

Working in partnership



**Barking &  
Dagenham**

## Performance Review Sub-Committee

**Appeal Reference:**

APP/Z5060/W/22/3304836

**Appeal Application Description:**

Application for prior approval: Proposed change of use of the rear annex from an office/staff accommodation (Class E) to a 1x bedroom unit (Class C3)

**Decision:**

Appeal  
Dismissed



Fanshawe Ave

Faircross Ave

Faircross Ave

A124

A124

Ria Money Transfer Agent

Motorfair

Nigerian Food Xpress by 805 West African

Tasty African Food

Frobel Learning

Rocksons Chartered Accountant

IF Capitals

Pitta Santorini Greek

Chicken Guys Barking (Halal) Fast food

Brothers Halal Supermarket Barking

Ari barbers

'The Catch' Sculpture by Lorraine Leeson

At-Tagwa Islamic & Family Centre

Darul Ihsaan

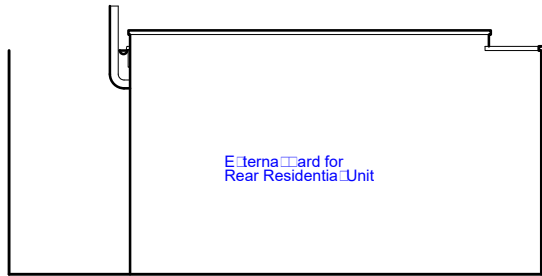
Art Look

Jq Solutions

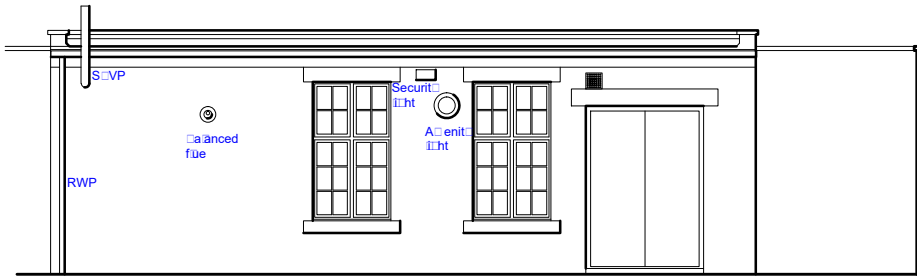
VapeHub Barking Vapouriser Shop

Staff-Direct

Longbridge



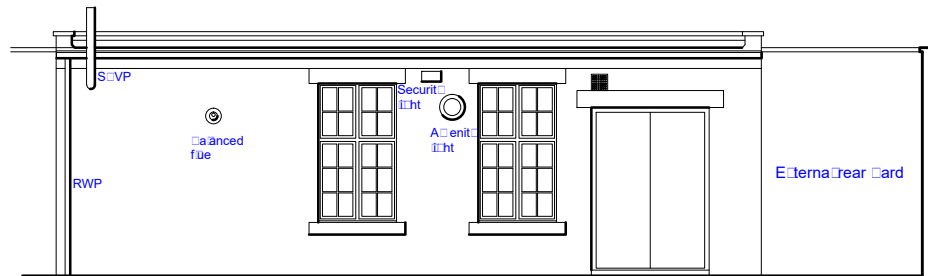
Side Elevation to Apartment Rear Residential Unit



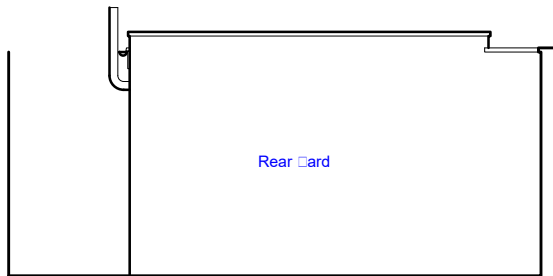
Front Elevation - as Self-contained Residential Unit.



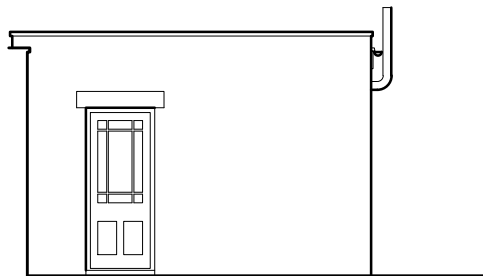
Side Elevation to No75



Front Elevation - as Office / Staff accommodation



Side Elevation to Rear



Side Elevation to No75

REV	DATE	NOTES - REVISIONS	INITIAL
A	02.03.22	Redrawn	
	23.02.22	1st Issue	

DIMENSIONS TO BE CHECKED ON SITE WHERE POSSIBLE  
 © THIS DRAWING MUST NOT BE REPRODUCED IN WHOLE OR PART WITHOUT WRITTEN AUTHORITY.

PROJECT CLIENT  
**75 London Road**  
**Marking**  
**Essex**  
**SS11 8TJ**

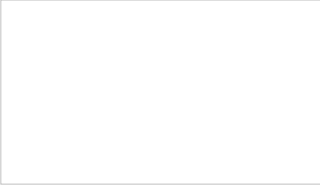
Southview Properties Group Ltd

CONTENT  
**Rear Anne conversion from Office accommodation to Residential before and After E.I. Elevations**

DRAWN	SCALE	1:100 @ A4
CHECKED	DATE	Feb 2022
ID: NO	DR: NO	REV
1698	04	A



BULLDOG DESIGN LIMITED  
 23 BROOKFIELD ROAD HEADINGLEY LEEDS LS6 4EQ  
 TEL: 08451 668068  
 E-MAIL: [en@bulldogdesign.co.uk](mailto:en@bulldogdesign.co.uk)



London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBB Reference:** 22/00305/PRIMA

Jonathan Legge  
23 Brookfield Road  
Leeds  
LS6 4EJ

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS  
AMENDED)**

Dear Sir / Madam,

**Application Number:** 22/00305/PRIMA  
**Address:** 75 Longbridge Road, Barking, Barking And Dagenham, IG11 8TG  
**Development Description:** Application for prior approval: Proposed change of use of the rear annex from an office/staff accommodation (Class E) to a 1x bedroom unit (Class C3)

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**  
Head of Planning Assurance  
London Borough of Barking and Dagenham

**PLANNING DECISION NOTICE**

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

**Agent:** Jonathan Legge  
23 Brookfield Road  
Leeds LS6 4EJ

**Applicant:** Umar Hussain  
LS6 4EJ

**PART 1 - PARTICULARS OF THE APPLICATION**

**Application Number:** 22/00305/PRIMA  
**Application Type:** Prior Approval: Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouses (Use Class C3)  
**Development Description:** Application for prior approval: Proposed change of use of the rear annex from an office/staff accommodation (Class E) to a 1x bedroom unit (Class C3)  
**Site Address:** 75 Longbridge Road, Barking, Barking And Dagenham, IG11 8TG  
**Date Received:** 23 February 2022  
**Date Validated:** 23 February 2022

**PART 2 - PARTICULARS OF THE DECISION**

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PRIOR APPROVAL is **REQUIRED AND REFUSED** for the carrying out of the proposal referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application, for the reason(s) listed below.

**Reason(s):**

1. Schedule 2, Part 3, Class MA Condition MA.2(2) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that development must not begin before the receipt by the developer from the local planning authority of a written notice that their prior approval is not required or required and given. The provisions of Schedule 2, Part 3, Class MA.2(2) cannot be used to regulate works subsequent to them having been commenced. As such, Prior Approval for a 'Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouse (Use Class C3)' is required and refused. The proposal the subject of this application requires planning permission and as such cannot be considered under the notification for prior approval process.

2. Schedule 2, Part 3, Class MA Condition MA.2(4) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states the provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph. Paragraph W (prior approval) outlines that the local planning authority may refuse an application where, in the opinion of the authority—the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with. The provisions of paragraph W.(2) outlines what applications must be accompanied by. This includes all required fees that have to be paid. Noting the application fee has not been paid. Under the provisions of Schedule 2, Part 3, Class MA Condition MA.2(4) the application is refused. As such, Prior Approval for a 'Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouse (Use Class C3)' is required and refused.

3. Schedule 2, Part 2, Class MA Condition MA.1(1)(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that the use of the building must fall within Class E (Commercial, Business and Service) for a continuous period of at least 2 years prior to the date of the application for prior approval. Noting the use of the development as a dwellinghouse has already commenced officers are confident that use of the existing building has not had a use falling under Class E for a continuous period of at least 2 years prior to the date of application. As such, the proposal fails to comply with Schedule 2, Part 2, Class MA Condition MA.1(1)(b). Prior Approval for a 'Change of use from Commercial, Business and Service (Use Class E) to Dwellinghouse (Use Class C3)' is required and refused.

**Informative(s):**

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the

application: -

- 01 Location Plan dated 09.02.20
- 02 Block Plan dated 09.02.20
- 03 Rear Annex conversion from office accomm to Residential Before and After Plan Layouts dated 09.02.20
- 04 Rear annex conversion from office accomodation to residnetial before and after ext. elevations dated 23.03.20
- Flood Map for Planning
- Co-op Funeral Service Survey dated April 2019.

**Working with the applicant:**

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 20.04.2022**

Yours sincerely,

[Marilyn Smith](#)

**Marilyn Smith**  
Head of Planning Assurance  
London Borough of Barking and Dagenham

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **3. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



# Appeal Decision

Site visit made on 16 May 2023

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **05 JULY 2023**

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**Appeal Ref: APP/Z5060/W/22/3304836**

**Rear Annex, 75 Longbridge Road, Barking, IG11 8TG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
  - The appeal is made by Mr Umar Hussain of the Smp Group against the decision of the Council for the London Borough of Barking and Dagenham Council.
  - The application Ref 22/00305/PRIMA, dated 23 February 2022, was refused by notice dated 20 April 2022.
  - The development proposed is described as *"When the Applicant purchased 75 Longbridge Road in late 2019, it was a Co-Op Funeral Directors on the ground floor and a self-contained Flat (residential) on the upper floors, accessed from the rear of the premises. The Flat had part of the rear yard as external amenity space. The Rear Annex was a part of the Funeral Directors, used as Office and Staff accommodation. The front of No 75 is now used under Class E – shops. The First Floor is retained as Residential, Class C3, still accessed from the rear and still with external amenity space. The Annex has been split off from the front shop unit and is now a separate, detached single storey, flat roofed, single person, one bedroom Residential Unit, with rear external amenity space for secure cycle storage, clothes drying and outside seating area and common access-way for both the first floor flat and the Annex, leading to the back lane to Faircross Avenue. The accommodation is 37m2 and comprises of a Kitchen / Living Room, a bedroom with dressing area and an En-Suite Shower Room with WC and WHB. There are no changes to windows or doors so the external appearance is exactly the same as the previous Use. The impact on the area and environment is minimal with the addition of 1no Habitable Unit, for 1no person. The access is the same, the building is the same only used primarily by one person for social hours whereas the building was previously used by more people, during normal working hours only. The risks are likely to be less because the building is more continually occupied, albeit by less people, but for a loner time frame."*
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice and the appeal form. There is no evidence any change was formally agreed. For the purposes of the appeal and in the interest of clarity I rely upon the description on the application form for the purposes of the appeal as detailed in the heading above.



## Background and Main Issues

3. Development permitted by Class MA of the GPDO, allows for change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses).
4. The Council's reasons for refusing the application are that the residential use had commenced before the submission of the prior notification application and the requisite fee had not been paid, therefore prior approval cannot be granted as it falls outside the scope of Class MA. In view of the above, the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class MA of the GPDO.

## Reasons

5. Under Schedule 2, Part 3, Class MA of the GPDO development is not permitted if, for a continuous period of at least 2 years prior to the date of the application for prior approval, the building was not in a specified use. The specified uses include those uses in Class B1 (prior to 1 September 2020) and Class E (since 1 September 2020) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO). Both parties are in agreement that the historic use was as a funeral directors (Co-operative). However, where the parties are in conflict is whether the residential use applied for under the appeal scheme commenced prematurely.
6. Schedule 2, Part 3, Class MA.2(2) of the GPDO states '*before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required.*' As such, in order for the appeal scheme to benefit from prior approval the conversion of the property to residential use under Class MA cannot have occurred prior to the submission of the application.
7. The appellant submitted their application for prior approval, dated 23 February 2022 following an enforcement investigation that alleged the appeal site was in use as a residential dwelling. The appellant provides a solicitor's letter that states that they were instructed by their client that works to convert the annex from an office and staff room to a dwellinghouse was completed in January 2022, before the submission of the prior approval application. However, the appellant claims that whilst the appeal site was furnished as a 1 x bedroomed unit, the residential use had not commenced, such that the change of use has not taken place.
8. There is no dispute between the parties that the annex has been refurbished and is ready for residential accommodation. The information submitted, particularly the photos taken inside the premises by the appellants show several personal items within the unit and signs of habitation. During my site observations, whilst I was unable to gain access inside the property, there did appear to be evidence of habitation, with washing and other domestic paraphernalia located in the external yard area. Thus, prior approval cannot be granted for development that has already begun, whether it is wholly or partially completed. On the balance of probability and based on the evidence before me, it appears that the appeal site has been used for residential purposes already.

9. Even if the residential use has not commenced, the refurbishment of the annex to provide a separate residential unit from the main property at No 75 Longbridge Road, would prevent any use associated with the current Class E function at the main property. Thus, notwithstanding the commencement of the residential use, it has also not been demonstrated that the building was in Class E use for the two years preceding the date of application to the Council.
10. Overall, based on the evidence before me, I cannot reasonably come to any conclusion other than what the Council contends, that the residential use had commenced prior to the submission of the prior notification application. Consequently, the proposal would not be permitted development under Schedule 2, Part 3, Class MA of the GPDO. Therefore, I find that the proposal would not be permitted development.
11. In regard to the fee, there is dispute between the parties as to whether or not a correct fee has been secured from the appellant. There is no clear evidence before me from either party in respect to this matter. Without a correct fee there are questions over the validity of the application. However, Section 79 (6) of the Town and Country Planning Act 1990 provides discretion to decline to determine an appeal or proceed with its determination if it emerges during the appeal process that planning permission could not have been granted by the Local Planning Authority. In any event, as I am dismissing the appeal as the proposal would not be permitted development under Schedule 2, Part 3, Class MA of the GPDO, I do not need to consider this matter further, as no significant likely effects would arise from my decision.

### **Conclusion**

12. For the reasons given above I conclude that the appeal should be dismissed.

*Robert Naylor*

INSPECTOR

Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

APP/Z5060/W/22/3311509

**Appeal Application Description:**

Conversion of the existing 2-bedroom dwelling into two 1x bedroom flats involving the construction of a hip-to-gable roof extension (attached to 21/02090/CLUP), a single storey rear extension (attached to 21/02089/PRIEXT) and a two storey side extension (attached to 21/02088/HSE)

**Decision:**

Appeal  
Allowed



only gym

Mechanics Mobile Mechanic

Hedgemans Rd

Hedgemans Rd

Hedgemans Rd

Hedgemans Rd

Arden Cres

Arden Cres

426 422 420 416 414 410

367 363 359 357 353 351 349 347

369 365

310 317 315 313 311 307 309 305

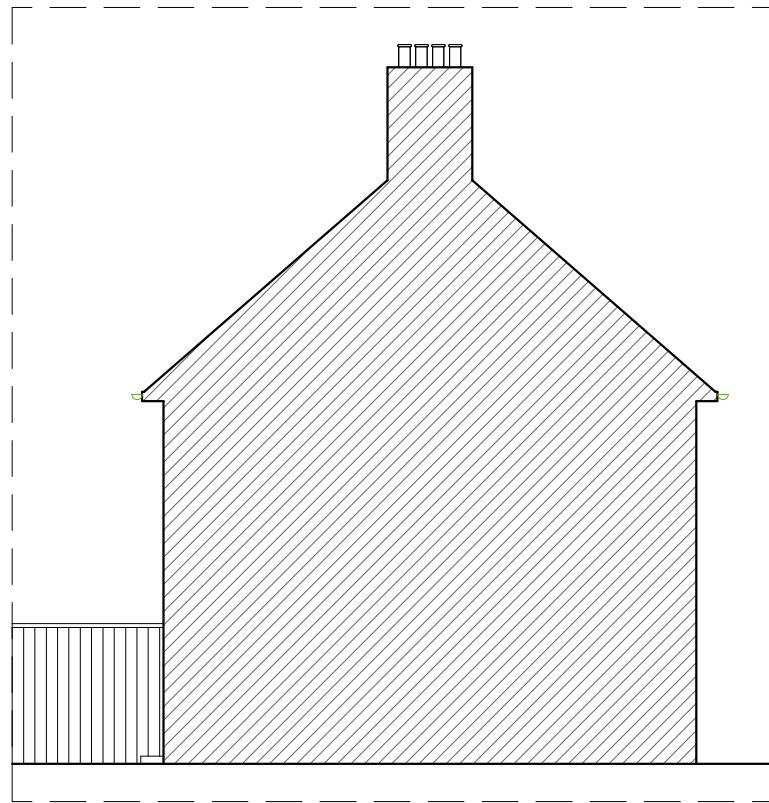
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329A

10 12 14 16

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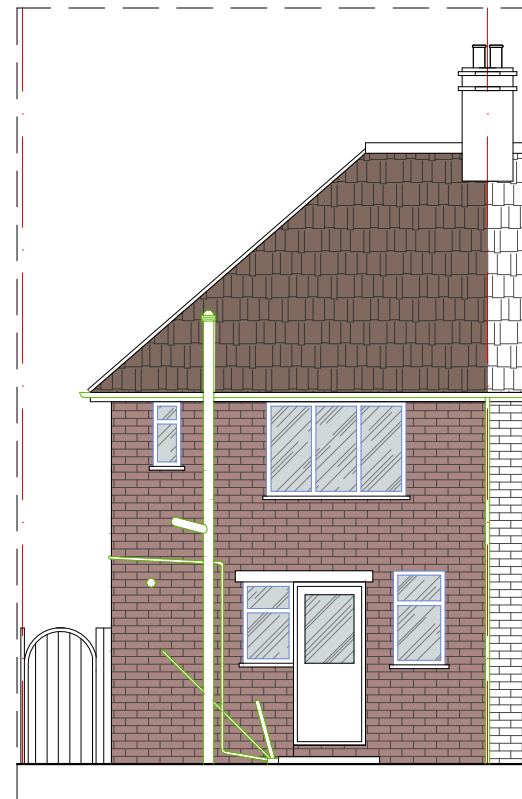
EXISTING LEFT SIDE ELEVATION



EXISTING RIGHT SIDE ELEVATION



EXISTING FRONT ELEVATION



EXISTING REAR ELEVATION

- Notes
- 1- This drawing is not for construction;
  - 2- All dimensions are in millimeters;
  - 3- Dimensions are not to be scaled for construction purposes; Only scale for planning purposes;
  - 4- All dimensions are to be checked on site and the Architect is to be informed of any discrepancies before construction commences;
  - 5- All references to drawings refer to current revision of that drawing;

**STUDIO25**<sup>®</sup>

Architects

Rear of 157 Forest Road  
London  
E17 6HE  
07706967735  
info@s25architects.co.uk

RIBA 

Chartered Practice

**FLAT  
CONVERSION**

EXISTING ELEVATIONS

ADDRESS: 345 HEDGEMANS ROAD  
LONDON RM9 5DR

CLIENT: MR IURIE BIVOL

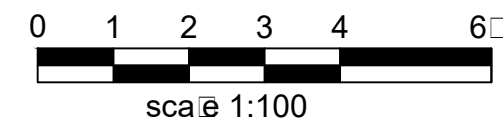
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DRG NO:  
H020-FLAT-PP-02

SCALE: 1:100/ A3

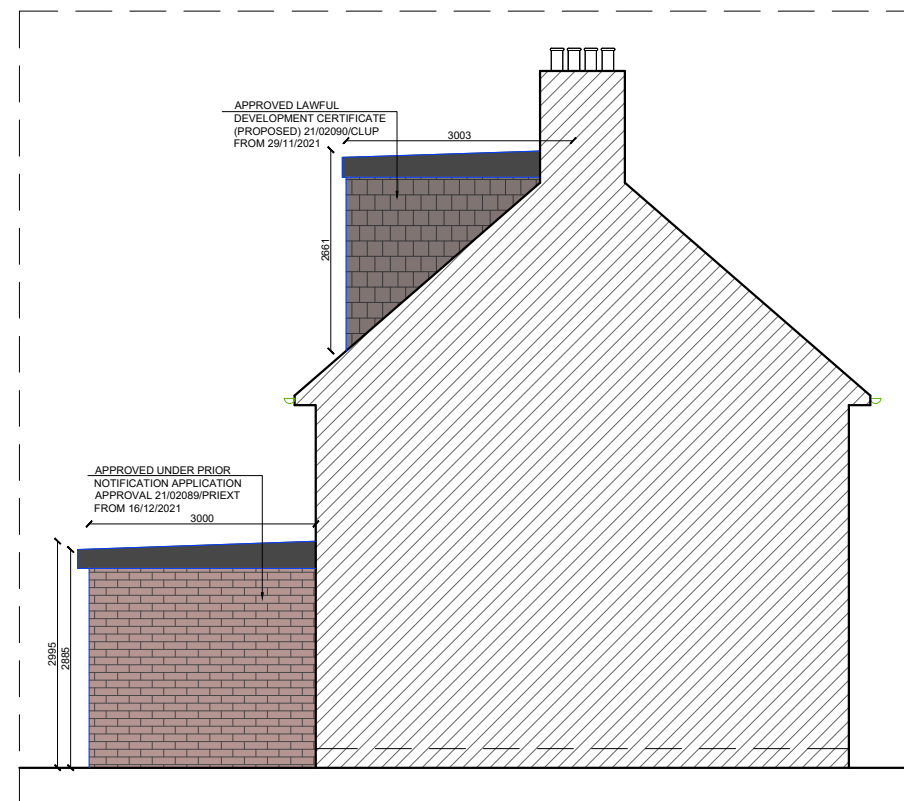
DATE: JAN 2022

NOTES: - THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION  
- DIMENSIONS MUST NOT BE SCALED FROM THIS DRAWING

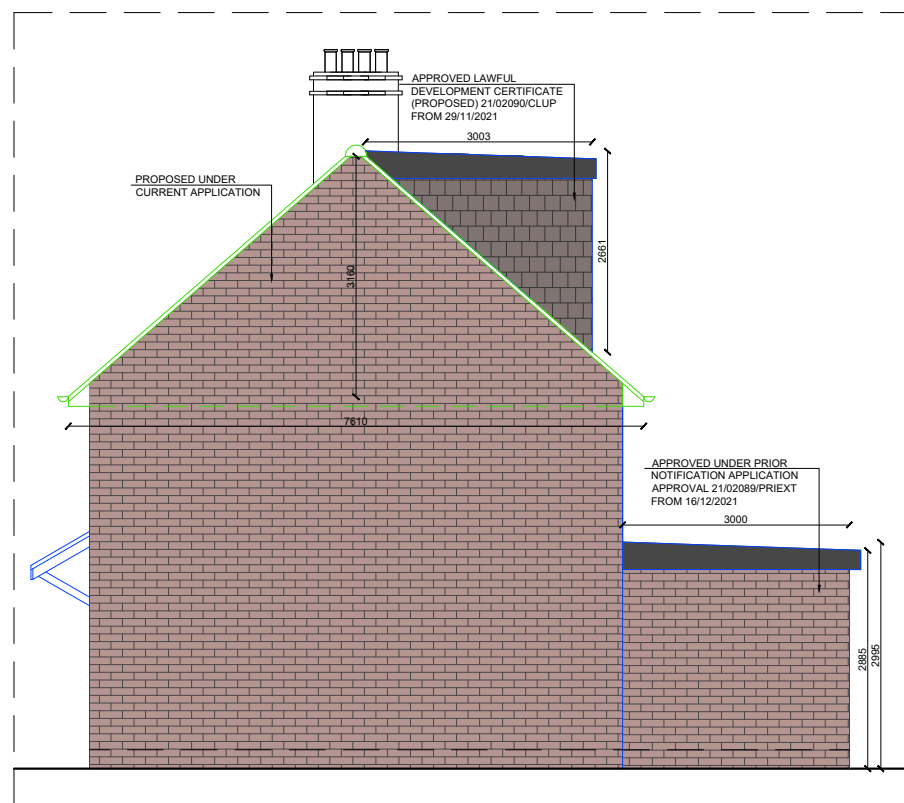




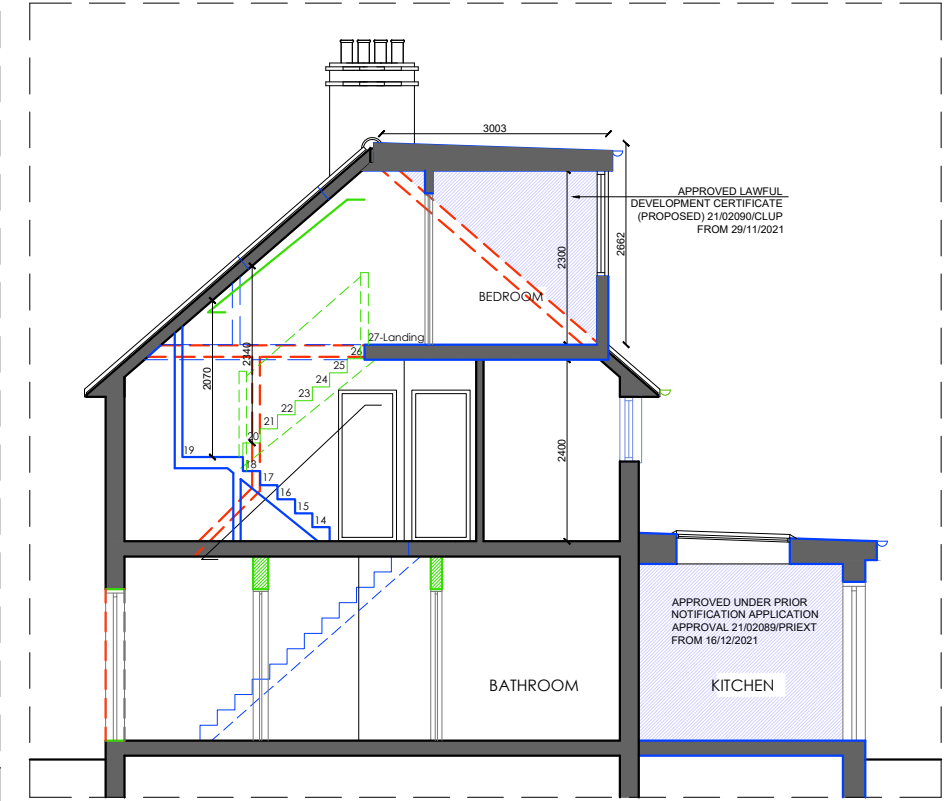
PROPOSED REAR ELEVATION



PROPOSED LEFT SIDE ELEVATION



PROPOSED RIGHT SIDE ELEVATION



PROPOSED SECTION A - A'

- Notes
- 1- This drawing is not for construction;
  - 2- All dimensions are in millimeters;
  - 3- Dimensions are not to be scaled for construction purposes; Only scale for planning purposes;
  - 4- All dimensions are to be checked on site and the Architect is to be informed of any discrepancies before construction commences;
  - 5- All references to drawings refer to current revision of that drawing;

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info@s25architects.co.uk

RIBA 

Chartered Practice

**FLAT  
CONVERSION**

PROPOSED ELEVATIONS

ADDRESS: 345 HEDGEMANS ROAD  
LONDON RM9 5DR

CLIENT: MR IURIE BIVOL

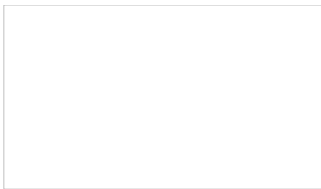
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DRG NO:  
H020-FLAT-PP-07

SCALE: 1:100/ A3

DATE: FEB 2022

NOTES: - THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION  
- DIMENSIONS MUST NOT BE SCALED FROM THIS DRAWING



London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBB Reference:** 22/00935/FULL

Diana Balaban  
157f Forest Road

E17 6HE

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS  
AMENDED)**

Dear Sir / Madam,

**Application Number:** 22/00935/FULL  
**Address:** 345 Hedgemans Road, Dagenham, Barking And Dagenham, RM9 6DR  
**Development Description:** Conversion of the existing 2-bedroom dwelling into two 1x bedroom flats involving the construction of a hip-to-gable roof extension (attached to 21/02090/CLUP), a single storey rear extension (attached to 21/02089/PRIEXT) and a two storey side extension (attached to 21/02088/HSE)

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**  
Head of Planning and Assurance  
London Borough of Barking and Dagenham

**PLANNING DECISION NOTICE**

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

**Agent:** Diana Balaban  
157f Forest Road  
E17 6HE

**Applicant:** Iurie Bivol  
E17 6HE

**PART 1 - PARTICULARS OF THE APPLICATION**

**Application Number:** 22/00935/FULL  
**Application Type:** Full Planning Permission  
**Development Description:** Conversion of the existing 2-bedroom dwelling into two 1x bedroom flats involving the construction of a hip-to-gable roof extension (attached to 21/02090/CLUP), a single storey rear extension (attached to 21/02089/PRIEXT) and a two storey side extension (attached to 21/02088/HSE)  
**Site Address:** 345 Hedgemans Road, Dagenham, Barking And Dagenham, RM9 6DR  
**Date Received:** 28 May 2022  
**Date Validated:** 22 June 2022

**PART 2 - PARTICULARS OF THE DECISION**

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PLANNING PERMISSION has been **REFUSED** for the carrying out of the development referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application for the reason(s) listed below.

**Reason(s):**

1. The proposal will result in the loss of a 3 bedroom family sized dwelling which is the type of housing in high demand within the Borough. Therefore the negatives arising from the proposal are considered to outweigh any significant benefits as such having regard to the presumption in favour of sustainable development on balance the principle of development is considered unacceptable and contrary to:-

- National Planning Policy Framework (MHCLG, February 2019)
- Policy H10 of the London Plan (March 2021)
- Policies CM1 and CC1 of the Core Strategy DPD (July 2010)
- Policy BC4 of the Borough Wide Development Policies DPD (March 2011)
- Policies SPDG 1 and SP3 of the Draft Local Plan Regulation 19 consultation version (Autumn 2021)
- London Borough of Barking and Dagenham Housing Delivery Test Action Plan 2020
- Strategic Housing Market Assessment (SHMA) published in February 2020

The above policies can be viewed on the Council's website: [www.lbbd.gov.uk/planning](http://www.lbbd.gov.uk/planning).

**Informative(s):**

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application:

- H020-FLAT-PP-00 - LOCATION AND SITE PLANS - FEB 2022



- H020-FLAT-PP-03 - PROPOSED FLOOR PLANS - FEB 2022
- H020-FLAT-PP-04 - PROPOSED FLOOR PLANS - FEB 2022
- H020-FLAT-PP-05 - PROPOSED FLOOR PLANS 3 - FEB 2022
- H020-FLAT-PP-06 - PROPOSED SECTIONS - FEB 2022
- H020-FLAT-PP-07 - PROPOSED ELEVATIONS - FEB 2022

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 15/08/2022**

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**

Head of Planning and Assurance  
London Borough of Barking and Dagenham

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Subsequent Application Fees**

No planning fee would be payable should a revised planning application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

### **3. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **4. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



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## Appeal Decision

Site visit made on 11 May 2023

**by C McDonagh BA (Hons) MA MRTPI**

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

**Decision date: 26 May 2023**

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**Appeal Ref: APP/Z5060/W/22/3311509**

**345 Hedgemans Road, Dagenham RM9 6DR**

- 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 Iurie Bivol against the decision of the Council of the London Borough of Barking & Dagenham.
  - The application Ref 22/00935/FULL, dated 28 May 2022, was refused by notice dated 15 August 2022.
  - The development proposed is described as 'Conversion of the existing 2-bedroom dwelling into two 1x bedroom flats involving the construction of a hip-to-gable roof extension (attached to 21/02090/CLUP), a single storey rear extension (attached to 21/02089/PRIEXT) and a two-storey side extension (attached to 21/02088/HSE)'
- 

### Decision

1. The appeal is allowed and planning permission is granted for conversion of the existing 2-bedroom dwelling into two 1x bedroom flats involving the construction of a hip-to-gable roof extension (attached to 21/02090/CLUP), a single storey rear extension (attached to 21/02089/PRIEXT) and a two storey side extension (attached to 21/02088/HSE) at 345 Hedgemans Road, Dagenham RM9 6DR in accordance with the terms of the application Ref 22/00935/FULL, dated 28 May 2022, subject to the following 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: H020-FLAT-PP-00 - Location and Site Plans; H020-FLAT-PP-03 - Proposed Floor Plans; H020-FLAT-PP-04 - Proposed Floor Plans; H020-FLAT-PP-05 - Proposed Floor Plans; H020-FLAT-PP-06 - Proposed Sections; H020-FLAT-PP-07 - Proposed Elevations.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) Before any dwelling hereby permitted is first occupied, the proposed bicycle storage shall have been implemented in line with the proposed ground floor plan (DRG NO: H020-FLAT-PP-03). Once implemented the bicycle storage shall thereafter be maintained.

## **Preliminary Matters**

2. The description of development given in the banner heading and decision is taken from the decision notice rather than the planning application form as this more precisely describes the development proposed.
3. The Council makes reference to Policies SPDG1 and SP3 of the London Borough of Barking and Dagenham Draft Local Plan 2037 – Regulation 19 consultation version (Autumn 2021) (the DLP). There is little information on the status of the plan in the evidence before me and as such, I cannot be certain that these policies are in their final form, and they may be subject to modifications through the ongoing examination process. Therefore, I have attached only limited weight to these policies in my decision.

## **Main Issue**

4. The main issue is the effect of the proposal on the supply of family housing.

## **Reasons**

5. The appeal site is an end-terrace dwelling located in a cul-de-sac in a residential area. The proposal seeks to convert the dwelling into two one-bedroom flats each for two people. The planning history indicates that a number of proposed alterations have been permitted in recent years which would extend the property significantly. These include a two-storey side extension<sup>1</sup>, single storey rear extension of 4m depth<sup>2</sup> and a certificate of lawful development for a hip-to-gable roof extension<sup>3</sup>. These works are indicated on the submitted plans and I note that the Council does not dispute their status as approved or lawful.
6. Policy BC4 of the Borough Wide Development Policies Development Plan Document (DPD) (adopted March 2011) seeks to preserve and increase the stock of family housing in the Borough. Consequently, when planning permission is required, the Council will resist proposals which involve the loss of housing with three bedrooms or more.
7. However, the submitted plans show that the property currently has two bedrooms, and the Council describes it this way in their officer report. As such, the change of use would not cause the loss of housing with three bedrooms or more. I appreciate that with the proposed extensions, the property may be capable of gaining another bedroom. However, that is not its existing situation upon which I have assessed the proposal, nor can it be guaranteed that the extensions would be built.
8. My attention is drawn to a dismissed appeal<sup>4</sup> in the same council area where the loss of family housing was a reason for refusal. However, I have little information on this matter before me other than an excerpt from the decision. As such, I cannot be certain of its relevance to this appeal, such as whether it also involved a two or three bed property.
9. Based on the above, I find that the proposed development would not harm the balance of family sized housing within the Borough. Therefore, the proposal

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<sup>1</sup> 21/02088/HSE

<sup>2</sup> 21/02089/PRIEXT

<sup>3</sup> 21/02090/CLUP

<sup>4</sup> APP/Z5060/W/21/3266569

would accord with policy BC4 of the DPD, policies CM1 and CC1 of the Planning for the Future of Barking and Dagenham Core Strategy (adopted July 2010), policy H10 of the London Plan and policies SPDG1 and SP3 of the DLP. These seek, amongst other things, to ensure larger family housing is protected and maintain a balanced housing supply.

### **Conditions**

10. The Council has provided a list of suggested conditions in the event that the appeal is allowed which I have considered. In addition to the changes explained below, I have amended the wording of certain conditions to ensure that they meet the tests in the Framework and Planning Practice Guidance without altering their fundamental aims.
11. The standard time commencement condition is not in the list although the imposition of this and the standard approved plans condition is necessary in the interests of certainty. To protect the character and appearance of the area a condition is necessary to ensure the external materials used in the development match the existing house for the same reason. To encourage sustainable modes of transport, a condition is also necessary to ensure the provision of cycle parking facilities from occupation and their retention.
12. The Council has also suggested two conditions which seek to ensure sufficient car parking, highway safety and the free flow of traffic would remain on Hedgemans Road. This is discussed in the officer report but is not given as a reason for refusal in the decision notice. The Council's Transport Planning Officer advises that 'the applicant must demonstrate that there is enough parking on-street to accommodate additional vehicles, failing to do that will require the additional residential unit to be made car permit free.'
13. The issuing of parking permits is the responsibility of the relevant highway authority and enforced through a Traffic Regulation Order. I understand that the appeal site is located within a Controlled Parking Zone. However, at the time of my site visit spaces were evident. I appreciate that this is only a snapshot in time and at other times, such as evenings, parking pressure may be different. However, there is little substantive evidence before me to indicate that parking pressure is at such a level that the proposal would cause material harm in this regard and therefore should be car-free. Moreover, requiring a parking survey to demonstrate on-street parking would not be negatively impacted following a grant of planning permission would not be reasonable. As such, I have not included either condition in this respect.

### **Conclusion**

14. For the reasons given above, having had regard to the development plan as a whole, and all other relevant material considerations, I conclude that the appeal should be allowed.

*C McDonagh*

INSPECTOR

Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

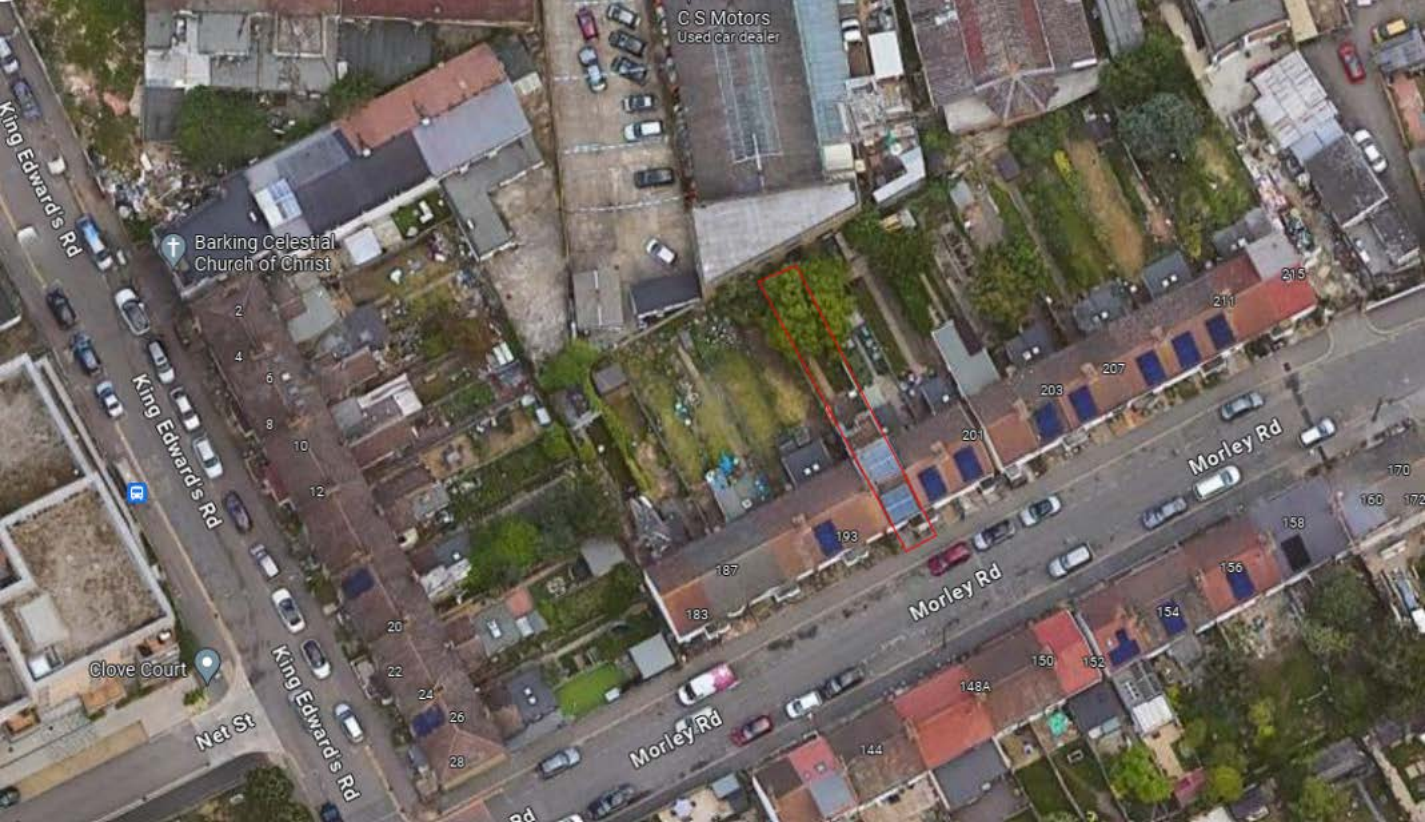
APP/Z5060/X/22/3294717

**Appeal Application Description:**

Application for a lawful development certificate for the existing loft conversion to facilitate the roof space into habitable accommodation and the use of the house as three bedroom dwelling.

**Decision:**

Appeal  
Allowed



C S Motors  
Used car dealer

✠ Barking Celestial  
Church of Christ

📍 Glove Court

King Edward's Rd

King Edward's Rd

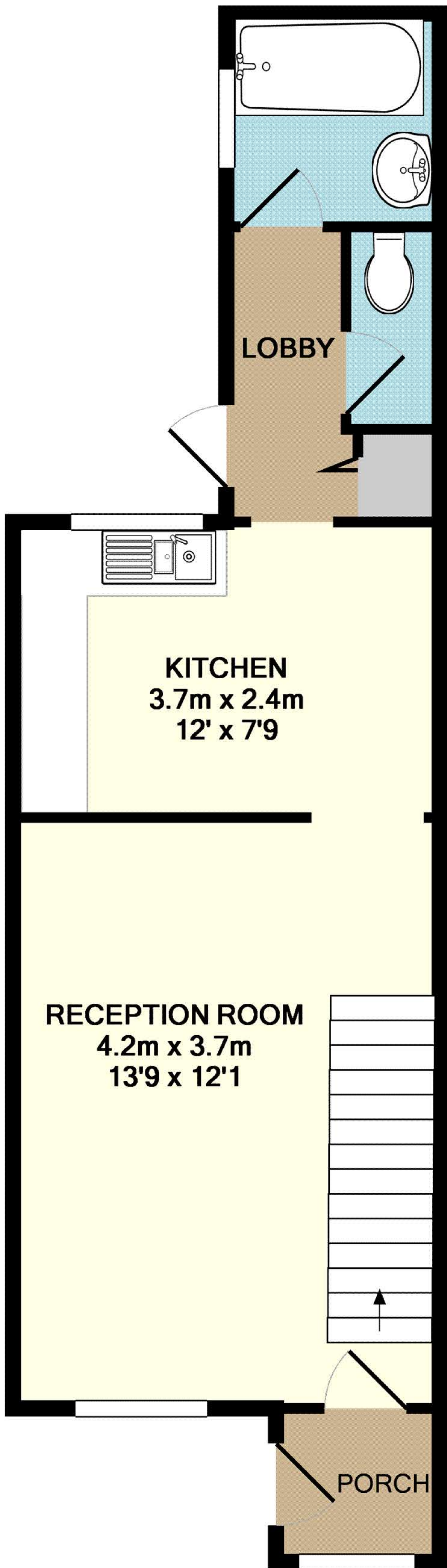
Net St

King Edward's Rd

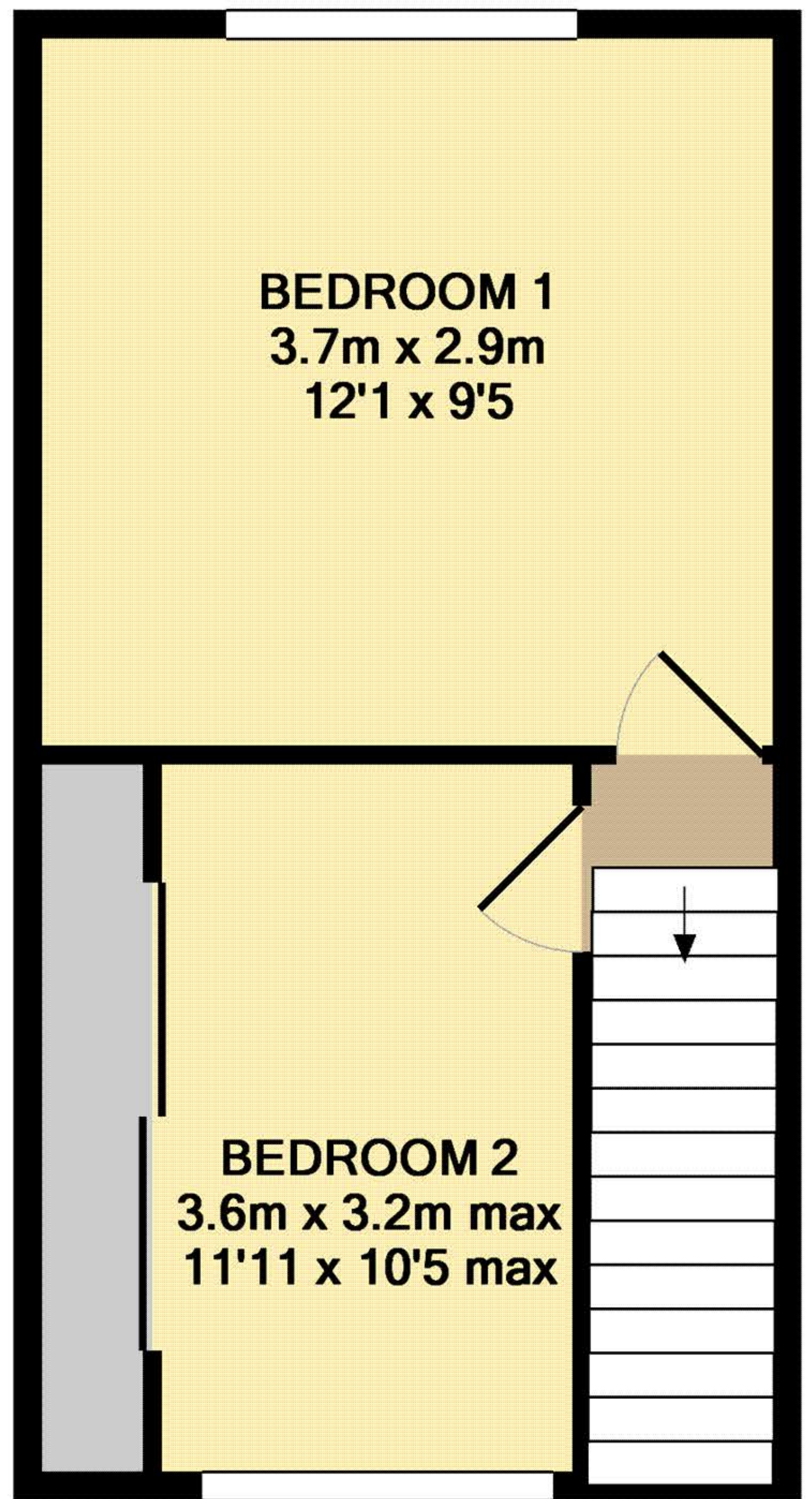
Morley Rd

Morley Rd

Morley Rd



GROUND FLOOR



1ST FLOOR

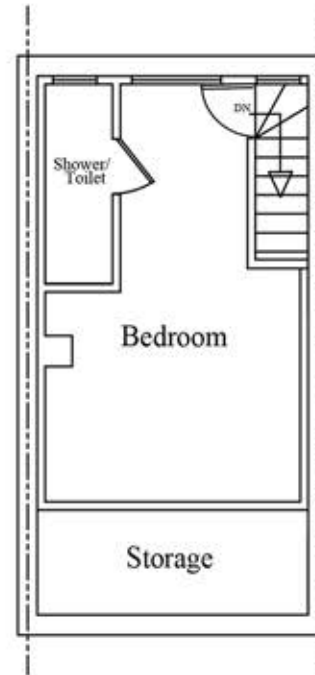
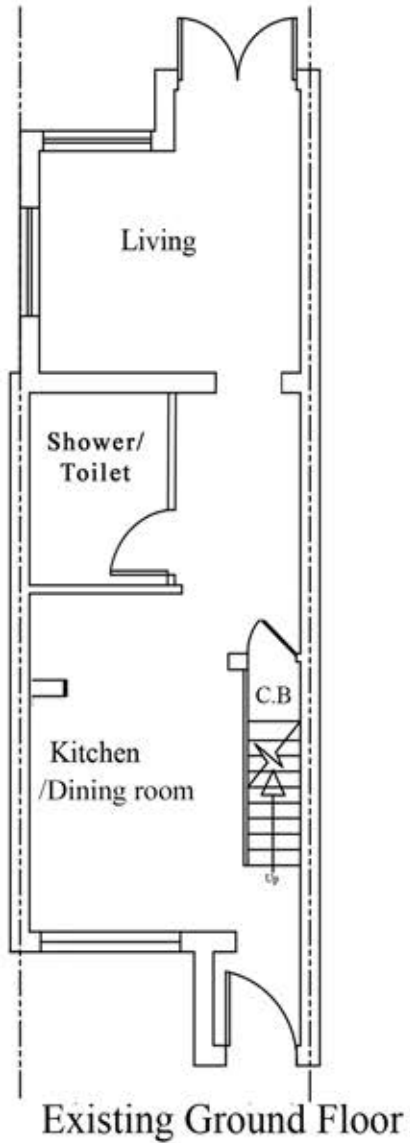
# Pre-existing House Layout as on 2015

**PL01**

Whilst every attempt has been made to ensure the accuracy of the floor plan contained here, measurements of doors, windows, rooms and any other items are approximate and no responsibility is taken for any error, omission, or mis-statement. This plan is for illustrative purposes only and should be used as such by any prospective purchaser. The services, systems and appliances shown have not been tested and no guarantee as to their operability or efficiency can be given  
Made with Metropix ©2016



Garden area



Existing Loft Plan



DRAWING STATUS:  
**PLANNING**

DISCLAIMER:  
Drawing to be read in conjunction with all other relevant documentation.  
Do not scale from this drawing. All written dimensions to be checked on site before work commences. Discrepancies, where identified, must be reported to the designer.

The drawing is the property of Arch Studio and must not be reproduced or used in conjunction with any unauthorized person either wholly or in part without valid consent.

**PLANNING APPLICATION**

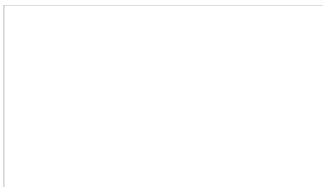
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Rev.	Date		©
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PROJECT: Regularisation application  
195 Morley Road, Barking, IG11 7DH

CLIENT:

DRAWN:	DATE: 01/01/2022
SHEET SIZE: A4	SCALE: 1:100 @A4
PROJECT NO:	DRAWING NO. PL02
	REV. A



London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBB Reference:** 22/00005/CLUE

31 River Road  
Barking  
IG11 0DA

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS  
AMENDED)**

Dear Sir / Madam,

**Application Number:** 22/00005/CLUE  
**Address:** 195 Morley Road, Barking, Barking And Dagenham,  
**Development Description:** Application for a lawful development certificate for the existing loft conversion to facilitate the roof space into habitable accommodation and the use of the house as three bedroom dwelling.

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**  
Head of Planning and Assurance  
London Borough of Barking and Dagenham

**PLANNING DECISION NOTICE**

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

**Agent:** 31 River Road  
Barking IG11 0DA

**Applicant:** Baura  
195, Morley Road  
Barking IG11 0DA

**PART 1 - PARTICULARS OF THE APPLICATION**

**Application Number:** 22/00005/CLUE  
**Application Type:** Lawful Development Certificate (Existing Use)  
**FIRST SCHEDULE (Use / Development / Matter):** Application for a lawful development certificate for the existing loft conversion to facilitate the roof space into habitable accommodation and the use of the house as three bedroom dwelling.  
**SECOND SCHEDULE (Site Address):** 195 Morley Road, Barking, Barking And Dagenham,  
**Date Received:** 01 January 2022  
**Date Validated:** 01 January 2022

**PART 2 - PARTICULARS OF THE DECISION**

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby certifies that the use / development / matter described in the FIRST SCHEDULE to this certificate in respect of the land specified in the SECOND SCHEDULE and as identified on the plans specified below **WAS NOT LAWFUL ON 01 January 2022** within the meaning of Section 191 of the Town and Country Planning Act 1990 for the following reason(s):

**Reason(s):**

1. It has not been demonstrated to the satisfaction of the Local Planning Authority that the use, operations or other matter described in the application would be lawful within the meaning of S191 of the Town and Country Planning Act 1990 (as amended) if instituted or begun at the time of the application. Specifically the application fails to demonstrate that the development would comply with classes A and B of the Town and Country Development Order 2015 as when the works were undertaken, the property did not benefit permitted development rights as it was in the process of unlawfully converting to 3 flats. Furthermore, the materials that the dormer has been constructed in do not match that of the existing building.

**Plan(s) and Informative(s):**

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application: -

- The location plan
- Block plan
- Existing elevations - Drawing No PL03 - Dated 29/12/2016
- Existing layout - Drawing No PL02 - Dated 01/01/2022
- Photographs & photomontages - Dated 01/01/2022
- Covering letter - Dated 01/01/2022
- Photograph 1
- Photograph 2

**Working with the applicant:**

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made

available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 28.02.2022**

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**

Head of Planning and Assurance  
London Borough of Barking and Dagenham

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
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The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Subsequent Application Fees**

No planning fee would be payable should a revised planning application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

### **3. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **4. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



## Appeal Decision

Site visit made on 7 July 2023

**by J Moss BSc (Hons) DipTP MRTPI**

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

**Decision date: 8<sup>TH</sup> SEPTEMBER 2023**

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**Appeal Ref: APP/Z5060/X/22/3294717**

**Land at 195 Morley Road, Barking IG11 7DH**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Aurimas Baura against the decision of the Council of the London Borough of Barking and Dagenham.
  - The application ref 22/00005/CLUE, dated 1 January 2022, was refused by notice dated 28 February 2022.
  - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is described as: 'Previously extended house, use as a 3 bedroom family house. Conversion of roof space into habitable room'.
- 

### Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use and operation which is found to be lawful.

### Preliminary Matters

2. The description of the development subject of the LDC application is not entirely clear from the LDC application forms. The description used by the Council on the decision notice is 'existing loft conversion to facilitate the roof space into habitable accommodation and the use of the house as three bedroom dwelling'. This description has not, however, been used by the appellant in his appeal form. Instead, for the description of the development that is the subject of the appeal, he refers only to a '3b House'. However, his evidence refers to both the use of the property as a single dwelling and to a dormer extension and 'conversion' of roof space.
3. In view of the above, and having viewed the property, I will determine the appeal on the basis that the LDC is sought for a use of the appeal site as a single dwelling falling within Class C3 of Part C, Schedule 1 of The Town and Country Planning (Use Classes) Order 1987 as amended (the 1987 Order). As for the dormer and conversion works, ordinarily the use of the original attic space of a dwelling for accommodation (e.g. an attic bedroom) would not amount to development. Accordingly, and in the interests of precision, I will determine the appeal on the basis that an LDC is sought for a dormer roof extension on the rear roof slope of the building.
4. On a separate matter, the site visit had been arranged as an accompanied visit, where a representative of both the Council and appellant would be in attendance. The Council's representative did not, however, attend the site at the time and date specified. Accordingly, I carried out the site visit as an

access only visit. In doing so I am satisfied that neither party would be prejudiced in any way.

### **Main Issue**

5. Section 191(4) of The Town and Country Planning Act 1990 as amended (the 1990 Act) indicates that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application was lawful at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application. My decision is, therefore, based on the facts of the case and judicial authority. The main issue in this case is whether the Council's decision to refuse to grant a LDC was well founded.
6. The main consideration is whether the use of the appeal site as a single dwelling and the dormer extension were lawful on the date the LDC application was made.
7. The burden of proof in this case is on the appellant, and the test of the evidence is the balance of probabilities. If the Council has no evidence itself, nor any from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal and refuse to grant the LDC, provided the appellant's evidence alone is sufficiently precise and unambiguous.

### **Reasons**

#### *Use as a single dwelling*

8. I note that there has been an extensive history to the site. I have seen reference to the issue of two enforcement notices, to planning applications and to a number of appeals.
9. The appellant has provided a chronology of events in his evidence. This suggests that when he purchased the property in 2016, it was a family home. This is not disputed by the Council.
10. I note the officer report relating to the planning application reference 18/00892/FUL. The description of development given is for the 'conversion of dwelling to two 1 bedroom flats and one studio flat (retrospective)'. Whilst the report suggests that the development has already occurred, it describes the former use as a dwelling. It refers to 'pre-existing floor plans' submitted with the application and says that the 'house is considered to be part of the Borough's stock of family housing'.
11. The report does not indicate that the appeal site was being used at the time of that application as a single dwelling, as suggested by the appellant. On the contrary, it suggests that the development subject of that application (i.e. the change of use to two 1 bedroom flats and one studio flat) had occurred at that time. Notwithstanding this, the report indicates that the Council regarded the use of the site prior to the development taking place as a single dwelling. Indeed, the Council does not take a different view on this in the appeal before me.

12. In view of the above, I have no reason to conclude that the lawful use of the property at the time of the appellant's purchase of it was anything other than as a single dwelling.
13. Moving on, as I have noted above, the report relating to the 18/00892/FUL planning application indicates that at the time of writing there had been a change of use of the site from a dwelling to three flats. This clearly prompted the issue of the first enforcement notice, dated 20 September 2018, which was targeted at a use of the site as 'three independent units of accommodation'. As an appeal was not made against this notice, the period for compliance expired on 20 January 2019. Its requirements included the cessation of this use.
14. The second enforcement notice, issued on 4 June 2020, was upheld with corrections at appeal. This requires, amongst other matters, the cessation of the use of the property as more than one self-contained dwellinghouse. The notice gave 6 months for compliance with its requirements, which would have ended on 14 June 2021. I note that the appeal against the notice was made under section 174(b) of the 1990 Act, as well as section 174(c). Accordingly, whether or not the matters stated in the enforcement notice had occurred was considered by the appointed Inspector. The ground (b) appeal failed.
15. In view of the above, whilst I note the appellant's contentions with regard to the use of the site since his purchase of it, it is more likely than not that there has been a change of use of the site from a dwelling and that the property had been sub divided into separate units of accommodation (i.e. separate dwellings).
16. Notwithstanding the above, I am mindful of the provisions of section 57(4) of the 1990 Act. This informs that 'where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out'. I have concluded above that the lawful use of the site prior to its sub-division into separate dwellings was as a single dwelling. The appellant says that the notices that were subsequently issued have been complied with. This is not disputed by the Council. Accordingly, I am led to conclude that planning permission is not required for the use of the site as a single dwelling. Indeed, I have been given no reason to conclude that the provisions of section 57(4) of the 1990 Act would not apply in this way. Furthermore, the appellant suggests that the current use of the site is as a single dwelling. I have no reason to find otherwise.
17. All things considered, it is more likely than not that on the day the LDC application was made the use of the site as a single dwelling falling within Class C3 of Part C, Schedule 1 of the 1987 Order was lawful.

#### *Dormer*

18. The operational development subject of the appeal comprises a flat roof dormer extension on the rear roof slope of the dwelling.
19. The Council has referred to Class B, of Part 1, Article 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, hereafter referred to as Class B. Class B permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. The Council



say that the development does not benefit from the provisions of Class B as the dormer was built to facilitate the unauthorised change of use to three flats. The Council also say that the development does not benefit from the Class B permission as it does not comply with a condition of the permission. It points to condition (a) of paragraph B.2. of Class B.

20. The appellant does not agree with the Council's position, as summarised above. Furthermore, it is the appellant's case that, regardless of whether or not the provisions of Class B apply, the dormer extension is lawful as it was constructed more than 4 years prior to the submission of the LDC application.
21. To succeed on this point the appellant must show that, on the balance of probability, a period of four years has passed beginning with the date on which the dormer extension was substantially completed<sup>1</sup>.
22. The appellant has provided two photographs of the dormer extension. The first is dated 3 March 2017 and shows the rear elevation of the property with the rear facing elevation of the dormer extension. From this I can see that the extension has an external brick finish, three windows, a roof overhang, suggesting the presence of a roof, and a down pipe. The second photograph has not been dated, but is likely to have been taken after the first as it shows the rear elevation of the dwelling as I had observed it on site. The dormer extension is finished with a smooth render and the rear extensions and balcony are present in this photograph.
23. In his chronology, on 1 March 2017 date, the appellant refers to the 'loft' as having been erected and completed and used as a master bedroom. This is consistent with the first of the appellant's photographs referred to above. Whilst I acknowledge that the dormer may well have been rendered at a later date, I have no reason to conclude the dormer had not been substantially completed on the 1 March 2017 date suggested by the appellant. The evidence indicates that at this time the development was fully detailed and had the character of a dormer extension providing additional accommodation space within the roof of the building.
24. The Council does not appear to dispute the appellant's evidence, as set out above. In the officer's report, the Council refers to this evidence and acknowledges that the dormer extension 'was in place prior to the enforcement case being opened', which was 15 May 2018. Although this date would have been less than 4 years prior to the date the LDC application was made, there is no contradiction of the appellant's claims.
25. I have been given no reason to conclude that the appellant's version of events are less than probable. Accordingly, it is more likely than not that a period of more than four years has passed beginning with the date on which the dormer extension was substantially completed. For this reason, I conclude that on the balance of probability, the dormer extension was lawful on the date the LDC application was made.
26. In view of my conclusions above, I have not considered whether or not the development benefits from the permission granted by Class B.

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<sup>1</sup> In accordance with section 171B(1) of the 1990 Act.

## **Conclusion**

27. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the site as a single dwelling falling within Class C3 of Part C, Schedule 1 of the 1987 Order and the dormer roof extension on the rear roof slope of the building was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act.

*J Moss*

INSPECTOR



The Planning Inspectorate

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## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 1 January 2022 the use and operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

It has been demonstrated, on the balance of probability, that on the date the application for a lawful development certificate was made the lawful use of the land was as a single dwelling falling within Class C3 of Part C, Schedule 1 of The Town and Country Planning (Use Classes) Order 1987 as amended and that a period of more than four years had passed beginning with the date on which the dormer roof extension was substantially completed.

Signed

***J Moss***

Inspector

Date: 8<sup>TH</sup> SEPTEMBER 2023

Reference: APP/Z5060/X/22/3294717

### ***First Schedule***

Use as a single dwelling falling within Class C3 of Part C, Schedule 1 of The Town and Country Planning (Use Classes) Order 1987 as amended and a dormer roof extension on the rear roof slope of the building.

### ***Second Schedule***

Land at 195 Morley Road, Barking IG11 7DH

IMPORTANT NOTES – SEE OVER

## NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use and operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



# The Planning Inspectorate

## Plan

This is the plan referred to in the Lawful Development Certificate dated: 8 SEPTEMBER 2023

by **J Moss BSc (Hons) DipTP MRTPI**

**Land at: 195 Morley Road, Barking IG11 7DH**

**Reference: APP/Z5060/X/22/3294717**

Scale: Not to Scale



Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

APP/Z5060/D/22/3306726

**Appeal Application Description:**

Prior notification application for the construction of a single storey rear extension. The proposed extension will extend beyond the rear wall by 6.00 metres. The maximum height of the proposed extension from the natural ground level is 3.00 metres. The height at eaves level of the proposed extension measured from the natural ground level is 2.80 metres.

**Decision:**

Appeal  
Allowed



Hulse Ave

Wilmington Gardens

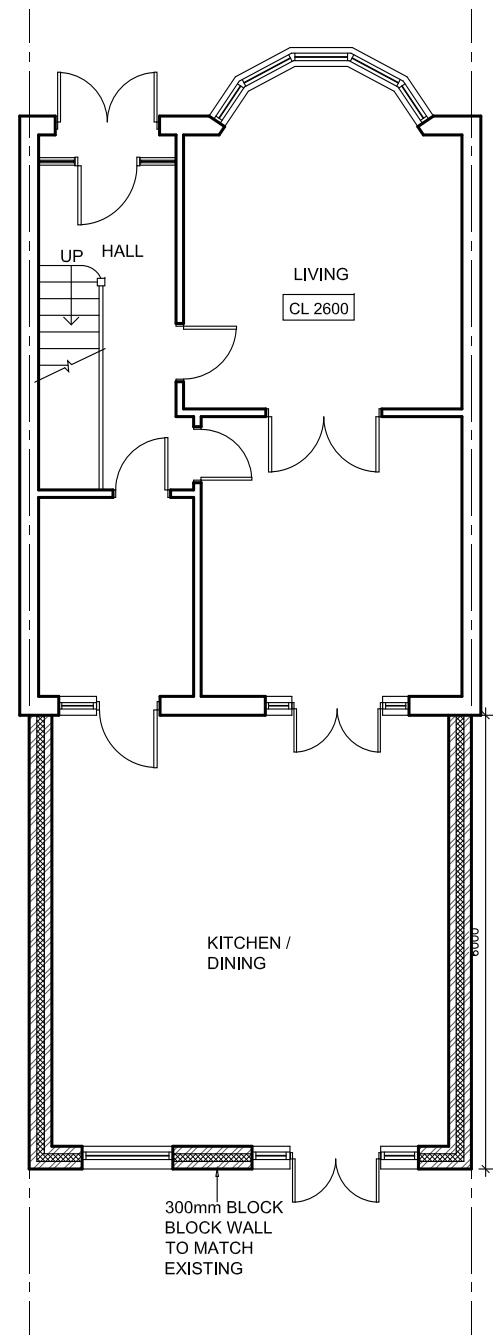
Thornhill Gardens

Thornhill Gardens

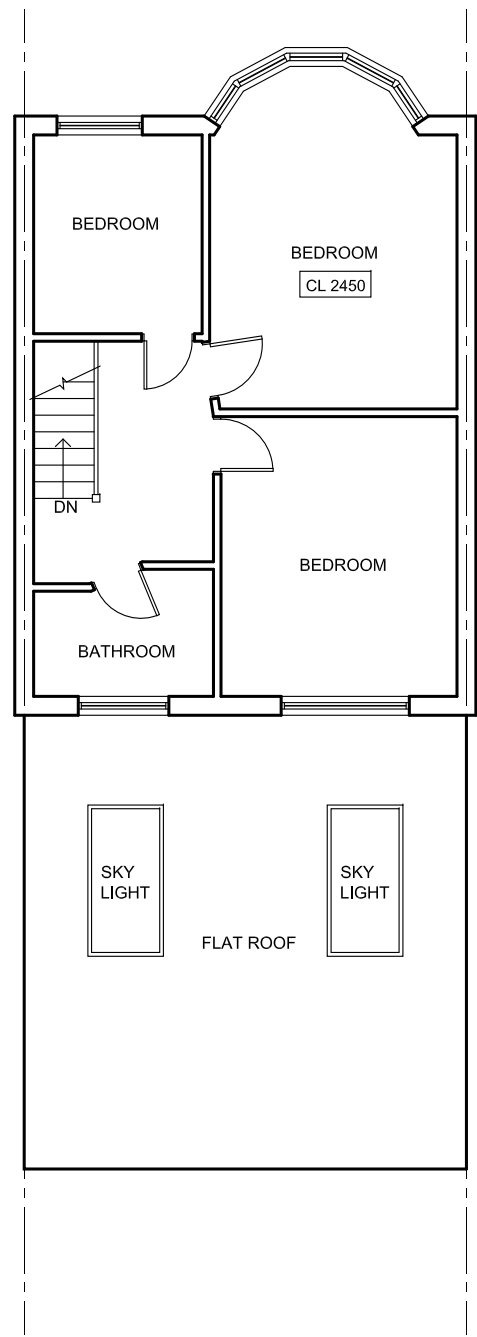
Thornhill Gardens

Gardens

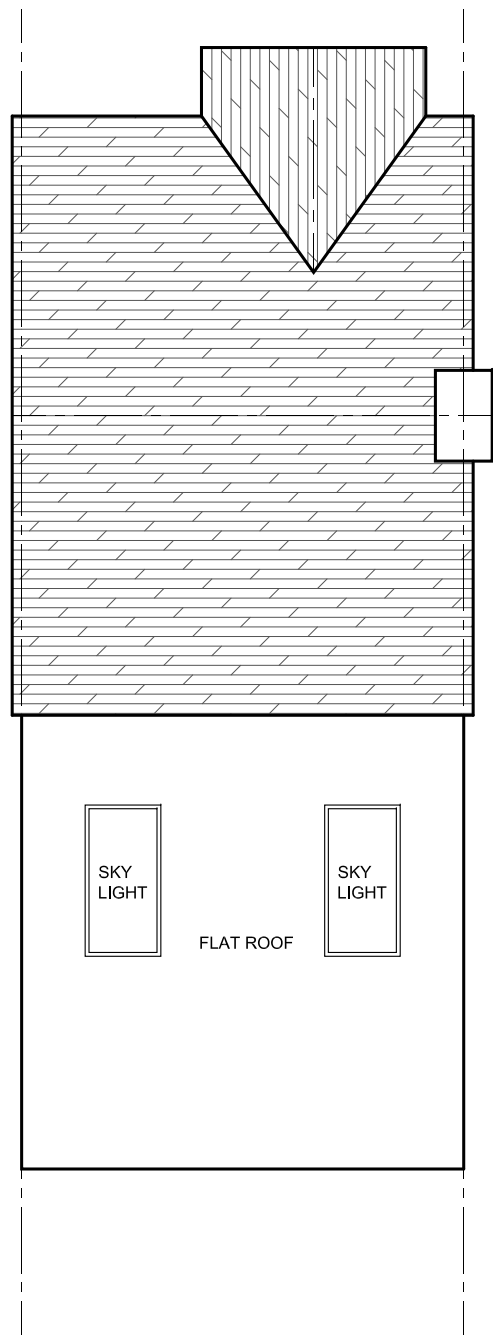
- Notes.**
- 1 It is the responsibility of the client, contractor and supervising officer to follow the Instructions below
  - 2 This drawing to be read in conjunction with all relevant drawings. Any discrepancies found to be notified to the Supervising Officer immediately
  - 3 Only figured dimensions to be used for constructional purposes
  - 4 All works to be carried with all relevant local authority approvals and to the satisfaction of the building control inspector. existing structure to be opened for inspection if required. all dimensions are to be checked on site prior to commencement of works.
  - 5 All external finishes to match existing or conditions imposed on approved planning for scheme
  - 6 This drawing is copyright of JND & can not be reproduced without JND's approval  
THIS IS A PLANNING DRAWING ONLY



PROPOSED GROUND FLOOR




PROPOSED FIRST FLOOR

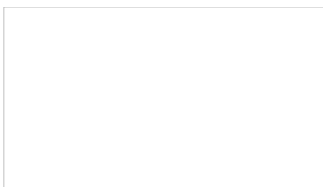


PROPOSED ROOF PLAN



REV	AMENDMENT	DATE
 <b>JND<sup>2</sup> Designs</b> DESIGN, ARCHITECTURE, PLANNING AND PROJECT MANAGING CONSULTANTS		
<b>Client:</b>		MR. A. AMIN
<b>Project:</b>		SINGLE STOREY REAR EXTENSION AT 14 THORNHILL GARDENS, BARKING, IG11 9TX
<b>Title:</b>		PROPOSED FLOOR PLANS
<b>Scale:</b> 1:100 @A3		<b>Date:</b> JULY, 2022
<b>Drawn:</b> J P		<b>Checked:</b> J C
<b>Drg. No</b>	JND / 1223 /12	<b>Rev-</b>





London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBB Reference:** 22/01189/PRIEXT

J Patel  
72 Harrow Drive  
Hornchurch  
RM11 1NX

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

Dear Sir / Madam,

**Application Number:** 22/01189/PRIEXT  
**Address:** 14 Thornhill Gardens, Barking, Barking And Dagenham, IG11 9TX  
**Development Description:** Prior notification application for the construction of a single storey rear extension. The proposed extension will extend beyond the rear wall by 6.00 metres. The maximum height of the proposed extension from the natural ground level is 3.00 metres. The height at eaves level of the proposed extension measured from the natural ground level is 2.80 metres.

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**  
Head of Planning Assurance  
London Borough of Barking and Dagenham

**PLANNING DECISION NOTICE**

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

**Agent:** J Patel  
72 Harrow Drive  
Hornchurch RM11 1NX

**Applicant:** A Amin  
14 THORNHILL GARDENS  
BARKING RM11 1NX

**PART 1 - PARTICULARS OF THE APPLICATION**

**Application Number:** 22/01189/PRIEXT  
**Application Type:** Prior Approval: Larger Home Extension  
**Development Description:** Prior notification application for the construction of a single storey rear extension. The proposed extension will extend beyond the rear wall by 6.00 metres. The maximum height of the proposed extension from the natural ground level is 3.00 metres. The height at eaves level of the proposed extension measured from the natural ground level is 2.80 metres.  
**Site Address:** 14 Thornhill Gardens, Barking, Barking And Dagenham, IG11 9TX  
**Date Received:** 07 July 2022  
**Date Validated:** 07 July 2022

**PART 2 - PARTICULARS OF THE DECISION**

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PRIOR APPROVAL is **REQUIRED AND REFUSED** for the carrying out of the proposal referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application, for the reason(s) listed below.

**Reason(s):**

1. The proposed extension, by reason of its excessive depth, bulk, mass and proximity to the boundary, would be an undesirable addition, which would be detrimental to the amenity of neighbouring dwellings, resulting in a loss of light, loss of outlook and overbearing impact to adjoining neighbours at 12 and 16 Thornhill Gardens, and significant overshadowing to 12 Thornhill Gardens. This is contrary to policies BP8 and BP11 of the Borough Wide Development Policies DPD, policies DMD 1 and DMD 6 of the Draft Local Plan and to guidance in the Residential Extensions and Alterations SPD which seek to protect residential amenity and respect the character of the local area.

**Informative(s):**

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application:

- Site Location Plan and Block Plan - JND / 1223 / 14 - July 2022
- Proposed Floor Plans - JND / 1223 / 12 - July 2022
- Proposed Elevations - JND / 1223 / 13 - July 2022
- Proposed Section - JND / 1223 / 15 - July 2022

**Working with the applicant:**

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could

not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 16/08/2022**

Yours sincerely,

[Marilyn Smith](#)

**Marilyn Smith**  
Head of Planning Assurance  
London Borough of Barking and Dagenham

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **3. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



## Appeal Decision

Site visit made on 16 May 2023

**by Robert Naylor BSc (Hons) MPhil MRTPI**

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

**Decision date: 23 May 2023**

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### **Appeal Ref: APP/Z5060/D/22/3306726**

#### **14 Thornhill Gardens, Barking IG11 9TX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr A Amin against the decision of the Council for the London Borough of Barking and Dagenham Council.
  - The application Ref 22/01189/PRIEXT, dated 7 July 2022, was refused by notice dated 16 August 2022.
  - The development proposed is a single storey rear extension.
- 

### **Decision**

1. The appeal is allowed, and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for a single storey rear extension at 14 Thornhill Gardens, Barking IG11 9TX in accordance with the application 22/01189/PRIEXT, dated 7 June 2022, and the details submitted with it including drawing numbers JND/1223/12; JND/1223/13; JND/1223/14 and JND/1223/15 pursuant to Article 3(1) and Schedule 2, Part 1, Paragraph A.4(2).

### **Preliminary Matters**

2. The provisions of the GPDO as amended, under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7) requires the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of the development is established by the 2015 Order. The prior approval provisions do not require regard to be had to the development plan. I have therefore only had regard to the policies of the development plan in so far as they are material to the matters for which prior approval is sought.
4. The Council refer to the emerging London Borough of Barking and Dagenham Draft Local Plan 2037 (Regulation 19 Consultation version, September 2020). The Examination has concluded, and the Council are awaiting the Inspector's report. However, I have little information to suggest when the plan is likely to be adopted, if any policies have been modified, or if there are any unresolved objections. Accordingly, I attribute limited weight to the Draft Local Plan (DLP).

## **Main Issue**

5. The main issue is the impact of the proposed development on the living conditions of adjoining neighbours with regard to light and outlook.

## **Reasons**

6. The appeal site consists of a two-storey terrace dwellinghouse located on the southwestern side of Thornhill Gardens in Barking. The proposed single storey rear extension would extend beyond the rear wall by approximately 6.00m across the full width of the host property, to a maximum height of approximately 3.00m with an eaves height of approximately 2.80m.
7. There are a significant number of other rear extensions and various large outbuildings on neighbouring properties in the vicinity. As such, there is a varied character with differences in the design of extensions with a noticeable lack of coherence or symmetry. Both the neighbouring properties at Nos 12 and 16 Thornhill Gardens have been extended at the rear with single storey projections. No 10 Thornhill Gardens has also been extended to a similar depth to the appeal proposal utilising the prior approval process<sup>1</sup>. In issuing prior approval at No 10, the Council considered that the proposal would not unacceptably impact on the living conditions of the neighbour at No 12 in respect to daylight, sunlight, outlook and privacy, despite adjoining the shared boundary.
8. In regard to the effect on No 12 from the proposed scheme, this property has an existing single storey rear conservatory. There is no conclusive evidence that this serves a habitable room, however I have adopted a precautionary approach in respect of its usage. The Councils Residential Extensions and Alterations Supplementary Planning Document (SPD) highlights that single storey rear extensions should not normally exceed 3.65m from the original rear wall of the dwellinghouse, in order to ensure that there is no material loss of daylight and outlook to neighbouring properties. At approximately 6.00m in depth the proposal would significantly exceed this tolerance.
9. I have not been provided with any daylight/sunlight report nor any assessment in accordance with the British Research Establishment (BRE) tests on light. However, given the lightweight and glazed construction of the conservatory this would provide significant light into any habitable room at the ground floor of No 12. Furthermore, the glazed openings have direct views over the garden, albeit there would also be views of the proposed extension.
10. From my site observations, given the orientation of the properties, the course of the sun, and therefore the direction of shadowing, the impact on sunlight as a result of the extension on No 12 would be experienced mainly in the afternoons. However, the significantly glazed nature of the existing conservatory at this property, would allow a good degree of light to enter any habitable rooms at ground floor level. Even without more detailed BRE tests, I am satisfied that the proposal would maintain a reasonable relationship with this adjacent property and not lead to excessive loss of daylight and sunlight.
11. The appeal proposal would nevertheless increase the extent of the built form closest to the party boundary. However, the proposed flat roof design means that overall, the appeal proposal's height, scale and bulk would not be of a

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<sup>1</sup> London Borough of Barking and Dagenham Planning Ref: 19/00334/PRIOR6

level which would give rise to any significant additional overbearing effect. In respect to outlook the proposal would not create an undue sense of enclosure relative to the rear openings at No 12 or its garden area, particularly given its similarities to the approved scheme at No 10. Neither would its overall presence significantly reduce the current aspect enjoyed by those occupants to an extent that would be overbearing given the existing boundary wall between the appeal site and this property.

12. With regard to No 16, this has been recently extended at ground floor level with windows facing down the garden. The appeal property's proposed extension would project slightly beyond the extent of that adjoining extension at No 16 by approximately 3.00m, which is less than the 3.65m tolerance as stated in the Councils SPD. Whilst the appeal proposal would increase the extent of the built form along the party boundary, it is not considered to provide significant additional overshadowing, nor an overbearing impact or loss of outlook.
13. Based on the individual circumstances of the scheme, the proposed development would not unacceptably harm the living conditions of the occupiers of the adjoining premises. As a result, the proposed development would comply with the provisions of Schedule 2, Part 1, Class A, paragraph A.4(7) of the GPDO and would not be contrary to the amenity protection aims of policies BP8 and BP11 of the Barking and Dagenham Borough Wide Development Policies Development Plan Document adopted March 2011. Nor would it be contrary to policies DMD1 and DMD6 of the DLP or the SPD in so far as they relate to amenity impacts on neighbours.

### **Other Matters**

14. In forming a decision, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appellant has indicated that personal circumstances have led to the need for the development and this particular form of accommodation. It does not follow from the PSED that the appeal should automatically succeed, but these have been considered when assessing matters.
15. Interested parties have raised concerns in respect to the cumulative impact of recent developments and the current proposal on the existing structural conditions and foundations. However, these matters are not relevant in determining whether the proposal would be permitted by Schedule 2, Part 1, Class A of the GPDO. As such, I have apportioned this no weight.

### **Conditions**

16. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to the conditions in sections A.3 and A.4. This includes the requirement for the exterior materials to be similar to those used in the construction of the exterior of the existing dwellinghouse and that the development is carried out in accordance with the details and plans submitted as part of the application to the local planning authority. No further conditions are necessary.

**Conclusion**

17. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed, and prior approval should be granted.

*Robert Naylor*

INSPECTOR



Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

APP/Z5060/D/22/3313390

**Appeal Application Description:**

Demolition of an existing outbuilding and Construction of a single storey outbuilding to used as an Annex.

**Decision:**

Appeal  
Allowed



# Plans

Drawing No.: 02 of 02

Please note that before building works Commences; it is the responsibility of builders or owner to serve party wall notices to all neighbours.

**Dimensions**  
All dimensions to be checked on site. Contractor to check site thoroughly before work starts and report any discrepancies.

Dimensions stated are for guidance only. Contractor to verify all boundary positions and dimensions on site prior to commencing any work, making workshop drawings or buying any materials.

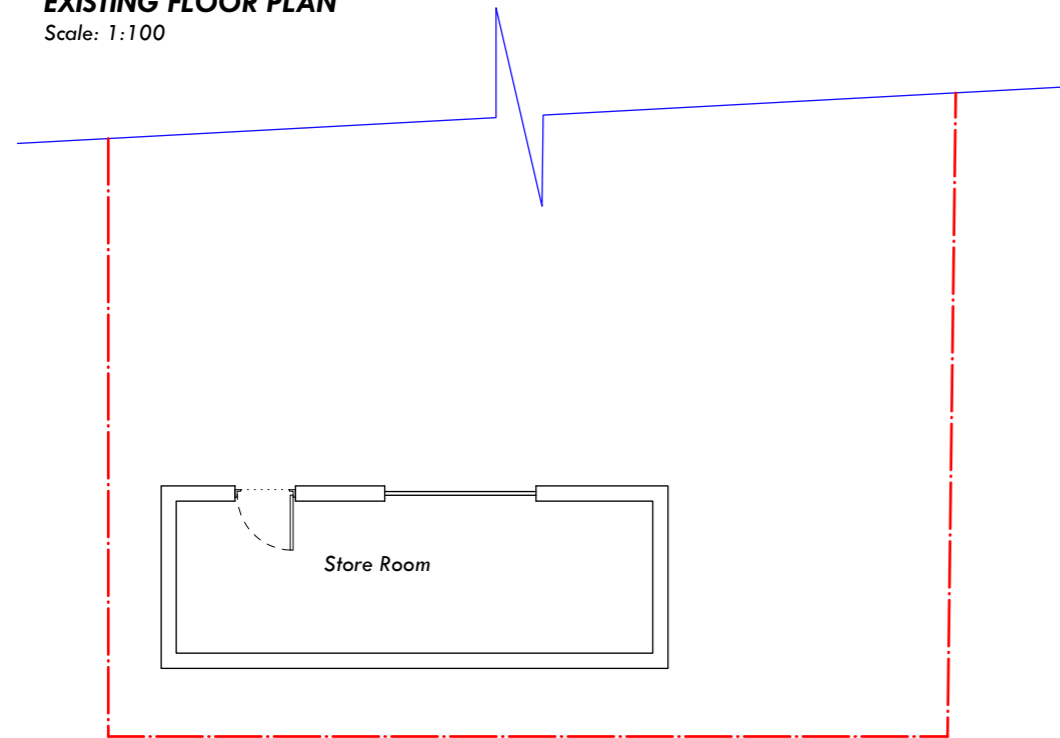
Note: simple dimension check of the site has been conducted in order to prepare this scale drawing. Proposed designs have been provided by the client and final designs on this drawing have been approved by the client.

No site supervision is implied or undertaken unless otherwise separately arranged. The drawing does not indicate the extent of any excavation works and the contractor is to determine this prior to submitting a quotation for the works or commencing any works.

The drawing does not indicate or imply the structural condition of the existing property. The drawings have been prepared for assistance in the preparation of details for planning and building regulations purposes only. No check dimensions have been taken.

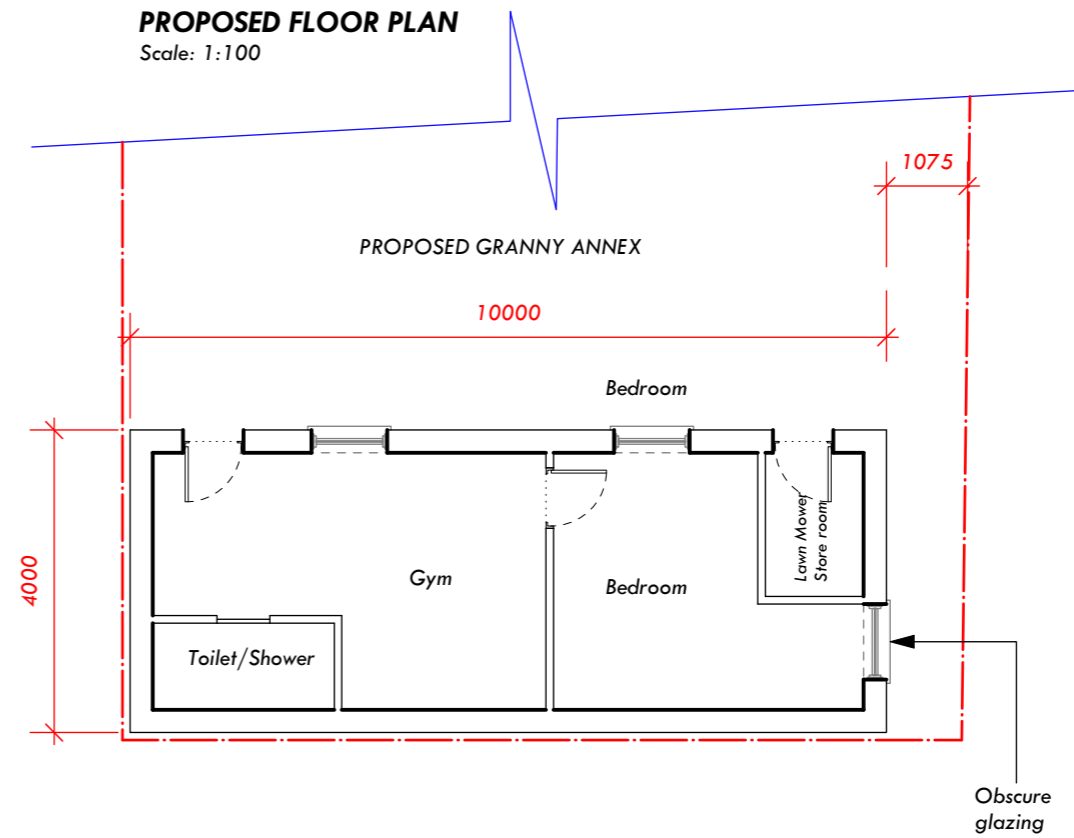
## EXISTING FLOOR PLAN

Scale: 1:100



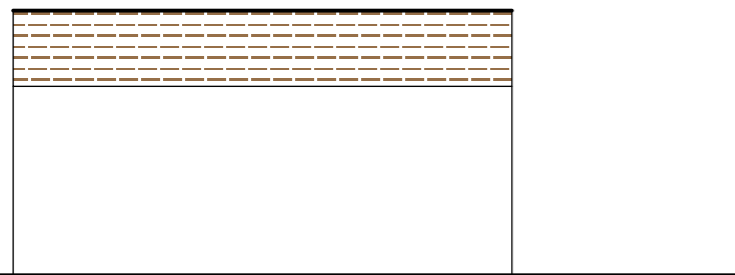
## PROPOSED FLOOR PLAN

Scale: 1:100



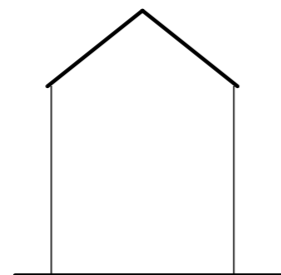
## EXISTING REAR ELEVATION

Scale: 1:100



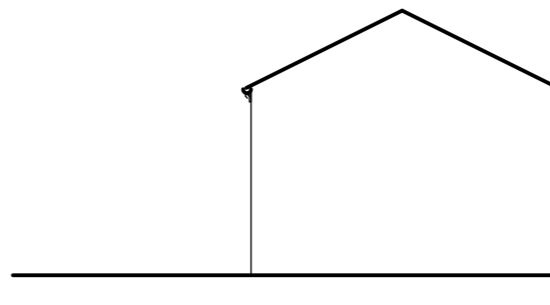
## EXISTING A SIDE ELEVATION

Scale: 1:100



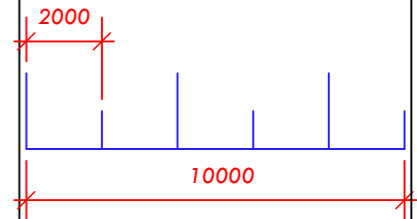
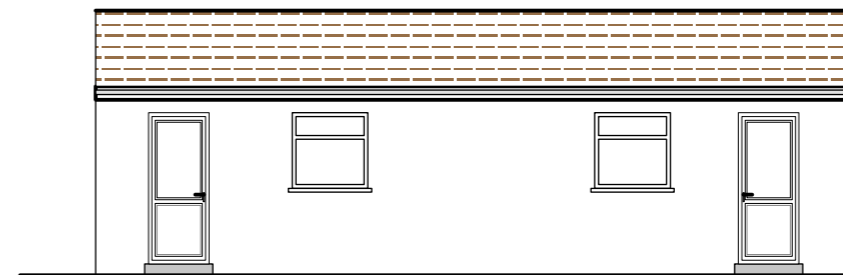
## PROPOSED A SIDE ELEVATION

Scale: 1:100



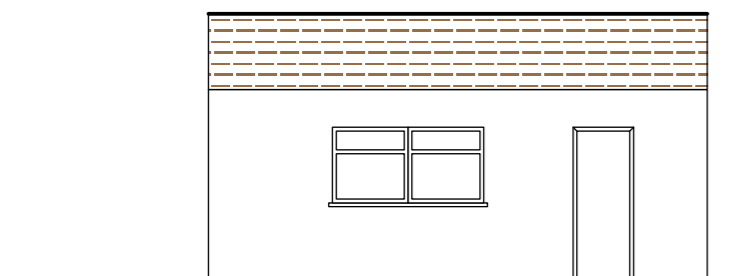
## PROPOSED FRONT ELEVATION

Scale: 1:100



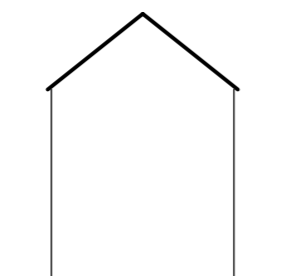
## EXISTING FRONT ELEVATION

Scale: 1:100



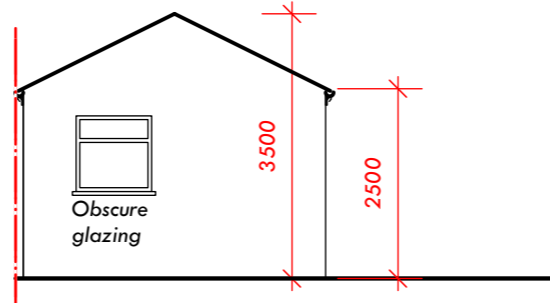
## EXISTING B SIDE ELEVATION

Scale: 1:100



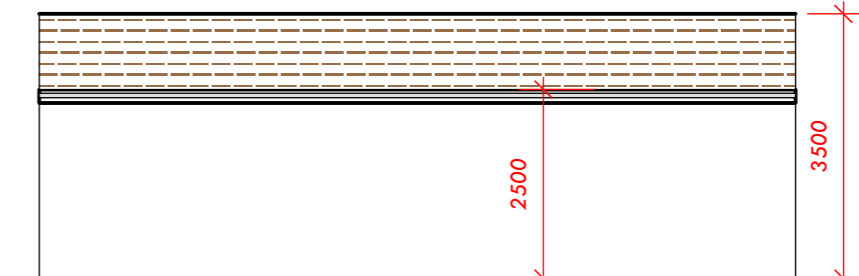
## PROPOSED B SIDE ELEVATION

Scale: 1:100



## PROPOSED REAR ELEVATION

Scale: 1:100



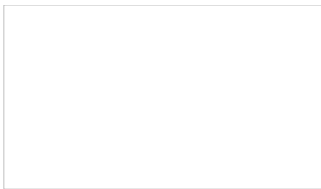
**Stylish**  
Interiors & Architecture

020 8552 3999 07947444103  
info@style-ish.org.uk

Project: 128 Western Ave RM10 8UH
Drawing Title: Plans
Drawing Number: 02 of 02
Scale: 1:100 @A3
Date: 02/08/2022
Client: Mr. Abdul Karim



www.style-ish.org.uk



London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBB Reference:** 22/01472/HSE

Shaik Hussain  
37a St Antonys Road  
London  
E79QA

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS  
AMENDED)**

Dear Sir / Madam,

**Application Number:** 22/01472/HSE  
**Address:** 128 Western Avenue, Dagenham, Barking And Dagenham, RM10 8UH  
**Development Description:** Demolition of an existing outbuilding and Construction of a single storey outbuilding to used as an Annex.

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**  
Head of Planning and Assurance  
London Borough of Barking and Dagenham

## PLANNING DECISION NOTICE

### TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)

**Agent:** Shaik Hussain  
37a St Antonys Road  
London E79QA

**Applicant:** Abdul Karim  
128 WESTERN AVENUE  
DAGENHAM E79QA

#### PART 1 - PARTICULARS OF THE APPLICATION

**Application Number:** 22/01472/HSE  
**Application Type:** Householder Planning Permission  
**Development Description:** Demolition of an existing outbuilding and Construction of a single storey outbuilding to used as an Annex.  
**Site Address:** 128 Western Avenue, Dagenham, Barking And Dagenham, RM10 8UH  
**Date Received:** 26 August 2022  
**Date Validated:** 30 August 2022

#### PART 2 - PARTICULARS OF THE DECISION

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PLANNING PERMISSION has been **REFUSED** for the carrying out of the development referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application for the reason(s) listed below.

##### Reason(s):

1. The proposed development, by reason of mass and bulk will appear as a disproportionately large addition in comparison to the existing dwellinghouse and will introduce a residential use into the rear garden setting which is not a location suitable for primary residential use. This would present a discordant use of the garden setting which is harmful to the surrounding character and appearance. As such the proposal is found to be unacceptable in terms of design and contrary to the following policies:
  - Paragraphs 126, 130, and 134 of the National Planning Policy Framework National Planning Policy Framework (NPPF) (DLUHC, July 2021);
  - Policies D1 and D4 of the London Plan (March 2021);
  - Policy CP3 of the Local Development Framework (LDF) Core Strategy (July 2010);
  - Policies BP8 and BP11 of the Local Development Framework (LDF) Borough Wide Development Plan Document (DPD) (March 2011);
  - Policies SP 2, DMD 1 and DMD 6 of The London Borough of Barking and Dagenham's Draft Local Plan: (Regulation 19 Submission Version, Autumn 2021);
  - The Residential Extensions and Alterations Supplementary Planning Document (February 2012).

The above policies can be viewed on the Council's website: [www.lbbd.gov.uk/planning](http://www.lbbd.gov.uk/planning).

##### Informative(s):

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application: -
  - Location and block plan - Drawing no. 01 - Dated 14.06.2022
  - Plans - Drawing no. 02 - Dated 02.08.2022

**Working with the applicant:**

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 30.09.2022**

Yours sincerely,

**Marilyn Smith****Marilyn Smith**Head of Planning and Assurance  
London Borough of Barking and Dagenham

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Subsequent Application Fees**

No planning fee would be payable should a revised planning application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

### **3. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **4. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



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## Appeal Decision

Site visit made on 11 April 2023

**by H Lock BA(Hons) DipTP MRTPI**

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

**Decision date: 24<sup>th</sup> April 2023**

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**Appeal Ref: APP/Z5060/D/22/3313390**

**128 Western Avenue, Dagenham, Essex, RM10 8UH**

- 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 Mr Abdul Karim against the decision of the Council of the London Borough of Barking & Dagenham.
  - The application Ref. 22/01472/HSE, dated 26 August 2022, was refused by notice dated 30 September 2022.
  - The development proposed is demolition of an existing outbuilding and construction of a single storey outbuilding to be used as an annexe.
- 

### Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing outbuilding and construction of a single storey outbuilding to be used as an annexe at 128 Western Avenue, Dagenham, Essex, RM10 8UH, in accordance with the terms of the application, Ref. 22/01472/HSE, dated 26 August 2022, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01 of 02 Location & Block Plans; and 02 of 02 Plans.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the main dwelling.
  - 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 128 Western Avenue, Dagenham, and shall not be used as a separate unit of accommodation.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the appeal site and the surrounding area.

### Reasons

3. The appeal property is a semi-detached house located on a corner plot at the junction with Auriel Avenue. A two-storey side extension has been added, making the building larger than the attached property. It is located in an area



- of mostly terraced housing, with a mix of outbuildings of different sizes and designs visible in nearby rear gardens.
4. The submitted plans of the outbuilding to be demolished do not reflect its size and scale on the ground. As a building with double doors, it is more akin to a former garage, and is considerably deeper than indicated on the submitted plans, projecting closer to the rear boundary. Indeed, measured on the ground, it is deeper than the dimensioned 4m of the proposed replacement outbuilding.
  5. The appeal site has a boundary wall and gates in front of the existing outbuilding, and these provide some screening effect to much of the building. Although not shown on the submitted plans, the closest properties have their own outbuildings, with that at the end of the garden of 130 Western Avenue, on the opposite side of Auriel Avenue, being substantial and sited close to the roadside boundary. Although other outbuildings are visible in the area, most are not so large as plot widths appear to be narrower than the original corner sites. Given the size and scale of the existing outbuilding, its proposed replacement would not appear excessive on the site, as a good-sized garden would remain. As an extended house, the proposed outbuilding would not appear disproportionately large relative to the host building. The proposed materials would create a more robust and visually attractive structure than that to be replaced, to the benefit of the street scene.
  6. In support of its design policies, the Council's Residential Extensions and Alterations Supplementary Planning Document 2012 (SPD) advises that the use of any outbuilding must be ancillary or related to the use of the property as a dwelling, and that any unrelated use would normally be refused. It notes that it should be designed and positioned to restrict its impact upon neighbouring dwellings. The SPD does not oppose annexe accommodation in principle. Whilst the Council's delegated report advises that no reason has been given for an annexe, there does not appear to be any policy requirement to do so.
  7. The Council opposes primary residential use of the proposed building. Whilst the submitted layout indicates the inclusion of a bedroom, as applied for the building would be used as accommodation that could reasonably be regarded as related to the main house. The Council's delegated report acknowledges that kitchen facilities in the main dwelling would be used by any occupant of the annexe. I appreciate the Council's reasoning, that a residential unit in the rear garden has the potential to disrupt the break between existing residential buildings provided by the gardens, which is needed for privacy and noise reduction between dwellings. However, I also agree with the Council's assessment that the rear gardens of neighbouring dwellings are of generous depth and that the proposed building would be some distance from the houses themselves.
  8. In this context, I do not consider that use of the building as annexe accommodation would create the harm envisaged by the Council, and in terms of its physical presence it would not be markedly larger than the building that it would replace. Given the range of outbuildings in the area, the proposal would have sufficient regard to the local character, in accordance with Policy BP8 of the Borough Wide Development Policies Development Plan Document 2011 (DPD). There would be a functional link between the main house and the use of the proposed outbuilding, and an appropriately worded planning condition would provide sufficient safeguards to control its occupancy.

9. I therefore conclude that, subject to a condition restricting the use of the building as an ancillary annexe, it would not detract from the character and appearance of the dwelling and the surrounding area. It would accord with the design objectives of the National Planning Policy Framework, and with Policies D1 and D4 of The London Plan 2021, which seek to deliver high quality design; and with Core Strategy 2010 Policy CP3, which amongst other criteria expects high quality development which respects and strengthens local character and provides a sense of place. There would be no conflict with DPD Policies BP8 and BP11, as supported by the SPD, which together require all developments to protect or enhance the character and amenity of the area.
10. I have placed more limited weight on the draft Local Plan policies listed in the reason for refusal due to the stage in the examination process, but in any event there would be no conflict with their content.

### **Conditions**

11. In addition to the standard time limit, I have attached a condition specifying the approved drawings as this provides certainty. It is also appropriate to control materials to match the main dwelling, in order to safeguard the character and appearance of the development and the area. With some modification to the wording suggested by the Council for precision, and to reflect published model conditions, I have attached a condition to restrict use of the annexe, in the interests of the amenities of neighbouring residents and the character of the area.

### **Conclusion**

12. For the reasons given above I conclude that the appeal should be allowed.

*H Lock*

INSPECTOR

Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

APP/Z5060/W/22/3313463

**Appeal Application Description:**

Demolition of garage and construction of a detached dwelling with parking.

**Decision:**

Appeal  
Allowed



Evri ParcelShop

ices

Dubai shisha  
Tobacco shop

Rainham Rd S

Dewey Rd

Dewey Rd

Soul Nights Out In Essex

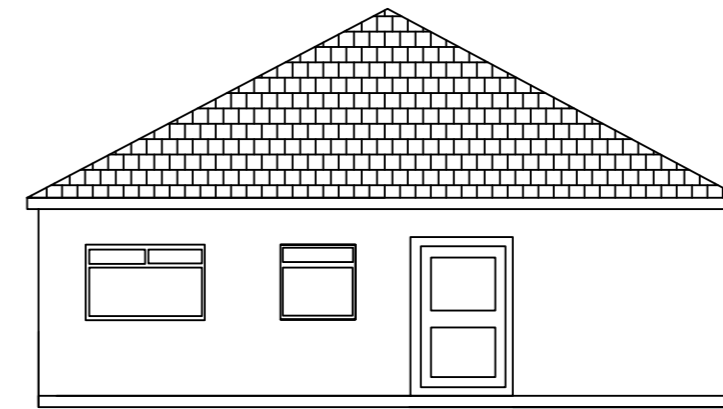
Gunays Cafe

A1112

Prep & Polish  
Temporarily closed



Existing Front Elevation

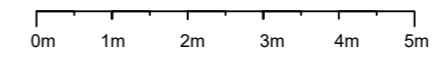


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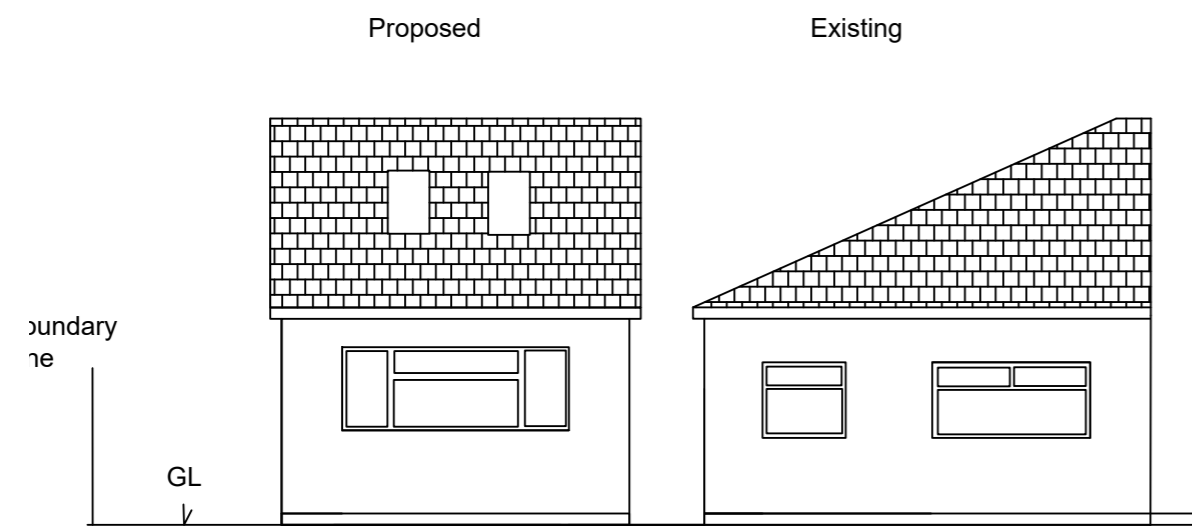


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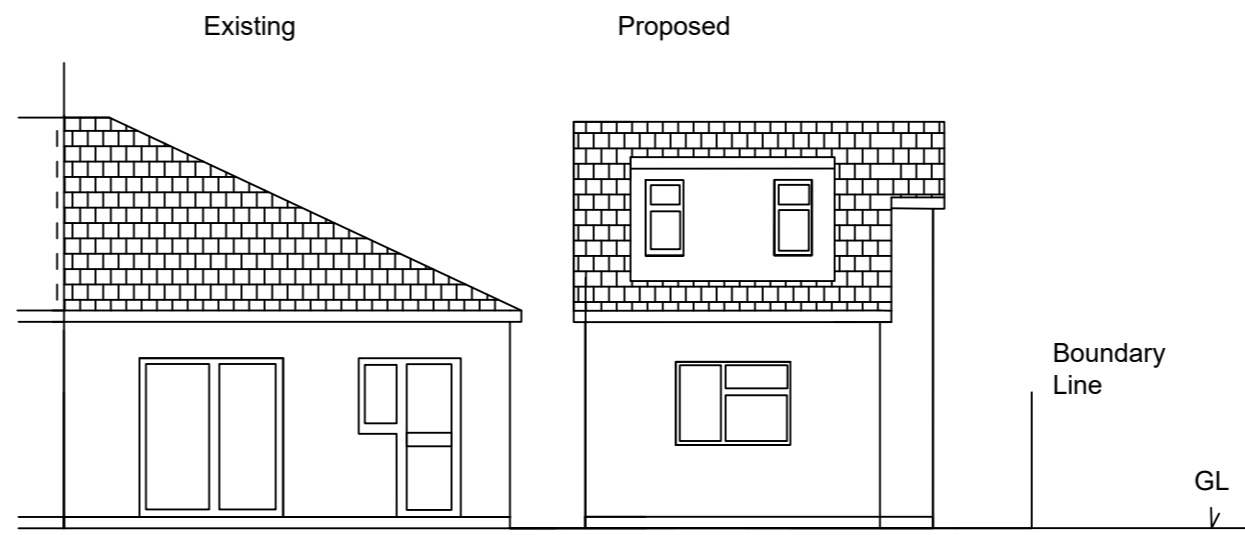
2 Dewey Road, Dagenham RM10 8AR	
Proposed Detached house with Off Street Parking	
Existing Elevations	
Scale 1: 100 on A3	
Drawing No: 2DR/2	
Drawn By : PSB	Date : 09/21



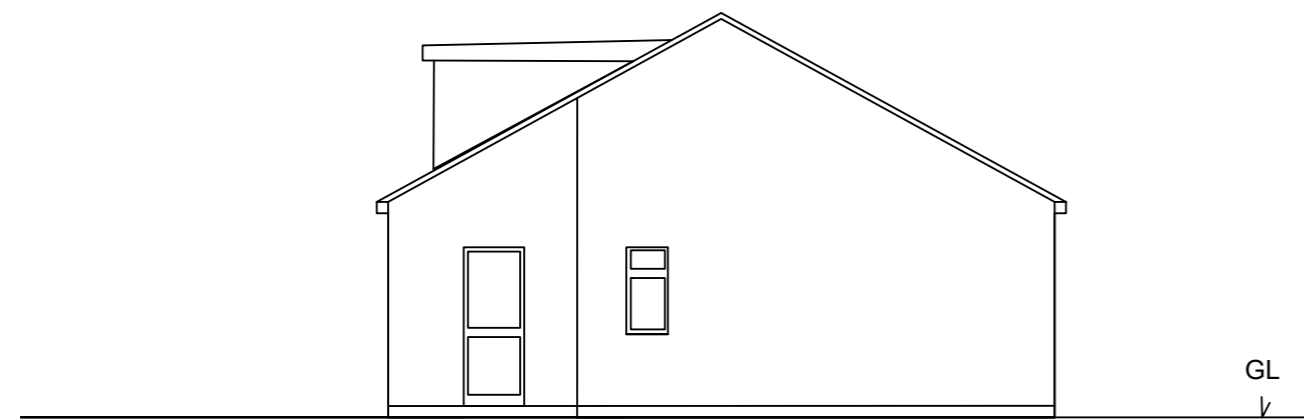
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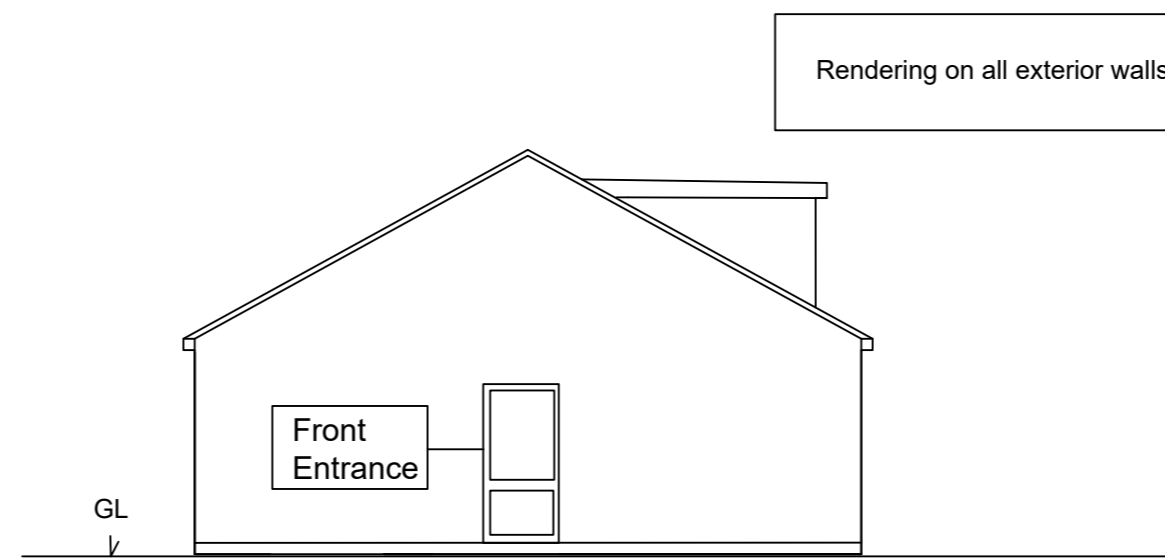
Proposed Front Elevation



Proposed Rear Elevation

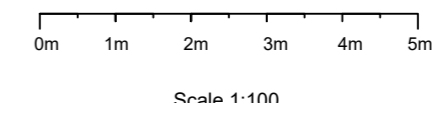


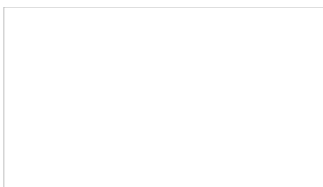
Proposed Side Elevation



Proposed Side Elevation

2 Dewey Road, Dagenham RM10 8AR	
Proposed Detached house with Off Street Parking	
Proposed Elevations	
Scale 1: 100 on A3	
Drawing No: 2DR/3	
Drawn By : PSB	Date : 09/21





London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBD Reference:** 22/00241/FULL

Paramjit Bhamra

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS  
AMENDED)**

Dear Sir / Madam,

**Application Number:** 22/00241/FULL  
**Address:** 2 Dewey Road, Dagenham, Barking And Dagenham, RM10 8AR  
**Development Description:** Demolition of garage and construction of a detached dwelling with parking.

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**  
Head of Planning and Assurance  
London Borough of Barking and Dagenham

**PLANNING DECISION NOTICE**

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

**Agent:** Paramjit Bhamra

**Applicant:** J Ghattura

**PART 1 - PARTICULARS OF THE APPLICATION**

**Application Number:** 22/00241/FULL  
**Application Type:** Full Planning Permission  
**Development Description:** Demolition of garage and construction of a detached dwelling with parking.  
**Site Address:** 2 Dewey Road, Dagenham, Barking And Dagenham, RM10 8AR  
**Date Received:** 31 January 2022  
**Date Validated:** 02 May 2022

**PART 2 - PARTICULARS OF THE DECISION**

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PLANNING PERMISSION has been **REFUSED** for the carrying out of the development referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application for the reason(s) listed below.

**Reason(s):**

1. The proposed new dwelling would fail to meet the required space standards for a property of its size. As such it is not considered that the proposed new dwelling will meet the needs of future residents and ensure a satisfactory lifestyle is provided. The proposal is contrary to:

- Policy D6 (Housing quality and standards) of the London Plan (2021);  
- Policy BP6 (Internal space standards) of the Local Development Framework (LDF) Borough Wide Development Plan Document (DPD) (March 2011) - DCLG  
Technical Housing Standards (nationally described space standard) (DCLG, March 2015) (as amended)

2. The proposed dwelling, by reason of its design and sitting, would present a discordant feature that is unsympathetic in design to the surrounding area as it results in the overdevelopment of a small plot, creating an uncharacteristic sense of claustrophobia at the end of Dewey Road which can be seen along Rainham Road South, As such, the proposed development is contrary to:

- National Planning Policy Framework National Planning Policy Framework (NPPF) (DLUHC, 2021)  
- Policy D4 of the London Plan (March 2021)  
- Policy CP3 of the Local Development Framework (LDF) Core Strategy (July 2010)  
- Policies BP8 and BP11 of the Local Development Framework (LDF) Borough Wide Development Plan Document (DPD) (March 2011) - The Residential Extensions and Alterations Supplementary Planning Document (February 2012)  
- Policies SP2, DMD1 and DMD6 of The London Borough of Barking and Dagenham's Draft Local Plan: (Regulation 19 Submission Version, December 2021)

The above policies can be viewed on the Council's website: [www.lbbd.gov.uk/planning](http://www.lbbd.gov.uk/planning).

**Informative(s):**

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application:



- 2DR/1 - Existing and Proposed Plans - 09/21
- 2DR/3 - Proposed Elevations - 09/21
- 2DR/4 R1 - Proposed Floor Plans - 09/21
- 2DR/5 - Proposed Bin, Cycle and Escape Route - 09/21
- Site Location Plan

**Working with the applicant:**

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 27/06/2022**

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**

Head of Planning and Assurance  
London Borough of Barking and Dagenham

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Subsequent Application Fees**

No planning fee would be payable should a revised planning application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

### **3. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **4. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



## Appeal Decision

Site visit made on 9 May 2023

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 June 2023**

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**Appeal Ref: APP/Z5060/W/22/3313463**

**2 Dewey Road, Dagenham RM10 8AR**

- 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 Mr J Ghattura against the decision of the Council of the London Borough of Barking and Dagenham.
  - The application Ref 22/00241/FULL, dated 31 January 2022, was refused by notice dated 27 June 2022.
  - The development proposed is demolition of garage and erection of a detached dwelling with parking.
- 

### Decision

1. The appeal is allowed and planning permission is granted for demolition of garage and erection of a detached dwelling with parking at 2 Dewey Road, Dagenham RM10 8AR in accordance with the terms of the application, Ref 22/00241/FULL, dated 31 January 2022, and the plans submitted with it, subject to the following 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: Location Plan; 2DR/1 Existing and Proposed Plans; 2DR/2 Existing Elevations; 2DR/3 Proposed Elevations; 2DR/4 Proposed Floor Plans; 2DR/5 Existing and Proposed Roof Plan; 2DR/5 Proposed Bin, Cycle store and Escape Route.
  - 3) The materials used in the external surfaces of the house hereby permitted shall match those used in the existing dwelling at 2 Dewey Road.
  - 4) Notwithstanding condition 2 no development above ground shall commence until details of bicycle parking/storage have been submitted to and approved in writing by the local planning authority. The bicycle parking/storage shall be provided in accordance with the approved details prior to first occupation of the development. The bicycle parking/storage shall thereafter be retained.

### Preliminary Matters

2. The Council has submitted the London Borough of Barking and Dagenham (LBBD) Draft Local Plan Regulation 19 Consultation Version (DLP) for examination. I am not aware of the exact stage it has reached, the extent of unresolved objections or whether the policies concerned will be considered consistent with the National Planning Policy Framework (the Framework).

Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.

### **Main Issues**

3. The main issues are:

- i. The effect of the proposal on the character and appearance of the surrounding area.
- ii. Whether future occupiers would be likely to experience acceptable living conditions in terms of internal living space.

### **Reasons**

#### *Character and appearance*

4. The appeal site is a prominent corner plot at the junction with Rainham Road South, a main road comprising commercial uses and housing. Dewey Road and other side streets are mainly residential. The area is part of the Becontree Estate, which is an extensive inter-war housing development of mainly two-storey dwellings and some bungalows. This part of the estate includes many recent infill developments amongst the original buildings that remain, resulting in a varied mix of traditional and modern building styles and some three-storey blocks. Consequently, the character and appearance of the area near the appeal site is very diverse.
5. The new house would be similar in scale to its immediate neighbours. Although the roof form would be different, it would also have a comparable eaves and ridge height, similar windows and a broadly consistent front and rear building line with those houses. Matching materials could be secured by condition. For these reasons, and notwithstanding some three-storey blocks nearby, the house would not appear discordant when viewed either down the main road or from Dewey Road. The wide footway around the site would continue to contribute to a sense of openness at the corner despite a larger building occupying the corner plot. Although small, the appeal site would allow for a gap between the new and host dwellings and sufficient external space around both houses, so the proposed development would not appear cramped.
6. I have considered the design of the proposal in relation to other single storey dwellings in Dewey Road. Other than the host property and its partner, there are a small number of semi-detached bungalows some distance further down the street. The new house would not be part of a semi-detached pair, would be narrower and would have a gabled roof unlike these other bungalows. However, given the street's diverse housing and architectural typology and the other bungalows' distance from the appeal site, these differences in appearance would detract little from the character of the surrounding area.
7. For the above reasons, I conclude the proposed development would not have a harmful effect on the character and appearance of the surrounding area. Accordingly, I find no conflict with Policies D1, D4 and D8 of the London Plan, Policy CP3 of the CS<sup>1</sup>, Policies BP8 and BP11 of the BWDP<sup>2</sup>, or the Framework. These policies seek good design that has regard to local character, respects local context and helps to create a sense of place. I also find no conflict with

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<sup>1</sup> London Borough of Barking and Dagenham (LBBDD) Local Development Framework Core Strategy

<sup>2</sup> LBBDD Local Development Framework Borough Wide Development Policies

Policies SP2 and DMD1 of the DLP, which promote high quality design that recognises local character.

8. In addition, I find no conflict with Policy HC1 of the LP, Policy CP2 of the CS, Policy BP2 of the BWDP and Policy DMD4 of the DLP, which promote understanding and respect for local historic context, such as the Becontree Estate.
9. Policy DMD6 of the DLP and the LBBB Residential Extensions and Alterations Supplementary Planning Document do not cover new dwellings so are not relevant to this decision.

### *Living conditions*

10. The house would accommodate two people over two storeys, notwithstanding that the upper floor is within the roof space. Consequently, for the purposes of internal space standards, the proposal comprises a one bedroom, two-person, two storey dwelling. Policy D6 of the LP and national guidance<sup>3</sup> require a minimum 58 m<sup>2</sup> overall gross internal floor area (GIA) for a one bedroom, two-person, two storey dwelling. Even if I take the appellant's figure of 55.2m<sup>2</sup>, the GIA of the proposed house would be less than the overall minimum standard required.
11. Policy BP6 of the BWDP also sets individual minimum space standards for a double bedroom, kitchen/dining/living space and storage. The Council's assessment concludes the proposal would comply with all the minimum floor areas for these different types of space. I see no reason to disagree with this conclusion. Indeed, I note that in all three instances the minimum space standard would be exceeded.
12. The open plan kitchen/dining/living area would allow for a logical flow of activities, with a downstairs toilet. Upstairs, the bathroom would be close to the bedroom, the shape of the bedroom would allow enough space around furniture, and the storage space would be easily accessible. In addition, both levels of the dwelling would be dual aspect. The outdoor space would also be larger than required with good orientation for sun and sufficient space for storage of bikes and bins. Therefore, the proposal would be consistent with many of the qualitative design aspects sought by Policy D6 of the LP, because it would be functional, comfortable, fit for purpose and dual aspect.
13. Taking all this together, I find the proposal would conflict with the minimum overall GIA space standard requirement of Policy D6 of the LP. However, I consider the other material considerations set out above outweigh that conflict. I find no conflict with the Framework, which requires a high standard of amenity for future occupiers. Under section 38(6) of the Planning and Compulsory Purchase Act 2004, this leads me to determine other than in accordance with the development plan and I conclude future occupiers would be likely to experience acceptable living conditions in terms of internal living space.

### **Other Matters**

14. The proposal would result in the creation of one additional dwelling on a small site in an area with good access to public transport. It would therefore help to

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<sup>3</sup> Technical housing standards – nationally described space standard

meet London's unmet housing need, in accordance with Policies GG4, H1 and H2 of the LP and Policies CM1, CM2 and CC1 of the CS. This is notwithstanding that there is high demand for larger family-sized accommodation in the borough. This would be a benefit of the proposal. There would also be a modest economic benefit from construction and future occupiers' use of local services.

### **Conditions**

15. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
16. A condition on materials is necessary to integrate the appearance of the proposed house with that of the host dwelling. The condition requiring approval of details of bicycle parking/storage is necessary to ensure effective storage and promote active travel in accordance with Policy T5 of the LP.
17. Neither the wholesale removal of freedoms to carry out small-scale alterations and extensions, nor restriction of the proposed development to C3 (single dwellinghouse) use only, has a justification specific and precise enough to meet the tests of necessity and reasonableness. Therefore, I have not included conditions on these matters. A pre-commencement condition requiring prior approval of a Construction Logistics Plan is not necessary given the scale and location of the development. The impact of one less on-street parking space, as a result of the proposed crossover, in an area with a good public transport access level (PTAL 4) would be limited. On this basis a condition requiring a parking survey or removal of a parking permit is not necessary.

### **Conclusion**

18. I have found that the proposal would conflict with neither the development plan nor the Framework when each is considered as a whole. It follows that, while the Council acknowledges the delivery of housing has been substantially below the housing requirement in the previous 3 years, triggering the presumption in favour of sustainable development, there are no adverse impacts which would significantly and demonstrably outweigh the benefits of this proposal. I therefore conclude the appeal should be allowed.

*C Carpenter*

INSPECTOR

Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

APP/Z5060/D/23/3321946

**Appeal Application Description:**

Construction of a single storey outbuilding to be ancillary to the main dwellinghouse

**Decision:**

Appeal  
Allowed



Oval Rd N

Oval Rd N

Oval Rd N

Crosby Rd

Crosby Rd

Crosby Rd

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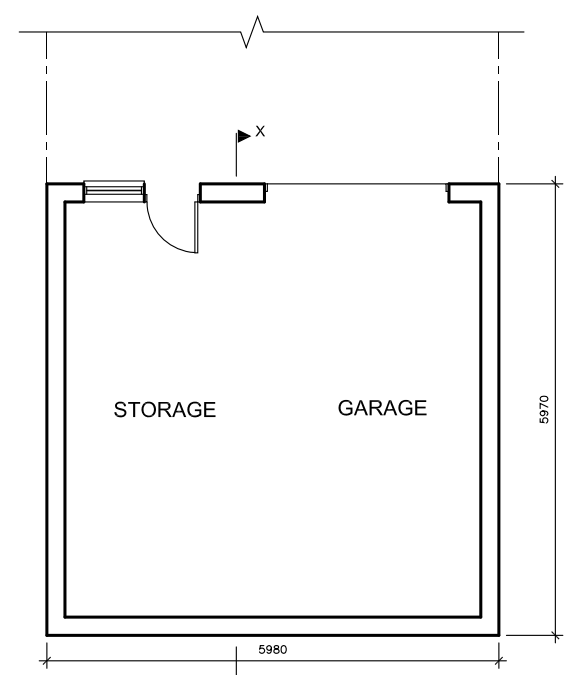
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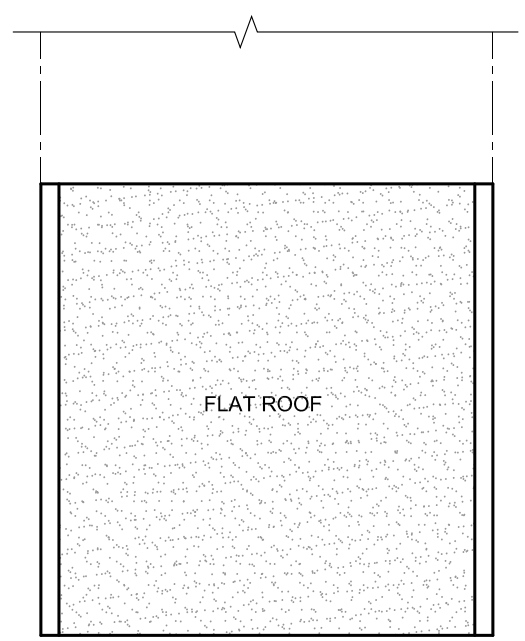


**Notes.**

- 1 This drawing to be read in conjunction with all relevant drawings. Any discrepancies found to be notified to the Supervising Officer immediately
- 2 Only figured dimensions to be used for constructional purposes
- 3 All works to be carried with all relevant local authority approvals and to the satisfaction of the building control Inspector. existing structure to be opened for inspection if required, all dimensions are to be checked on site prior to commencement of works.
- 4 This drawing is copyright of JND & can not be reproduced without JND's approval  
THIS IS A PLANNING DRAWING ONLY



EXISTING PLAN



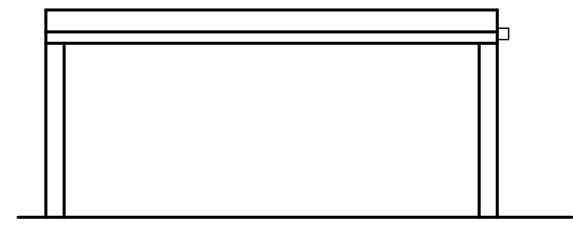
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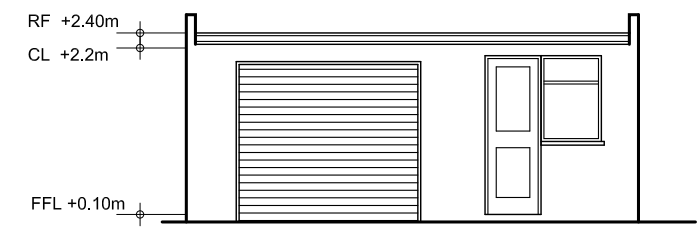
EXISTING REAR ELEVATION



EXISTING SIDE ELEVATION (OTHER SIDE)



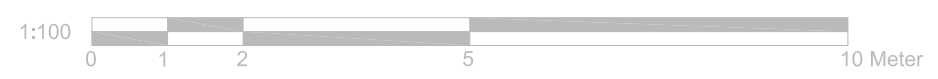
SECTION X X



EXISTING FRONT ELEVATION



EXISTING SIDE ELEVATION



REV	AMENDMENT	DATE



**Client:**  
MR. A. CHODHARY

**Project:**  
PROPOSED GRANNY ANNEXE  
AT  
20 OVAL ROAD NORTH,  
DAGENHAM, RM10 9EL

**Title:**  
EXISTING FLOOR PLANS AND  
ELEVATIONS

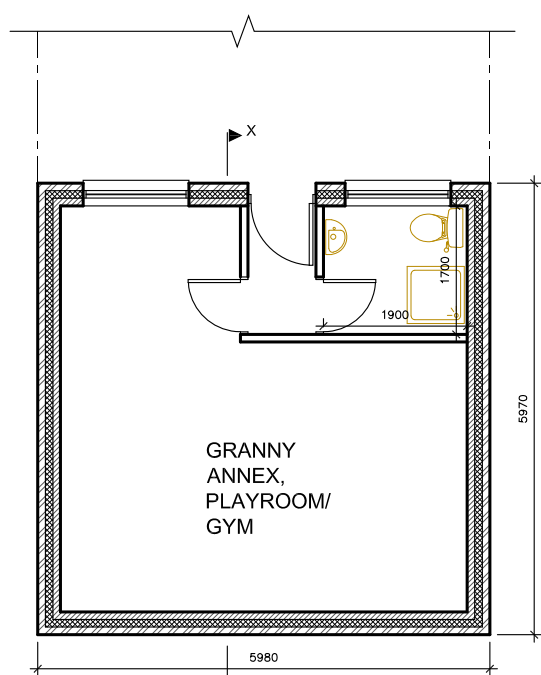
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Drawn: J P      Checked: RP

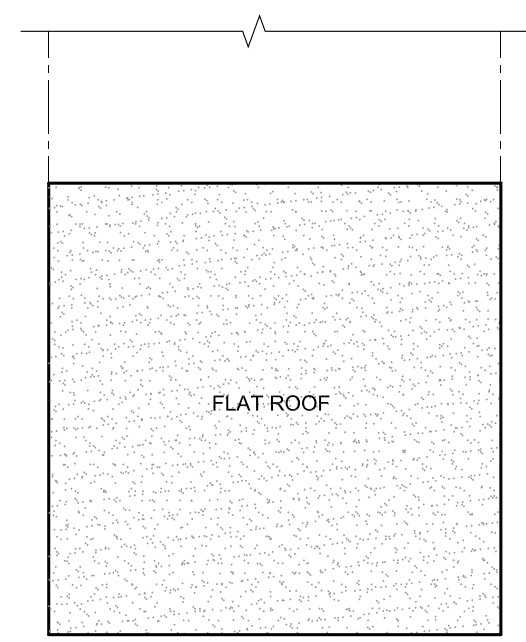
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**Notes.**

- 1 This drawing to be read in conjunction with all relevant drawings. Any discrepancies found to be notified to the Supervising Officer immediately
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**PROPOSED PLAN**



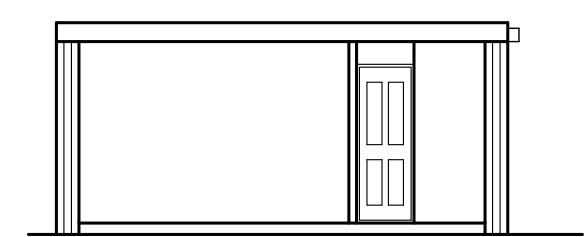
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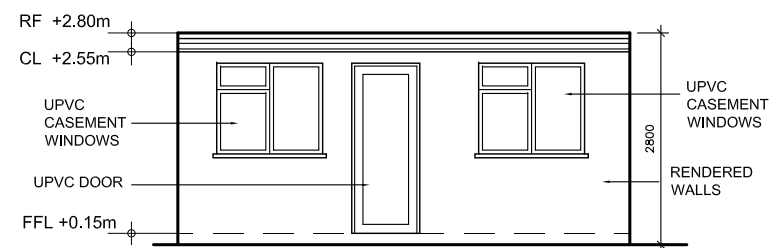
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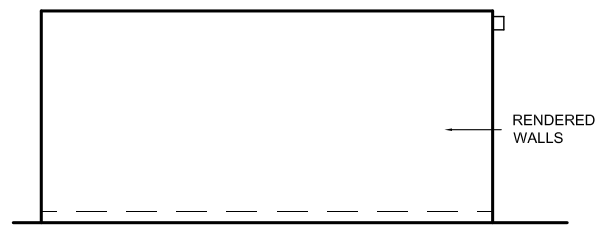
**PROPOSED SIDE ELEVATION (OTHER SIDE)**



**PROPOSED SECTION X X**



**PROPOSED FRONT ELEVATION**



**PROPOSED SIDE ELEVATION**



REV	AMENDMENT	DATE

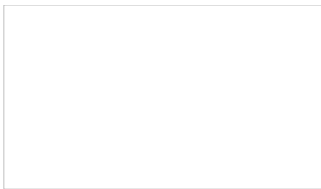
  
**JND<sup>2</sup> Designs**  
 DESIGN, ARCHITECTURE, PLANNING AND PROJECT MANAGING CONSULTANTS

**Client:** MR. A. CHODHARY

**Project:**  
 PROPOSED GRANNY ANNEXE AT  
 20 OVAL ROAD NORTH,  
 DAGENHAM, RM10 9EL

**Title:**  
 PROPOSED FLOOR PLANS AND ELEVATIONS

Scale: 1:100 @A3	Date: JAN. 2023
Drawn: J P	Checked: RP
Drg. No JND / 1271/ 11	Rev-



London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBB Reference:** 23/00050/HSE

J Patel  
72 Harrow Drive  
Hornchurch  
RM11 1NX

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS  
AMENDED)**

Dear Sir / Madam,

**Application Number:** 23/00050/HSE  
**Address:** 20 Oval Road North, Dagenham, Barking And Dagenham, RM10 9EL  
**Development Description:** Construction of a single storey outbuilding to be ancillary to the main dwellinghouse

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**  
Head of Planning and Assurance  
London Borough of Barking and Dagenham

## PLANNING DECISION NOTICE

### TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)

**Agent:** J Patel  
72 Harrow Drive  
Hornchurch RM11 1NX

**Applicant:** A Chodhary  
20 OVAL ROAD NORTH  
DAGENHAM RM11 1NX

#### PART 1 - PARTICULARS OF THE APPLICATION

**Application Number:** 23/00050/HSE  
**Application Type:** Householder Planning Permission  
**Development Description:** Construction of a single storey outbuilding to be ancillary to the main dwellinghouse  
**Site Address:** 20 Oval Road North, Dagenham, Barking And Dagenham, RM10 9EL  
**Date Received:** 11 January 2023  
**Date Validated:** 11 January 2023

#### PART 2 - PARTICULARS OF THE DECISION

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PLANNING PERMISSION has been **REFUSED** for the carrying out of the development referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application for the reason(s) listed below.

##### Reason(s):

1. The proposed development is for an outbuilding that is intended to be used as a main residence for the applicant's disabled relative. The principle of providing accommodation for a relative in the rear of the garden that is entirely separate and capable for being used as a self-contained dwelling is not appropriate. The applicant could have explored opportunities to extend the main house and provide more appropriate solution to the living accommodation. The proposed development should be refused given that it is contrary to:

- National Planning Policy Framework (MHCLG, July 2021);
- Policy D4 the London Plan (March 2021);
- Policy CP3 of the LDF Core Strategy (July 2010);
- Policy BP11 of the LDF Borough Wide Development Plan Policies DPD (March 2011);
- Policies SP 2, DMD 1 and DMD 6 of the Draft Local Plan (Regulation 19 Consultation Version, October 2020);
- The Residential Extensions and Alterations Supplementary Planning Document (February 2012).

The above policies can be viewed on the Council's website: [www.lbbd.gov.uk/planning](http://www.lbbd.gov.uk/planning).

##### Informative(s):

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application:

- JND/1271/11 - Proposed Floor Plans and Elevations - JAN. 2023
- JND/1271/12 - Location & Block Plan - JAN. 2023

##### Working with the applicant:

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is

likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 03/03/2023**

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**

Head of Planning and Assurance  
London Borough of Barking and Dagenham

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Subsequent Application Fees**

No planning fee would be payable should a revised planning application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

### **3. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **4. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



## Appeal Decision

Site visit made on 30 August 2023 by Thomas Courtney BA(Hons) MA

### Decision by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023

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### Appeal Ref: APP/Z5060/D/23/3321946

#### 20 Oval Road North, Dagenham RM10 9EL

- 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 Mr A Chodhary against the decision of the Council of the London Borough of Barking & Dagenham.
  - The application Ref 23/00050/HSE, dated 11 January 2023, was refused by notice dated 3 March 2023.
  - The development is a proposed granny annexe ancillary to the main residence.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a granny annexe ancillary to the main residence at 20 Oval Road North, Dagenham RM10 9EL, in accordance with the terms of the application Ref 23/00050/HSE, dated 11 January 2023, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: JND/1271/10, JND/1271/11 and JND/1271/12.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling.

### Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issue is the principle of conversion of the outbuilding to residential accommodation.

### Reasons for the Recommendation

4. The appeal relates to a single storey outbuilding situated in the rear garden of 20 Oval Road North. The building is flat-roofed and is currently used as a garage and storage space.
-

5. The Council has expressed concerns relating to the principle of accommodating a disabled occupant in an outbuilding separate to the main dwellinghouse. However, it is not clear as to why this would be unacceptably harmful as the use of the outbuilding for additional ancillary accommodation related to the main residential use of the dwelling would align with the guidance of the Residential Extensions and Alterations Supplementary Planning Document (February 2012) (the SPD) and could be controlled through imposition of a condition which would prevent it from being used as a separate dwelling.
6. Furthermore, the appellant has provided medical evidence with regards to the disabled elderly occupant and highlighted the fact that the occupant is unable to use the stairs in the main house and is thus restricted to the downstairs parts of the dwelling. Whilst the Council state that it would be preferable to extend the host dwelling rather than use an outbuilding, it is reasonable for the appellant to opt for the re-use of an existing outbuilding, rather than seeking to add an entirely new extension to the dwelling.
7. The Council refers to development plan policies relating to design in the decision notice but the officer report states that the proposal would not have a negative impact on the character and appearance of the area and that there are no concerns with the design, scale or materials that would be used, with the existing dimensions of the outbuilding maintained.
8. Given the above, the proposed conversion of the outbuilding to residential accommodation would therefore be acceptable. It would not conflict with the National Planning Policy Framework (the Framework); with Policy D4 of the London Plan (March 2021)<sup>1</sup>, Policy CP3 of the Council's Core Strategy (July 2010)<sup>2</sup>, Policy BP11 of the Council's adopted Development Plan Document (March 2011)<sup>3</sup> and the SPD which together seek to ensure proposals are well designed and contribute positively to the character and appearance of the surrounding area in which they lie. The proposal would also not conflict with emerging Policies SP 2, DMD 1 and DMD 6 of the Draft Local Plan (October 2020)<sup>4</sup> which seek the same.

## Conditions

9. The Council has suggested several conditions, which I have considered in light of the advice in the Framework and Planning Practice Guidance. I have imposed the standard conditions relating to the commencement of development and specifying the relevant plans in order to provide certainty. I have also imposed a condition requiring the materials used in the construction to match the existing in order to protect the character and appearance of the host dwelling and surrounding area.
10. Finally, I have imposed a condition suggested by the Council relating to the ancillary use of the proposed building in order to ensure the building is not used as a self-contained dwelling, which may give rise to substandard living conditions due to its size and unforeseen effects on neighbours' living conditions and/or the character and appearance of the area.

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<sup>1</sup> Mayor of London, The London Plan, The Spatial Development Strategy for Greater London (March 2021).

<sup>2</sup> Barking & Dagenham Council, Local Development Framework, Core Strategy (July 2010).

<sup>3</sup> Barking & Dagenham Council, Local Development Framework, Borough Wide Development Policies – Development Plan Document (March 2011).

<sup>4</sup> Barking & Dagenham Council, Draft Local Plan 2037, Regulation 19 Consultation Version (2021)



### **Recommendation**

11. I have concluded that the proposed conversion of the outbuilding to a granny annexe would be acceptable. The proposal would accord with the development plan taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

*Thomas Courtney*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

12. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is allowed.

*K Savage*

INSPECTOR

Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

APP/Z5060/D/23/3329141

**Appeal Application Description:**

Construction of outbuilding to rear garden, including basement level.

**Decision:**

Appeal  
Allowed



Bradfield Dr

Westrow Dr

Bradfield Dr

Westrow Dr

Westrow Dr

Bradfield Dr

Westrow Dr

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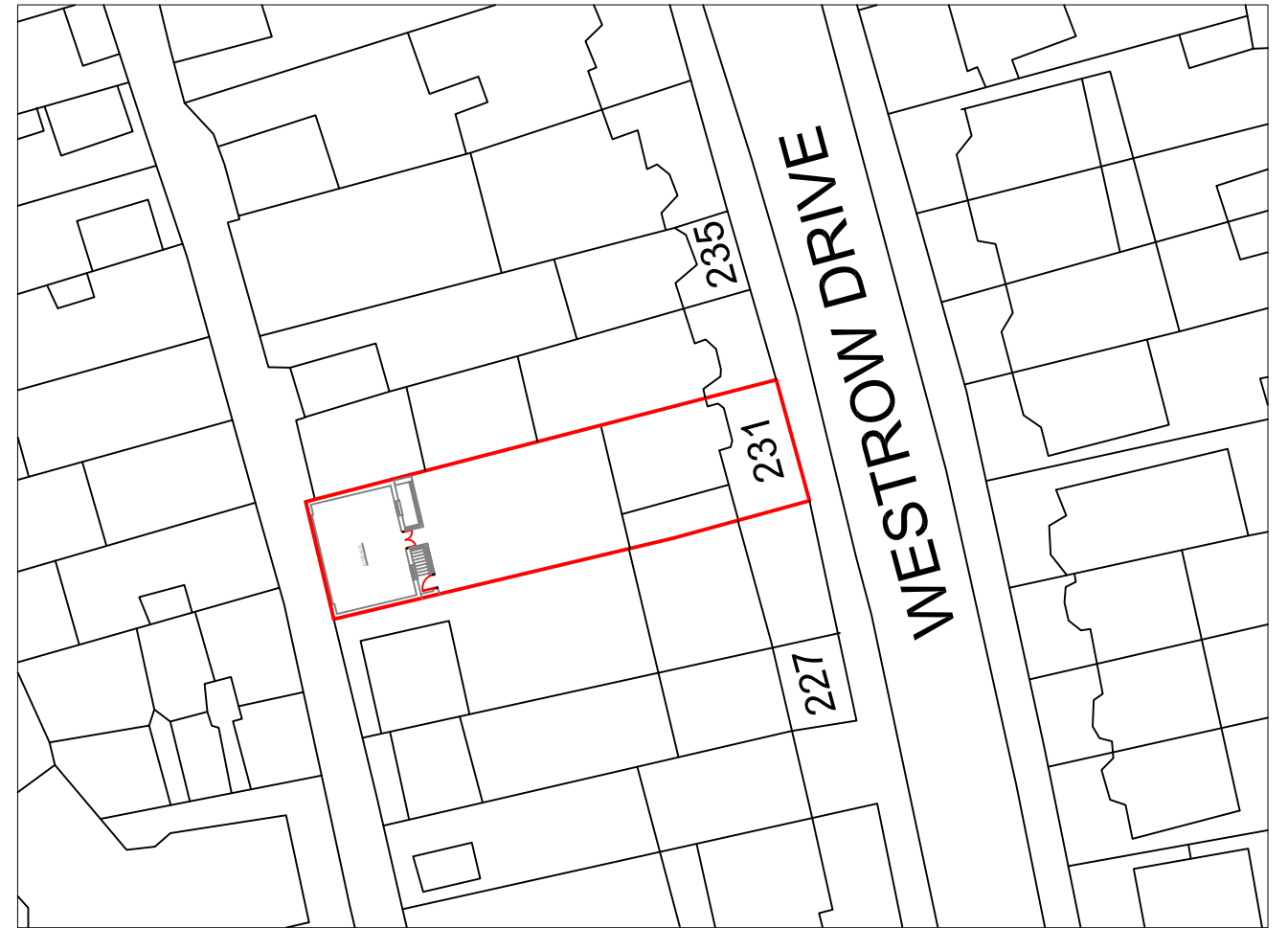
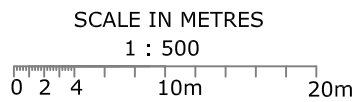
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Jelenas cake

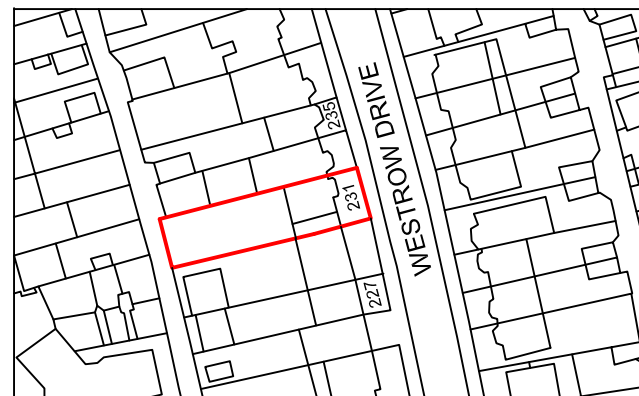
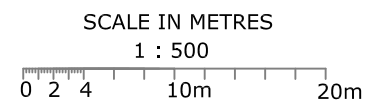
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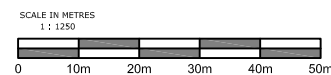
EXISTING BLOCK PLAN



PROPOSED BLOCK PLAN



LOCATION PLAN (1:1250)

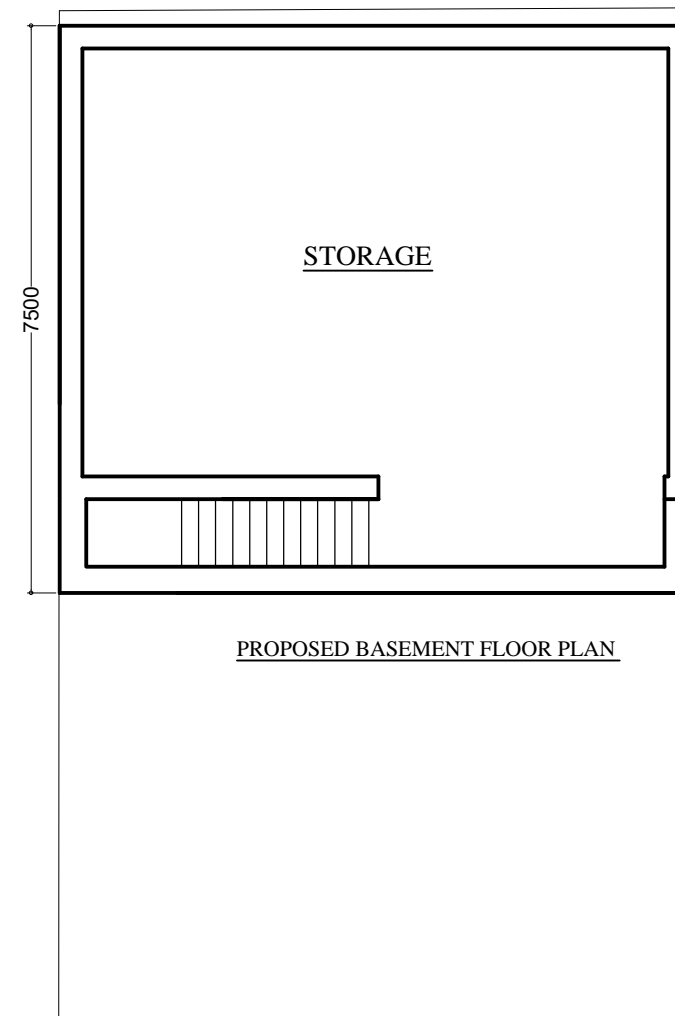
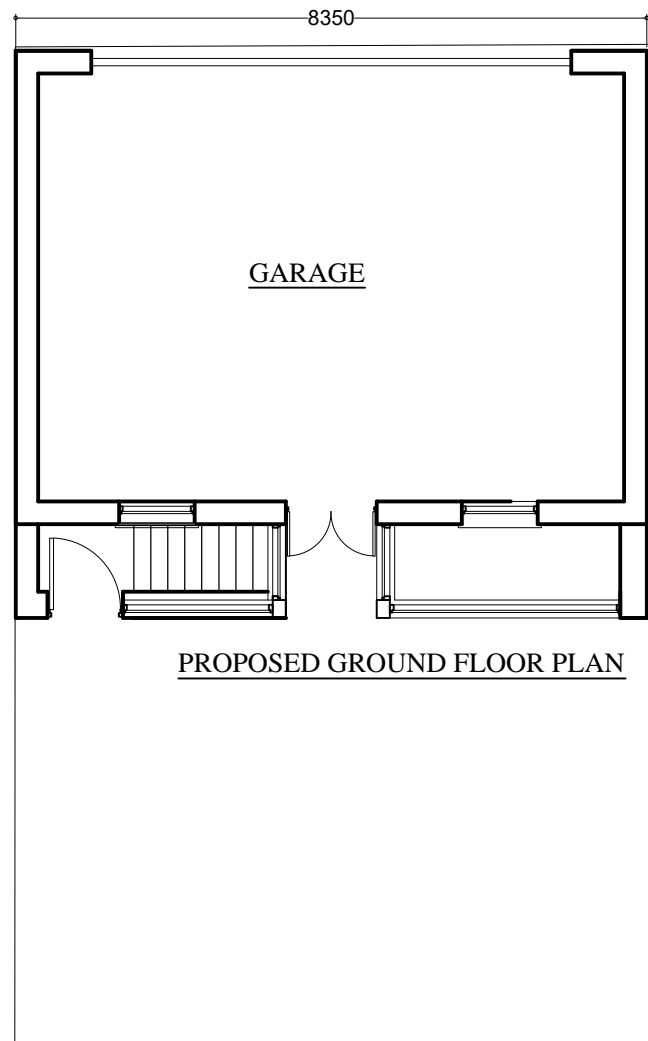


231 WESTROW DRIVE  
BARKING IG11

TITLE:  
PROPOSED REAR OUTBUILDING WITH  
BASEMENT

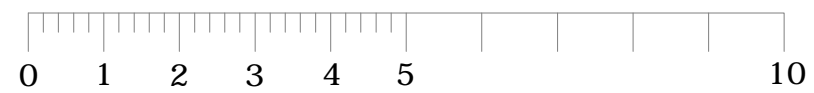
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DWG NO SD231/PR 04



SCALE IN METRES

1 : 100

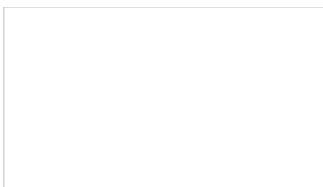


231 WESTROW DRIVE  
BARKING IG11

TITLE:  
PROPOSED REAR OUTBUILDING WITH  
BASEMENT

SCALE: 1:100@A3

DWG NO SD231/PL/01



London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBB Reference:** 23/00586/HSE

Singh Developments (UK) Ltd

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS  
AMENDED)**

Dear Sir / Madam,

**Application Number:** 23/00586/HSE  
**Address:** 231 Westrow Drive, Barking, Barking And Dagenham, IG11 9BS  
**Development Description:** Construction of outbuilding to rear garden, including basement level.

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

[Marilyn Smith](#)

**Marilyn Smith**  
Head of Planning and Assurance  
London Borough of Barking and Dagenham

**PLANNING DECISION NOTICE**

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

**Agent:** **Applicant:** Singh Developments (UK) Ltd

**PART 1 - PARTICULARS OF THE APPLICATION**

**Application Number:** 23/00586/HSE  
**Application Type:** Householder Planning Permission  
**Development Description:** Construction of outbuilding to rear garden, including basement level.  
**Site Address:** 231 Westrow Drive, Barking, Barking And Dagenham, IG11 9BS  
**Date Received:** 17 April 2023  
**Date Validated:** 26 May 2023

**PART 2 - PARTICULARS OF THE DECISION**

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PLANNING PERMISSION has been **REFUSED** for the carrying out of the development referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application for the reason(s) listed below.

**Reason(s):**

1. The proposed introduction of an outbuilding with a basement in the rear garden of the site would represent a discordant and incongruous feature which is out of character with the properties along the street scene. The proposed extent of development is considered to lead itself to forming a part of the primary accommodation onsite, rather than merely incidental use to the dwelling. For the reasons above, officers consider the proposed outbuilding and basement to be inappropriate in design and scale, and thus the proposal would not be ancillary to the use of the main dwellinghouse. As such the proposal is contrary to the following:

- National Planning Policy Framework (NPPF) (DLUHC, 2021);
- Policy D4 of the London Plan (March 2021);
- Policy CP3 of the Local Development Framework (LDF) Core Strategy (July 2010);
- Policy BP11 of the Local Development Framework (LDF) Borough Wide Development Plan Document (DPD) (March 2011);
- Policies SP2, DMD1 and DMD6 of The London Borough of Barking and Dagenham's Draft Local Plan: (Regulation 19 Submission Version, December 2021);
- Residential Extensions and Alterations (SPD) (February 2012)

The above policies can be viewed on the Council's website: [www.lbbd.gov.uk/planning](http://www.lbbd.gov.uk/planning).

**Informative(s):**

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application:

- SD231/PR04 - Proposed Block Plan and Site Location Plan - Received: 26/05/2023
- SD231/PL02 - Proposed Elevations - Received: 26/05/2023
- SD231/PL01 - Proposed Floor Plans - Received: 26/05/2023
- SD231/PL04 - Proposed Site Plan - Received: 26/05/2023

**Working with the applicant:**

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has

implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 20/07/2023**

Yours sincerely,

**Marilyn Smith**

**Marilyn Smith**

Head of Planning and Assurance  
London Borough of Barking and Dagenham



**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Subsequent Application Fees**

No planning fee would be payable should a revised planning application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

### **3. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **4. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



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## Appeal Decision

Site visit made on 23 January 2024

**by H Lock BA(Hons) DipTP MRTPI**

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

**Decision date: 21.02.2024**

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**Appeal Ref: APP/Z5060/D/23/3329141**  
**231 Westrow Drive, BARKING, IG11 9BS**

- 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 Mr Amrik Panesar (Singh Developments (UK) Ltd) against the decision of the Council of the London Borough of Barking and Dagenham.
  - The application Ref. 23/00586/HSE, dated 26 May 2023, was refused by notice dated 20 July 2023.
  - The development proposed is outbuilding at the rear to use as a garage and basement area to be used as storage.
- 

### Decision

1. The appeal is allowed and planning permission is granted for outbuilding at the rear to use as a garage and basement area to be used as storage at 231 Westrow Drive, BARKING, IG11 9BS, in accordance with the terms of the application, Ref. 23/00586/HSE, dated 26 May 2023, subject to the following 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: SD231/PR 04; SD231/PL/01; SD231/PL 02; and SD231/PL/04.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.
  - 4) The building hereby permitted shall only be used for purposes ancillary to the residential use of the dwelling known as 231 Westrow Drive. It shall not be used as a separate unit of accommodation.

### Procedural Matters

2. Since the appeal was lodged a revised National Planning Policy Framework (the Framework) has been published. However, as the policies of most relevance to this proposal have not changed fundamentally it has not been necessary to seek further comments from the parties.
3. The Council cited Policies SP2, DMD1 and DMD6 of the London Borough of Barking and Dagenham's Draft Local Plan 2037 (Regulation 19 Submission Version, December 2021) [DLP] in the decision. Following examination, the Planning Inspectorate advised the Council that the Draft Local Plan is likely to

be capable of being found legally compliant and sound, subject to Main Modifications, which the Council has confirmed did not concern the above policies. Given the advanced stage of preparation of the emerging plan, I have therefore taken these policies into account in my assessment.

### **Main Issues**

4. The main issues are (1) the effect of the proposal on the character and appearance of the site and streetscene; and (2) whether the scale of the proposal would create accommodation that is not ancillary to the use of the main dwelling.

### **Reasons**

#### *Character and Appearance*

5. The appeal property is an end-terraced dwelling within a residential area. There is a gated service road to the rear of the site which provides access to this and other dwellings fronting, and to the rear of, Westrow Drive. Although the rear of the appeal site is currently fenced and gated, garages are prevalent in the vicinity.
6. In this context, outbuildings used for car parking and other domestic purposes are a common feature in the local garden environment, and although visible from the service road, the tightknit development pattern means that these have limited visual impact on the more public domain of Westrow Drive. These buildings vary in design and size, but some are quite substantial and occupy a significant portion of the rear garden. This is acknowledged by the Council in its delegated report, which notes the presence of sizeable outbuildings.
7. The proposed building would have a large footprint, occupying the full width of the site. Its depth would be generous, partly due to the inclusion of a stair well to access the basement. Whilst the footprint and massing may be greater than the buildings which abut the site, as noted above there are others of similarly large scale in the vicinity.
8. The proposed basement would increase the amount of floorspace in the building. However, as submitted, the basement would be wholly below ground level, and would not create conditions that would add to the visible mass of the building above. With a garage door facing the access road and glazed panels facing the garden, the building would not be dissimilar in design to others locally. The stairwell and lightwell may be perceived from the garden, but the effect would not be much wider given the limited public vantage points from where the building would be seen. With the wide range of outbuilding styles in the vicinity, I do not consider that the proposal would be discordant or incongruous, nor out of character. In an area of dwellings with large outbuildings, the proposal would not appear out of scale with the host house.
9. The Council has cited conflict with the 'outbuildings' guidance of its 'Residential Extensions and Alterations' Supplementary Planning Document 2012 (REA). However, I find no conflict with the guidance provided, in that the building would be used for purposes ancillary or related to the use of the property as a dwelling, and its design and position would minimise its impact upon neighbouring residents. The Council's delegated report confirms that it would not cause any material loss of daylight/sunlight, loss of privacy, loss of outlook, overshadowing or overbearing impact.

10. I therefore conclude that the proposal would be acceptable in its impact on the character and appearance of the appeal site and the streetscene. It would be a functional and flexible building of sufficiently high quality design that would respect local character, as sought by Core Strategy<sup>1</sup> (CS) Policy CP3, and DLP Policies SP2 and DMD1. Given its context, it would protect the character and amenity of the area, in accordance with Policy BP11 of the Council's Borough Wide Development Policies Development Plan Document 2011 (BWP), as supported by the REA. Its scale and form would be sympathetic and subordinate to the original dwelling, and would respect and complement the character of the area, as required by DLP Policy DMD6. For these reasons, there would be no conflict with the design objectives set out in Section 12 of the Framework.
11. I do not consider Policy D4 of The London Plan 2021 (TLP) to be relevant, as it appears to relate to mechanisms to deliver and maintain design quality, but that does not alter my assessment.

#### *Level of Accommodation*

12. The Council has expressed concern that the building could be accessed from the service road, and converted into a low-quality, self-contained unit of accommodation in the future; and that a planning condition preventing this would not be sufficient control. However, that is not the proposal which has been applied for, and I have determined the appeal accordingly. Any subsequent change of use of the building to create a separate dwelling would require express planning permission. Whilst the Council may have concerns about enforcing a condition which restricts the use, I do not consider that the circumstances of this site would make such a condition unenforceable.
13. In addition, although the Council has questioned the need for the development, my attention has not been drawn to any policy or guidance which requires this to be demonstrated. The Council's delegated report refers to the absence of a parking stress assessment, but this does not form a reason for refusal of the application. Buildings for domestic parking are a feature of this area, with a specific rear service road for this purpose.
14. Although the building may be large in floor area, its stated purposes would typically be regarded as "ancillary", and not primary accommodation that would be expected to be contained within the main house. It would not be excessive in scale relative to the host house, given the context of similarly sized dwellings with large outbuildings nearby. The proposed basement would make effective use of land that would not impact upon the available garden.
15. I therefore conclude that the accommodation of the proposal would be of a scale ancillary to the use of the main dwelling. In so doing, it would accord with the aims of CS Policy CP3 and BWP Policy BP11, and DLP Policies SP2, DMD1 and DMD6. As noted above, I do not find TLP Policy D4 to be of relevance.

#### **Other Matters**

16. The Council has drawn attention to an appeal decision which was dismissed at 264 Westrow Drive for an outbuilding with basement in 2022<sup>2</sup>. Limited details have been supplied of that development, but from the appeal decision it would

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<sup>1</sup> Planning for the Future of Barking and Dagenham Core Strategy 2010

<sup>2</sup> APP/Z5060/W/21/3286351

appear that there were material differences from this proposal: that appeal site occupied a “prominent corner position” and had a “compact” rear garden next to the road. The Inspector found that the building would be visible, would not be subservient to the dwelling and would dominate the rear garden, none of which I have found in this case. Two other decisions<sup>3</sup> cited by the appellant were not considered relevant, as the properties benefited from larger garden areas and mid row locations. The development was also found to overshadow a modest neighbouring garden and cause loss of outlook. Again, these matters do not arise with this scheme.

### **Conditions**

17. In addition to the standard time limit, I have attached a condition specifying the approved drawings as this provides certainty. It is also appropriate to control materials to match the existing dwelling, in order to safeguard the character and appearance of the development and the area. With some modification to wording for precision, I have attached the Council’s suggested condition to control the use of the building. This is reasonable and necessary given the building design, and the poor living conditions that it would offer if used as habitable accommodation.

### **Conclusion**

18. For the reasons given above I conclude that the appeal should be allowed.

*H Lock*

INSPECTOR

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<sup>3</sup> At 6 Upney Lane and 16 Ventnor Gardens

Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

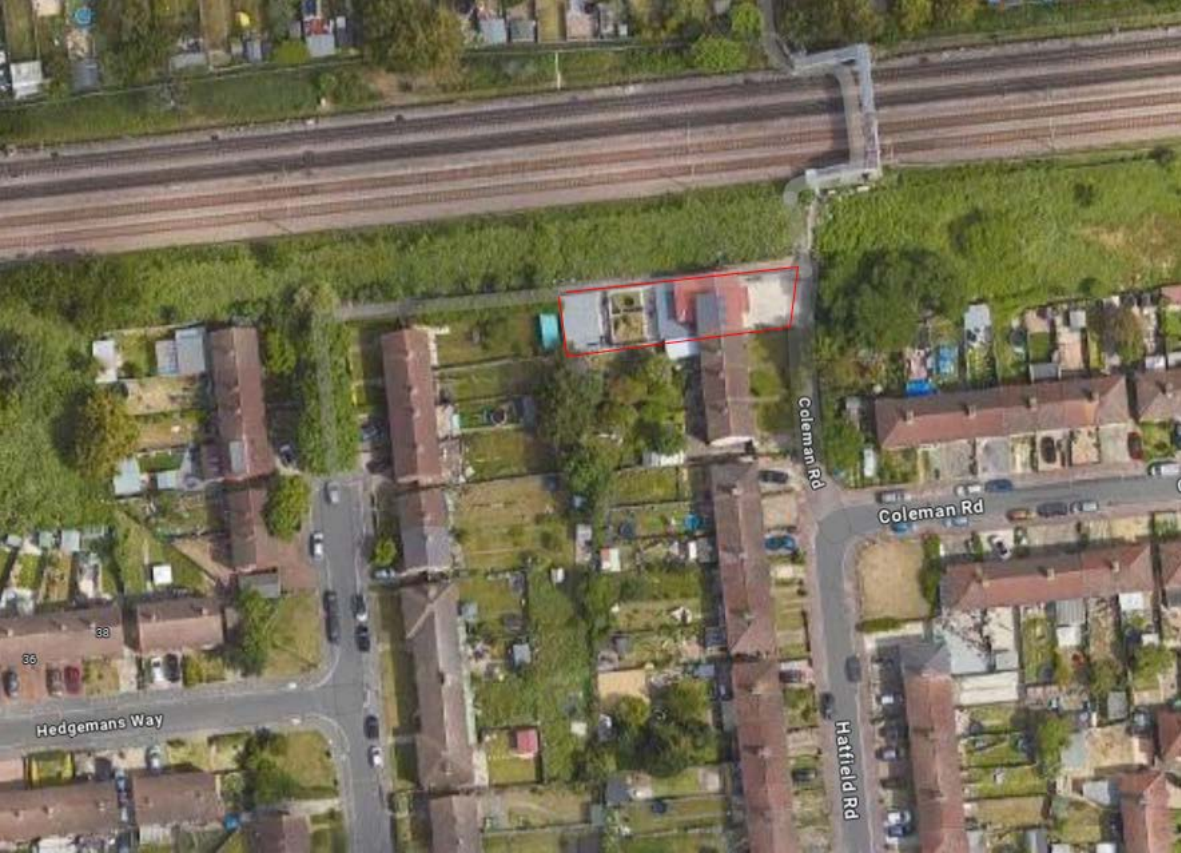
APP/Z5060/W/23/3326911

**Appeal Application Description:**

Conversion of existing property into 2No residential dwelling houses (1x three bedroom and 1x two bedroom) including internal alterations and addition of entrance door to front elevation.

**Decision:**

Appeal  
Allowed



Coleman Rd

Coleman Rd

Hatfield Rd

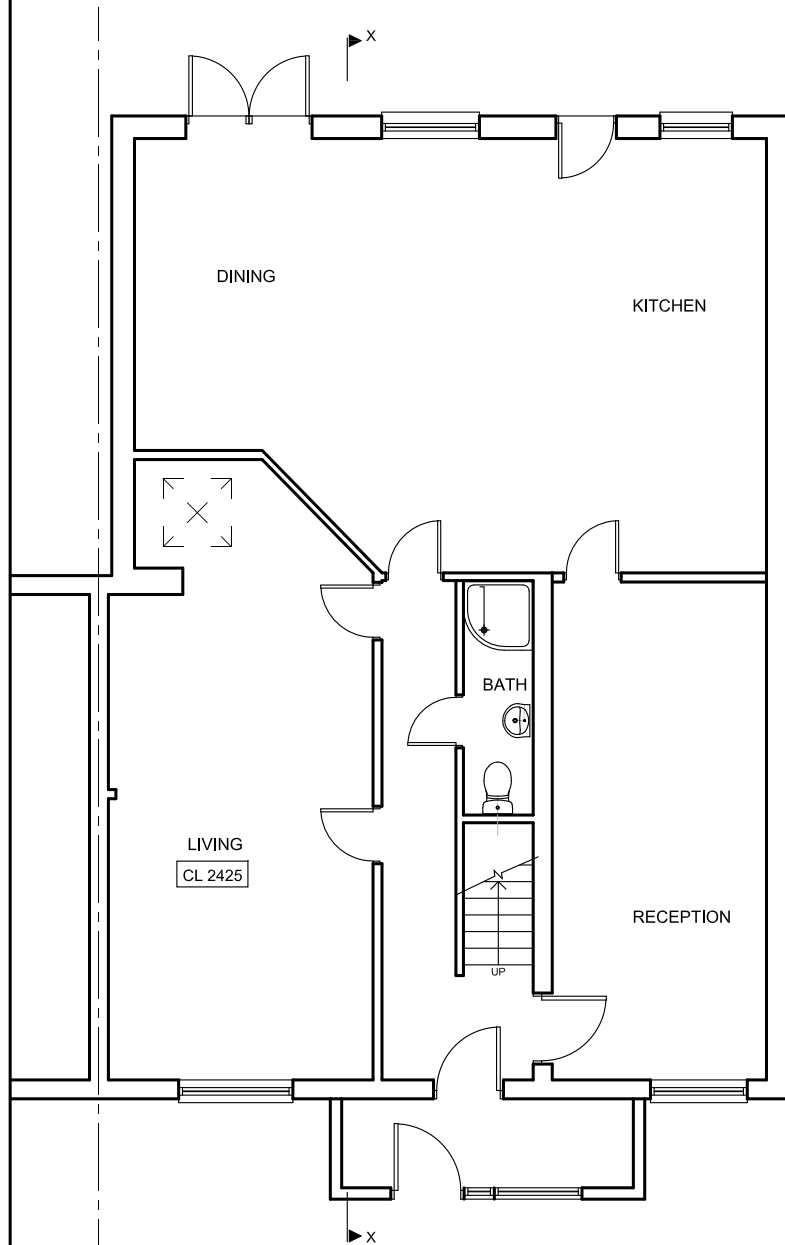
Hedgemans Way

36

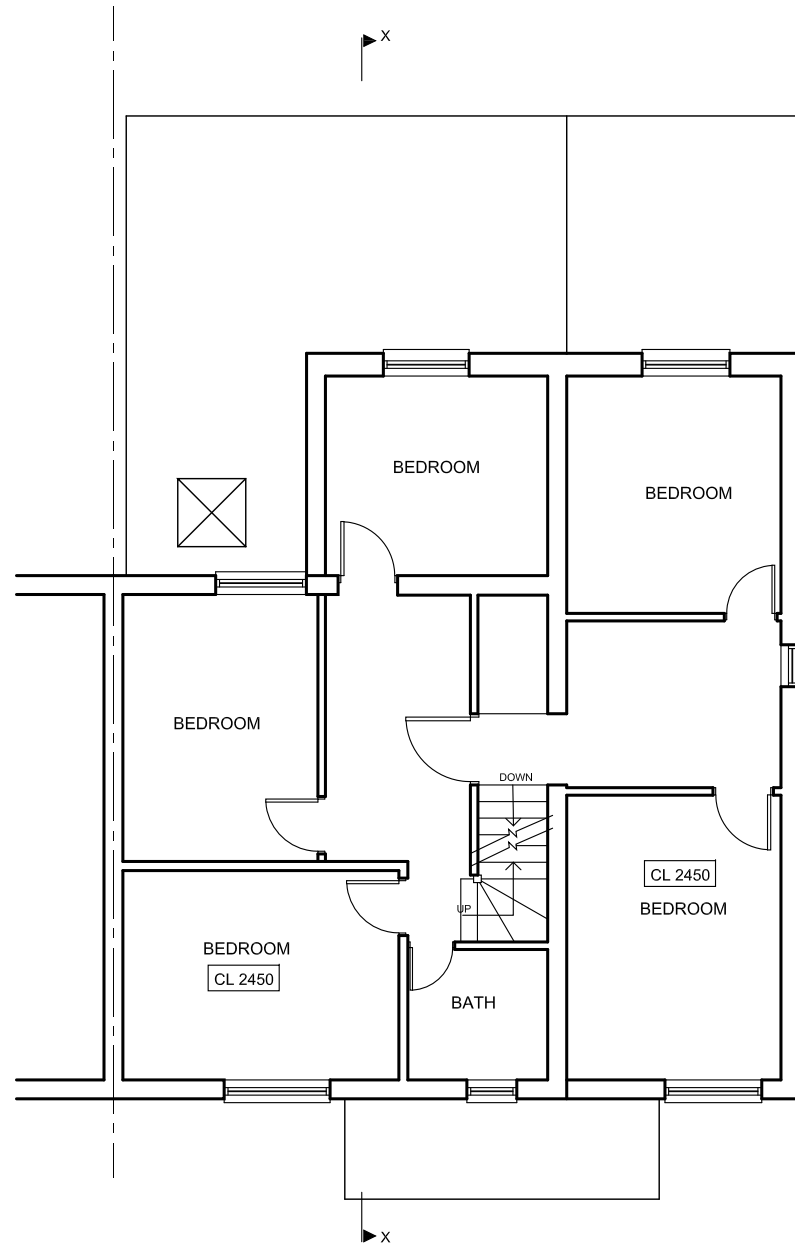
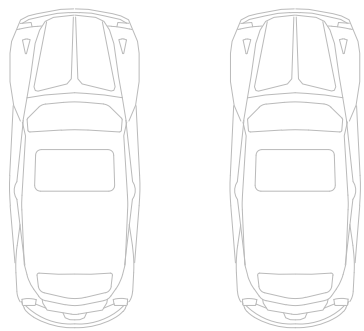
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**Notes.**

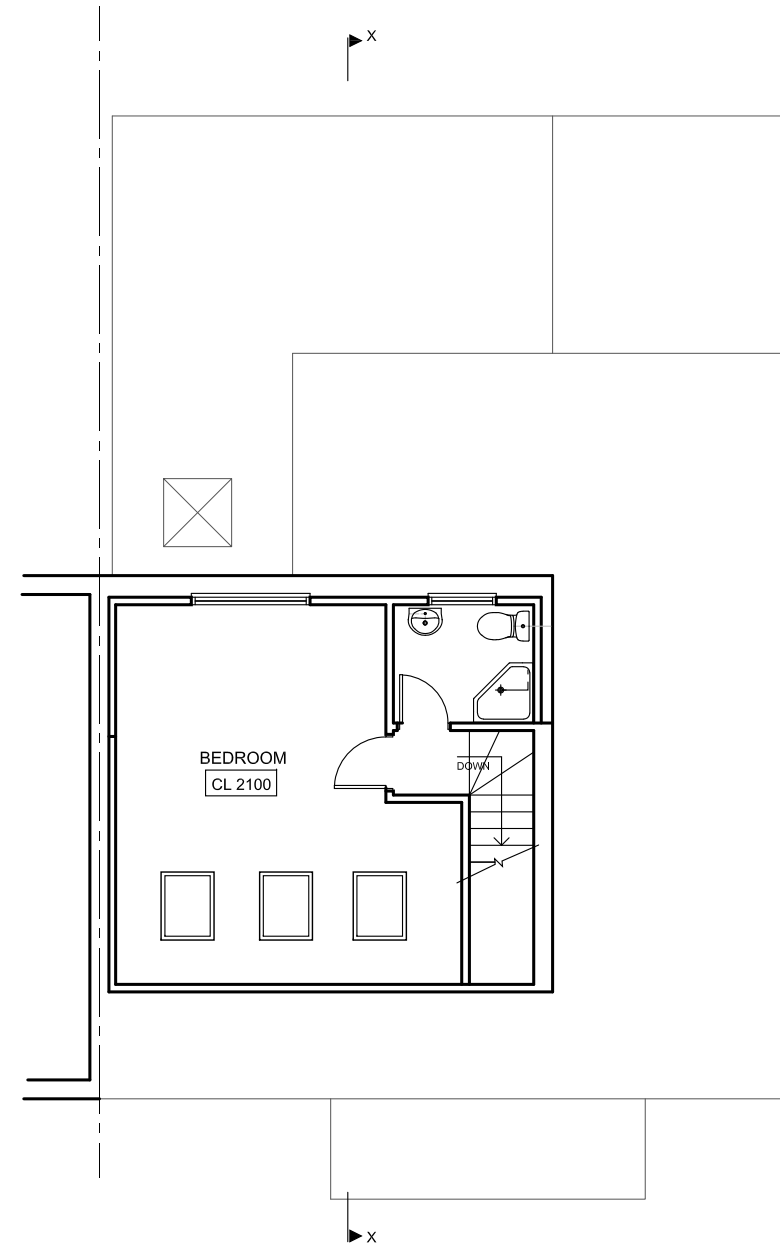
- 1 It is the responsibility of the client, contractor and supervising officer to follow the instructions below
  - 2 This drawing to be read in conjunction with all relevant drawings. Any discrepancies found to be notified to the Supervising Officer immediately
  - 3 Only figured dimensions to be used for constructional purposes
  - 4 All works to be carried with all relevant local authority approvals and to the satisfaction of the building control inspector. existing structure to be opened for inspection if required. all dimensions are to be checked on site prior to commencement of works.
  - 5 All external finishes to match existing or conditions imposed on approved planning for scheme
  - 6 This drawing is copyright of JND & can not be reproduced without JND's approval
- THIS IS A PLANNING DRAWING ONLY



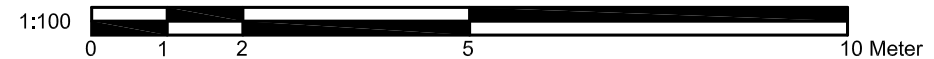
EXISTING GROUND FLOOR




EXISTING FIRST FLOOR

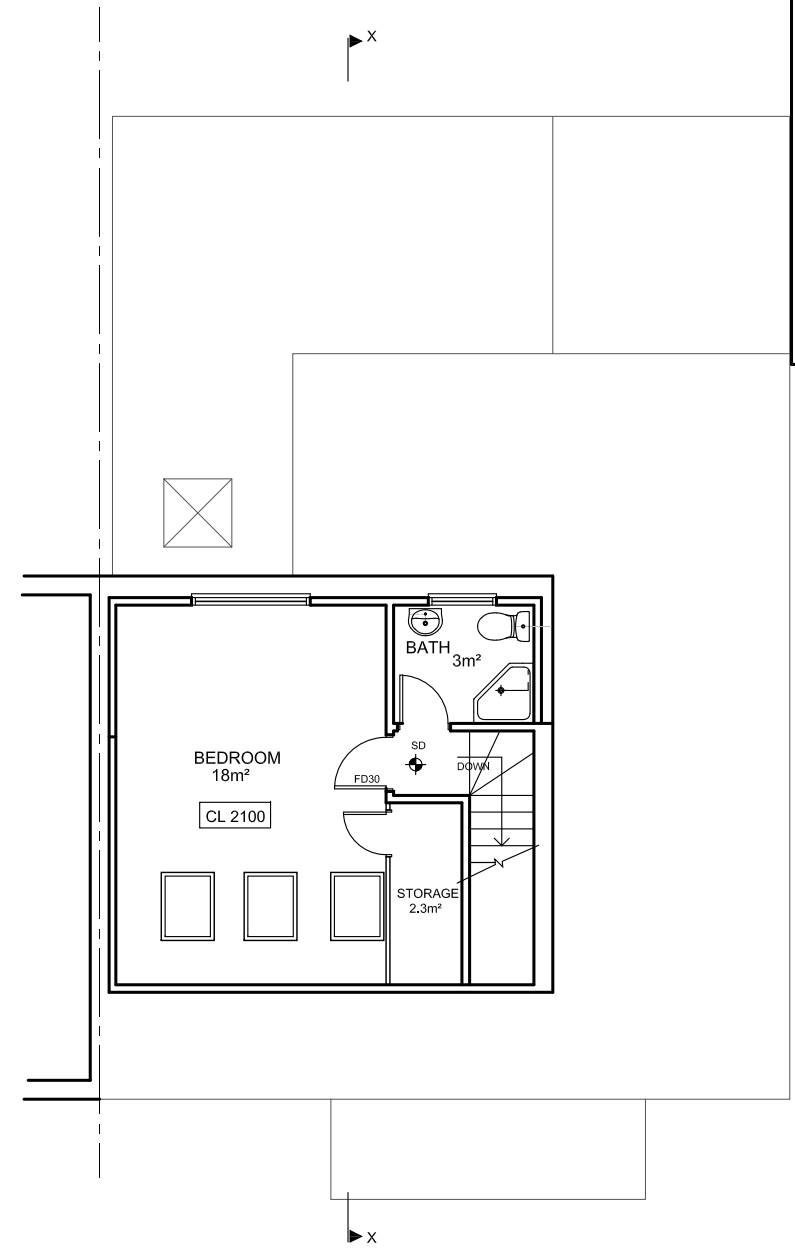
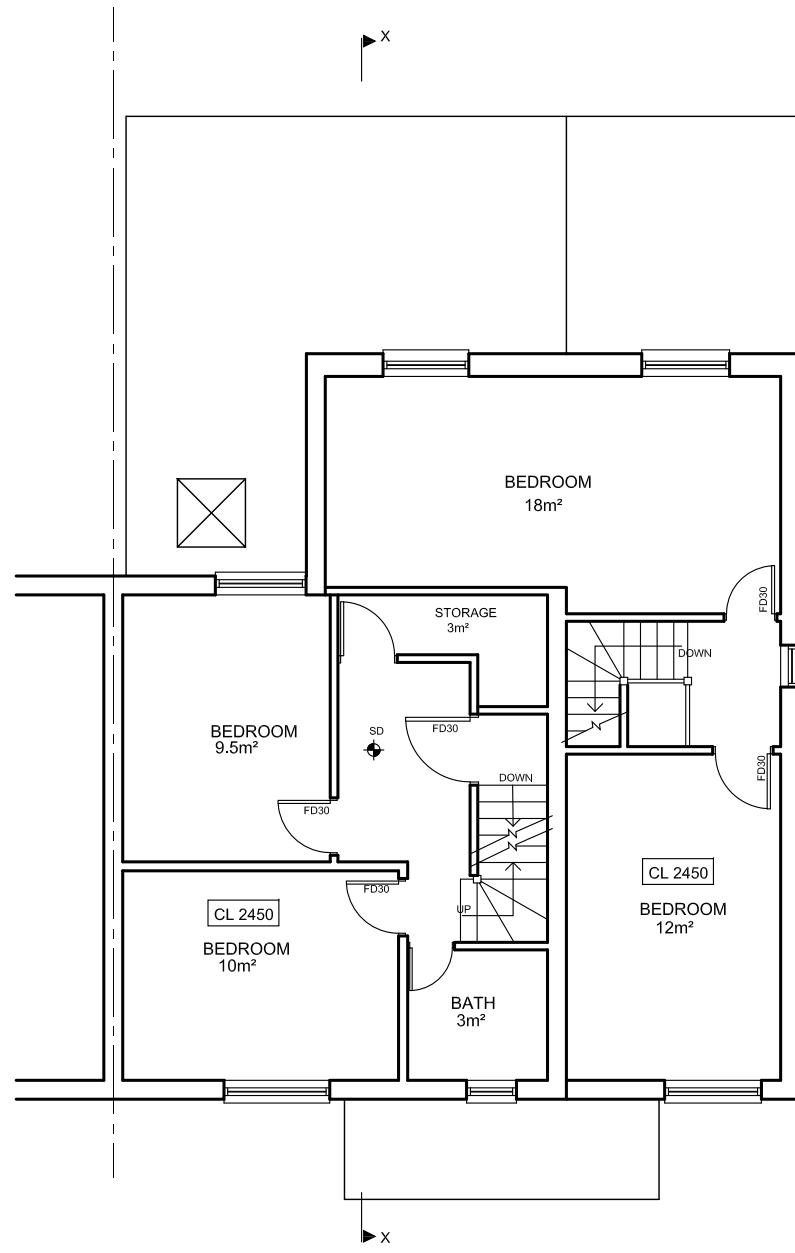
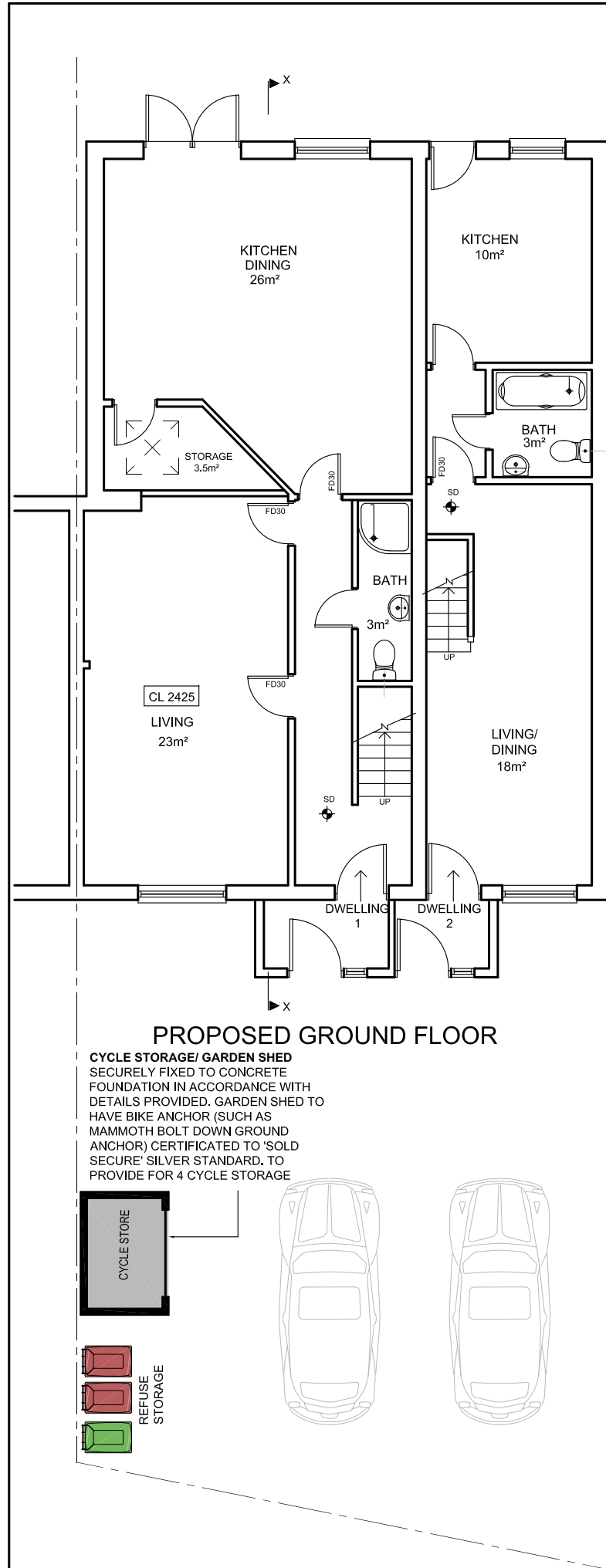


EXISTING LOFT FLOOR




REV	AMENDMENT	DATE
 <b>JND<sup>2</sup> Designs</b> DESIGN, ARCHITECTURE, PLANNING AND PROJECT MANAGING CONSULTANTS		
Client:		
MR. B. MESHI		
Project:		
CONVERSION OF PROPERTY INTO 2 NO DWELLING HOUSES AT 135, HATFIELD ROAD, DAGENHAM, RM9 6JT		
Title:		
EXISTING FLOOR PLANS		
Scale: 1:100 @A3		Date: MAR. 2023
Drawn: J P		Checked: J C
Drg. No JND / 1292/ 10		Rev-

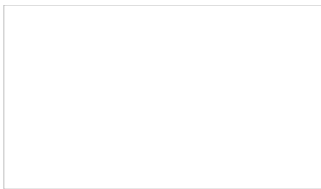




- Notes.**
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  - 5 All external finishes to match existing or conditions imposed on approved planning for scheme
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REV	AMENDMENT	DATE
 <b>JND<sup>2</sup> Designs</b> DESIGN, ARCHITECTURE, PLANNING AND PROJECT MANAGING CONSULTANTS		
<b>Client:</b>		
MR. B. MESHI		
<b>Project:</b>		
CONVERSION OF PROPERTY INTO 2 NO DWELLING HOUSES AT 135, HATFIELD ROAD, DAGENHAM, RM9 6JT		
<b>Title:</b>		
PROPOSED FLOOR PLANS		
<b>Scale:</b> 1:100 @A3		<b>Date:</b> MAR, 2023
<b>Drawn:</b> J P		<b>Checked:</b> J C
<b>Drg. No</b> JND / 1292/ 12	<b>Rev-</b>	





London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBB Reference:** 23/00616/FULL

J Patel  
72 Harrow Drive  
Hornchurch  
RM11 1NX

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

Dear Sir / Madam,

**Application Number:** 23/00616/FULL  
**Address:** 135 Hatfield Road, Dagenham, Barking And Dagenham, RM9 6JT  
**Development Description:** Conversion of existing property into 2No residential dwelling houses (1x three bedroom and 1x two bedroom) including internal alterations and addition of entrance door to front elevation.

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

Marilyn Smith

**Marilyn Smith**  
Head of Planning and Assurance  
London Borough of Barking and Dagenham

**PLANNING DECISION NOTICE**

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)**

**Agent:** J Patel  
72 Harrow Drive  
Hornchurch RM11 1NX

**Applicant:** B Meshi  
135 HATFIELD ROAD  
DAGENHAM RM11 1NX

**PART 1 - PARTICULARS OF THE APPLICATION**

**Application Number:** 23/00616/FULL  
**Application Type:** Full Planning Permission  
**Development Description:** Conversion of existing property into 2No residential dwelling houses (1x three bedroom and 1x two bedroom) including internal alterations and addition of entrance door to front elevation.  
**Site Address:** 135 Hatfield Road, Dagenham, Barking And Dagenham, RM9 6JT  
**Date Received:** 24 April 2023  
**Date Validated:** 24 April 2023

**PART 2 - PARTICULARS OF THE DECISION**

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PLANNING PERMISSION has been **REFUSED** for the carrying out of the development referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application for the reason(s) listed below.

**Reason(s):**

1. As a result of the shared front porch, the two dwellings fail to appear within the street as separate dwellinghouses. The proposed additional front entrance for the 2 bedroom property will result in the proposal appearing akin to a single dwellinghouse with 2 front doors. As such, the proposal will unbalance the uniformity of the street harmful to the character and appearance of the street scene, host dwelling, terrace row and the properties in the surrounding local area. The proposal therefore constitutes uncharacteristic and unsympathetic development, as such, it is considered to be unacceptable and contrary to:

- National Planning Policy Framework (MHCLG, July 2021)
- Policy D4 of the London Plan (March 2021)
- Policy CP3 of the Core Strategy DPD (July 2010)
- Policy BP11 of the Borough Wide DPD (March 2011)
- Policies SP2 and DMD1 of the Draft Local Plan Regulation 19 consultation version (Regulation 19 Submission Version, December 2021)
- Supplementary Planning Document: Residential Extensions and Alterations (February 2012)

2. On account of the narrow width and poor levels of daylight and sunlight to the proposed 2-bedroom dwelling, officers consider the proposal to provide a substandard quality of accommodation detrimental to the standard of living of future residents. As such, the proposed development is contrary to:

- National Planning Policy Framework (MHCLG, July 2021);
- Policies D4 and D6 of the London Plan (March 2021);
- Policies CM1 and CP3 of the LDF Core Strategy (July 2010);
- Policies BP8 and BP11 of the LDF Borough Wide Development Plan Policies DPD (March 2011);
- Policies SP3, DMD1, SP2 of the Draft Local Plan (Regulation 19 Submission Version, December 2021)

3. As a result of the division of the existing dwelling, the existing first floor rear extension for reasons of size, scale and sitting would result in the unacceptable loss of outlook, detrimental to the standard of living of future residents of the proposed 3 bedroom dwellinghouse. The proposal is therefore considered to have an unacceptable impact on neighbouring amenity,

contrary to:-

- National Planning Policy Framework (MHCLG, July 2021)
- Policies D4 and D6 of the London Plan (March 2021)
- Policy CP3 of the Local Development Framework (LDF) Core Strategy (July 2010)
- Policies BP8 and BP11 of the Borough Wide DPD (March 2011)
- Policy DMD1 of the Draft Local Plan (Regulation 19 Submission Version, December 2021)

The above policies can be viewed on the Council's website: [www.lbbd.gov.uk/planning](http://www.lbbd.gov.uk/planning).

**Informative(s):**

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application:

- 10- Existing Ground Floor, First Floor and Loft Plans- 03/2023
- 11- Existing Front, Rear and Side Elevations- 03/2023
- 14- Site Location Plan and Proposed Block Plan- 03/2023
- 12- Proposed Ground Floor, First Floor and Loft Plans- 03/2023
- 13- Proposed Front, Side and Rear Elevations- 03/2023
- Design and Access Statement- N.d.

**Working with the applicant:**

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 09/06/2023**

Yours sincerely,

Marilyn Smith

**Marilyn Smith**

Head of Planning and Assurance  
London Borough of Barking and Dagenham

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
- **Twelve (12) weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **Eight (8) weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Subsequent Application Fees**

No planning fee would be payable should a revised planning application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

### **3. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **4. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



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# Appeal Decision

Site visit made on 4 January 2024

**by Nick Bowden BA(Hons) Dip TP MRTPI**

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

**Decision date: 8 February 2024**

---

**Appeal Ref: APP/Z5060/W/23/3326911**

**135 Hatfield Road, Dagenham RM9 6JT**

- 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 Mr B Meshi against the decision of the Council for the London Borough of Barking and Dagenham.
  - The application Ref 23/00616/FULL, dated 24 April 2023, was refused by notice dated 9 June 2023.
  - The development proposed is the conversion of existing property into 2 No. residential dwelling houses.
- 

## Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing property into 2 No. residential dwelling houses at 135 Hatfield Road, Dagenham RM9 6JT in accordance with the terms of the application, Ref 23/00616/FULL, dated 24 April 2023, subject to the following conditions:
  - 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
  - 2) The development hereby approved shall only be carried out in accordance with the following approved plans and documents:  
JND/1292/12 - Proposed Ground Floor, First Floor and Loft Plans;  
JND/1292/13 - Proposed Front, Side and Rear Elevations; and  
JND/1292/14 - Site Location Plan and Proposed Block Plan.
  - 3) Prior to occupation of the development, full details of the cycle parking facilities as shown on drawing JND/1292/12 shall be submitted to and approved in writing by the Local Planning Authority. Such details should demonstrate that 4 cycle parking spaces can be provided to meet the requirements of the London Cycling Design Standards. The development shall not be occupied until the approved details have been implemented. Thereafter, the cycle parking facilities shall be permanently retained.

## Preliminary Matters

2. At the site visit it was confirmed that some of the works to convert the existing dwelling into two dwellings had already been completed. These works comprised the internal subdivision of the "existing" kitchen-diner into separate rooms.
3. I have noted references to policies SP2, SP3 and DMD1 of the Draft Barking and Dagenham Local Plan 2021 in the Council's decision notice and officer report. I note that the draft plan is at Examination, and therefore at an

advanced stage. However, at the current time it does not form part of the statutory development plan and I have not been made aware as to whether there are any unresolved objections in relation to the noted policies. I can, therefore, only attach limited weight to those policies in this decision and, as such, they are not an influential factor on the outcome of this appeal.

4. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

### **Main Issues**

5. The main issues are:
  - a) the effect of the proposed development on the character and appearance of the area, and
  - b) whether the proposed development would provide adequate living conditions for the future occupants of the dwellings, having regard to:
    - i. the width and availability of natural light in the living room of the proposed two-bedroom dwelling, and
    - ii. outlook from the rear facing first floor bedroom in the proposed three-bedroom dwelling.

### **Reasons**

#### *Character and appearance*

6. The appeal site comprises an end terrace house which has been rendered in pale grey. The original dwelling has been enlarged with extensions to the side, rear, roof and with a front porch. The only external alterations proposed to the existing building comprise the formation of a second front door to the porch.
7. The insertion of this second front door would make it more apparent that the porch would serve two dwellings. However, this, of itself, would have negligible impact on the street scene. It would merely appear as a logical continuation of the row of terraces. It would not unbalance the row of terraces by any greater degree than exists already through the differing materials used in this end terrace.
8. I recognise that the building forms part of the Becontree Estate which was built as "Homes for Heroes" between 1921 to 1934. The area is not identified as a Conservation Area. Nevertheless, the Council regard it as a non-designated heritage asset. Recessed porches are part of the design vernacular to the estate. The porch and entrances to the two proposed dwellings are not recessed. However, this porch is an existing structure, and the insertion of the additional front door would not result in the building appearing more prominent or otherwise cause any material harm to the character of the area. Despite it not being a recessed structure, shared porches are a feature of the estate. In this regard, the ethos of the estate would be retained, albeit in a limited manner.
9. Paragraph 209 of the Framework requires that the effect on the significance of a non-designated heritage asset should be taken into account. In weighing applications that directly affect non-designated heritage assets, a balanced

judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this instance, I consider that the alterations to the non-designated heritage asset would not detract from the character and appearance of the area and would therefore have a neutral effect on the non-designated heritage asset.

10. I therefore conclude that the proposed development would not be detrimental to the character of the area. Policies D4 of the London Plan 2021 (LonP), CP3 of the Barking and Dagenham Core Strategy 2010 (BDCS) and BP11 of the Barking and Dagenham Borough Wide DPD 2011 (BDDPD) and the Framework all promote standards of good design. I am satisfied that the development proposed accords with the provisions of these policies and the provisions of the Framework.

#### *Living conditions*

11. The proposed living room to the two-bedroom dwelling is a relatively long and narrow room. It is served by a single, front facing, window. As a result, the rear portion of the room receives less natural light. This is no doubt compounded by its narrow width.
12. However, this room is presently used as a living room. In this regard there would be no material change to its functionality. The width of the room is below the 3.5 metres nominated in the Housing Design Standards (London Planning Guidance). However, this document is a best practice space standard and is unlikely to be achievable in all circumstances. As the proposed development is for the conversion of an existing building, it would not be practicable to apply this requirement. Moreover, the room will receive ample morning sun. The insertion of windows to the side elevation would add limited value, given that they would need to be high level to secure privacy from the adjacent footpath, and would be north facing with no direct sunlight.
13. The rear facing first floor bedroom to the proposed three-bedroom dwelling does have limited outlook due to the existing rear projecting element to the north. However, this outlook is towards the west and south allowing for a perfectly reasonable outdoor vantage. In any case, this is an existing situation and regardless of whether the rear projecting wall is associated with the same, or neighbouring dwelling, the effect is identical. In this regard there is therefore no material change in circumstances.
14. I conclude that the proposed dwellings would provide satisfactory living conditions for the future occupants and would accord with policies D4 and D6 of the LonP, policies CM1 and CP3 of the BDCS and BP8 and BP11 of the BDDPD. These policies, amongst other things, aim to secure satisfactory living conditions for future occupants.

#### **Other Matters**

15. The Council cannot presently demonstrate a five-year supply of deliverable housing land. Consequently, the provisions of paragraph 11(d)ii of the Framework should be applied. However, I have found that this development is acceptable in its own right and these provisions do not need to be considered further in this context.
16. In reaching my decision, I have noted that vehicle access to the existing dwelling and proposed development is via a pedestrian/cycle path. The



Highway Authority consider this to be an illegal access. It is not within my remit to address this in my decision. This does not change my reasoning or conclusions here.

### **Conditions**

17. I have imposed a general time limit condition to ensure the development is commenced within three years to accord with the provisions of the Town and Country Planning Act 1990. I have applied a condition to secure adherence to the plans for certainty. A condition to require cycle parking provision is imposed to meet the London Cycling Design Standards and this does not conflict with the concerns of the Highway Authority with regard to the vehicle access. I have not imposed a condition relating to materials, as was recommended by the Council. This is because there are no external alterations to the building, beyond the creation of a new front door. Given my conclusions; that the addition of this front door would be immaterial in the street scene, I do not find it necessary to impose a condition requiring details of this.

### **Conclusion**

18. For the reasons given above, I conclude that the proposed development complies with the provisions of the development plan, read as a whole, and there are no other material considerations that warrant a decision otherwise than in accordance with the development plan.

19. The appeal is allowed and planning permission is granted subject to conditions.

*Nick Bowden*

INSPECTOR

Working in partnership



**Barking &  
Dagenham**

## **Performance Review Sub-Committee**

**Appeal Reference:**

APP/Z5060/W/23/3328582

**Appeal Application Description:**

Demolition of existing garage and construction of a two storey 2x bedroom dwelling with associated refuse, cycle and parking amenities adjacent to 20 Tenby Road

**Decision:**

Appeal  
Allowed

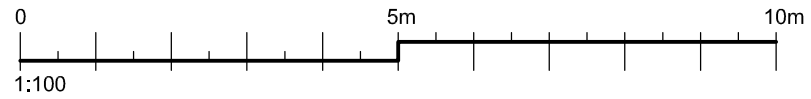


Bath Rd

Cromer Rd

Dover Rd

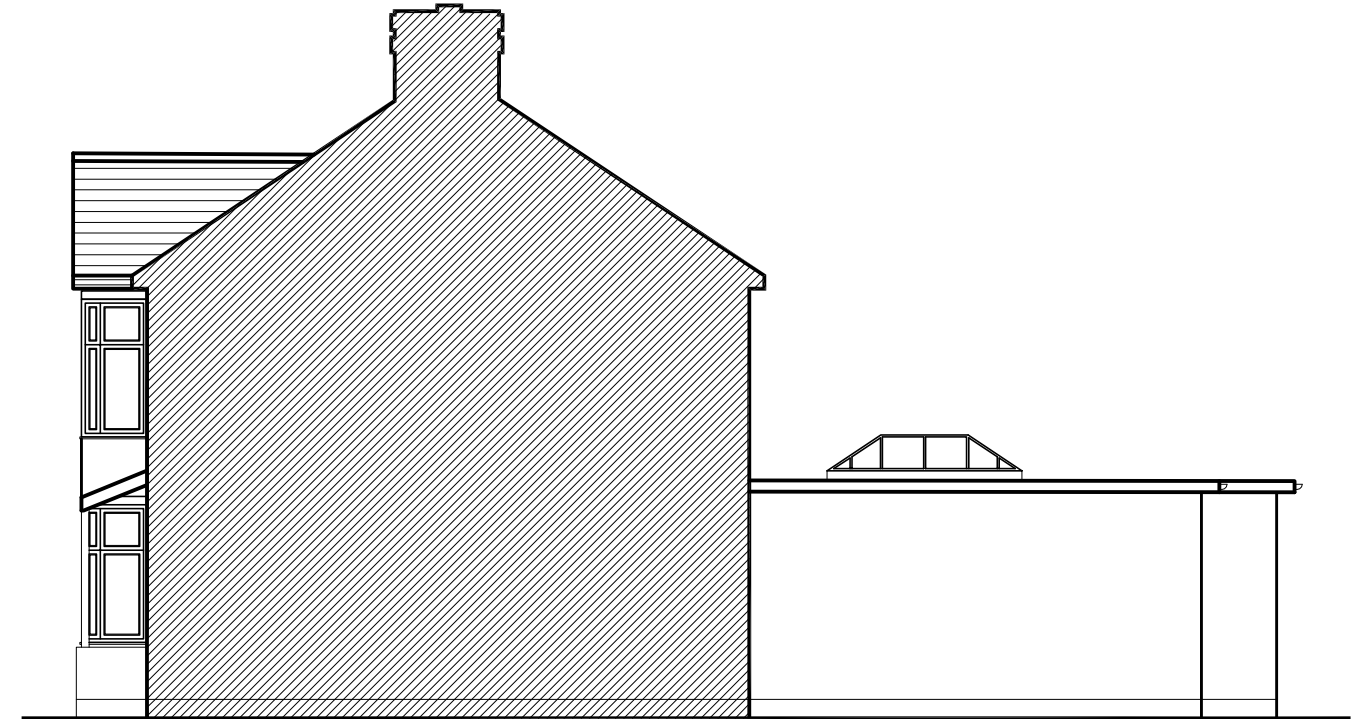
Tenby Rd



The Contractor is to check all dimensions on site and report any discrepancies to the Contract Administrator. This drawing is to be read in conjunction with all other standard documentation. Dimensions are not to be scaled from this drawing.



EXISTING SIDE ELEVATION



EXISTING SIDE ELEVATION



EXISTING FRONT ELEVATION



EXISTING REAR ELEVATION

rev.	description	date	chkd.
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93 Cotmandene Crescent,  
Orpington, Kent BR5 2RA

020 3004 9238  
07931 931 035

s.nagpal@dapconsultants.co.uk  
www.dapconsultants.co.uk

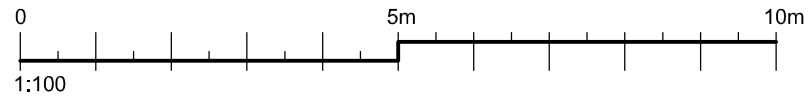
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Ramford

drawing title :  
Existing Elevations

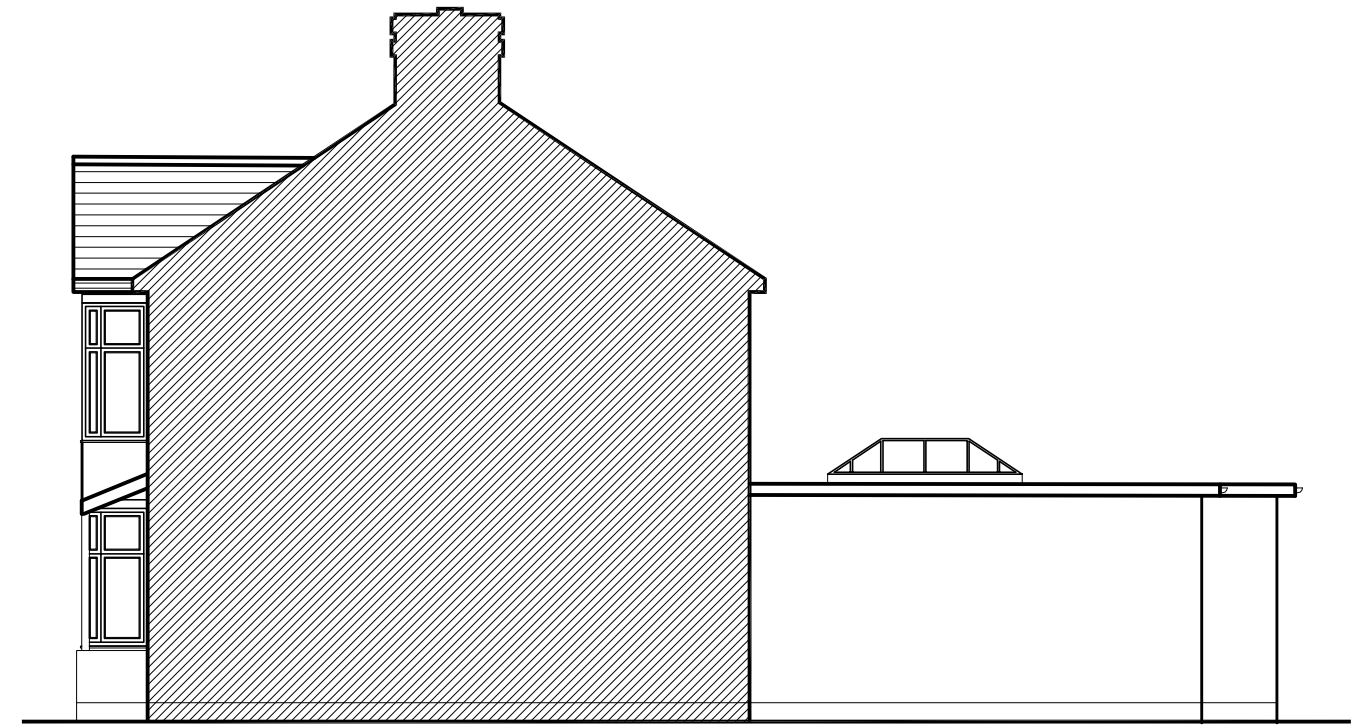
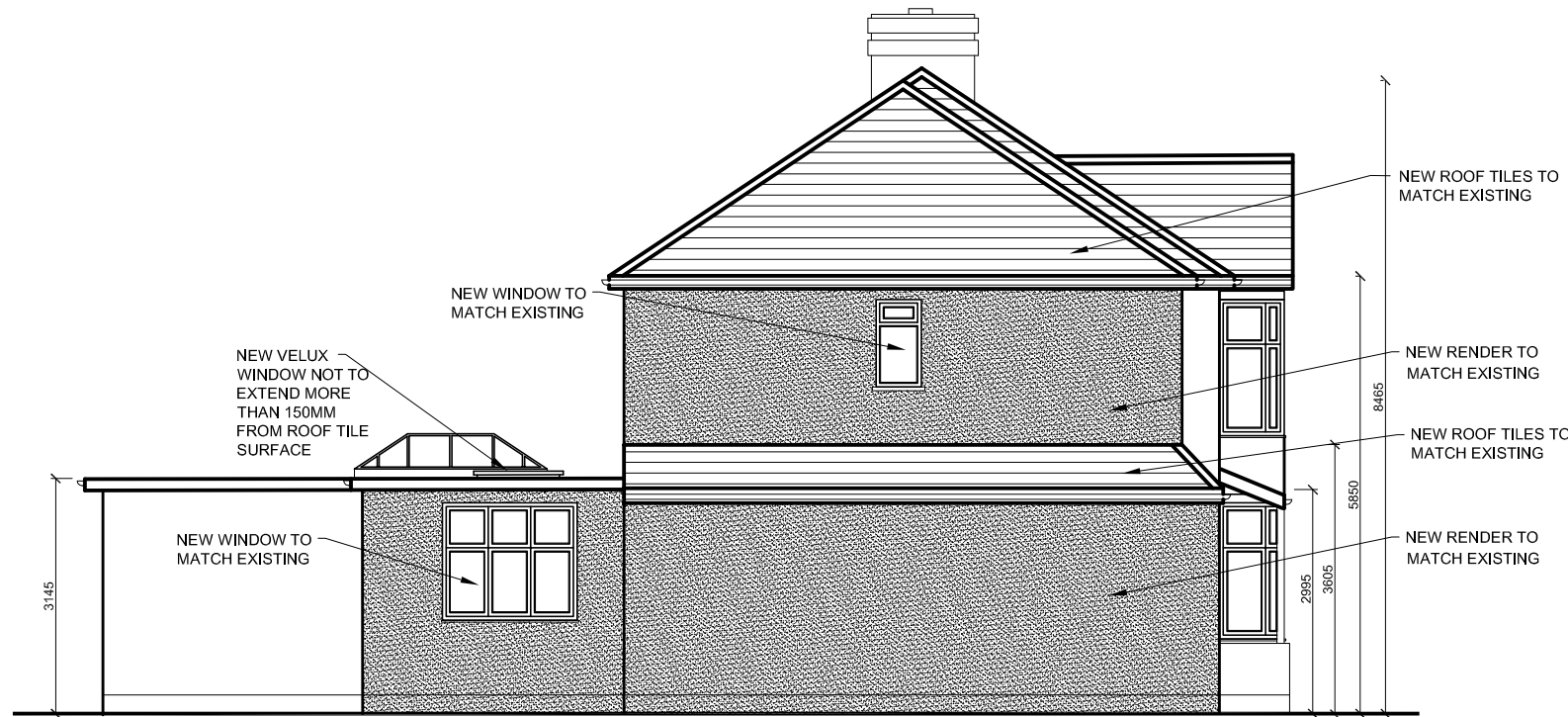
drawn: SN	chkd: SS	date:20.04.2023
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status: <b>Planning</b>	scale: 1:100@A3
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proj no: 2364	drg no: 02	rev no:
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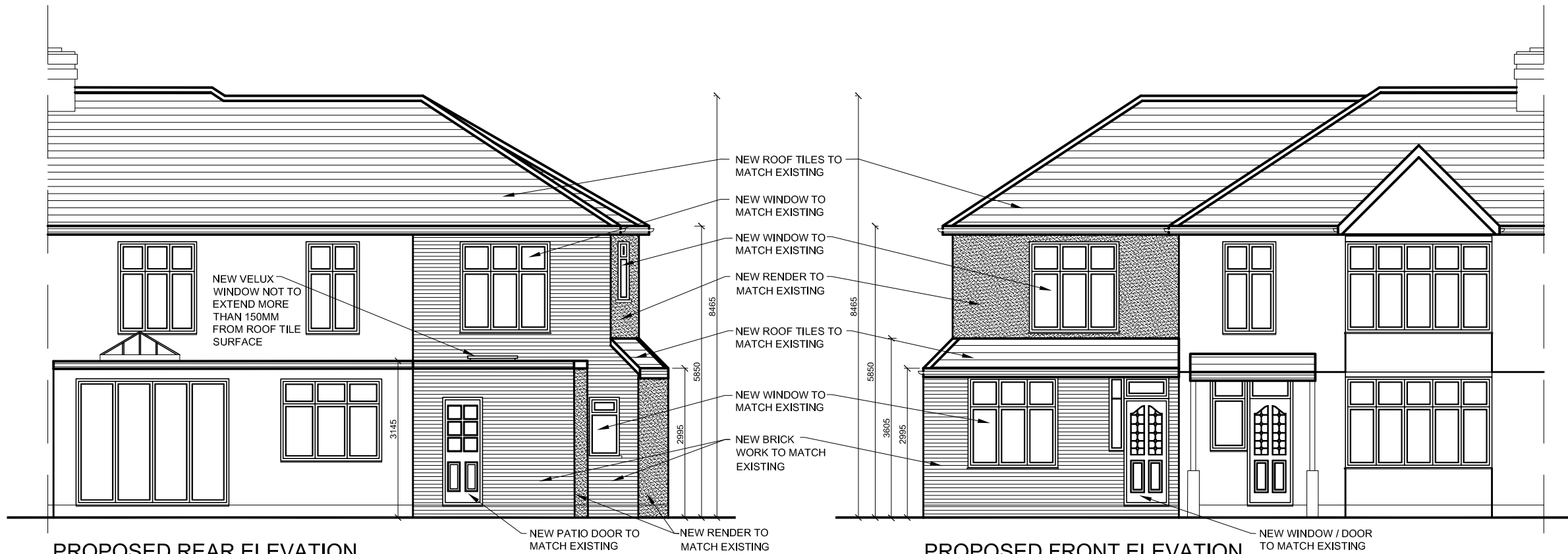


The Contractor is to check all dimensions on site and report any discrepancies to the Contract Administrator. This drawing is to be read in conjunction with all other standard documentation. Dimensions are not to be scaled from this drawing.



**PROPOSED SIDE ELEVATION**  
(2 BEDROOM 3 PERSON)

**PROPOSED SIDE ELEVATION ( NO CHANGE)**  
(2 BEDROOM 3 PERSON)



**PROPOSED REAR ELEVATION**  
(2 BEDROOM 3 PERSON)

**PROPOSED FRONT ELEVATION**  
(2 BEDROOM 3 PERSON)

rev.	description	date	chkd.
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93 Cotmandene Crescent,  
Orpington, Kent BR5 2RA

020 3004 9238  
07931 931 035

s.nagpal@dapconsultants.co.uk  
www.dapconsultants.co.uk

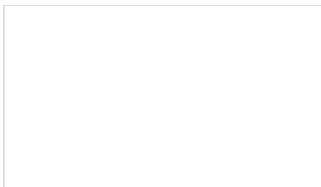
project : **20 Tenby road**  
**Ramford**

drawing title : **Proposed Elevations**

drawn: SN      chkd : SS      date:20.04.2023

status: **Planning**      scale: 1:100@A3

proj no : **2364**      drg no: **05**      rev no:



London Borough of Barking and Dagenham  
Barking Town Hall  
1 Town Square  
Barking IG11 7LU

**LBBB Reference:** 23/00847/FULL

Shailender Nagpal

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS  
AMENDED)**

Dear Sir / Madam,

**Application Number:** 23/00847/FULL  
**Address:** 20 Tenby Road, Chadwell Heath, Romford, Barking And Dagenham, RM6 6NB  
**Development Description:** Demolition of existing garage and construction of a two storey 2x bedroom dwelling with associated refuse, cycle and parking amenities adjacent to 20 Tenby Road

Thank you for your recent application at the above address on which a decision has now been made. The decision on your application is attached. Please carefully read all of the information contained in these documents.

Please quote your application reference number in any correspondence with the Council.

Yours sincerely,

[Marilyn Smith](#)

**Marilyn Smith**  
Head of Planning and Assurance  
London Borough of Barking and Dagenham

## PLANNING DECISION NOTICE

### TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015 (AS AMENDED)

**Agent:** Shailender Nagpal  
**Applicant:** Khalid Wali Patel  
20 TENBY ROAD  
ROMFORD

#### PART 1 - PARTICULARS OF THE APPLICATION

**Application Number:** 23/00847/FULL  
**Application Type:** Full Planning Permission  
**Development Description:** Demolition of existing garage and construction of a two storey 2x bedroom dwelling with associated refuse, cycle and parking amenities adjacent to 20 Tenby Road  
**Site Address:** 20 Tenby Road, Chadwell Heath, Romford, Barking And Dagenham, RM6 6NB  
**Date Received:** 02 June 2023  
**Date Validated:** 14 June 2023

#### PART 2 - PARTICULARS OF THE DECISION

The London Borough of Barking and Dagenham, as Local Planning Authority, in pursuance of its powers under the above mentioned Act, Rules, Orders and Regulations made thereunder, hereby gives notice that PLANNING PERMISSION has been **REFUSED** for the carrying out of the development referred to in PART 1 hereof and as described and shown on the plan(s) and document(s) submitted with the application for the reason(s) listed below.

##### Reason(s):

1. The proposed new dwellinghouse, by reason of design and siting, would fail to have a presence within the street scene of its own accord and would appear subordinate to the existing property. The proposed development would therefore be an unsympathetic and uncharacteristic addition to the dwelling, terrace and the surrounding local area, and would be detrimental to the character and appearance of the street scene. As such, it is considered unacceptable and contrary to the following policies which seek to ensure that proposals are well designed and respond well to the local character:

- National Planning Policy Framework (NPPF) (DLUHC, 2021)
- Policies D1 and D4 of the London Plan (March 2021)
- Policy CP3 of the Local Development Framework (LDF) Core Strategy (July 2010)
- Policy BP11 of the Local Development Framework (LDF) Borough Wide Development Plan Document (DPD) (March 2011)
- Policies SP2 and DMD1 of The London Borough of Barking and Dagenham's Draft Local Plan: (Regulation 19 Submission Version, December 2021)

The above policies can be viewed on the Council's website: [www.lbbd.gov.uk/planning](http://www.lbbd.gov.uk/planning).

##### Informative(s):

1. The application hereby refused has been considered against the following plan(s) and/or document(s) submitted with the application:

- Planning, Design and Access Statement, prepared by Just Planning - 20TR-2198 - 24 May 2023
- Design and Access Statement - ND
- Existing Floor Plans - 01 - 20/04/2023
- Existing Elevations - 02 - 20/04/2023
- Proposed Floor Plans - 03 - 20/04/2023
- Proposed Roof Plan and Block Plan - 04 Rev A - 20/04/2023
- Proposed Elevations - 05 - 20/04/2023
- Proposed Section - 06 - 20/04/2023

**Working with the applicant:**

In dealing with this application, Be First, working in partnership with the London Borough of Barking and Dagenham, has implemented the requirements of the National Planning Policy Framework and the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. As with all applicants, Be First has made available detailed advice in the form of statutory policies and all other relevant guidance, as well as offering a full pre-application advice service, so as to ensure the applicant has been given every opportunity to submit an application which is likely to be considered favourably. The necessary amendments to make the application acceptable are substantial and would materially change the proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating material amendments such as to satisfactorily address the reasons for refusal attached.

**DATE OF DECISION: 03/08/2023**

Yours sincerely,

**Marilyn Smith****Marilyn Smith**Head of Planning and Assurance  
London Borough of Barking and Dagenham



**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**  
**Applicant's Rights following the Grant or Refusal of permission**

### **1. Appeals to the Secretary of State**

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six (6) months:** Full application (excluding Householder and Minor Commercial applications), listed building, conservation area consent, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time and prior approval applications.
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- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the council (attn: Planning Appeals Officer).

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are exceptional/special circumstances.

The Secretary of State can refuse to consider an appeal if the council could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements and provisions of the Development Order and to any direction given under the Order. In practice, it is uncommon for the Secretary of State to refuse to consider appeals solely because the council based its decision on a 'direction given by the Secretary of State'.

### **2. Subsequent Application Fees**

No planning fee would be payable should a revised planning application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

### **3. Purchase Notices**

Should either the council or the Secretary of State refuse permission or to grant permission subject to conditions, the owner may claim that the land cannot be put to a reasonably beneficial use in its existing state nor through carrying out of any development which has been or could be permitted. In such a case, the owner may serve a purchase notice on the council.

This notice will require the council to purchase the owner's interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990 and Section 32 of the Planning (Listed Buildings Conservation Areas) Act 1990.

### **4. Compensation**

In certain circumstances compensation may be claimed from the council if permission is refused or granted subject to condition(s) by the Secretary of State on appeal or on reference to the Secretary of State. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



# Appeal Decision

Site visit made on 6 February 2024

**by H Jones BA (Hons) DipTP MRTPI**

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

**Decision date: 28<sup>th</sup> February 2024**

---

## **Appeal Ref: APP/Z5060/W/23/3328582**

### **20 Tenby Road, Chadwell Heath, Barking and Dagenham RM6 6NB**

- 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 Mr Khalid Wali Patel against the decision of the Council of the London Borough of Barking and Dagenham.
  - The application Ref 23/00847/FULL, dated 2 June 2023, was refused by notice dated 3 August 2023.
  - The development proposed is a two-storey side extension to create new dwelling.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for a two-storey side extension to create new dwelling at 20 Tenby Road, Chadwell Heath, Barking and Dagenham RM6 6NB in accordance with the terms of the application, Ref 23/00847/FULL, dated 2 June 2023, subject to the conditions set out in the attached Schedule of Conditions.

### **Preliminary Matters**

2. In Part E of the appeal form it is stated that the description of development has not changed but nevertheless, a different wording has been entered from that on the planning application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the description given on the original application.
3. The London Borough of Barking and Dagenham Local Plan 2037 is emerging (the emerging plan). I have limited information before me on the precise stage which the emerging plan is at, although it would seem to be at a relatively advanced stage. As necessary, I refer to policies within the emerging plan elsewhere in my decision.
4. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. The Council and the appellant have been given opportunity to comment on the revised Framework. I have had regard to the revised Framework in my decision.

### **Main Issue**

5. The main issue is the effect of the development upon the character and appearance of the street scene.

## Reasons

6. No 20 Tenby Road is a residential property situated at the end of a short terraced row. It adjoins properties with similar design features, including bay windows and front gable projections. However, the host property has a single storey garage outrigger to its side and this sets its appearance apart from the terraced properties it adjoins.
7. Elsewhere on Tenby Road and on neighbouring streets, there are other houses which are alike and which are grouped together. Despite this, the number of different house types represented is broad, with the design of one house type being distinctly different from another. This includes, opposite the appeal site, Nos 21 and 23 which each incorporate building materials, an approach to fenestration and a roofscape quite unlike the host property. For these reasons, although the street scene does exhibit some design cohesion, it also incorporates variety and is not uniform.
8. As the host property already has a garage outrigger to its side, it has a wider front elevation than the terraces it adjoins. Therefore, the host property's presence within the street scene markedly differs from them. Upon completion of the development, the dwelling containing 2 floors of accommodation would be clearly greater in size and scale than the existing garage but nevertheless, it would also be an outrigger to the side. Consequently, the extension would not introduce an incongruous feature.
9. The roof profile of the proposed dwelling would be hipped which would match that of the host property. The kitchen would have a flat roof and would adjoin an existing flat roofed outrigger. The plans propose that external materials would also match the existing dwelling. For such reasons, the proposed dwelling would incorporate a design which would be sympathetic to the property it would adjoin.
10. Owing to a recessed first floor front elevation and a roof ridge level set-down, the proposed dwelling would be somewhat subordinate to the host property. However, given the sympathetic design and the varied appearance of properties already within the street scene, that this would be the case and that the proposal would not be a replica of an existing house type would not be harmful.
11. For the above reasons, the development would represent high quality design with acceptable effects upon the character and appearance of the street scene. The proposal would comply with policy D4 of the London Plan (LP), policy CP3 of Barking and Dagenham's Core Strategy and policy BP11 of Barking and Dagenham's Development Policies Development Plan Document. Amongst other matters, these policies seek to achieve development with a high quality of design and layout, that protect or enhance the character of an area and which maintains the design quality of development. The development would also comply with policies DMD1 and SP2 of the emerging plan and those policies within the Framework which similarly seek to secure high quality design and ensure that development appropriately relates to local context.
12. The Council's reason for refusal also refers to policy D1 of the LP. This policy focuses principally upon processes to define an area's character and capacity for growth. The content of this policy is largely irrelevant to this main issue.

### **Other Matters**

13. Tenby Road joins a main road which is well served by buses and which contains a range of services. Therefore, I find that the appeal site is within a quite accessible location, well connected by public transport. A driveway is within the appeal site and the plans show that parking here would be retained. I further note that the appeal site is located within a controlled parking zone with on-street parking being actively managed via permits.
14. The Council's reason for refusal included no objections related to parking. Given the above factors, I have no reason to disagree and I have no substantive evidence before me that the proposal would result in any unacceptable parking effects.

### **Conditions**

15. The Council has chosen not to submit a list of suggested conditions. In compiling the attached schedule, I have had particular regard to the advice on the imposition of conditions contained within the Framework and the Planning Practice Guidance.
16. A standard time limitation condition is necessary, as is a condition to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. In the interests of the character and appearance of the area and the living conditions of existing and future occupiers, a condition to define the enclosure of the proposed back garden is necessary. In the interests of both the promotion of sustainable transport modes and the character and appearance of the area, I have imposed a condition to agree the design of cycle storage and to secure its delivery. So that appropriately designed refuse and recycling storage is also secured, I have imposed condition 5.
17. Given the scale and nature of the proposal, the effects which would arise from the demolition and construction activities involved would be likely to be short-term in nature and uncomplex. Given this, I have no reason to conclude that this phase of the development would be especially disruptive. Therefore, I find that a condition requiring the submission of a construction method statement would not be proportionate and in turn is unnecessary. However, in the interests of the living conditions of neighbouring occupiers, the hours of construction and demolition should be controlled and so I have imposed such a condition for this reason. Comprising of an existing dwelling within an existing residential area, I have no substantive evidence before me that the appeal site is likely to be contaminated. For this reason, I am not satisfied that a condition in relation to contaminated land would meet all the tests for condition imposition and so, I have not included one within my schedule.

### **Conclusion**

18. For the reasons given above, having taken account of the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions in the attached schedule.

*H Jones*

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: 01, 02, 03, 04 A, 05 and 06.
- 3) The dwelling hereby permitted shall not be occupied until a dedicated back garden to serve the dwelling has been provided, in accordance with details which have first been submitted to and approved in writing by the local planning authority. These details shall include;

- the extent of the garden which shall match that shown on plan 04 A
- the design and appearance of the means of enclosure to form the boundaries of the garden

Development shall be carried out in accordance with the approved details and the dedicated garden shall be retained thereafter.

- 4) The dwelling hereby permitted shall not be occupied until the proposed cycle/bike store, as shown on plan 04 A, has been implemented in accordance with details which have first been submitted to and approved in writing by the local planning authority. These details shall include;

- full details of the design and appearance of the cycle/bike store

Development shall be carried out in accordance with the approved details and the cycle/bike store shall be retained thereafter.

- 5) The dwelling hereby permitted shall not be occupied until the proposed bin store, as shown on plan 04 A, has been implemented in accordance with details which have first been submitted to and approved in writing by the local planning authority. These details shall include;

- full details of the design and appearance of the bin store

Development shall be carried out in accordance with the approved details and the bin store shall be retained thereafter.

- 6) Construction and demolition works, the related operation of plant and machinery and related site deliveries or site dispatches shall only take place between the hours of 08:00 and 18:00 on Mondays to Fridays inclusive and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.