

OFFICER REPORT FOR DECISION UNDER DELEGATED AUTHORITY

APPLICATION NO: P1464.23

WARD: Rainham & Wennington **Date Received:** 26th September 2023

ADDRESS: 1A The Green, Wennington
Rainham

PROPOSAL: Conversion of two storey side extension to a self-contained residential unit
- (Retrospective)

DRAWING NO(S): D1088/PA/001 Revision A
D1088/PA/002 Revision A
1
2
3

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

SITE DESCRIPTION

The site comprises of a two storey semi-detached dwelling with a two storey side extension, which has been converted into a two storey dwelling at No. 1A The Green, Wennington. The site is located within the Metropolitan Green Belt and Flood Zone 2 and partially within Flood Zone 3a.

DESCRIPTION OF PROPOSAL

The application seeks planning permission for the conversion of a two storey side extension to a self-contained residential unit - (Retrospective).

The application form states that the work or change of use started on 2nd March 2020, but it has not been completed.

From previous applications for Certificates, the applicant/agent consider that the use as a separate dwelling is lawful. However, no certificate has been issued and it has not be demonstrated that the separate use has been in existence for a continuous period of 4 years. The current application seeks to separate the garden and parking areas. It has been assessed on the basis that a previous part of the main dwelling (annexe) is proposed to be used as a separate self-contained dwelling.

RELEVANT HISTORY

E0001.22 Certificate of Lawfulness for the use of an existing extension as a separate

	dwelling	
	PP is required	20-05-2022
e0058.21	RETENTION OF EXISTING EXTENSION AS A SEPARATE DWELLING	
	Withdrawn - Invalid	13-12-2021
e0055.21	Permission to have the extension as a separate dwelling	
	Withdrawn - Invalid	18-01-2022
D0533.21	Certificate of Lawfulness for conversion of two storey dwelling to 1 x self contained dwelling and 1 x self contained flat	
	Withdrawn - Invalid	19-08-2021
E0036.21	Certificate of Lawfulness for conversion of two storey dwelling to 1 x self contained dwelling and 1 x self contained flat	
	PP is required	15-10-2021
p0150.12	Change of use of two storey side extension to attached dwelling	
	Refuse	11-08-2014
p1849.04	Single and two storey side extension and front porch to existing bay window/door	
	Apprv with cons	06-12-2004
p0373.04	Erection of a two storey side extension and front porch to existing front facade.	
	Refuse	22-04-2004

CONSULTATIONS/REPRESENTATIONS

Seven neighbouring properties were consulted. No letters of representation were received.

Street naming and numbering - The application will require to be street named and numbered.

Anglian Water - No comments.

Thames Water - No comments.

Fire Brigade - No additional hydrants are required.

StreetCare Department - Waste storage to be provided. Waste and recycling sacks will need to be presented by 7am on the boundary of the property facing The Green on the scheduled collection day.

Arboriculture - No objection. Detailed comments are contained elsewhere in this report.

Public Protection Department - It is noted that this is a retrospective application, for the conversion of a two storey side extension/annexe into a self-contained property. It is noted that the original application for the annexe was granted back in 2014 (P1849.04), with minimal conditions regarding air quality or contaminated land. There are no comments to make regarding noise. However, if this application was made now, for the formation of a single dwelling, the standard contamination

conditions would be applied (due to the presence of a potentially contaminating graveyard within 50m of the site). Also, it would be required that the standard air quality conditions be enforced regarding low NOx boilers and also electric vehicle charging (EVC) for the provided parking spaces. It is considered that the requirement of the contaminated land condition cannot be enforced (as it's a change of use and no further excavations are to be carried out). However, it is considered that the standard conditions regarding a Low NOx boiler and EVC provision should be imposed, to ensure that the new development (though retrospective) is air quality neutral and complies with the requirements of the London Plan.

Highway Authority - If the new property is one bedroom, then the parking levels are fine. Also, if there is to be common land on the property frontage that will ensure that both properties are able to use the existing dropped kerb that too is fine. Therefore, no outstanding concerns.

Environment Agency - No objection to this proposal. However, please consider the following. The application site is located within Flood Zone 2 and partially within Flood Zone 3a from tidal flooding. However, the site is protected by the Thames Tidal flood defences up to a 1 in 1000 (0.1%) chance in any year flood event. Our most recent breach hazard modelling study shows the site to be outside of the areas impacted by flooding if there was to be a breach in the flood defences or they were to be overtopped. Our modelling also shows that water would stay in channel during fluvial events. We therefore consider this development to be at a low risk of tidal flooding. However, please note that Paragraph 173 of the National Planning Policy Framework (NPPF) states that applications should be supported by a site specific Flood Risk Assessment (FRA) which considers all sources of flooding, including surface water. The applicant has not submitted an FRA with this planning application which is contrary to the requirements of the NPPF and a valid reason for refusal. We recommend that you refer to the Strategic Flood Risk Assessment (SFRA) for the borough and seek advice from the Lead Local Flood Authority (LLFA) and emergency planning team where appropriate.

RELEVANT POLICIES

Policies 3 (Housing supply), 5 (Housing mix), 7 (Residential design and amenity), 10 (Garden and backland development), 24 (Parking provision and design), 26 (Urban Design), 27 (Landscaping), 32 (Flood management), 33 (Air quality), 34 (Managing pollution) and 35 (On-site waste management) of the Havering Local Plan (2016-2031). The Havering Community Infrastructure Levy Charging Schedule is relevant.

Policies D1 (London's form, character and capacity for growth), D4 (Delivering good design), D6 (Housing quality and standards), G2 (London's Green Belt), H1 (increasing housing supply), H2 (Small sites), H10 (Housing size mix), SI 12 (Flood risk management), T6 (Car parking), T6.1 (Residential parking) and T9 (Funding transport infrastructure through planning) of the London Plan 2021 are relevant.

The National Planning Policy Framework is relevant.

MAYORAL CIL IMPLICATIONS

The site lies in the south (Zone B) Havering CIL charging area. The development may attract a CIL charge based on the floorspace within the development, as the development involves the creation of a new residential unit. A detailed assessment of whether a CIL charge would be applicable would be undertaken by the CIL Collecting Authority following the grant of planning permission. If the development was deemed to attract a CIL charge by the CIL Collecting Authority, based on the gross internal floor space of 46.6 square metres of the development, the indicative Havering CIL charge would be £2,563 (46.6 sqm x £55/sqm) and a Mayoral CIL liability of £1,165 (46.6 sqm x £25/sqm) subject to indexation.

STAFF COMMENTS

There are numerous planning and certificate of lawfulness applications for the site. The most recent one was E0001.22 - a Certificate of Lawfulness for the use of an existing extension as a separate dwelling - planning permission is required. The reason for not issuing the certificate was: Insufficient qualitative and quantitative evidence has been provided in support of the application and the lack of substantive evidence is considered to weigh against the proposals.

Planning application P0150.12 for a change of use of two storey side extension to attached dwelling was refused on the grounds that:

1) In the absence of a mechanism to secure a planning obligation towards the infrastructure costs of new development the proposal is contrary to the provisions of the Havering Planning Obligations Supplementary Planning Document and Policy DC72 of the LDF Core Strategy and Development Control Policies DPD.

There is an enforcement case, reference ENF/623/21, for without planning permission, the material change of use of an extension to a dwelling, which is under investigation.

In accordance with the current protocol for site visits, an in-person site visit was not considered to be necessary. Site photos were provided by the applicant/agent in support of the application. In determining this planning application, photos, Google Street View™, aerial view images and submitted drawings were used to assess the site constraints.

The main issues in this case are the principle of development, density and site layout, design/impact on streetscene, impact on amenity, highway/parking issues, flooding and trees.

PRINCIPLE OF DEVELOPMENT

On the 19th December 2023, the Government published the Housing Delivery Test result for 2022. The Housing Delivery Test Result for 2022 is 55%. In accordance with the NPPF the "Presumption" due to housing delivery therefore applies.

Furthermore 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 and the Council is committed to an immediate update of the Local Plan. 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, the "Presumption" due to housing supply is applied.

The Presumption refers to the tilted balance set out 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 a modest contribution to housing supply and delivery and this would weigh in favour of the development. However, 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 is unacceptable in regard to its resultant impacts on living standards for existing and future residents - this is a key aspect of sustainable development.

The adverse impacts identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. Therefore, the proposal does not benefit from the presumption in favour of sustainable development set out in paragraph 11(d) of the NPPF.

GREEN BELT IMPLICATIONS

The application site falls within the Metropolitan Green Belt. National and local policies refer to a presumption against inappropriate development in Green Belt areas. The retrospective conversion of a two storey side extension to a self-contained residential unit is not considered to be inappropriate in principle, as it involves the subdivision of an existing dwelling within the Green Belt. The application does not involve any external changes or enlargement of the two storey side extension and therefore, does not adversely affect the open nature and character of the Green Belt. Overall, it is Staff's view that the application is in accordance with the national guidance for Green Belts as contained within the NPPF.

DENSITY/SITE LAYOUT

INTERNAL SPACE STANDARDS

Policy 7 (Residential design and amenity) of the Havering Local Plan states that: "To ensure a high quality living environment for residents of new developments, the Council will support residential developments that: iv. Meet the National Space Standards and the London Plan requirement for floor to ceiling heights."

Policy D6 of the London Plan states that Housing development should be of high quality design and provide adequately-sized rooms (see Table 3.1) with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. Dwellings

must provide at least the gross internal floor area and built-in storage area set out in Table 3.1. Housing developments are required to meet the minimum standards below which apply to all tenures and all residential accommodation that is self-contained.

During the course of the application, the agent provided some internal photographs of the dwelling at the Case Officer's request, which were taken into account during the assessment of this application.

The minimum space standard in the London Plan for a two storey, one bedroom, two person dwelling is 58 square metres. The two storey, one bedroom, 2 person dwelling has a gross internal floor space of 46.6m², which fails to meet the minimum space standard contrary to Policy 7 of the Havering Local Plan, Policy D6 of the London Plan and the guidance in the National Planning Policy Framework. It is considered that the shortfall of accommodation fails to provide sufficient space to provide a self-contained dwelling, which is harmful to the amenity of current and future occupiers. Whilst the accommodation may have been used in the past, in the absence of any evidence that it has been lawfully used independently, it is reasonable to conclude that the lawful use was as an annexe where other parts of the main dwelling would be available to occupiers.

Policy D6 states that a two bedspace double (or twin) bedroom must have a floor area of at least 11.5 sq.m. and be at least 2.75m wide. The double bedroom has an area of 13.4 square metres and a minimum width of 3 metres, which complies with this policy.

Policy D6 of the London Plan states that "The minimum floor to ceiling height must be 2.5m for at least 75 per cent of the Gross Internal Area of each dwelling". According to the pre-existing Section drawing for Ref: P1849.04, the dwelling has an internal floor to ceiling height of 2.4 metres at ground floor and between 2.35 and 2.4 metres at first floor. Although this is below the minimum floor to ceiling height of Policy D6, it is deemed to be within the realms of acceptability in this instance, as the application involves the conversion of a two storey side extension into a self-contained residential unit.

QUALITY OF INTERNAL SPACE

The accommodation offers suitable amounts of ventilation and outlook from the rooms of the unit.

EXTERNAL AMENITY SPACE

Policy D6 of the London Plan states that "Where there are no higher local standards in the borough Development Plan Documents, a minimum of 5 sq.m. of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sq.m. should be provided for each additional occupant, and it must achieve a minimum depth and width of 1.5m".

The dwelling and donor property have access to adequately sized private gardens of approximately 34 and 120 square metres respectively. The size of the amenity spaces exceeds the 5 square metres as per Policy D6 of the London Plan. Taking the above factors into account, it is considered that the amenity space provision is acceptable in this instance. The plans show a 1.8m high fence separating the gardens of the dwelling and donor properties. Site photographs show that the rear gardens of the dwelling and the donor property have not been subdivided, so a boundary treatment condition will be imposed if minded to grant planning permission. The Block Plan appears to show an area of paving to the rear of the dwelling and donor property. Although, site photographs show an area of decking to the rear of the dwelling and the donor property which abuts new grassed areas. A landscaping condition can be secured by condition if minded to grant planning permission.

DESIGN/IMPACT ON STREET/GARDEN SCENE

It is considered that the retrospective conversion of a two storey side extension to a self-contained residential unit does not adversely affect the streetscene, as it hasn't involved any external changes to the property.

IMPACT ON AMENITY

It is considered that the retrospective conversion of a two storey side extension to a self-contained residential unit has not resulted in a significant loss of amenity to the donor property, as it hasn't involved any external works to the property. It is considered that the dwelling has not resulted in any undue overlooking or loss of privacy to neighbouring occupiers. A condition can be placed in respect of boundary treatments if minded to grant planning permission.

The dwelling is well separated from St Mary and St Peter's Church and the electrical substation.

The Public Protection Department was consulted and provided the following comments. It is noted that this is a retrospective application, for the conversion of a two storey side extension/annexe into a self-contained property. It is noted that the original application for the annexe was granted back in 2014 (P1849.04), with minimal conditions regarding air quality or contaminated land. There are no comments to make regarding noise. However, if this application was made now, for the formation of a single dwelling, the standard contamination conditions would be applied (due to the presence of a potentially contaminating graveyard within 50m of the site). Also, it would be required that the standard air quality conditions be enforced regarding low NOx boilers and also electric vehicle charging (EVC) for the provided parking spaces. It is considered that the requirement of the contaminated land condition cannot be enforced (as it's a change of use and no further excavations are to be carried out). However, it is considered that the standard conditions regarding a Low NOx boiler and EVC provision should be imposed, to ensure that the new development (though retrospective) is air quality neutral and complies with the requirements of the London Plan.

It is not considered necessary or reasonable to impose a condition regarding Ultra Low NOx boilers, as the two storey side extension has already been converted into a self-contained residential unit.

HIGHWAY/PARKING

The site has a Public Transport Access Level (PTAL) of 1a. Policy 24 of the Havering Local Plan has a minimum parking standard of 0.5 spaces per 1 bedroom unit in PTAL 0-1.

The agent has confirmed via email that: "There are two designated car parking spaces for No. 1 The Green and one car parking space for No. 1A The Green (one bedroom property)". The occupiers of the dwelling and the donor property use the original dropped kerb for the vehicles. "There will be a common piece of land allowing access for both vehicles in and out of each property - this will be identified in the deeds and they will both have the requirement to keep the land acceptable for access. This is how the properties are currently accessed and there has been no issues".

The Highway Authority was consulted and provided the following comments. If the new property is

one bedroom, then the parking levels are fine. Also, if there is to be common land on the property frontage that will ensure that both properties are able to use the existing dropped kerb that too is fine. Therefore, no outstanding concerns.

Given the low PTAL rating of the site, it is considered that the level of car parking provision for the dwelling and the donor property is acceptable in this instance. A condition will be placed stating that one car parking space shall be allocated to the occupiers of the dwelling of 1A The Green as shown on Drawing No. D1088/PA/001 Revision A if minded to grant planning permission.

The Block Plan refers to resin gravel to the driveways with a Marshalls cobbled Edinburgh soft edging and an area of Marshalls paving to be confirmed - permeable surface. A condition will be placed stating that "All hard surfaces hereby approved as part of the development (including any sub-base) shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the application site. Reason: In order to ensure no water run-off from the hard surface which would contribute to risk of flooding" if minded to grant planning permission.

Policy T6.1 (Residential parking) of the London Plan states that "Where car parking is provided in new developments, provision should be made for infrastructure for electric or other Ultra-Low Emission vehicles in line with Policy T6.1 Residential parking". A condition will be imposed stating that "Within 3 months of the date of this decision, the residential parking space for 1A The Green shall be provided with active vehicle charging facilities for electric or Ultra-Low Emission vehicles.

Reason: Provision for infrastructure for electric or other Ultra-Low Emission vehicles within 3 months of the date of this decision will ensure that the development adequately incorporates measures to allow the use of electric vehicles by future occupiers in accordance with Policy T6.1 of the London Plan" if minded to grant planning permission.

CYCLE PARKING & SERVICING

Policy T5 of the London Plan has a minimum cycle parking standard of 1.5 spaces per 2 person 1 bedroom dwelling. The block plan shows external bin stores in the rear gardens of the dwelling and the donor property. There is sufficient space in the rear gardens of the dwelling and the donor property to accommodate cycle storage and refuse provision and therefore, it is not deemed necessary to secure details of these by condition.

OTHER ISSUES

PERMITTED DEVELOPMENT RIGHTS

The site is not subject to any limitation for permitted development rights for any extensions, enlargements or alterations. Under the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO), Schedule 2, Part 1, there is the potential for the dwelling to be extended further (potentially by an additional rear extension under the larger home extension prior approval scheme, or upwards by two additional storeys). Consequently, this has the potential to create an excessively large dwelling, and has the potential to result in overdevelopment of the site, which would be inappropriate for the streetscene, and the area more generally. Therefore limiting the ability of future occupants from extending the property under the GPDO would protect the character and appearance of the property and the area more generally without necessarily prejudicing the land owner(s); who can always submit a further planning application if need be. Therefore, such a condition would be required on any grant of

planning permission.

TREES

There are no trees with TPOs on the site. The Council's Arboricultural consultant was consulted and provided the following comments. There are no trees on the site to have been impacted by the proposal and the only trees within 15m of the redline boundary for this application are those within the hedgerow on the boundary of the St Mary and St Peters Church and access lane. This hedgerow does not fall within the Tree Preservation Order that is present on the church, nor is this area positioned within a Conservation Area; as such, these trees/hedgerows are unprotected. The size of the trees in this position are small and the Root Protection Areas are equally potentially small, limiting the potential impact of the hard and soft landscaping works to these trees. Given the distance of some 4m to 5m from the works area, the works undertaken are unlikely to have caused a detrimental impact to trees and on this basis, the retrospective application is recommended to be passed with no objection, from an Arboricultural perspective. It is considered that the dwelling doesn't affect any trees on the site.

FLOOD RISK

The site is located within Flood Zone 2 and partially within Flood Zone 3a. A Flood Risk Assessment was not submitted. The Environment Agency was consulted and has no objection to this proposal. However, the EA has requested that the following points should be considered. The application site is located within Flood Zone 2 and partially within Flood Zone 3a from tidal flooding. However, the site is protected by the Thames Tidal flood defences up to a 1 in 1000 (0.1%) chance in any year flood event. Our most recent breach hazard modelling study shows the site to be outside of the areas impacted by flooding if there was to be a breach in the flood defences or they were to be overtopped. Our modelling also shows that water would stay in channel during fluvial events. We therefore consider this development to be at a low risk of tidal flooding. However, please note that Paragraph 173 of the National Planning Policy Framework (NPPF) states that applications should be supported by a site specific Flood Risk Assessment (FRA) which considers all sources of flooding, including surface water. The applicant has not submitted an FRA with this planning application which is contrary to the requirements of the NPPF and a valid reason for refusal. We recommend that you refer to the Strategic Flood Risk Assessment (SFRA) for the borough and seek advice from the Lead Local Flood Authority (LLFA) and emergency planning team where appropriate.

Given that the two storey side extension has already been converted into a self-contained residential unit, it is considered that the application would not benefit from a flood risk assessment. The Environment Agency has no objection to the application and the site is protected by Thames Tidal flood defences. Taking these factors into account, the application is deemed to be acceptable in terms of flooding.

KEY ISSUES/CONCLUSIONS

The two storey, one bedroom, 2 person dwelling has a gross internal floor space of 46.6m², which fails to meet the minimum space standard of 58 square metres. The shortfall of accommodation fails

to provide sufficient space to provide a self-contained dwelling, which is harmful to the amenity of current and future occupiers contrary to Policy 7 of the Havering Local Plan, Policy D6 of the London Plan and the guidance in the National Planning Policy Framework

RECOMMENDATION:

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

1 Refusal non standard

The two storey, one bedroom, 2 person dwelling has a gross internal floor space of 46.6m², which fails to meet the minimum space standard of 58 square metres. The shortfall of accommodation fails to provide sufficient space to provide a self-contained dwelling, which is harmful to the amenity of current and future occupiers contrary to Policy 7 of the Havering Local Plan, Policy D6 of the London Plan and the guidance in the National Planning Policy Framework.

INFORMATIVES

1 Refusal - No negotiation

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 BJL Design Ltd via email on 2nd February and 11th June 2024.

2 CIL informative for refused proposal - Residential For Residential Development Only

Please be advised that approval of this application from 1st September 2019 (either by London Borough of Havering, or subsequently by PINS if allowed on appeal following a refusal by London Borough of Havering) will attract a liability payment of £3,728 plus indexation in Community Infrastructure Levy (CIL). This charge has been levied under s.206 of the Planning Act 2008 and includes both the Mayor of London's CIL and Havering Council's CIL.

London Borough of Havering, as CIL collecting authority, has responsibility for the collection of the Mayoral CIL, in addition to Havering's CIL, on commencement of the development.

Your proposal is subject to a CIL Liability Notice indicating a levy of £1,165 plus indexation for the application, based on the Mayoral CIL levy rate for Havering of £25/sq.m plus Havering's charging rate for residential of £55/sq.m (Zone B) and the floorspace of 46.6 square metres.

You are advised to visit the planning portal website where you can download the appropriate document templates.

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Authorising Officer:

Simon Thelwell

Simon Thelwell

12th June 2024