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## Appeal Decision

Site visit made on 26 October 2016

**by John Dowsett MA DipURP DipUD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17<sup>th</sup> November 2016**

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**Appeal Ref: APP/R5510/W/16/3151550**

**28C and land to rear of 27 New Broadway, Uxbridge Road, Uxbridge, Hillingdon UB10 0LL**

- 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 Harjinderpal Kamboj against the decision of the Council of the London Borough of Hillingdon.
  - The application Ref: 70848/APP/2015/4362, dated 26 November 2015, was refused by notice dated 7 March 2016.
  - The development proposed is use of the property as a studio flat including private amenity space.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are:
  - The effect of the development on highway safety in the vicinity of the appeal site;
  - Whether the proposed development would provide satisfactory living conditions for the future occupiers, with particular regard to noise and disturbance; and
  - The effect of the development on the living conditions of the occupiers of the dwelling at 27C New Broadway with particular regard to noise, disturbance and loss of light.

### Reasons

3. The appeal site comprises a single storey building to the rear of number 28 New Broadway and an enclosed yard area located to the rear of number 27 New Broadway. Numbers 27 to 30 New Broadway are a short terrace of four, three storey buildings with commercial premises on the ground floor and residential accommodation above. The upper floor flats are accessed by way of metal staircases located to the rear of the properties. A single storey addition to the side of number 27 New Broadway (number 27C) has been converted to residential use.
  4. The appeal proposal is to convert a currently vacant building, formerly used as an office, into a studio flat. It is proposed to use the adjacent yard area to
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provide one car parking space and outdoor amenity space for the new flat. At present the yard area is open internally and gives access to the appeal building, the flat at 27C New Broadway and the flats above numbers 27 and 28. It is proposed to create a new pedestrian gate in the existing yard wall with a fenced walkway giving access to the new flat and the upper floor flats, and to create a small yard area for number 27C.

#### *Highway safety*

5. The appeal proposal would provide a single car parking space for the new flat within the yard area, which would meet the Council's car parking standard. However, the yard area also serves to provide access to number 27C and the upper flats above numbers 27 and 28. The proposed development would preclude the occupiers of these flats from using the yard area for parking, although due to its small size it could not accommodate a large number of vehicles. Nonetheless, any parking for these properties that is currently accommodated within the yard area would, as a consequence of the development, be displaced into nearby streets.
6. In the surrounding area, there are limited on-street parking opportunities. Although it is not within a controlled parking zone waiting is prohibited on Uxbridge Road and whilst on-street parking is allowed on the section of New Broadway to the south east of the appeal site, this was very heavily used at the time of my site visit. Similarly on-street parking is constrained on the residential side roads running off Uxbridge Road as the majority of the houses have converted most or all of the frontages to parking areas, leading to little of the carriageway being available for parking.
7. There are a good range of shops, facilities and services near to the appeal site and there are bus stops close to the appeal site which have regular services to and from Uxbridge town centre. Although the site has a relatively low Public Transport Accessibility Level, current and future occupiers of the existing buildings and the appeal building would not necessarily be dependent on private cars for their transport requirements. Nevertheless, the appeal proposal would see the yard area largely given over to amenity space and parking for the new studio flat, which would prevent its use for parking by other occupiers who currently share the space, and there is no mechanism in place which would prevent the occupiers of these properties from owning or operating cars. This would result in a reduction in off-street parking in an area which currently experiences parking stress and is likely to lead to illegal parking or double parking, which would pose a hazard to pedestrian safety and the safe and convenient operation of the highway.
8. Whilst I note appellant's point that the previous office use of the building resulted in car parking, no substantive evidence has been submitted with regard to the level of parking this use generated. Moreover, this parking would have primarily occurred during the working day which would have resulted in less conflict with residential parking requirements.
9. I therefore conclude that the proposed development would cause harm to highway safety in the vicinity of the appeal site. It would be contrary to the relevant requirements of Saved Policies AM7 and AM14 of the Hillingdon Unitary Development Plan 1998 (UDP), that are contained within Part 2 of the Hillingdon Local Plan 2012 (LP), and The Hillingdon Design and Accessibility Supplementary Planning Document 2008 (HDAS), which seek to ensure that

new development provides appropriate levels of parking and does not prejudice highway safety.

*Living conditions of future occupants*

10. It is not in dispute between the parties that the proposed development would provide adequate floorspace to meet the requirements set out in the London Plan and the Nationally Described Space Standard. It is also common ground that the new studio flat would receive satisfactory levels of daylight and have adequate outlook and amenity space. The reason for refusal focusses on noise and disturbance to the future occupiers. The National Planning Policy Framework (the Framework) requires that new development provides a good standard of amenity for all occupiers.
11. The proposal would create a fenced access passage to the new flat and to the flats above 27 and 28 New Broadway, which would be located immediately adjacent to the window serving the main living and sleeping accommodation of the new studio flat. The proximity of this access would inevitably lead to some level of disturbance as a result of the occupiers of the upper flat and visitors passing very close to this window, which would be exacerbated by the fact that the room is also used as sleeping accommodation. In addition to noise resulting from the occupants of the adjacent flats entering and leaving, the upper flats are accessed by way of metal staircases which, in use, will resonate and generate noise. Whilst the height of the fence would mitigate some noise from the use of the access, it would not mitigate noise from the staircases much of which would be above the level of the fence.
12. As the times of use of the access route would be outside the control of the occupants of new studio flat, this would cause noise and disturbance adjacent to the living and sleeping area and not provide adequate living conditions. Whilst the height of the fence would largely prevent direct views into the window of the living area from most of the access route it would not preclude them entirely and this, combined with the disturbance that would result from its use, would adversely impact on the privacy of the future occupiers.
13. I have had regard to the appellant's point that the appeal building is in a main road location and does not provide family accommodation. However, the appeal building is behind the taller buildings fronting the main road and at the rear of these premises the ambient noise level is lower. Regardless of the nature of the accommodation, future occupiers would still have a reasonable expectation it providing acceptable living conditions.
14. I therefore conclude that the proposed development would not provide suitable living conditions for the future residents of the development. It would be contrary to the requirements of Saved UDP Policy BE24 and the guidance in the HDAS which seek to ensure that new development provides suitable living conditions for the future occupiers. It would also be inconsistent with the requirements of the Framework which seeks to ensure that occupiers of new buildings have a good standard of amenity.
15. Saved UDP Policy OE1 referred to in the reason for refusal relates to the effect of noise from new development on the living conditions of existing nearby occupiers and, consequently, I do not consider that it is relevant to this matter.

*Living conditions of existing occupants*

16. At present the gate giving pedestrian access to the yard area and the upper flats is immediately adjacent to the window in the end of number 27C. All persons accessing the upper flats pass by this window, which will result in some loss of privacy and disturbance. The appeal proposal would create a new gate and fenced walkway that would be further from this window and would create a private area of defensible space outside number 27C. In this respect the proposed development would represent an improvement to the living conditions of the occupiers of this flat.
17. Although there would be a 2 metre high fence approximately 3.7 metres from the window, as this window faces north it would not reduce direct sunlight and would not be so close as to significantly block natural light. The window serves a kitchen which is not a principal habitable room and, whilst the proposed fence would reduce the outlook from this window, it presently has a restricted outlook into a walled yard area, and the proposed fence would not materially alter the overall outlook.
18. I therefore conclude that the proposed development would not cause harm to the living conditions of the occupiers of 27C. It would comply with the relevant requirements of Policy 3.5 of the London Plan 2015; Saved UDP Policies OE1, BE19 and BE20; and the guidance in the HDAS which seek to ensure that new development does not adversely affect the living conditions of the occupiers of nearby residential properties.

**Conclusion**

19. I have found that the proposed development would not cause harm to the living conditions of the occupiers of number 27C New Broadway. However, this of itself does not outweigh the harm that I have found that the proposed development would cause to highway safety in the vicinity of the appeal site or the poor living conditions for the future occupiers that would be created.
20. For the above reasons, and having regard to all other matters raised I conclude that the appeal should be dismissed.

*John Dowsett*

INSPECTOR