

OFFICER REPORT FOR DECISION UNDER DELEGATED AUTHORITY

APPLICATION NO: P0028.24

WARD: Elm Park **Date Received:** 5th January 2024

ADDRESS: 11 RYDER GARDENS
RAINHAM

PROPOSAL: Change of use from Class E with first floor front extension to provide 1 x 2-bed dwelling and 1 x 1-bed dwelling and associated landscaping. Involving removal of existing rear and side canopies.

DRAWING NO(S): LBRG-SCN-XX-XX-DR-A-10.002-M3-P01
LBRG-SCN-XX-XX-DR-A-10.004-M3-P01
21910-SCN-XX-XX-01-001-A1-PL01

RECOMMENDATION: It is recommended that **planning permission be REFUSED** for the reason(s) given at the end of the report

SITE DESCRIPTION

The application site is located on the north-western side of Ryder Gardens and contains a double storey semi-detached dwelling which benefits from a large double storey side extension. The subject site also has a side frontage to Wells Gardens along the north-eastern boundary. The subject site is current used as a Day Nursery (Class E).

The application site is not located within a conservation area or within the curtilage of a listed building.

DESCRIPTION OF PROPOSAL

The applicant seeks planning permission for a change of use from Class E with first floor front extension to provide 1 x 2-bed dwelling and 1 x 1-bed dwelling and associated landscaping.

RELEVANT HISTORY

W0307.23 The proposal includes a change of use, from a children's nursery to residential (C3). The existing building is divided along the major internal supporting wall to create two separate homes. These are a generously sized two storey 1B2P at approximately 63.6 sqm and a two storey 2B3P at 75.8sqm. A small area at first floor is extended out, to meet the existing front elevation and the roofline and pitch is carried across to match the neighbouring row

of houses. The current single storey bay window is raised in keeping with the local area and street scene.

Both homes have large rear gardens, independent front access, and parking space. An area of front garden and green space is proposed for the 1 bed house, replacing the unattractive bin store currently on the sites corner. The 2-bed house is also provided with independent rear garden access from Wells

Gardens Road. The street frontage currently occupied by a large parking area for the nursery is replaced with a blend of hard and soft landscaping.

Awaiting Decision

P1454.14	Retention of existing canopies. Apprv with cons	21-04-2015
P1528.14	Variation of condition 8 of Application P0574.09 - to increase the number of children on the premises from 12 to 13 Refuse	24-12-2014
P1549.13	Variation of condition 8 of planning application P0574.09 to increase the number of children on the premises from 12 to 15. Refuse	23-05-2014
P1156.12	Retrospective change of use of first floor of the dwelling to a day nursery. Refuse	14-12-2012
P1264.12	Variation of condition 8 and 15 of planning application P0574.09 to increase the number of children on the premises and use of the rear garden. Refuse	14-12-2012
A0027.11	Installation of one non-illuminated free standing signboard. Refuse	26-07-2011
P0724.11	Retention of boundary fencing at a reduced height and relocation of air conditioning units Refuse	26-07-2011
P1328.10	Change of use of first floor from residential to nursery and increase of number of children on site from 12 to 36 and number of children outside from 6 to 12 and 1m boundary fence Refuse	02-11-2010
A0027.10	Installation of one non-illuminated free standing signboard and the display of one non-illuminated sign at fascia level. Refuse	29-06-2010
P0605.10	Amendment to approved planning application P0574.09 Refuse	23-06-2010
P0574.09	Part change of use of existing dwelling into day nursery for up to 12 children with three carers (opening hours : 8.00am - 6.30pm Mon-Fri). Apprv with cons	26-06-2009

P0111.09	Part change of use of existing dwelling into day nursery for up to 10 children with two carers (opening hours : 8.00am - 4.30pm Mon-Fri). Withdrawn	23-03-2009
P0524.07	Conversion of existing side extension of 11 Ryder Gardens to provide a one bed dwelling. Refuse	11-05-2007
P1147.05	Conversion of existing two storey side extension to form one two bedroom house Refuse	08-08-2005
P1839.04	Amendment to approved plans - additional door and windows to side and rear, and front elevations. Apprv with cons	03-12-2004
P0942.04	Single storey extension amendment to approved plan no. P0346.04 Refuse	07-07-2004
P0346.04	Two storey side and rear extension Apprv with cons	20-04-2004
P2256.03	One bedroom two storey house Refuse	26-01-2004

CONSULTATIONS/REPRESENTATIONS

Consultation letters were sent to surrounding properties. Three objections or comments were received, which are summarised as:

- 1 - The proposal is out of character with the area as it introduces a row of terraces where the defined character is semi-detached dwellings
- 2 - Lack of landscaping as part of the proposal
- 3 - Insufficient amenity spaces for future occupants
- 4 - Concerns the dwellings would be used as an unauthorised HMO

Points 1-3 be assessed throughout this report. A neighbour also raised previous refusals for the site P1147.05 and P0524.07. Both of these refusals are from previous planning policy settings and do not form a material precedent. Officers will consider the proposal within the context of the Council's current planning policies and make an informed assessment accordingly.

Point 4 will not be assessed, the proposal seeks to create two new dwellings independent of one another. As such, it is unlikely this could be used improperly as one large HMO.

In addition the following comments were made by other stakeholders.

Highways: Objection due to distance of crossover from the junction
Anglia Water Assets: No comments
Thames Water: No comments
Street Naming: Applicant must apply.

London Fire Brigade: No objection.

Waste and Recycling: Waste storage must be provided with refuse presented to Ryder Gardens on collection day.

LBH Environmental Health: No response.

RELEVANT POLICIES

Havering Local Plan (2016 - 2031)

Policy 3 Housing supply

Policy 7 Residential design and amenity

Policy 10 Garden and backland development

Policy 12 Healthy communities

Policy 16 Social Infrastructure

Policy 23 Transport Connections

Policy 24 Parking provision and design

Policy 26 Urban design

Policy 27 Landscaping

Policy 33 Air quality

Policy 34 Managing pollution

Policy 35 On-site waste management

London Plan (2021)

Policy D3 Optimising site capacity through the design-led approach

Policy D4 Delivering good design

Policy D5 Inclusive design

Policy D6 Housing quality and standards

Policy D7 Accessible housing

Policy D11 Safety, security and resilience to emergency

Policy D14 Noise

Policy H1 Increasing housing supply

Policy H2 Small sites

Policy SI 1 Developing London's social infrastructure

Policy S3 Education and childcare facilities

Policy SI 5 Water infrastructure

Policy SI 13 Sustainable drainage

Policy T4 Assessing and mitigating transport impacts

Policy T5 Cycling

Policy T6 Car parking

Policy T6.1 Residential parking

Policy T7 Deliveries, servicing and construction

Policy T9 Funding transport infrastructure through planning

NPPF (2021)

5. Delivering a sufficient supply of homes

9. Promoting sustainable transport

11. Making effective use of land

12. Achieving well-designed places

Supplementary Planning Guidance

LB Havering 'Waste Management Practice Planning Guidance For Architects and Developers'

London Plan Housing SPG (2016)

London Plan Control of Dust and Emissions SPG (2014)

London Plan Character and Context SPG (2014)

London Plan Accessible London SPG (2014)

MAYORAL CIL IMPLICATIONS

The application proposes to convert the existing building into two separate dwellings. However, there is only a minor increase in the overall footprint of the dwelling which is less than 100sqm, and, therefore the proposal is not liable for CIL contributions.

STAFF COMMENTS

A site visit was not undertaken as part of assessment of this application. Site photos were provided by the agent in support of this application. In determining this application, the provided photographs, Google Street View, Aerial Imagery and the submitted drawings were used to complete the assessment.

The applicant engaged the Council for Pre-Application advice (W0307.23). Advice will be referred to throughout the report where necessary.

PRINCIPLE OF DEVELOPMENT

On the 30th May 2022, the Government issued Havering with an updated Housing Delivery Test result for 2021. The update takes account of the adoption of the Havering Local Plan in November 2021 and reflects the stepped housing targets set out with the Plan for the period 2016-2031. The updated Housing Delivery Test Result is 78%. In accordance with the NPPF the "Presumption" due to housing delivery therefore does not apply.

Based on the latest Housing Trajectory (initially published in 2019 and updated in 2023 through the Havering Authority Monitoring Report), Havering cannot currently demonstrate a five year supply of deliverable housing sites. The Havering Local Plan was found sound and adopted in 2021 in the absence of a five year land supply. The Inspector's report concluded:

"85. Ordinarily, the demonstration of a 5-year supply of deliverable housing land is a prerequisite of a sound plan in terms of the need to deliver a wide choice of homes. However, in the circumstances of this Plan, where the housing requirement has increased at a late stage in the examination, I ultimately conclude that the Plan, as proposed to be modified, is sound in this regard subject to an immediate review.

86. This is a pragmatic approach which is consistent with the findings of the Dacorum judgement. It aims to ensure that an adopted plan is put in place in the interim period before the update is adopted and the 5-year housing land supply situation is established."

The Council is committed to an immediate update of the Local Plan and this is set out in the Council's Local Development Scheme. An update to the trajectory is being prepared but there is no firm date for the work to be completed.

Therefore, in the meantime whilst the position with regard to housing supply is uncertain, consideration has been given to the effect of the tilted balance referred to in Paragraph 11(d) of the NPPF as if the presumption in favour of sustainable development outlined in paragraph 11(d) of the National Planning Policy Framework (NPPF) has been engaged.

Para 11(d) states that where the policies which are most important for determining the proposal are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Fundamentally this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

The proposed development would offer one additional dwelling to housing supply and delivery and this would weigh in favour of the development. However, paragraphs 126-130 of the NPPF require high quality design, consideration of character and a high standard of amenity for existing and future users. For the reasons outlined within this report, the proposed development is unacceptable in regard to its resultant impact on character, poor quality accommodation and impacts on living standards for the existing and future residents - these are key aspects of sustainable development.

Therefore, the proposal does not benefit from the presumption in favour of sustainable development set out in paragraph 11(d) of the NPPF.

The proposed development would offer a modest contribution to housing supply and delivery and this would weigh in favour of the development. Paragraphs 131-135 of the NPPF require high quality design, consideration of character and a high standard of amenity for existing and future users. For the reasons outlined within this report the proposed development would unacceptably result in the loss of critical social infrastructure (childcare facilities) within the borough. Therefore, the proposal does not benefit from the presumption in favour of sustainable development set out in paragraph 11(d) of the NPPF.

DENSITY/SITE LAYOUT

Policy D6 of the London Plan provides guidance in relation to the dwelling quality and standards within residential developments.

The proposal seeks to create a 2B3P dwelling and a 1B2P dwelling.

The proposed 2B3P dwelling would have an approximate GIA of 76sqm while the 1B2P dwelling would have an approximate GIA of 64sqm, of which, both exceed the minimum required for both dwellings. They would each contain adequate levels of storage while all bedrooms are appropriately sized and the overall layout of the dwelling is functional. Both dwellings would provide acceptable

headroom for occupants. Overall, both dwellings would provide a reasonable quality of accommodation for future residents.

The proposed 2B3P dwelling would be dual aspect with good outlook from the front and rear elevations at both levels. There is no real change from when the original dwelling was built. Conversely, Officers did raise some concerns with the outlook of the 1B2P dwelling during Pre-app. To the rear at the ground level it only looks out approximately 1.5-1.7 to a rear boundary fence which creates a constrained outlook. Due to the positioning of the staircase to the north-eastern elevations there is limited opportunity to add additional fenestrations to compensate. At the first floor level the bedroom has good outlook towards the street scene. Again there were concerns that the study could potentially be used in the future as a bedroom which again would have limited outlook towards the flank wall of No. 1 Wells Gardens. On balance, while the outlook of the 1B2P dwelling is somewhat constrained by the layout and positioning close to neighbours Officers consider that the overall impact to the outlook would not be impacted to a level that it warrants refusal on this basis.

The dwellings would benefit from an outdoor amenity space covering approximately 47sqm (2B3P) and 53sqm (1B2P) which is in excess of the minimum requirements. This would provide sufficient private amenity space for a future occupants. However, the design of the garden of the 1B2P appears somewhat contrived. While the design and size of both private garden areas would not be dissimilar to that of neighbours in the immediate area. The arrangement of having the garden along the side of the dwelling would not ordinarily be encouraged. However, it is noted that there is existing amenity area to the side of the plot and that this is already enclosed by a high brick wall, As such, the proposal does not appear to materially change the current situation on site.

If minded to approve further details on the proposed boundary treatments would be sought and could be secured by condition.

Having applied the relevant standards to the proposals the proposed dwelling would exceed in most instances the requirements set out in Policy D6 of the London Plan. As such, the proposal is deemed to afford a reasonable degree of amenity to future occupants.

DESIGN/IMPACT ON STREET/GARDEN SCENE

Local Plan Policy 26 states that the Council will promote high quality design that contributes to the creation of successful places in Havering by supporting development proposals that respect, reinforce and complement the local streetscene and respond to distinctive local building forms and patterns of development and respect the visual integrity and established scale, massing, rhythm of the building, frontages, group of buildings or the building line and height of the surrounding physical context.

Positioning:

The surrounding area largely consists of semi-detached dwellings with some isolated detached dwellings. The subject site has a larger than typical rear/side garden area which may accommodate an additional dwelling. Indeed no further increases to the ground floor footprint is required to be added to alter the side extension into a new dwelling. There is no issue in principal with a dwelling being positioned where it is proposed.

Design, Scale, Bulk and Massing:

The surrounding area has a relatively consistent design profile. It largely consists of semi-detached pairs albeit there are some different angles and arrangements of these pairs to accommodate the non-linear arrangement of the surrounding road network. The main concern with the scheme which was duly raised by neighbours is that the proposal would create a small row of three terraces. This would be inconsistent with the established semi-detached character of the immediate area. The impact of this is heightened due to the prominence of the subject site at the junction with Wells Gardens. While terracing these dwellings is not preferable Officers must assess whether the level of harm caused to the character of the area is so significant it would warrant refusal.

Having reviewed the area there do appear to be instances in the immediate area where there are dwellings which appear to be terraced in a staggered formation. Dwellings at 38-48 Ryder Gardens are only approximately 70m away while there is another set of these staggered dwellings at 13-23 Wells Garden. While the current side extension is set down from the main ridge line and appears subservient the large footprint of the extension does give somewhat of an appearance of an another dwelling. It is argued the additional dwelling and the terracing effect is not overwhelming dissimilar to the current design within the street scene. Having considered the above, Officers do not consider that the additional dwelling which creates a new row of terraces would not be so incongruous and by extension harmful to the character of the street scene to warrant refusal.

Materials:

The proposed converted dwelling would front Plumpton Avenue and would be prominent within the street scene.

There are no details regarding the proposed materials provided on the plans although the Planning Statement does state it would be made with materials to match that of the existing dwelling at No. 54 Central Drive which would likely be acceptable. If minded to approve a condition would be applied requesting sample materials be submitted for Officers to review before works commence.

Landscaping:

While the plans do denote that some degree of landscaping is proposed Officer's would likely seek further details. This area would be required to be landscaped to help soften the harshness of the site and improve the outlook views from the eastern elevation. This can be achieved via condition, if minded to approve.

Overall, the proposed dwelling is deemed to suitably designed such that its architectural design, massing and bulk are representative of existing dwellings within the immediate area and are consistent with Policies 7 and 26 of the Havering Local Plan.

IMPACT ON AMENITY

Local Plan Policy 7 seeks to protect the amenity of existing and future residents, it states that the Council will support developments that do not result in:

- i. Unacceptable overlooking or loss of privacy or outlook;
- ii. Unacceptable loss of daylight and sunlight; and
- iii. Unacceptable levels of noise, vibration and disturbance.

Given the nature of the proposal being a conversion with no extensions to the existing garage it is

not anticipated to cause overshadowing/loss of light impacts to the amenity of the adjacent neighbour.

Given the footprint of the original main dwelling would remained unchanged there would no impact to amenity to the attached neighbour at No. 9 Ryder Gardens with respect to overshadowing/loss of light. Similarly, while there would be overlooking from the rear first floor windows this relationship has not changed albeit it would be a family home rather than a nursery. It is likely a family home would be less noisy than a day nursery and would offer an improvement to amenity in that sense.

The newly proposed dwelling would have private amenity space to the side of the dwelling which would mitigate the privacy impacts of this donor dwelling being able to overlook directly into the limited space to the rear of the proposed new dwelling.

Given the new dwelling is a corner allotment there is not a neighbour to the side that would be impacted. The other nearby neighbour at No. 1 Wells Gardens is unlikely to be impacted by the proposal. There is such limited changes proposed to the footprint of the dwelling such that the windows remain as is while the only other additional bulk is located to the front elevation.

Having regard to all of the above the proposal would provide an adequate degree of amenity to neighbours and future occupants and is compliant with Policy 7 of the Havering Local Plan.

HIGHWAY/PARKING

Car Parking:

The site has a PTAL of 2 and the maximum parking provision that London Plan policy T6.1 allows is up to 1 space per dwelling. The proposed plan would provide 2 car parking spaces which would exceed the guidance of Policy T6.1. The Council's Highways Department did object to the proposal due to the crossover not being 10m from the junction with Wells Gardens as required under current policy settings. However, it is noted the existing access arrangement is already in situ. Given it has been previously being used as a childcare facility it is likely that this would have attracted more day-to-day traffic than two individual dwellings. Therefore, it is difficult to argue that the conversions to the two dwellings would present a scenario which would be as busy or dangerous than the existing. Therefore, it is not considered despite not being totally policy compliant that the access to the site would be so harmful to public highway safety that it should warrant a refusal.

Cycle Parking/Refuse and Recycling

Both Cycle parking and Refuse/Recycling storage are indicated on plans and would lie to the rear (2B3P) and adjacent (1B2P) to the dwellings out of view of the street scene. The positioning and orientation of the storage facilities is considered to be appropriate and would not be seen to clutter amenity space provided. The provision is considered adequate to address the requirements of these policies.

OTHER ISSUES

Policy 16 of the Local Plan states 'Proposals which would result in a loss of social infrastructure in areas of defined need for that type of social infrastructure without realistic proposals for re-provision will not be permitted'.

Policy S3 in the London Plan states that 'Development proposals should ensure that there is no net loss of education or childcare facilities, unless it can be demonstrated that there is no ongoing or future need'.

The Council's Early Education Department were contacted for comment after which they provided Officers with details regarding the Government policy in the Spring Budget for 2023 in announcing the 30 hours child care entitlement will be extended in stages from April 2024 to children aged nine months to three years in England. Eligibility will match the existing entitlement: it will be available only for the children of working families. Given the extent of the expanded entitlement and the resulting increase in demand for additional childcare hours, any loss of childcare facilities would be deemed detrimental to the successful roll out of the expanded entitlement in Havering.

Although the nursery is currently not operational, if this planning application is approved, this will permanently remove the site's ability to operate as a nursery. This would result in the loss of social infrastructure specifically child care facilities and would unacceptably contravene the requirements of Policy 16 of the Local Plan and Policy S3 of the London Plan.

The applicant did provide some details to support their proposal to change the use to new dwellings. Notably:

- The applicant has engaged a local estate agent since April 2023 (no buyer interest);
- The permitted maximum capacity of 12 children at ground floor only greatly restricts the nursery's viability. The limited number of spaces, combined with rising running/staff costs deters even the smallest providers;
- There is little to no scope for further expansion of the facility to make it more viable.

Despite the information provided Officers do not consider that sufficient justification has been provided for the Council to reconcile with failing to meet the clear requirements of Policy 16 of the Local Plan and Policy S3 of the London Plan. The applicant has not considered whether the site could be used for other types of social infrastructure. Additionally, the Council would prefer to review a more detailed assessment of efforts in trying to find a buyer for the business as it currently is. While on its own the nursery may not represent a large childcare facility in terms of its overall contribution within the wider borough. However, the Council is hesitant to set any precedent where similar types of childcare facilities would be lost without robust justification. A cumulative loss of similar social infrastructure would likely be highly detrimental to the function of the borough particularly given the Government's stated policy to continue the previously announced childcare entitlements.

As such, it is considered that there is not sufficient reasoning for the loss of existing nursery meaning the proposal would result in the loss of critical social infrastructure contrary to Policy 16 of the Local Plan and Policy S3 of the London Plan.

KEY ISSUES/CONCLUSIONS

Having regard to the above and in doing so all relevant planning policy and material considerations **REFUSAL** is recommended accordingly.

RECOMMENDATION:

It is recommended that **planning permission be REFUSED** for the following reason(s)

1 Refusal non standard

The conversion of the existing nursery into two dwellings would result in the loss of a social infrastructure (child care facility) within the borough where there is demonstrated need for social infrastructure. Given there is no realistic proposal for re-provision of this childcare facility, the proposal would be contrary to the requirements and objectives of Policy 16 of the Local Plan and Policy S3 of the London Plan.

INFORMATIVES

1 Refusal - No negotiation ENTER DETAILS

Statement Required by Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015: Consideration was given to seeking amendments, but given conflict with adopted planning policy, notification of intended refusal and the reason(s) for it was given to the agent Mr M Jones via email on 11/03/2024.

Authorising Officer:



Raphael Adenegan

13th March 2024