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# Appeal Decision

Site visit made on 4 July 2022

**by Anne Jordan BA (Hons) MRTPI**

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

**Decision date: 14<sup>th</sup> July 2022**

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**Appeal Ref: APP/R5510/W/22/3295059**

**The Old Vinyl Factory, Blyth Road, Hayes, UB3 1HA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Weston Homes Plc against the decision of London Borough of Hillingdon.
- The application Ref 59872/APP/2021/4268, dated 19 November 2021, was refused by notice dated 17 January 2022.
- The application sought planning permission for details of podium access plan without complying with a condition attached to planning permission Ref 59872/APP/2020/342 dated 19 June 2020.
- The condition in dispute is No4 which states that: The development shall not be occupied until a Podium Access Plan, which demonstrates the access proposals, hours of access and management procedures for access to the proposed podium by non-residents of the Assembly Buildings has been submitted to and approved in writing by the Local Planning Authority. Thereafter the podium access shall be in accordance with the approved details for as long as the development remains in existence.
- The reason given for the condition is: To ensure that the development provides access to the podium to non-residents of the Assembly Buildings, ensuring integration with the wider site and creating an acceptable level of social infrastructure and quality of street design to comply with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020) and London Plan Policy 3.16.

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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Old Vinyl Factory at Hayes is a large complex of former industrial buildings which is being brought back into mixed use. As well as the renovation and reuse of various buildings the scheme includes the construction of a number of new units, one of which is The Assembly Building. This has been designed with a central base of parking and commercial use with 3 towers of residential units above. A garden providing open space for residents is located on the roof of the central base, known as The Podium.
3. The application was made to discharge condition 4 of planning application 59872/APP/2020/342. This permission related to a Section 73 application to vary the approved plans list condition of application reference 59872/APP/2018/1107 dated 06/12/2018 (Reserved Matters Application regarding the appearance and landscaping for Phase 3B 'The Assembly Buildings' of The Old Vinyl Factory site). The reserved matters application was

pursuant to Conditions 2 and 3 of planning permission ref.

59872/APP/2013/3775 dated 31/07/2014. This application was itself pursuant to 59872/APP/2012/1838 - dated 10/04/2013 – described as “Outline planning application for a mixed use development of the Old Vinyl Factory site including the demolition of up to 12,643 sqm of buildings and construction of up to 112,953 sqm (112,953 sqm includes the retention and re-use of 784 sqm of the Power House and 901 sqm Pressing Plant) of new floorspace. Uses to include up to 510 residential units (maximum area of 49,000 sqm GEA), up to 7,886 sqm of new B1 floorspace, up to 4,000 sqm of A class uses (A1, A2, A3, A4, A5), up to 4,700 sqm of D1 and D2 uses, an energy centre (up to 950 sqm), car parking, works to access and creation of new accesses and landscaping”.

4. The application was refused by the Council on the basis that the proposed location for the public access to the rear of the building and the perceived lack of accessibility would fail to ensure that the development provides access to the podium to non-residents of the Assembly Buildings, ensuring integration with the wider site and creating an acceptable level of social infrastructure and quality of street design to comply with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020) and London Plan Policies S1 and S4 (2021).
5. Within the delegated report the Council also referred to a potential loss of parking spaces as a result of the proposal and an absence of information in relation to tracking for vehicles within the parking areas which takes account of the proposed stairwell. These matters were also included as informatives on the decision notice but did not form part of the reasons for refusal.
6. As part of the appeal submission the appellant has provided additional information to respond to the Council’s concerns. This information was also submitted as part of an application relating to a Non-Material Amendment<sup>1</sup> (NMA) which does not form part of this appeal. However, in this case, as I have found the proposal to be unacceptable for the reasons set out below, it has not been expedient to consider the matter of parking further.
7. The appellant’s appeal statement includes further details of how public access is to be secured at the site, which although not part of the original application, have now been reviewed and commented on by the Council. I have taken these comments into account in my decision.

## **Main Issues**

8. Accordingly, the main issue for the appeal is whether the proposal would provide acceptable arrangements to achieve public access to open space at the Assembly Buildings.

## **Reasons**

9. When the design of the Assembly Building was approved in 2018<sup>2</sup> the Council considered that public access to the garden was a necessary component of the design. Access to The Podium by those working at The Old Vinyl Works (TOVW) was an assumption contained within the Design and Access Statement for the building<sup>3</sup>. The document states:

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<sup>1</sup> 59872/APP/2022/270

<sup>2</sup> Application ref 59872/APP/2018/1107

<sup>3</sup> Assembly Buildings RMA Design & Access Statement 22.03.18 4.5 Landscape Podium Landscape p14

*"The podium landscape will be accessible to residents and employees of TOVF estate during working hours (Monday-Friday 9am-5pm). These users are required to sign up for this access and have to sign in at the entrance concierge of Block B. The podium will be accessible to residents of the Assembly Buildings 24 hours a day".*

10. This text is repeated within the committee report for the scheme, which goes on to say that as a result the space would have a wider degree of accessibility than would normally be associated with a private space and recommended that a condition was imposed to secure this. The Council indicate that there is a significant shortage of public open space within the local area, and although I have not been provided with specific information to support the Council's view, neither has the appellant disputed the fact. Indeed, I note the appellant's contention that public access to open space within individual buildings is not achieved on a number of other buildings within the site.
11. I am therefore satisfied that the condition as imposed is necessary to ensure that the development provides access to the podium to non-residents of the Assembly Buildings, in the interests of providing for better integration of the building within the site and providing appropriate social infrastructure for those living and working at TOGV.
12. The application contained details of a new stairwell, located on Gramophone Lane, which would provide access via stairs to non-residents of the Assembly Building. This is not a main frontage of the building and as a result the access has the appearance of a secondary fire-escape or service entrance, rather than a main access point to the building. Even though the road would also be used by those accessing nearby office buildings, it would not be inviting to users.
13. The appeal submission contains further information on the management regime for access. This would include provision of a key-fob to secure access to the stairwell for those who have pre-registered for access to the facility. This is likely to deter those intent on crime, but it would also be likely to deter many from seeking access seeking casual use of the space. Furthermore, access for those unable to use the stairs would be achieved by contacting the management company to secure level access via the lift in the building's main lobby. Again, this would deter casual access to the space.
14. In this regard the arrangements put forward by the appellant are unlikely to achieve a significant degree of public access. I accept that the space itself is intended by the designers to have a semi-private character. I can therefore appreciate that unrestricted access may not be appropriate or desirable. Nevertheless, it seems to me that a separate, fob-only stairwell as proposed, away from the main entry points to the building, would not achieve a satisfactory standard of access even for users who have pro-actively sought use of the space.
15. The appellant advises that to allow non-residents access to the Podium via a communal facility would result in residents being subject to cleaning and maintenance responsibilities for such access. As a result, it is the appellant's view that shared access would result in additional unreasonable living costs. There is no firm evidence to support this contention. I have been provided with no convincing evidence that such costs would arise, that if they did arise that they would be unreasonable or indeed should automatically be incurred by residents of the Assembly Building alone.

16. The appellant has also referred to "Secured by Design"<sup>4</sup>. This sets out that access to stairwells from the communal lobby should be restricted to residents to reduce the risk of anti-social behaviour or criminal activities. As such it is argued that it would be likely to adversely affect the safety of the residents if access through a communal route were to be unrestricted. However, Secured by Design provides extensive advice on how joint access can be secured by achieving compartmentalisation through a building. It also states that how access is provided for legitimate visitors is a matter for the overall access control strategy to be set out by the management company. It therefore seems to me that alternative options could be explored for access through a shared lobby that meet Secured by Design standards.
17. I note the appellant's view, that access to the space was required to justify separation distances below the standards normally sought in new development. However, as set out in the committee report<sup>5</sup> the semi-public nature of the space was a factor in accepting lower separation distances in this case rather than being a factor dictating the need for public open space.
18. Accordingly, I conclude that the proposal fails to provide satisfactory arrangements for securing necessary access to open space within the site. The Council have referred to Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020). This provides a set of general principles in relation to the design of new development but does not specially refer to access to open space and so is only relevant insofar as it refers to achieving high quality design.
19. The London Plan Policy 3.16, has now been superseded by Policies 3.1 and 3.4 of the new London Plan, which relate to the provision of social infrastructure and play provision. I have been provided with no evidence to suggest that the scheme as proposed would fail to provide appropriate access to play provision and so find no conflict with Policy 3.4. However, as the proposal would fail to provide access to appropriate social infrastructure for all users of the site it would fail to comply with the requirements of Policy 3.1. It would also conflict with guidance in the National Planning Policy Framework which seeks development which plans positively for the provision and use of shared spaces.

## **Conclusion**

20. Accordingly, for the reasons set out above, the appeal is dismissed.

*Anne Jordan*

INSPECTOR

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<sup>4</sup> Section 27.29 of the Secure by Design Homes 2019 Version (March 2019) Document (Appendix M to appellant's statement).

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