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## Appeal Decision

Site visit made on 19 February 2024

**by Chris Couper BA (Hons) Dip TP MRTPI**

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

**Decision date: 11<sup>th</sup> March 2024**

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**Appeal Ref: APP/R5510/W/23/3326327**

**Land adjacent to 1a Nicholls Avenue, Uxbridge, Hillingdon UB8 3JL**

- 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 Ian Cook (Ian Cook and Company) against the decision of the Council of the London Borough of Hillingdon.
  - The application Ref 54817/APP/2022/2568, dated 12 August 2022, was refused by notice dated 27 January 2023.
  - The development proposed is described as a single building encompassing three self-contained, independent dwellings over two levels; 2 one bedroom ground floor units and a second floor two bedroom unit, plus associated access, parking and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for a single building encompassing three self-contained, independent dwellings over two levels; 2 one 1 bedroom ground floor units and a second floor two bedroom unit, plus associated access, parking and landscaping at land adjacent to 1a Nicholls Avenue, Uxbridge, Hillingdon UB8 3JL in accordance with the terms of the application Ref: 54817/APP/2022/2568, dated 12 August 2022, subject to the conditions on the attached schedule.

### Procedural Matters and Background

2. I have taken the site address from the appeal form.
3. In its decision the Council refers to, amongst other things, the National Planning Policy Framework (2021). However, that is now superceded and replaced by the National Planning Policy Framework (December 2023) ('Framework'). It is therefore the latter that I refer to in my decision.
4. A neighbouring resident alleges that the submitted plans are misleading with regards the location of the western boundary. The appellant certifies that he is the owner of all the land to which the appeal relates. In any event, an appellant does not have to own a site to seek planning permission, and I have no evidence that this ownership issue could not be properly dealt with under legislation dealing with private legal rights.
5. In reaching my decision I have had regard to a previous planning application on the site for a detached property containing three flats, which was dismissed at appeal (Ref: APP/R5510/W/19/3232504) ('the dismissed scheme').

### Main Issues

6. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on adjacent occupiers' living conditions, with particular regard to overlooking of 1a Nicholls Avenue ('No 1a');
- whether the proposal would provide an appropriate mix of housing, having regard to the unit sizes; and
- the effect of the proposal on the safety and convenience of highway users, and whether or not it would appropriately promote sustainable modes of transport.

## **Reasons**

### *Character and appearance*

7. The properties on Nicholls Avenue are predominantly detached bungalows, albeit some with large dormer windows. They are set back in linear rows either side of the highway, behind modest areas of landscaping or, in many cases, hard surfaced forecourts. The form and grain of development becomes notably less consistent between its junctions with Bourn Avenue and Harlington Road. Here there are a scattering of two storey houses, including No 1a and, opposite this site, at Nos 2a, 2b and 2c.
8. As illustrated by drawing No NA05-02, the proposed building's height and width would broadly reflect those of No 1a. Although there would be a step-up from the eaves of Olive Tree House to the eaves of the proposal, those buildings' respective ridge heights would not be markedly different, and there would be a significant gap between them. The proposed single storey front projection would be of a broadly similar height and width to the front projection at Olive Tree House, and it would reflect the general form of other such gables in the Nicholls Avenue streetscene.
9. The proposal would have a greater two storey depth than No 1a, but given its set back, and the buildings either side of it, neither that depth, nor the building's butterfly roof, would be prominent in the streetscene. Compared to the dismissed scheme, this proposal would be set slightly further back from the road, broadly between the front face of No 1a and Olive Tree House, and its height would be significantly reduced. It would therefore no longer have a bulky and imposing appearance.
10. The proposed carport would be to the rear of the plot, well away from the main building, and it would have a shallow pitched roof with a limited height. Having regard to the context of the area, given the siting of the main building and the carport, and the provision of landscaping between the existing and proposed vehicular accesses, the scheme would not appear cluttered.
11. For these reasons, the scheme would not harm the character and appearance of the area. It would therefore accord with Policies DMHB 11 and DMHB 12 of the Hillingdon Local Plan Part Two: Development Management Policies (2020) ('HLPP2'), Policy BE1 of the Hillingdon Local Plan Part One: Strategic Policies (2012), and Policies D1 and D3 of the London Plan (2021) ('LP'). Amongst other things, these require development to be designed to the highest standards, and to harmonise with, or enhance, its local context, taking account of matters such as scale, height, mass, bulk, appearance and shape.

12. It would also comply with the requirement for development which functions well, adds to the quality of the area, and is sympathetic to local character and the surrounding built environment, at Framework paragraph 135 a) and c).

*Living conditions*

13. The proposal would include side-facing, first floor windows. Other than the bathrooms, these would be relatively small secondary windows, with the rooms they serve also containing larger front or rear facing openings. In his grounds of appeal, the appellant states that a condition would be acceptable requiring all the first floor side elevation windows to be obscurely glazed.
14. Given the location of these windows, and that many serve habitable rooms, such a condition is necessary to protect all the adjacent occupiers, including those at No 1a, from significant overlooking. Subject to it, the scheme would not conflict with those parts of HLPP2 Policy DMHB 11, or Framework paragraph 135 f), which require proposals to not adversely impact adjacent properties' amenities.

*Housing mix*

15. HLPP2 Policy DMH 2 and LP Policy H10 set out that residential development shall include a mix of units of different sizes to reflect evidence on housing need, with paragraph 4.6 of the former indicating that there is a substantial borough-wide requirement for private market, three bedroom properties.
16. In response, the appellant states that the top floor flat could be changed to a three bedroom unit, if required. However, that is not the scheme before me, and as it would entail alterations to the submitted plans and to the description of the proposal, that change could not be dealt with by means of a condition.
17. That said, this is a small scheme, which would deliver just three apartments, but would still achieve a mix of one and two bedroom units. The cited development plan policies do not require all schemes to provide three bedroom units. In the context of the general need for housing in London, as described at paragraphs 5.54 to 5.58 of the grounds of appeal, the scheme would contribute to housing supply, whilst also providing a mix of unit sizes.
18. It would not therefore conflict with the broad thrust of HLPP2 Policy DMH 2 or LP Policy H10; nor with the Framework's requirement at Section 5 to meet an area's identified housing needs with an appropriate mix of housing types and sizes.

*Safety and convenience of highway users and sustainable transport*

19. The scheme would provide five off-road parking spaces – one to the front served by a proposed new crossover, and four to the rear served by an existing crossover. The Council maintains that the car parking provision would conflict with LP Policies T6 and T6.1 which sets a maximum of 0.75 spaces per one or two bedroom unit in areas such as this in an outer London borough with a PTAL rating of 2. Appendix C of the HLPP2, to which Policy DMT 6 refers, sets out a maximum standard of 1 to 1.5 spaces per unit, with an additional requirement for visitor parking. The development plan is therefore inconsistent on this matter.

20. However, the five proposed spaces would be compliant with this borough's local standard at HLPP2 Appendix C. Given that the site is relatively poorly served by public transport, and that provision would also be made for secure cycle parking, I am satisfied that the level of parking provision would be acceptable and that the scheme would not promote private vehicle use as alleged. The provision of electric vehicle charging points and cycle parking to promote sustainable modes of transport in accordance with the development plan, are matters that could be addressed by a suitably worded planning condition.
21. The Council also maintains that the proposed additional crossover would endanger pedestrians and vehicles entering and exiting the site. However, I observed that Nicholls Avenue is straight and not heavily trafficked. Forward visibility for drivers, and for pedestrians using the footway, is fairly good, and would not be significantly impacted by the low 600mm high brick wall proposed along part of the site's frontage.
22. In the dismissed scheme the Inspector found that there were many examples of double width dropped kerbs in the vicinity of the site. Given that the proposed crossover would serve just one dwelling, as does the existing crossover at No 1a to which it would be attached, the number of vehicular movements associated with them would be low. Additionally, a pedestrian refuge would still be available to the site frontage.
23. Consequently, whilst the principal parties disagree with regards the scheme's compliance with the Council's Domestic Vehicle Footway Crossover Guidance, I concur with the Inspector in the dismissed scheme that the proposed additional crossover would not result in harm to pedestrian or vehicular safety.
24. Notwithstanding the inconsistent stance to parking provision in the LP and the HLPP2, I am therefore satisfied that the scheme would comply with the broad thrust of the cited development plan policies when considered as a whole. That includes the requirements of HLPP2 Policy DMT 2 and LP Policy T4 to prevent an increase in road danger by ensuring safe and efficient vehicular access, with the needs of cyclists and pedestrians satisfactorily accommodated.

### **Conditions and Conclusion**

25. Turning to the matter of conditions, I have considered those suggested by the Council against the Framework's tests at paragraph 56, including its stance that conditions that are required to be discharged before development commences should be avoided unless there is clear justification.
26. As well as the standard time limit for commencement, in the interests of certainty, a condition is necessary requiring that the development be carried out in accordance with the approved plans.
27. Drawing No NA04-01 Proposed Site Layout, to which my condition No 2 refers, shows the proposed hardsurfacing materials, lighting and boundary treatment. Those details are acceptable. The submitted details, including the Design and Access Statement ('DAS'), also include options for securing and screening the proposed first floor terraces, and denote the use of a lighter shade brick with light render above on the elevations; although drawing no. NA05-2 shows two alternative options for facing materials.

28. To ensure certainty, and in the interests of the character and appearance of the area and to protect adjacent occupiers' living conditions, I have therefore imposed my condition No 3. However, having regard to Framework paragraph 56, and the typical sequence of building operations, it is not necessary that these details be provided prior to the commencement of the development.
29. With reference to the submitted ground floor plan and longitudinal section, and the relatively level site, I am satisfied that the principal entrance could be easily provided with a step free access, without the need for the submission of additional details. In the interests of providing accessible housing to comply with LP Policy D7, my condition No 4 amends the Council's suggested condition accordingly. My condition No 5 is necessary for the same reason.
30. My condition No 6 is necessary to protect adjacent occupiers living conditions, for the reasons set out in paragraphs 13 and 14 above.
31. The DAS includes some landscaping details, as does drawing No NA04-01. However, in the interests of the character and appearance of the area, and to ensure that the development appropriately assimilates into its surroundings, further details are required. I have therefore imposed my condition No 7. However, given the typical sequencing of building operations, and having regard to the Framework, I am not persuaded that this is necessary as a pre-commencement condition. My condition No 8 addresses the implementation of that landscaping scheme and requirements for replacement planting, if necessary.
32. My condition No 9 addresses the need, as set out in my decision, for appropriate cycle and electric vehicle charging points, along with refuse storage facilities.
33. The Council has suggested a pre-commencement condition requiring the submission of a plan showing existing and proposed ground levels, and proposed finished floor levels. However, this is a fairly level site, and drawing No NA05-02, to which I refer in my condition No 2, shows the proposed building relative to those either side. Additionally, Proposed Site Layout Plan No NA04-01, shows that the finished ground floor level here would be the same as at No 1a. Having regard to the Framework's tests, this condition is therefore unnecessary.
34. A further pre-commencement condition has been suggested requiring the submission of a demolition and construction management plan in the interests of safeguarding amenity. However, as shown on Existing Site Layout Plan No NA04-01, and confirmed on my visit, no buildings would be required to be demolished, and I have no cogent evidence that potentially contaminating materials would need to be removed. Additionally, drawing No NA04-01 Proposed Site Layout Plan shows that additional land in the appellant's control would be available to store construction material.
35. Having regard to the relatively small scale of the proposal, the tests at Framework paragraph 56, and the very limited evidence regarding the potential environmental and amenity impacts, I am not persuaded that, if harm were to arise, it could not be addressed by other legislation dealing with nuisance, and impacts on the public highway. I have not therefore imposed the suggested condition.

36. Finally, the Council has suggested a pre-commencement condition requiring the submission of a sustainable water management scheme. Some details of proposed surface water drainage are included at Paragraph 4.2 of the DAS and in drawing No 04-01 Proposed Site Layout. That includes the provision of an underground storage tank for rainwater recycling, although the DAS continues that further assessment is required.
37. According to the Council's delegated report, the site is in flood zone 1, but in an area with critical drainage issues. Having regard to LP Policies SI 12 and SI 13, and to ensure that the scheme does not increase the risk of flooding, a condition is necessary requiring the submission and approval of a scheme of surface water works. My condition No 10, which is broadly based on the Council's suggested condition, requires these drainage works to be implemented early in the process, prior to development above slab level.
38. Summing up, I have found that the proposal would provide an appropriate housing mix; that it would not harm the character and appearance of the area, or the living conditions of adjacent occupiers; and that it would not harmfully affect highway safety, whilst also appropriately promoting sustainable modes of transport. Consequently, and having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

*Chris Couper*

INSPECTOR



### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: NA03-01 Location Plan, NA04-01 Proposed Site Layout Plan, NA04-01 Existing Site Layout Plan, NA05-02 Street View, NA05-04 Carport Elevations and Plan, NA05-01 Proposed Elevations, NA07-01 Ground Floor Layout, NA07-01 First Floor Layout and NA08-01 Longitudinal Section.
- 3) Prior to the commencement of works above slab level, details of all facing materials, balconies and privacy screens, shall have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details, and shall be retained as such thereafter.
- 4) Prior to their first occupation, the principal private entrance to each unit shall be provided with a step free access. Such provision shall remain in place thereafter.
- 5) The ground floor dwellings hereby approved shall be constructed to meet the standards for a Category 2, M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010) 2015.
- 6) The proposed first floor side elevation windows in the building hereby approved shall be obscurely glazed prior to the first occupation of that unit, and shall be retained as such thereafter.
- 7) Prior to the commencement of works above slab level, there shall have been submitted to, and approved in writing by, the local planning authority a scheme of landscaping. The scheme shall include planting plans and a written specification of all planting to be undertaken, including a schedule of plants giving the species, size and proposed numbers/densities.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) Prior to the first occupation of the development, cycle storage, bin storage, and electric vehicle charging points shall be provided in accordance with details which shall have been previously submitted to, and approved in writing by, the local planning authority. Those facilities shall thereafter be retained in accordance with the approved details.
- 10) Prior to the commencement of works above slab level, surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to, and approved in writing by, the local planning authority. Before any details are submitted to the local planning

authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- Provide details to minimise the use of portable water, including water collection facilities and recycling;
- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- include a timetable for its implementation; and,
- provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.