



Appeal Decision

Site visit made on 5 February 2025

by **L J O'Brien BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 March 2025

Appeal Ref: APP/F5540/W/24/3348609

163-165 Hanworth Road, Hounslow, TW3 3TT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by JRG Developments Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref is 01254/163-165/P12.
 - The development proposed is erection of two storey building to provide two self-contained flats.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two storey building to provide two self-contained flats at 163-165 Hanworth Road, Hounslow, TW3 3TT in accordance with the terms of the application, Ref 01254/163-165/P12, subject to the conditions in the attached schedule.

Preliminary Matters and Main Issues

2. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes and no parties have been prejudiced as a result.
3. On determining the application which is the subject of this appeal the Council included a reason for refusal which stated that in the absence of a signed legal agreement to secure a Carbon Offset Fund contribution, adherence to the Considerate Constructors scheme and a Controlled Parking Zone restriction the proposal would fail to accord with the adopted development plan in this regard.
4. However, since the determination of this application a legal agreement addressing these concerns has been submitted. The Council believe that this sufficiently addresses this reason for refusal. I will explore the legal agreement in further detail.
5. In this context, the main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether or not the proposal would achieve the maximum reasonable carbon reductions on site with particular regard to the adopted local development plan.

Reasons

Character and appearance

6. The appeal site, 163 – 165 Hanworth Road, is a narrow rectangular plot which is currently occupied by a three-storey building with retail space at ground floor level and flats above. An existing three-storey extension to the rear accommodates a further three flats. Beyond the buildings is a section of hard standing. To the rear of the site is a public car park.
7. The surrounding area has a mixed character and appearance. Buildings largely range between two and three storeys, with some exceptions, and have a diverse range of designs and appearances with some older, more traditional, designs and others of a clearly modern character and appearance. A number of buildings in the area have a utilitarian and functional appearance. At present the rear of the appeal site, where the proposed building would be sited, contains storage buildings which are in a poor state of repair and do not contribute positively to the character and appearance of the area.
8. The proposal is for the erection of a two-storey building, containing two self-contained flats, on the hard standing to the rear of the existing building. Each flat would have a private terrace/balcony and the remaining space on site would be laid out as communal amenity space for occupiers of the existing and proposed flats.
9. The proposed building would be two-storeys and would be of a fairly square floorplan and uncomplicated design. Due to its height and simplicity the proposed building would appear visually subservient to the building in front which would directly address the road and retain its status as the primary building on site.
10. The square, functional, design of the proposed building would be broken up by two balconies/terraces behind railings; one on each floor. These balconies/terraces would add visual interest to an otherwise plain elevation. Though the design would be simple, the scale, proportions and materials would reflect surrounding buildings; particularly the existing building to the front of the site.
11. The proposed building would also be set back significantly from the road and, thus, direct views from this vantage point would be limited. Though from other view points the building would be more visible it would be seen in the context of other surrounding buildings and would not appear as an incongruous or dominant addition to the street scene. Consequently, the building would assimilate well with others nearby and would sit comfortably within its back land setting.
12. For the reasons set out above I consider that the proposal would not cause harm to the character and appearance of the area and would, therefore, accord with Policies CC1, CC2 and SC5 of the London Borough of Hounslow Local Plan 2015 – 2030 (LP). Amongst other things these policies promote high quality urban design and seek to ensure that all new development responds positively to its context. The proposal would also meet the aims of Policy SC4 in respect of its aim to balance the need to make efficient use of land and achieve high quality design.

Carbon reductions

13. In 2019 the Council declared a climate emergency and subsequently published a draft Climate Emergency Action Plan in which it sets a target of net zero carbon by 2030. In addition to this Policy EQ1 of the LP states that the Council will move towards being a low carbon borough and expects development proposals to meet the carbon emission reduction requirements set out in the London Plan.

14. The Council have specifically drawn my attention to Policy SI 2 of the London Plan. However, Policy SI 2 of the London Plan refers specifically to major developments and I have not been provided with compelling evidence to suggest that it should apply in respect of this small scale scheme.
15. Nevertheless, the evidence before me includes an Energy Statement¹ (ES) which sets out that the proposal would achieve on-site reduction of carbon emissions of 75%, achieved through a variety of measures. The remaining carbon emissions would be offset by a cash in-lieu contribution of £1,254.00 which would be secured through the unilateral undertaking which has been provided as part of this appeal.
16. I accept that the proposal indicates that a portion of the proposed rooftop area remains unused, indicating that further solar panels could have been considered. However, the ES notes that because of the small scale of the site it is neither possible or realistic to offset all of the CO2 emissions associated with the site. Though further solar panels would have been an additional benefit of the scheme, in my view, given the significant reductions that would be achieved across the site considered as a whole, the consideration of further panels is not necessary to make the scheme acceptable in planning terms.
17. The Council have also expressed some concern regarding the glazing which would be used. However, a previous Inspector explored this issue as part of her consideration of a previous appeal at this site² and concluded that incorporating triple glazing into the build would have very little effect on the overall performance as it is likely to mean that more active heating is required due to the lower solar gain associated with triple glazing.
18. Though it has not been possible for the proposal to offset all of the carbon emissions, the ES is clear that the proposal achieves significant onsite reductions and 42% of these reductions would be achieved through savings from energy demand reductions. Consequently, I am satisfied that the proposal would comply with Policy EQ1 of the LP. In my view, even if the standards set out within Policy SI 2 of the London Plan were to apply, for the reasons set out above, the scheme would meet the aims of this policy. Together these policies seek to move towards a low carbon environment.

Other Matters

19. I note that the windows and doors serving the rooms to the front of the ground floor property would face directly onto the communal amenity space. However, the plans indicate that soft landscaping would be placed in such a way so as to create an intervening buffer between these openings and the communal garden space beyond. These details could be secured through the use of a suitably worded planning condition. Moreover, the communal garden space is not such that it would be subject to a high volume of pedestrian traffic or activity and would serve only a limited number of properties. As such, subject to an appropriately worded landscaping condition, I consider that the proposed development would provide satisfactory living conditions for its future occupiers with particular regard to noise and disturbance and privacy.

¹ Energy Assessment by Fenton Energy dated 7 November 2023

² APP/F5540/W/23/3326468

20. I note the Council's concern that the strips of difficult to access space to either side of the building could become overgrown, unkempt and unsightly over time and could end up attracting crime and anti-social behaviour. However, I consider that details of the landscaping of this area so as to ensure that it was low maintenance and manageable could be secured through a landscaping condition.
21. Moreover, due to the significant set-back of the building, the proposed lighting scheme, the natural surveillance from surrounding properties and the limited public access I do not consider that the evidence before me suggests that there is a legitimate danger of these areas, or of the access route, attracting crime and anti-social behaviour.

Planning Obligation

22. A Deed of Unilateral Undertaking (UU) dated 27 September 2024 relating to the appeal has been provided by the appellant. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
23. The UU sets out that during demolition and construction works carried out pursuant to the development the appellant will comply with the Considerate Contractor Scheme. This mechanism is in place to regulate the manner in which construction works are carried with particular regard to minimising the impact on movement and to limit disruption to others during the development. The appeal site is located close to other residential properties and businesses and as such I consider that the requirement to enter into the scheme is fair, reasonable and necessary in respect of this development.
24. Policy EC2 of the LP states that the Council will secure a more sustainable local travel network by, amongst other things, promoting 'car free' development. In order to ensure that the proposed development would achieve these aims the UU sets out the mechanism for ensuring that the future residents of the proposed dwellings would, unless they fall within certain exceptions, not be entitled to be granted a parking permit to park a vehicle within the controlled parking zone.
25. Policy EQ1 of the LP seeks to minimise Hounslow's contribution to climate change and ensure that the borough develops in a way which minimises the demand for energy and promotes renewable and low carbon technologies through a number of mechanisms. One such mechanism is requiring development to offset all remaining CO2 emissions associated with the building through a financial contribution towards measures which reduce CO2 emissions. As such, the parties have agreed a contribution which will be secured through the UU.
26. On the evidence before me, it appears that the contributions sought by the Council are fair, reasonable and necessary to mitigate the impact of the development. I therefore consider that the obligation satisfies the tests in Regulation 122(2) of the CIL Regulations 2010.

Conditions

27. The National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
28. In the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions proposed by the Council. Alongside the standard time limit condition, I have imposed a condition specifying the relevant plans as this provides certainty.
29. I have imposed a condition requiring the details of materials to be submitted to and approved in writing by the Council in order to ensure the development has a satisfactory appearance. For the same reasons, and in order to address the concerns regarding the living conditions at the ground floor property and the small strips of land alongside the building, I have imposed a condition requiring details of landscaping.
30. In order to ensure that the development makes the fullest possible contribution to minimising carbon emissions I have imposed conditions requiring the development to be constructed in accordance with the submitted Energy Statement and requiring the use of sustainable materials. I have also added a condition in respect of water efficiency to ensure that the development makes efficient use of water.
31. Due to the previous use of the site I have imposed a condition relating to land contamination in order to safeguard the health of future residents.
32. I have included a condition requiring a Construction Logistics Plan with the aims of protecting amenity and highway safety throughout the construction of the development. In the same regard I have included a condition in respect of the noise limits for construction.
33. In order to ensure the provision of satisfactory facilities for the storage of waste I have added a condition requiring details to be submitted to, and approved by, the Council.
34. The Council suggested a condition restricting the positioning of external utility boxes and gave the requirement to protect the conservation area as their reason. However, the appeal site is not within a conservation area and as such I find this condition to be overly onerous and unnecessary and have not included it on this occasion.
35. The Council also suggested a condition requiring details of highways works to be submitted and approved. However, given the small scale of the scheme and the fact that the proposed development does not include any works which would directly affect the public highway or footway I do not consider that, on the basis of the evidence before me, such a condition would meet the tests of the Framework. I have omitted this condition.
36. The Council have also suggested a condition in respect of the proposed cycle storage. However, these details are shown on the submitted plans. As such, I have amended this condition to ensure that the cycle spaces are provided prior to occupation and retained thereafter in the interests of promoting sustainable transport methods.

37. A number of conditions requiring contributions for carbon offsetting, requiring the appellant to enter into the considerate constructors scheme and restricting the issue of parking permits have been put forward by the Council. These matters have, however, been addressed through the submitted legal agreement and are not, therefore, required in this instance.
38. The Council suggested a condition requiring the development to achieve secured by design accreditation for designing out crime. However, given the small scale of the scheme and my findings on this matter which are set out above, the evidence before me does not indicate that such a condition would be required and I do not consider that it would meet the tests set out within the Framework.
39. A condition regarding the internal transmission of noise between commercial and residential premises has been suggested by the Council. As the proposed scheme does not include a commercial use I have not included this condition. Due to the small scale of the proposal I have also omitted the Council's suggested condition restricting noise levels within the development. There are other mechanisms in place to control noise levels in the interests of protecting residential amenity and I do not consider that the proposed condition would be enforceable or necessary in relation to the scheme before me.
40. In the same regard I have not imposed the Council's suggested delivery and servicing plan condition as the evidence before me does not satisfactorily convince me that such a condition would meet the tests set out within the Framework.
41. The Council have suggested a condition restricting the use of the proposed development to residential. The evidence before me does not indicate that any alternative uses are sought or likely to occur and as such I do not consider that this condition would meet the tests of the Framework and I have not imposed it.
42. Conditions restricting permitted development rights have also been suggested. However, as the proposed development would be flats these conditions are not necessary as permitted development rights are already restricted.

Conclusion

43. For the reasons set out above, and having regard to all other matters raised, I allow the appeal.

L J O'Brien

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: PL2/SM/2694-10 – Existing Site Plan, PL3/SM/2964-00 – Location Plan and Block Plan, PL3/SM/2964-01 – Proposed Ground Floor Plan, PL3/SM/2964-02 – Proposed First Floor Plan, PL3/SM/2964-03 – Proposed Roof Plan, PL3/SM/2964-04 – Proposed Elevations, PL3/SM/2964-05 – Proposed Section, PL3/SM/2964-07 – Proposed Site Layout inc. Fire Strategy Plan, PL3/SM/2964-08 – Tracking Diagram.
- 3) No development above ground level shall take place until full details and samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Details must include a detailed schedule of materials, a photographic sample board and rendered drawings, elevations and sections at a sufficient scale (1:20 or 1:50) to illustrate how all external materials will appear together. The submitted information should cover the following elements:
 - (a) Brick/stonework (including brick, stone, masonry, brick panels, feature brick panel, brick framing feature and mortar on-site sample panel, minimum one metre by one metre) including all mortar colours, joint type, brick bond;
 - (b) Any cladding materials / render (including specifications);
 - (c) Tiles / roof covering; including parapet coping / capping materials, dormers and canopies;
 - (d) Window types; and sectional drawings of reveals / courses / sills / textures / head details
 - (e) Balcony details (including soffits, panels and frame);
 - (f) Any privacy measures (including obscure glazing details, privacy screens etc.);
 - (g) Balustrading treatment and handrails to balconies and roof areas (including details / sections / materials);
 - (h) Any other materials/details / fittings to be used (including solar panels, extract vents, rainwater goods, boiler flues etc.), with sections and on-site samples where appropriate.
 - (i) Any boundary treatment that may be required

The development shall then be carried out in accordance with the approved details and maintained as such thereafter.
- 4) Notwithstanding any details included in the submitted plans, no development above ground level (except any demolition, site clearance, ground investigation and remediation work) shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority.

Hard landscape details shall include: proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing material; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); renewable energy installations (in particular air source heat pumps and associated screening where relevant).

Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme (including phasing of work where relevant).

The above soft landscape details shall include details of all proposed tree planting, such as the quantity, size, species, and positions of all trees to be planted, how they will be planted and protected and the proposed times of planting. This shall demonstrate compliance with the Manual for Streets and compatibility with any existing paving and underground utilities infrastructure.

All landscaping comprised in the approved details shall be carried out during the first planting and seeding seasons following completion of construction works or first occupation and the works shall comply with the requirements specified in British Standards 8545 (2014) 'Trees: from nursery to independence in the landscape', 3936 (1992) 'Specification of Nursery Stock Part 1 Trees and Shrubs', and 4428 (1989) 'Recommendations for General Landscape Operations'. Any trees or shrubs planted (including any such replacements) which die within five years from the date of planting shall be replaced in the next planting season with the same species, and of comparable maturity. The development shall be maintained in accordance with the approval.

- 5) The development hereby permitted shall be implemented in accordance with the approved Energy Strategy.

Prior to first occupation of any dwelling within the development hereby approved evidence (e.g. photographs, installation contracts and As-Built certificates under the Standard Assessment Procedure/National Calculation Method) shall be submitted to the Local Planning Authority and approved in writing to show that the development has been constructed in accordance with the approved Energy Strategy, and any subsequent approved revisions, and achieved a minimum on-site reduction in CO2 emissions of 75% for the development as a whole.

Upon final commencement of operation of any low and zero carbon technologies, suitable devices for the monitoring of the low and zero carbon technologies shall have been installed, and the monitored data shall be submitted automatically to a monitoring web-platform at daily intervals for a period of three years from the point of full operation.

- 6) A. No development (except demolition, archaeological investigations, ground condition investigations and intrusive site surveys and other enabling works: site clearance; soil storage; remedial works in respect of any contamination or any other adverse ground conditions; erection of any temporary means of enclosure

and land raising) shall take place until details have been submitted to and approved by the Local Planning Authority which demonstrate that:

(i) At least three of the key elements of the building envelope (external walls, windows roof, upper floor slabs, internal walls, floor finishes/coverings) are to achieve a rating of A+ to D in the Building Research Establishment (BRE) The Green Guide of specification.

(ii) At least 50% of timber and timber products are to be sourced from accredited Forest Stewardship Council (FSC) or Programme for the Endorsement of Forestry Certification (PEFC) scheme.

(iii) Detail measures taken to avoid construction or insulation materials which will release toxins into the internal and external environment, including those that deplete stratospheric ozone.

B. The development shall not be occupied until evidence (e.g. photographs and copies of installation contracts) have been submitted to the Local Planning Authority to demonstrate that the development has been carried out in accordance with the approved details under Part A of this condition.

- 7) The residential units hereby approved shall be fitted accordingly to achieve internal water use of 105L/person/day.
- 8) Before the development hereby permitted commences an updated contaminated land Phase 1 desk study report shall be submitted to, and approved in writing by the Local Planning Authority, acknowledging the site's full land quality history and in particular the hydrocarbon contamination previously identified across the site. Should the Phase 1 report recommend that a Phase 2 site investigation is required, then this shall be carried out and submitted to, and approved in writing by the Local Planning Authority. The site shall be investigated by a competent person to identify the extent and nature of contamination. The report should include a tiered risk assessment of the contamination based on the proposed end use of the site. Additional investigation may be required where it is deemed necessary, in this case including (but not necessarily limited to): gas monitoring including testing for hydrocarbon vapours with suitably sensitive equipment; and the testing of a groundwater sample from each borehole to determine the quality of groundwater on the site.

If required, a scheme for decontamination of the site shall be submitted to the Local Planning Authority, for written approval. The scheme shall account for any comments made by the Local Planning Authority before the development hereby permitted is first occupied.

The Local Planning Authority shall be notified immediately if additional contamination is discovered during the course of the development. A competent person shall assess the additional contamination, and shall submit appropriate amendments to the scheme for decontamination in writing to the Local Planning Authority for approval before any work on that aspect of development continues. Before the development is first brought into use the agreed scheme for decontamination referred to above, including amendments, shall be fully implemented and a written validation (closure) report submitted to the Local Planning Authority for approval.

- 9) No development shall take place until a Construction Logistics Plan (CLP), written in accordance with current TfL guidance, has been submitted to and approved in writing by the Local Planning Authority. The CLP shall include:
- (a) a site plan (showing the elements set out below);
 - (b) confirmation that a pre-start record of site conditions on the adjoining public highway will be undertaken with Hounslow Highways and a commitment to repair any damage caused;
 - (c) provision for the parking of vehicles of site operatives and visitors;
 - (d) provisions for loading, unloading and storage of plant and materials within the site;
 - (e) the provision of details of access to the site, including means to control and manage access and egress of vehicles to and from the site for the duration of construction including phasing arrangements;
 - (f) the provision of details of vehicle routeing from the site to the wider strategic road network;
 - (g) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (h) the provision of wheel washing facilities at the site exit and a commitment to sweep adjacent roads when required and at the request of the Council;
 - (i) a scheme for sustainably recycling/disposing of waste resulting from demolition and construction works;
 - (j) measures to ensure the safety of all users of the public highway especially cyclists and pedestrians in the vicinity of the site and especially at the access;
 - (k) commitment to liaise with other contractors in the vicinity of the site to maximise the potential for consolidation and to minimise traffic impacts;
 - (l) a commitment to avoid peak hours for construction-related deliveries by not delivering outside the hours of 10am - 3pm, and provision of details of a booking system to avoid vehicles waiting on the public highway;
 - (m) all necessary traffic orders and other permissions required to allow safe access to the site to be secured and implemented prior to commencement of construction;
 - (n) details of the construction programme and a schedule of traffic movements, including of how site operatives will arrive at the site, with a commitment that public transport will be encouraged.
 - (o) the use of operators that are members of TfL's Freight Operator Recognition Scheme (FORS) and are FORS Silver accredited or better.
 - (p) a Healthy Streets Assessment completed in line with TfL policy to consider the current condition of the neighbouring footways and highways and their suitability for active travel.
 - (q) a Travel Plan Statement setting out the existing conditions within and near to the development, promoting sustainable travel and outlining objectives, targets and measures towards the mitigation of Trip Generation as a result of the site.
 - (r) construction noise and vibration disturbance mitigation measures, as defined in BS 5228: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites
 - (s) dust mitigation measures

The approved CLP shall be adhered to throughout the construction period for the development.

- 10) No development (except any demolition, site clearance, ground investigation and remediation work) shall take place until finalised details of the arrangements for the storing of waste and recycled materials (including details of how the placing of

waste and recycled materials in a suitable location for collection would be undertaken and managed and demonstrating compliance with the Council's Recycling and Refuse Guidelines SPD) have been submitted to and approved in writing by the local planning authority. The development shall not be carried out otherwise than in accordance with the approved details.

- 11) Based upon guidance contained within BS 5228:2009 + A1:2014: Noise, noise levels from construction works at nearby existing and proposed residential receptors shall not exceed the following construction noise criteria:

Daytime works shall not exceed 75 dB LAeq,T at the worst-affected residential property during the following time periods:

- Monday to Friday (08:00 – 18:00 hours)
- Saturday (08:00 to 13:00 hours)

Works undertaken outside the standard hours will be subject to prior agreement and prior notice will be provided to the London Borough of Hounslow.

- 12) No dwelling shall be occupied until space has been laid out within the site in accordance with the submitted plans for 4 bicycles to be stored and that space shall thereafter be kept available for the storage of bicycles.