not affordable for**

intended residents, the units above or below the ground floor that cannot provide step free access would only need to satisfy the requirements of M4(1) of the Building Regulations. All other standards should be applied as set out in this Plan. Further guidance is provided in the Housing SPG."

4 RECENT SIGNIFICANT POLICY DEVELOPMENTS – NEW LONDON PLAN

- 4.1. The New London Plan ("NLP") is nearing publication and the Mayor is presently awaiting confirmation from the SoS in respect of the 'Intend to Publish' version submitted on 9 December 2019. This version is presently the subject of some directions to make changes as per SoS' letter to the Mayor of 13 March 2020.
- 4.2. In his reply of 13 March, the SoS expresses his "deep disappointment" at the poor delivery of housing in London over the last 3 years falling short of the existing Plan target and urges in a clarion call: *"Every part of the country must take responsibility to build the homes their communities need. We must build more, better and greener homes through encouraging well-planned development in urban areas; preventing unnecessary urban sprawl so that we can protect the countryside for future generations. This means densifying, taking advantage of opportunities around existing infrastructure and making best use of brownfield and underutilised land."*
- 4.3. The SoS also highlights that the previous borough targets under the small sites policy H2 was revised significantly downwards by the examining panel and expresses: *"hope that where your small sites policies are appropriate, you are doing all you can to ensure sites are brought forward."*
- 4.4. On 9 April 2020, the SoS issued an appeal decision on a called in application following an inquiry under PINS reference APP/N5660/V/19/3229531. At paragraph 15 of his letter, the SoS highlights the national policy guidance at paragraph 48 of the NPPF in respect of the weighting to be accorded to policies in emerging plans and confirms that given the current status of the NLP, significant weight must be accorded to policies within it where there is no conflict with national policy or where there is no divergence or impact from the modifications directed.
- 4.5. Specifically, for present purposes the Applicant refers to the Good Growth objectives and Policy H1 and Policy H2 for incremental delivery of housing especially from small sites and their components and supporting paragraphs.
- 4.6. The pertinent parts that should also be considered in the balance under **Policy H2** Small sites are:

- A.** Boroughs should pro-actively support well-designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to:
- 1) significantly increase the contribution of small sites to meeting London's housing needs
 - 2) diversify the sources, locations, type and mix of housing supply
 - 3) support small and medium-sized housebuilder
- 4.7. It is inherent that supporting small sized housebuilders to achieve overall development plan aims can be achieved through adoption of flexibility and rational compromise of other policies in the overall balance which could place an undue and onerous burden and result in the non-delivery of such small sites as the Applicant's. The Applicant seeks a positive and proactive approach and some design flexibility from the LPA on the merits of his proposal overall as guided by the NLP justifications below.
- 4.8. Paragraph 4.2.1 (emphasis added): *"For London to deliver more of the housing it needs, small sites below 0.25 hectares in size must make a substantially greater contribution to new supply across the city. Therefore, increasing the rate of housing delivery from small sites is a strategic priority. Achieving this objective will require positive and proactive planning by boroughs both in terms of planning decisions and plan-making."*
- 4.9. Paragraph 4.2.2 (emphasis added): *"Increasing housing output of this scale can also help to support a number of related housing and planning policy objectives. This includes: • reviving the role of small and medium-sized developers in delivering new homes in London • diversifying the sources, locations, type and mix of housing supply and the type of sites available in addition to large brownfield sites • increasing housing provision in accessible parts of outer London to help address the substantial housing need in these areas and deliver market homes in more affordable price brackets...*
- 4.10. Paragraph 4.2.6 (emphasis added): *"The small sites target represents a small amount of the potential for intensification in existing residential areas, particularly in Outer London, therefore, they should be treated as minimums. To proactively increase housing provision on small sites through incremental development, Boroughs are encouraged to prepare area-wide housing design codes, in particular, for the following forms of development: residential conversions, redevelopment, extensions of houses and/or ancillary residential buildings."*
- 4.11. Paragraph 4.2.9 (emphasis added): *Where existing houses are redeveloped or*

*subdivided, boroughs may require the provision of **family-sized units** (3 bed + units) providing sufficient design flexibility is provided to allow the existing footprint of a house to be enlarged in order to meet this requirement."*

- 4.12. Additionally, **Policy H10 (Housing Size Mix)** with supporting paragraphs 4.10.1 - 4.10.4 is also relevant and applicable. This policy is subject to SoS direction DR1 which requires modification of H10 A 9) from "the role of one and two bed units in freeing up family housing" to read: "**the need for additional family housing** and the role of one and two bed units in freeing up existing family housing." This modification has direct relevance to the instant proposal which is attempting to deliver much needed 3-bed plus family housing units as desired by national policy.
- 4.13. Paragraph 4.10.1 (emphasis added): "*The 2017 London Strategic Housing Market Assessment (SHMA) estimated the unit size mix of new homes required to meet London's current and projected housing needs using three different scenarios, the results of which are set out in the SHMA report addendum. The main factors influencing this size mix include the projected growth in different household types, assumptions about under-occupation, and the substantial number of overcrowded households in London, whose needs can be addressed by **providing family-sized homes...***"
- 4.14. Paragraph 4.2.10 (emphasis added): "*Homes located on the ground floor on minor developments should meet the requirements of **Policy D7 Accessible Housing.** Homes that are not on the ground floor on minor developments can comply with the M4(1) standard, which does not require step-free access, where provision of step-free access would be unfeasible.*"
- 4.15. **Policy D7 Accessible Housing: A.** To provide suitable housing and genuine choice for London's diverse population, including disabled people, older people and families with young children, residential development must ensure that:
- 1) **at least 10 per cent of dwellings** (which are created via works to which Part M volume 1 of the Building Regulations applies) **meet Building Regulation requirement M4(3) 'wheelchair user dwellings'**
 - 2) all other dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.
- 4.16. Paragraph 3.7.6 provides flexibility and support to the Appellant's minor development which is less than four storeys in height: "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).

- Stacked maisonettes where the potential for decked access to lifts is restricted.

4.17. Paragraph 3.7.7: "If it is agreed at the planning stage (for one of the reasons listed above) that a specific development warrants flexibility in the application of the accessible housing standards M4(2) and M4(3), **affected dwellings above or below ground floor would be required to satisfy the mandatory building regulations requirements of M4(1) via the Building Control process. M4(2) and M4(3) dwellings should still be required for ground floor units.**"

5 APPLICANT REPRESENTATIONS AND MATERIAL CONSIDERATIONS

5.1. The proposed development is a minor brownfield redevelopment that endeavours provide a building less than 4 storeys high to deliver much needed housing in the form of 4 new dwellings on a small site by a small builder. The ground floor units 72A and 72D being **50% of the housing mix** have a GIA of 89 sqm each on a single storey. According to National Described Space Standards, this quantum of GIA would satisfy the internal requirements for 3 bed 5 person dwellings. However, given the site layout and fenestration a large 2 bed 3 person layout is the optimum arrangement. Nevertheless being on ground floor, the Applicant has gone above and beyond the quantitative requirements to make both these units to meet the highest M4(3) standard of wheelchair user dwellings rather than M4(2) thereby providing such rare units in small developments. In the alternative viewpoint, if the requirements are to strictly observed, no such provision would be obligatory for an overall development of only 4 units because **10% of 4 < 1**. Consequently, these ground floor units will be available to the open market for the elderly and/or wheelchair users who may be downsizing thereby also achieving the aim of releasing their underutilised family housing onto the market. This is a positive element in the proposal's favour and ought to be taken into account in the planning balance as it fulfils several development plan policies.

5.2. As a result of the provision at ground floor level, the Appellant seeks to include much needed family housing (3bed+) units as maisonettes stacked above the ground floor level in order to fulfil other relevant and important policies of the development plan. These units namely 72B and 72C are maisonettes over 3 levels and each has its own level threshold entry access at ground floor level. Providing 3 bed 5 person dwelling at 3 storeys requires the GIA to meet or exceed 99 sqm according to the space standards; these units at 99.8 sqm just meet that requirement thereby achieving the requirements under **Policy D6 and Policy H10** of the NLP. Provision of lifts over 3 levels to serve these 2 units would necessarily eat into the GIA resulting in the inability to deliver the family sized

units proposed which would serve a growing family comprising 3 children for example. In light of submissions made at 5.1 and the flexible provisions under the London Plan 2016 as well as the NLP, the Appellant seeks that flexibility to be applied and allowed for these units to comply with M4(1) requirements rather than M4(2) in order to holistically deliver the overall development fulfilling other policy aims.

5.3. As a small builder, the cost of installing and maintaining lifts that serve only 2 units makes the cost prohibitive and would make the project not viable. As previously intimated the NLP seeks to encourage small builders to come back on to the market to deliver incrementally and cumulatively; however they work on tight budgets to deliver at the affordable end and ought not to be discouraged where they demonstrate their willingness to deliver as in this case provision of M4(3) units where none would be required under the development plan. It is also important not to burden incoming owner occupiers with costs of lift maintenance, insurance and such like through the service charge, especially when 2 units would have to share such costs; it would an unfair financial noose around their necks and would diminish their marketability.

5.4. In *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13, Lord Reed said the following at [19]:

[19] "...As has often been observed, development plans are full of broad statements of policy, **many of which may be mutually irreconcilable, so that in a particular case one must give way to another**. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse (*Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, 780 per Lord Hoffmann).

5.5. It is submitted therefore that given land supply limitations and policy constraints on the one hand and high demand for family dwellings and on the other while providing a higher M4(3) standard for the ground floor units, the opportunities for provision of these homes in redevelopment opportunities ought to be embraced adopting the guidance on policy push/pull reconciliation.

5.6. The Chancellor of the Exchequer giving evidence on 19 May 2020 to the Lord Economics Affairs Committee said: "*Although we have put unprecedented mitigating actions in place, I certainly won't be able to protect every job and every business. We're already seeing that in the data, and no doubt there will be more*

hardship to come. This lockdown is having a very significant impact on our economy. We are likely to face a severe recession, the likes of which we haven't seen, and of course that will have an impact on employment." He went on to say it was not obvious there would be an immediate bounceback and that the degree of "scarring" (people suffering a permanent loss of wages or income) would increase the longer the recession went on.

- 5.7. In his recent letter dated 24 April 2020 to the SoS, the Mayor seeks to work constructively with the SoS to finalise publication of the NLP as soon as possible. In it he says he is "*mindful of the need to support the development industry and the wider economy in the recovery from the Coronavirus crisis.*" These sentiments merely echo the Government's own desire to kickstart economic and social drivers following dire current and expected statistics on the depression of the economy and the long-term impacts on unemployment caused by the pandemic.
- 5.8. Beyond creating employment and construction spending on build materials and skips and scaffolding hire, the new dwellings will also generate CIL revenues for the LPA and the Mayor of London at a time of squeezed finances faced by these authorities. Every little will help.
- 5.9. The Appellant submits that the words of Lord Clyde in his speech in ***City of Edinburgh Council v Secretary of State for Scotland 1998 SC (HL) 33, [1997 1 WLR 1447*** are relevant in the decision making (emphasis added):

"In the practical application of section 18A it will obviously be necessary for the decision maker to consider the development plan, **identify any provisions in it which are relevant to the question before him and make a proper interpretation of them.** His decision will be open to challenge if he **fails to have regard to a policy in the development plan which is relevant to the application or fails to properly interpret it.** He will also have to consider whether the development proposed in the application before him does or does not accord with the development plan. **There may be some points in the plan which support the proposal but there may be some considerations pointing in the opposite direction. He will require to assess all of these and then decide whether in the light of the whole plan the proposal does or does not accord with it. He will also have to identify all the other material considerations which are relevant to the application and to which he should have regard. He will then have to note which of them support the application and which of them do not, and he will have to assess the weight to be given to all of these considerations [...]."**

- 5.10. After the LPA has taken into account all the above matters in the overall planning

balance, it is respectfully requested that planning permission be granted for the development.

6 CONCLUSION

- 6.1. Given the Appellant's submissions on policies in the development and representations and case law referred to, the Applicant trusts that a clear, well evidenced and compelling case has been made out as to why lift access cannot be provided to the maisonettes 72B and 72C. The LPA is requested to consider the proposal in the round and not to kill what is otherwise a viable proposal for delivery of housing on a small site.