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# Appeal Decision

Hearing held on 25 April 2023

Site visit made on 25 April 2023

**by L Douglas BSc (Hons) MSc MRTPI**

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

**Decision date: 24 May 2023**

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## **Appeal Ref: APP/R5510/W/22/3307571**

### **Former Tara Kindergarten Nursery, Cross Road, Uxbridge UB8 2UQ**

- 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 CWSQ (Uxbridge) Ltd. against the decision of the Council of the London Borough of Hillingdon.
  - The application Ref 62106/APP/2021/2555, dated 25 June 2021, was refused by notice dated 13 April 2022.
  - The development proposed is: Demolition of the existing building (use class F1) and construction of a new block comprising of 6 residential apartments and a community use space (use class F1,F2, E(e) and (f)), with associated parking and landscaping works.
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## **Decision**

1. The appeal is dismissed.

## **Preliminary Matters**

2. The proposal was amended while the application was being considered by the Council. Interested parties were consulted on the amended scheme. I have therefore considered the proposal as amended and as described in the appeal form.
3. I was informed during the Hearing that a legal agreement which would address the Council's fourth reason for refusal was due to be signed imminently. I have not been provided with a copy of a signed legal agreement at the time of this decision being issued, which I shall address further below.

## **Main Issues**

4. The main issues are: the effect of the proposal on the character and appearance of the area, with particular regard to the Rockingham Bridge Conservation Area (CA); the effect of the proposal on the provision of community facilities; and whether a legal agreement relating to any parking permit restrictions, travel plan monitoring and tree works would be necessary to make the proposal acceptable in planning terms.

## **Reasons**

### *Character and Appearance*

5. The appeal site comprises an irregularly shaped plot with a 1930s former telephone exchange building set behind a small off-street parking area, skirted by low-level metal railings to its front and southern side. It is bounded to the

east by a tall brick wall separating it from Oxford Road (the A4020). It is proposed to demolish the existing building and erect a 3-storey building of contemporary, flat roofed design with an undercroft.

6. The existing building is modest in size and appearance, being brick built and single storey in height with a hipped, tiled roof. The appellant's Heritage Statement of Case<sup>1</sup> describes the existing building as being designed by His Majesty's Office of Works, Post Office Department 'in the typically functional neo-Georgian style, with a roof form and cross-wing that draw on the vernacular architecture of the Arts and Crafts movement'.
7. The appeal site is located within the CA, which is a residential area characterised by high-quality, low-rise late 19<sup>th</sup>/early 20<sup>th</sup> Century buildings. The CA has evolved from a workers' settlement, with short rows of tightly developed workers' terraces forming important views within it. Buildings are finished in a variety of brick and render and are generally 2-storeys in height, with the notable exceptions of the 3-storey buildings forming part of the recent Woodbridge House redevelopment and the 1980s development directly opposite the appeal site on Cross Road. Fassnidge Park and smaller patches of greenery, particularly along the banks of the River Frays, make important contributions to the pleasant residential setting of the CA. This includes the small, grassed verges and mature trees either side of the appeal site.
8. Views of the 1960s redevelopment of Uxbridge town centre are unavoidable to the east of Cross Road. The concrete buildings of the Pavilions shopping centre and multi-storey car park form a dominating backdrop to the appeal site, adjacent to the A4020. A footbridge over the A4020 connects the CA to the shopping centre and car park, with its spiral walkway located directly to the south of the appeal site, within the CA.
9. The significance of the CA largely relies on its historic arrangement of well-built and high-density buildings of modest appearance and associated planting, creating a pleasant and tranquil setting. It contrasts with the intrusive and larger scale post-war developments within the town centre to the east.
10. Cross Road forms a fringe of the CA, which is dominated by the 1980s buildings and their off-street parking spaces opposite the appeal site, the spiral walkway, and the A4020 boundary wall. The trees either side of the appeal site make a substantial positive contribution to the significance of the CA, whereas the 1980s buildings and spiral walkway make negative contributions.
11. The existing building at the appeal site is experienced as an historic building on account of its former use and characteristic appearance as an inter-war telephone exchange. As a single storey brick building with hipped roof form, skirted by low-level railings, the appeal site is sympathetic to the modest and tranquil residential qualities of the CA and broadly reflects the style of buildings nearby in Lynch Close. It is an example of how the CA has evolved since the early 20<sup>th</sup> century and can be considered as a non-designated heritage asset, but its historic significance and interest are of very low value.
12. Even in this part of the CA, in the presence of the 1980s buildings opposite and the adjacent spiral walkway, the existing building and its railings are of low aesthetic value or architectural interest. In the context of their immediate

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<sup>1</sup> By Alan Baxter Ltd., dated September 2022

surroundings and those of the wider CA, they do not comprise particularly special or valued historic features or high-quality design.

13. Although the existing building at the appeal site has been identified by the Council as a building making a positive contribution to the CA<sup>2</sup>, I am unconvinced that the existing building or railings make more than a very low positive contribution to the significance of the CA. This is on account of the appeal site's limited historic and architectural interest, as set out above.
14. The proposed building would be irregular in shape as it is intended to make effective use of as much of the appeal site as possible without adversely impacting on nearby trees. Its flat roof, undercroft, balcony projections, and angled walls with mixes of vertical and horizontal grey buff brick courses and sections of recessed and perforated brickwork would mark it out as a distinctly modern building with some architectural interest. Planters and 1.8 metre high metal railings would enclose parts of the front of the appeal site, details of which could be required by a planning condition.
15. The proposed building would occupy most of the appeal site and leave little room for soft landscaping. This would result in the undercroft at the front of the building dominating the entrance to the appeal site. It would be an uninviting space providing views into what would inevitably appear as a dark and constrained area. The placing of planters, tall railings and a bicycle store around the appeal site frontage would compound matters and create a cramped and awkwardly contained ground floor layout. The undercroft and these other elements of the proposal would not read as distinctive features of high-quality 21<sup>st</sup> century design in this particular location.
16. The proposed planters would increase soft landscaping within the appeal site, but they would appear unlikely to provide a meaningful level of colour or interest to the proposal due to their small sizes and the lack of available space around them. The proposal would be heavily reliant on planting and open space outside the appeal site to soften its appearance to a limited extent in an otherwise exposed position.
17. The proposed building would be finished in high-quality brickwork with series of angled walls creating a modern building with some interest in an area where uninspiring mid-late 20th Century developments can be seen. However, even with the backdrop of the shopping centre and car park, the proposal would make the appeal site appear overdeveloped. The bulk and mass of the proposed building and its contrived ground floor layout on an exposed site of this size would be at odds with the overriding pleasant and modest characteristics of the CA. It would not be sympathetic to the character or appearance of the CA, and it would not create an attractive transition between the CA and the town centre.
18. The proposed building would be experienced alongside the spiral walkway and footbridge over the A4020. It would also be seen alongside the 1980s buildings on the opposite side of Cross Road, and it would be near to the redeveloped Woodbridge House site. It would be taller than the adjacent footbridge and 1980s buildings opposite, but not by much. The overall height of the proposed building would not therefore be disproportionate or dominating in relation to

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<sup>2</sup> Rockingham Bridge, Uxbridge Conservation Area Leaflet (2012)

the scale of its surroundings and would not cause unacceptable disruption to the pattern and scale of development in the area.

19. However, on account of the bulk and mass of the proposal and the detailed design of its undercroft and ground floor layout, harm would be caused to the character and appearance of the streetscape and the CA. The demolition of the existing building and railings and their replacement with the proposal would not elevate the appearance of this part of the CA or the CA as a whole. The bulk, mass, and detailed design of the proposal in the context of its surroundings would not comprise high-quality design and the proposal would fail to preserve or enhance the character or appearance of the CA. The level of harm which would be caused to the character and appearance of the CA would be moderate.
20. The Framework advises that any harm to, or loss of significance of a designated heritage asset, should require clear and convincing justification. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal. The proposal would cause 'less than substantial harm' to the significance of the CA. I assign moderate weight to that harm on account of its long-lasting nature and the existing quality of the environment in which the proposal would be experienced.
21. The proposal would provide 6 residential units, 1 of which would be accessible to disabled persons, on previously developed land, close to a town centre with a range of services and public transport options. I have also been referred to a total investment value of between £1,840,000 – 3,000,000 which would be made, and the financial contributions the proposed residential units would make towards council tax and the local economy. Overall, I do not consider there would be public benefits resulting from the proposed replacement community facilities, which I shall address further below.
22. There is an ongoing need for housing close to town centres and encouragement to significantly increase housebuilding. However, the public benefits of the proposal would be modest. I therefore assign modest weight to those public benefits, which would not outweigh the moderate weight I assign to the less than substantial harm which would be caused to the significance of the CA.
23. The proposal would therefore conflict with Policies HE 1 and BE 1 of the Council's Local Plan: Part 1, Strategic Policies (2012) (LP1), Policies DMHB 1, DMHB 4, DMHB 11, and DMHB 12 of the Council's Local Plan: Part 2, Development Management Policies (2020) (LP2), and Policies HC1 and D3 of the London Plan (2021) (LP). These require, amongst other things, development to be of the most appropriate form for its site and surroundings and to conserve and enhance the quality of the built environment and conservation areas, which should contribute to community cohesion and a sense of place and include landscaping suitable for its location.

#### *Community Facilities*

24. Planning permission was granted in 1999 and 2001 for the appeal site to be used as a day nursery. It was used in that manner until 2019, when it was then used by a faith group. It is currently vacant, but I was advised at the Hearing that a lease has been signed for the appeal site to be used as a nursery again, subject to the potential new tenant obtaining a necessary license.

25. The existing building comprises 120 square metres (sqm) of internal floorspace, including internal walls, set over ground floor level. The appellant was unable to provide access to the interior of the existing building at my site visit, but I have been advised the internal arrangement includes cloakrooms, toilets, and offices in addition to 2 larger rooms<sup>3</sup>. The appeal site also includes an off-street parking area to the front and small spaces to the sides. The space to the front accommodates 3 vehicles and the space on the northern side of the building has been used for storage/play space.
26. As a 1930s building with small, single glazed windows and a cellular internal layout, the quality of the community facilities provided by the existing building is somewhat limited. Although the 2 larger rooms provide its main useable space, these are supported by the other rooms and outside space to the front and north, which all contribute to how it functions. As a whole, it provides a reasonably adaptable community space, albeit in need of some modernisation.
27. The internal layout and age of the existing building are unlikely to be barriers to its future use for community purposes. This is demonstrated by its regular use as a day nursery and by a faith group since 1999 and the signing of a lease by a new nursery operator. I therefore consider all of the internal floor area of the existing building, its parking area, and the open space to the north all comprise important parts of its useable area.
28. The proposal would include floorspace over ground and first floor levels, which the appellant has advised would amount to 102 sqm, including areas taken up by the stairs and a lift, or 91 sqm when areas taken up by the stairs are omitted. The Council has claimed that the useable community floorspace proposed would amount to 83 sqm, when those areas and areas for the lift door to open and close are omitted. It would not include any useable outside areas, other than space for access and for 2 bicycles to be parked.
29. Aside from the proposal's failure to provide at least equal areas of internal and external space for community facilities compared to that which currently exist, I have serious concerns with the access arrangements to the proposed community facilities.
30. The proposed plans show railings would separate the entrance to the proposed community facilities from the western entrance to the appeal site. It was suggested during the Hearing that details of a lockable gate to be installed within those railings could be required by the suggested condition relating to boundary treatment, otherwise users of the community facilities would be expected to traverse a parking area or a grassed area outside of the appeal site to the north.
31. The parking and grassed areas outside the appeal site to the north would be inappropriate to provide access to the proposed community facilities, not least because of changes in land levels and raised kerbs bounding those areas outside of the appellant's control. There would be clear opportunities for conflict between people seeking to access the proposed community facilities and cars using the parking area. The grassed area would likely need to be hard-surfaced to enable year-round use by all visitors. The 2 proposed bicycle parking spaces and a planter shown on the proposed ground floor plan would need to be removed from the proposal to accommodate such access. For these

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<sup>3</sup> As shown on the existing ground floor plan 0119-KAA-XX-00-DR-A-0011-A1-P3

reasons, access to the proposed community facilities across the northern boundary of the appeal site would be wholly inappropriate.

32. Level access to the proposed community facilities could be provided from the western entrance to the appeal site, through the proposed railings. However, that route would pass close to proposed refuse store doors and the proposed residential parking space. There would be sufficient width for wheelchair and buggy users to pass the proposed undercroft pillars, but it would be a contrived and awkward passage, especially during peak times which may clash with refuse collections/deposits or use of the proposed residential parking space.
33. The existing community facilities have a small off-street parking area which can be used for drop-offs/collections and/or staff parking. Although this parking area has an informal layout and the entrance doors to the existing building appear to restrict access for some users, the access arrangements for the proposed community facilities would be far less accommodating or attractive for potential users. Single yellow lines on the highway permitting drop-offs or collections and the nearby multistorey car park and public transport links do not convince me otherwise.
34. The proposed community facilities would comprise 2 open rooms, which could potentially be used simultaneously by different groups of people. In practice, I consider this would be unlikely due to the shared access and toilet arrangements. Although the proposed community facilities would not be broken down into smaller rooms, space would still be needed for storage and operational purposes, and for access to and from the lift. I do not therefore consider the proposed community facilities would comprise better multi-purpose facilities, serve a wider range of sections of the community, or otherwise be more adaptable to use by different community groups compared to the existing community facilities.
35. The proposed ground and first floors would have ground to ceiling glazing along parts of their north elevations, and the first floor would also have windows on its east elevation. The proposed community facilities would be better insulated and more energy efficient compared to the existing building and would therefore be cheaper to operate. Due to the size of the proposed windows, the proposed community facilities would probably receive better levels of natural light compared to the existing community facilities.
36. I note correspondence which suggests there would be interest in occupying the proposed community facilities by different groups, despite the absence of outside space. The lack of a confirmed future occupier at this stage is understandable and is not determinative as to whether the proposed community facilities would be unattractive or unviable for future occupiers.
37. Taking all matters raised into account, the proposed replacement community facilities would be significantly inferior to the existing community facilities at the appeal site. This would be on account of the lack of outside space proposed, the smaller useable internal floorspace proposed, and the poorly arranged access to the proposed community facilities. The accessibility and standard of the proposed replacement community facilities would not be equal to the existing and would result in a net loss of community facilities. The proposed replacement community facilities would not therefore provide a public benefit weighing in favour of the proposal.



38. The proposal would conflict with Policy CI1 of the LP1, Policy DMCI 1 of the LP2 and Policy GG1 of the LP. Policy CI1 seeks to ensure development does not result in a net loss of community facilities and supports the retention and enhancement of existing community facilities. Policy DMCI 1 offers support for proposals involving the loss of an existing community facility if the specific use is no longer required on-site and any replacement facilities for that use provide a level of accessibility and standard of provision at least equal to that of the existing facility. Policy GG1 aims to provide access to good community spaces, services, amenities and infrastructure that accommodate, encourage and strengthen communities, amongst other things.

### *Legal Agreement*

39. At the Hearing it was agreed by the main parties that a legal agreement would be necessary to make the proposed development acceptable in planning terms with regard to parking permit restrictions, travel plan monitoring and tree works. I see no reason to conclude otherwise. This would be due to existing parking stress in the locality where controlled parking zones are in place, the appeal site's proximity to public transport links, and the positive contribution trees adjacent to the appeal site make to the significance of the CA.
40. I have been provided with a draft unsigned copy of a legal agreement which sets out how future occupiers of the proposal could be prevented from obtaining residents' parking permits and encouraged to travel to and from the appeal site other than by driving private cars. The travel plan could be monitored, and a financial bond could be secured to encourage compliance with the travel plan's targets. The draft unsigned legal agreement could also secure financial contributions to fund works to trees on Council owned land outside the appeal site which would be necessary to accommodate the proposal.
41. A legal agreement would therefore be an effective way of requiring those measures to be implemented and those financial contributions to be paid. Those matters could not be effectively controlled through planning conditions, and a planning condition could not be used in this instance to require the completion of a legal agreement in accordance with the tests set out at paragraph 56 of the Framework.
42. A legal agreement relating to parking permit restrictions, travel plan monitoring and tree works would therefore be necessary to make the proposal acceptable in planning terms. In the absence of a signed legal agreement to address the above matters, the proposal fails to accord with Policy DMCI 7 of the LP2 and Policy DF1 of the LP. These set out the need for planning obligations to ensure proposals meet relevant policy requirements by providing or funding mitigation measures made necessary by the proposal, amongst other things. Policy DMCI 7 also states that applications which fail to secure an appropriate planning obligation to make proposals acceptable will be refused.

### **Conclusion**

43. The proposal would harm the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA. It would have an unacceptable effect on the provision of community facilities as the proposed community facilities would be significantly inferior to the existing community facilities at the appeal site. The proposal would also fail to make appropriate arrangements to secure parking permit restrictions, travel plan

monitoring, and works to trees outside the appeal site which would be affected by the proposal. It would conflict with the development plan taken as a whole and there are no material considerations which indicate my decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

*L Douglas*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                    |                                 |
|--------------------|---------------------------------|
| Kamran Mahmood     | CWSQ (Uxbridge) Limited         |
| Bob Robinson       | DPP Planning                    |
| Kristofer Adelaide | Kristofer Adelaide Architecture |
| Alice Eggeling     | Alan Baxter Limited             |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                    |                                      |
|--------------------|--------------------------------------|
| Haydon Richardson  | London Borough of Hillingdon Council |
| Tom Campbell       | London Borough of Hillingdon Council |
| Emma Lowes         | London Borough of Hillingdon Council |
| Natalie Fairclough | London Borough of Hillingdon Council |

### **INTERESTED PARTIES:**

|                   |                                                                                           |
|-------------------|-------------------------------------------------------------------------------------------|
| Tony Burles       | Ward Councillor                                                                           |
| Anarjit Ram       | Local resident                                                                            |
| Katrina Patterson | Chair, Uxbridge South Rockingham Bridge Conservation Area Residents' Association (USROCK) |
| Michael McKenzie  | Vice Chair, USROCK                                                                        |

## **DOCUMENT SUBMITTED AT THE HEARING**

- Suggested condition agreed by the main parties regarding trees

## **DOCUMENT SUBMITTED AFTER THE HEARING**

- Suggested condition agreed by the main parties regarding demolition of the existing building