

**APPELLANT'S COMMENTS ("AC") TO PREVIOUS APPEAL DECISION –
ANNOTATED IN RED WITHIN (with Appendices AC1, AC2 and AC3 attached)**

Appeal Decision

Site visit made on 5 July 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2022

Appeal Ref: APP/R5510/W/21/3268811

38 Hazeldene Gardens, Uxbridge, UB10 9DJ

- 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 Mohamed Bharadia against the decision of London Borough of Hillingdon.
 - The application Ref 57039/APP/2020/4080, dated 8 December 2020, was refused by notice dated 2 February 2021.
 - The development proposed is described as the demolition of existing garage and construction of a 2 storey 2 bedroom home.
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Decision

1. The appeal is dismissed.

AC: The instant proposal is not comparable to the one the subject of the dismissed appeal. The instant appeal is for a different and amended proposal that is comparable to an approved fallback proposal. In any case, each appeal has to be assessed on its own individual merits based on the evidence in front of the decision-maker, policies and material considerations prevailing at the time of the decision. Given the inherent subjectivity that forms part of each decision maker's judgment and potential differential weightings applied to relevant matters by each decision-maker in the planning balance, it is neither unusual or uncommon nor a taboo for an inspector to dissent from the judgment or decision of a previous inspector. As the Inspector will note, in the instant proposal, the case officer recommended approval but was overruled (demonstrative of internal conflict on planning judgment) and the assurance to the Appellant of the recommendation being presented to the planning committee was reneged upon precipitating this failure case appeal. Even in the Court of Appeal or the Supreme Court, a panel of judges hearing the same case on the same evidence can and do arrive at dissenting judgments to those of their colleagues, indicative of the firm adherence to the principles of independence, impartiality and natural justice.

Applications for costs

2. An application for costs was made by Mr Mohamed Bharadia against the London Borough of Hillingdon. This application is subject to a separate Decision.

Preliminary Matters

3. The decision notice referred to policies from the London Plan (2016). These have subsequently been replaced by the London Plan 2021 and the new

National Planning Policy Framework 2021 (the Framework) has been published. I have asked for and received comments on the publication of these documents from both main parties and have had regard to these in my decision.

AC: In spite of the London Plan 2021 becoming fully adopted in March 2021 and its policies therefore deserving of full weighting, the LPA failed to apply several relevant and important housing policies from it in its assessment of the current revised application the subject of the present appeal. In the associated costs decision letter, the inspector gave the LPA leeway (wrongly in the Appellant's submission) even though as of 29 January 2021 (4 days before the LPA's decision), the SoS had confirmed to the Mayor that the London Plan 2021 could be published¹; ALL of the relevant policies were deserving of FULL weighting as of 29 January 2021 if not earlier as intimated by the SoS' letter to the Mayor of 24 December 2020. As will be evident in the Appellant's statements and submissions, there is still no discernible difference in policy application in the current assessment and statement by the LPA even though the London Plan 2021 has fully replaced the 2016 version several months ago. This is one of the reasons the Appellant has made a new costs application for unreasonable behaviour (please see 2 b) of the costs statement dated 16 December 2021).

Main Issues

4. The main issues are;

- The effect of the proposed development on the character and appearance of the host dwelling and wider area;

AC: In the present appeal with the amended design, this is no longer an issue between the parties, the LPA acknowledging and accepting that the current proposal's footprint and design for a new dwellinghouse matches in all material respects the fallback development approved by the LPA previously. The LPA states in its statement that "the extension to host the new dwelling would be the same as that approved under application Ref: 57039/APP/2018/664. It is noted that this has been implemented. There is no major material change in the plans of the proposed new dwellinghouse. The development would involve internal changes to accommodate a new dwellinghouse within the part two storey part single storey side/rear extension."

- The effect of the proposed development on the living conditions of the occupiers of No 38 Hazeldene Gardens, with regard to outlook and natural light; and

AC: It is notable that the inspector deemed and worded this issue as being the effect on living conditions of the occupiers on No. 38 with specific regard to outlook and natural light only and implicitly discounted and disagreed with the LPA's inclusion within its refusal reason 2 that there was any detrimental impact on living conditions of the occupiers of No 38 by reason of overdominance, overshadowing and visual intrusion; the inspector did not even deem it relevant to include them within this main issue or the decision letter. The LPA has replicated the same identical wording in the single reason for refusal of the proposal the subject of the present appeal and the Inspector is requested to

¹ For background and SoS' implicit view on weighting applicable to LP policies please see correspondence from the SoS in December 2020 and January 2021 at attached Appendix AC3.

confine the framing of the main issue in the like manner as done in this decision letter.

- The effect of the proposed development on highway safety.

AC: In the present appeal, even prior to issuance of this decision letter, the LPA accepted that this reason for refusal was untenable. Hence, it is no longer an issue between the parties, the LPA now acknowledging and accepting there is policy compliance in this regard.

As a consequence of the above, the planning balance has altered in the Appellant's submission.

Reasons

Character and appearance

5. The appeal site is located in a predominantly residential area characterised by similarly designed pairs of semi-detached dwellings that have a reasonably symmetrical form and pleasant visual balance. Dwellings are set back from the highway with garden and/or parking areas to the front. The materials used in the area are fairly consistent and the layout and style of the properties along the road provides a consistent rhythm to the street scene. Short terraces are located on the opposite side of Hazeldene Gardens.
6. The proposed development would extend the pair of semi-detached dwellings to the side, thereby disrupting the marked balance and rhythm described above in terms of the appeal site and the surrounding pattern of development. Additionally, as it would not be set down from the ridge or set back from the front elevation of No 38, it would create a visually prominent and dominant addition. The open nature of the street would mean that the proposed development would be readily apparent from the public domain such that it would have a significant influence on the street scene.

AC: As the Appellant has stated above, the implementation of 57039/APP/2018/664 and the amended proposal's footprint, bulk, form and design with a front door to form a new dwelling is identical to development under 57039/APP/2018/664 in all material respects. This is a material consideration to be taken into account in favour of allowing a separate dwelling to be created hence the withdrawal by the LPA of this previous reason for refusal. The amended proposal benefits from a set-back from the front elevation and it is set down from the ridge.

7. I have been provided with details of an approved development at the site¹. I do not consider this to be directly comparable to the appeal proposal. Whilst flush with the front elevation at ground floor, the approved scheme would appear subservient to the host dwelling due to its set down from the ridge, and set back at first floor from the front elevation. Additionally, the character of this side of Hazeldene Gardens is for semi-detached dwellings rather than short terraces, and this character would remain.

AC: The amended proposal is directly comparable to the approved and implemented development under 57039/APP/2018/664. In fact, as previously averred, 57039/APP/2018/664 incorporates an approved much wider two storey form plus an additional front door at street level elements which would not be deemed policy compliant either for a two-storey side extension or an annexe under the present policy context. Yet approval as a separate dwelling would work in the other direction

and positively serve to reduce the harm in the street scene if identified and visualised as such.

8. Consequently, I find the development would be in conflict with the relevant elements of Local Plan Part 1²(2012) Policy BE1, Local Plan Part 2³ (2020) Policies DMHB 11 and DMHD 1 and London Plan (2021) Policies D4, D5 and D6, which seek, amongst other things, to ensure that development is of a high quality design, harmonises with the local context and considers the character and quality of the surrounding area. The proposed development would also be at odds with paragraph 130 of the Framework which seeks to ensure developments are visually attractive and sympathetic to local character.

AC: The tension and begrudging acceptance of the amended proposal is evident in the LPA's present statement: "When viewed from the front elevation, the front porch adjoining No 38 would reduce the visual benefit of the side extension being set back from the main dwelling. The result of this is an imposing addition that is out of keeping and proportion to not only the pair of original semi-detached houses, but the wider street scene. However, taking this into consideration, and with significant weight from the form having been implemented, it is considered on balance that the extension would not result in any additional harm to the visual amenities of the street scene or the surrounding area."

That is why the Appellant has submitted that with the additional front door, the imposing addition would be more in keeping when read as a separate dwelling than as a disproportionate extension of No 38. Otherwise, the built form as an extended part of No 38 would in fact be more harmful to the character and appearance of the area with No 38 uncharacteristically standing out and causing visual harm as the only house locally with two flush front door street facing entrances.

Living conditions

9. At present, the host dwelling is served by a side garden. The proposed development would introduce a dwelling between it and No 40 Hazeldene Gardens. The proposed dwelling would have a rear two-storey element that would project beyond the rear elevation of No 38.

AC: In fact, as per the drawings and photographs, there was a single storey double garage to the side with a sizeable rear garden (see photographs within Appendix 4 of Appellant's Appeal Statement). It ought to be noted for completeness that No 38 already benefits from a single storey rear extension with a pitched roof rising and meeting the original rear wall just under the window sills. Consequently, the ground floor element of the proposed dwelling would project only minimally beyond the extended part of No 38 while the off-shoot at first floor would only have a small area of exposed flank wall facing No 38, the height of which would be relatively low (given no flat roof is designed) and level with the sills of the rear windows of No 38. The gable roof of the projection starts from this height and pitches away from No 38. This is depicted in the rear elevation plans of the proposed dwelling and photograph previously provided as Appendix R1/A to Appellant's Reply of 21 December 2021 to LPA's appeal statement. It is also to be noted that the expansive and open fields to the rear and the significant separation distances to the nearest built form to the rear provide a significant and panoramic sense of openness for light and outlook as adequate mitigation on the merits of this proposal (please see photo below). The Inspector is also invited to note that there are two nearby terrace blocks housing maisonettes Nos 12-18 and Nos 20-26 Hazeldene Gardens that are set in significantly further from the road and hence project significantly beyond the

adjacent terraces and neighbours (No 10 and No 28 respectively) at the rear and that frame the rear building lines (please see plan under paragraph 1.6 of Appellant's Appeal Statement and the photo below).



It is also submitted that it is a common occurrence in London that first floor rear outrigger or off-shoot extensions prevail and are permitted in terraced housing without **unacceptably** impacting on neighbour's living conditions. By way of example, LB of Barking and Dagenham recently approved a new end of terrace dwelling at 2 Herbert Gardens RM6 4BS that provided a two-storey rear projection beyond the adjacent donor dwelling (please see details in attached Appendix AC1). A further example of a new end of terrace dwelling with a sizeable depth and height rear projection at first floor was recently allowed on appeal at land adjacent to 14 Westerdale Road, LB of Greenwich SE10 OLW. Here, No 14 already had a deep first floor off-shoot with a rear habitable window tight to the boundary flank wall with a potential for a tunnelling effect owing to the proposed development; notwithstanding this, the inspector acknowledged that the new dwelling's first floor projection of same depth would result in No 14 to suffer some loss of daylight, sunlight and outlook but reasoned, in the planning balance, that such loss was tolerable and acceptable (please see details in attached Appendix AC2).

In the interests of consistency in planning decision-making, paragraph 1.4.4 of London Plan 2021 states (emphasis added): "The London Plan is able to look across the city to plan for the housing needs of all Londoners, **treating London as a single housing market in a way that is not possible at a local level.**"

10. The projection of the proposed dwelling close to the rear elevation and a first floor window of No 38 combined with its height and depth would have a detrimental effect on the outlook from this windows. The proximity of the proposed dwelling to this window would significantly restrict levels of light entering it, which would result in the room it serves being unduly gloomy to the detriment of their usability and the occupants of No 38.

AC: The inspector did not request entry into or carry out internal site observations from the rear rooms of No 38 and externally the site was covered with scaffolding which is temporary. The Appellant says there are several mitigating factors that ought to be taken into account: 1) the projection at first floor is comparatively (see Appendix AC1 and AC2 examples) of modest depth and height with the pitch of the roof bearing away from No 38; 2) the rear window of the closest habitable room is reasonably wide and not tight to the boundary but is set away some distance from it providing self-mitigation (cf. at 14 Westerdale the single sash narrow window was tight to the boundary but the compensatory effect was provided by the first floor off-shoot of the new dwelling slightly set away from the boundary); 3) the open expanse at the rear and the absence of any other nearby projections would provide more than adequate sunlight and daylight into the room and an acceptable outlook from that room, in the Appellant's submission; respectfully the Appellant says the inspector's characterisation above is unduly harsh; 4) it was not previously specifically canvassed to the previous inspector, but it has been canvassed now (at paragraph 1.5 of Appellant's Reply of 21 December 2021), that the LPA itself had previously come to the same judgment when it had approved 57039/APP/2018/6640 – at page 5 of the delegated report (see within Appendix 4 of the Appellant's Appeal Statement) it had adjudged that (emphasis added): "It is considered that all the proposal habitable rooms **and those altered by the development would still maintain an adequate outlook and source of natural light.**" Its *volte face* now just because a new dwelling is instead being proposed for the same projection is a paradigm example of inconsistency, unfairness and unreasonable behaviour, the Appellant says; 5) with a degree of foresight and to provide further mitigation for the planning balance, in the instant proposal the Appellant has provided for an internal layout change at first floor of No 38 such that the nearest habitable room at the rear would now be even further away from the new dwelling's projection. This was not even taken into account by the LPA in its statement in reply, although it would inevitably have been by the case officer to warrant her recommendation for approval.

11. Whilst my attention has been drawn to the approved scheme of a similar design, this scheme was for an extension to the dwelling and as such No 38 would not become an adjoining occupier as it would under the appeal scheme. I note the comment from the appellant that a condition could be applied to ensure that the ownership of the proposed development is not severed from the occupiers of No 38, however I consider that this would need to be secured via a planning obligation and one is not before me to consider.

AC: As the Appellant says the LPA itself has held under the approved scheme that there would be no unacceptable impact on light or outlook on the habitable rooms of No 38; the current proposal replicates the approved scheme and hence it is only fair and consistent to reason rationally that the light and outlook will not be unacceptably impacted.

12. I conclude that the proposed development would significantly harm the living conditions of the residents of No 38, with particular reference to light contrary to Local Plan Part 2 (2020) Policies DMHB 11 and DMHD 1 which seeks, amongst other things, to ensure that development does not adversely impact on the amenity, daylight and sunlight of adjacent properties. The proposed development would also be contrary to paragraph 130 of the Framework that seeks high standards of amenity for existing users.

AC: The Appellant respectfully submits that light levels to No 38 would not be adversely impacted as a result of the proposed development or significantly harm

the living conditions of the occupiers of No 38. The terraces down the road housing Nos 12-18 and Nos 20-26 project much deeper beyond No 10 and No 28 yet have no unacceptable impact upon the latter's light and outlook even though the 45-degree rule is most certainly offended from their nearest habitable windows. Furthermore, light does not enter only as a single ray from one direction and that is why the 45-degree rule of thumb is exactly that – a guidance. In any case, the Appellant submits that under the new proposal policy DMHB11 is not offended especially given the fallback development and at part B) the wording is not couched in the mandatory 'must not' but with the advisory 'should not' and the use of the adjective 'adversely' in front of impact acknowledges and allows for a degree of tolerance of impact that is a matter of planning judgment to be made rationally. The Appellant also draws the Inspector's attention to DL10 of the appeal decision letter APP/R5510/W/19/3241390 (please see within Appendix 10 of Appellant's Appeal Statement) rationally analysing the wording and context of supporting paragraph 5.41 of Policy DMHB11.

The Appellant also re-iterates, as held by other inspectors in other decision letters (within Appendix 10 of Appellant's Appeal Statement), Policy DMHD1 sits within Appendix A: Householder Development Policies of the Local Plan Part 2 and specifically applies to householder development proposals as explicitly confirmed at paragraph A1.1. Paragraph A1.25 allows for two methods for applying the 45-degree rule and given the low height of the wall of the projection of the new dwelling and the roof pitching away, the rule would be met even for the nearest rear first floor window of No 38, the Appellant submits.

Highway safety

13. At the time of my visit Hazeldene Gardens was quiet with minimal on street parking and very few vehicles passing. I appreciate my site visit provided only a snapshot of highway conditions. Nevertheless, based on my observations, it would be reasonable to conclude that levels of traffic would increase at peak hours when traffic is at its heaviest.

AC: The Appellant does not know what time the inspector had visited but submits that Hazeldene Gardens is a very quiet road to traffic throughout the day including evenings. In any case in the current appeal, this is no longer an issue.

14. The proposed development would use existing access from Hazeldene Gardens. The Council are concerned regarding the lack of parking. Local Plan Part 2 Policy DMT6 references Appendix C: Parking Standards and requires that parking be provided in line with these standards. These standards provide the maximum car and other vehicle parking requirement and states that the maximum parking required for dwellings is 2 spaces per dwelling. Policy T6 of the London Plan also states that motorcycle parking spaces should count towards the maximum for car parking spaces. The London Plan also provides a maximum parking standard for residential development. This area is classed as Outer London PTAL 0-1 and London Plan Policy T6.1 and Table 10.3 requires maximum parking standards of up to 1.5 spaces per dwelling.
15. The submission details that the proposed development would provide a single car parking space and a motorcycle parking space. Cycle parking and an electric car charging point would also be provided. No 38 would have a single car parking space and two motorcycle parking spaces. The proposed development would therefore provide two parking spaces and would therefore be compliant with the relevant policy. I note the Council's concern regarding the reduction in car parking, however if future occupiers were to use a second

car then there would be opportunity to park on the street, without causing congestion or parking problems.

16. For the reasons set out above, I consider that the proposed development would not be detrimental to highway safety. Accordingly, I find no conflict with Local Plan Part 2 (2020) Policies DMT2, DMT6 and Appendix C or London Plan Policies T6 and T6.1 which seek, amongst other things, to ensure that development would not lead to a deleterious impact on street parking provision, congestion or local amenity. The proposal also complies with paragraph 111 of the Framework which seeks to ensure that development does not have an unacceptable impact on highway safety.

Other Matters

17. The appellant suggests the Local Plan predates the most recent revision of the Framework and is therefore partially out of date. However, having considered the relevant policies for the determination of this appeal against the Framework, including having regard to the fact the proposal would be a self-build house, I do not consider that they are inconsistent. Therefore, the development plan is up-to-date.

AC: Respectfully, the Appellant did not compare the datedness of the Local Plan with the recent revision of the Framework – after all the Appellant is aware that the Framework is only a material consideration whereas the Local Plan as part of the development plan has statutory force. In fact, what the Appellant had submitted to the inspector was that the Local Plan pre-dated the London Plan 2021 (both of which form part of the statutory development plan) and that therefore s38(5) PCPA 2004 was engaged where there was any policy conflict between the Local Plan and London Plan 2021 as evidently there was and there is. That is why the evasion in assessment by the LPA of important and relevant Housing Policies H1 and H2 is a grievance of the Appellant. The Appellant has presently made the same submission at paragraph 4.4 of the Appellant's Appeal Statement.

18. The erection of a single dwelling would make a positive contribution, albeit limited, to the borough's housing supply. It would also provide economic benefits during its construction by providing construction worker jobs. In addition, the future occupants would make a positive contribution to the local economy. However, the scale of the scheme would limit its associated socio-economic benefits. I have found that the proposal would cause unacceptable harm to the character and appearance of the area and on the living conditions of No 38 in the manner I have described above. I ascribe significant weight to these harms which would be long lasting. Therefore, and in regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits. It would not therefore be sustainable development for which the presumption in favour applies.

AC: Under the London Plan 2021, London is considered a single housing market area and some Boroughs which meet their targets compensate other London Boroughs where there is under delivery (please see its paragraph 4.1.2). The SoS expressed the same sentiment in his letter to the Mayor of 29 January 2021 (please see attached Appendix AC3). It is evident that small sites are exactly that – they are inherently limited to deliver from one to a few units of new housing but which cumulatively can make a substantial contribution. That is why London Plan 2021 strategic policies H1 and H2 have been introduced to allow for that step-

change in perspective and analysis by decision-makers (please see in particular its paragraphs 4.2.2, 4.2.5 and 4.2.7).

The instant appeal is for a different proposal that is directly comparable to the fallback development under 57039/APP/2018/664. The main issues between the parties have narrowed significantly and with further material considerations, the planning balance has altered sufficiently to tip the balance now in favour of granting permission, in the Appellant's submission.

The general sentiments of the SoS' inspector (at DL17) in decision letter APP/P5870/W/21/3281440 issued today 5 April 2022 equally apply in the instant case: "There is the additional factor the fact that although the Council has met its housing targets, this does not nullify the economic and social benefits of an additional dwelling in a sustainable location. Nor does it preclude the need to give weight to the thrust of Government policy in the National Planning Policy Framework 2021 ('the Framework') that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and should promote an efficient use of land in meeting the need for homes."

Conclusion

19. For the above reasons given above, having considered the development plan as a whole, the approach of the Framework and all other relevant consideration, the appeal should be dismissed.

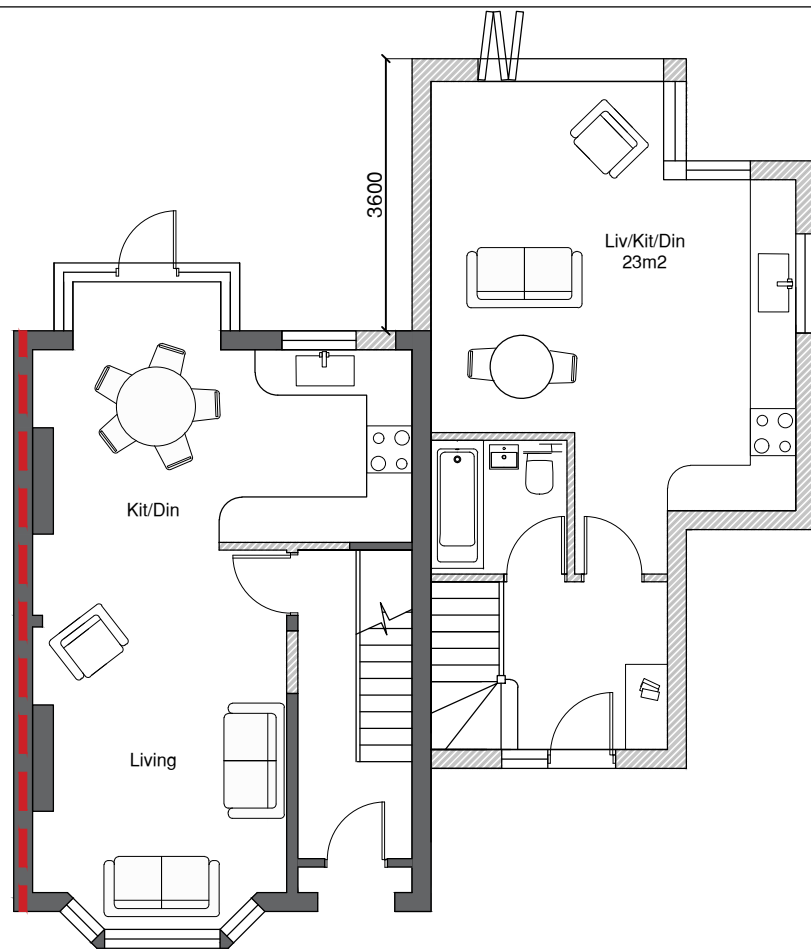
AC: The Appellant hopes that the Inspector will find that the planning balance weighs in favour of the instant appeal scheme and that it is deserving of planning permission on its own individual merits.

Attached: Appendices AC1, AC2 and AC3

Tamsin Law

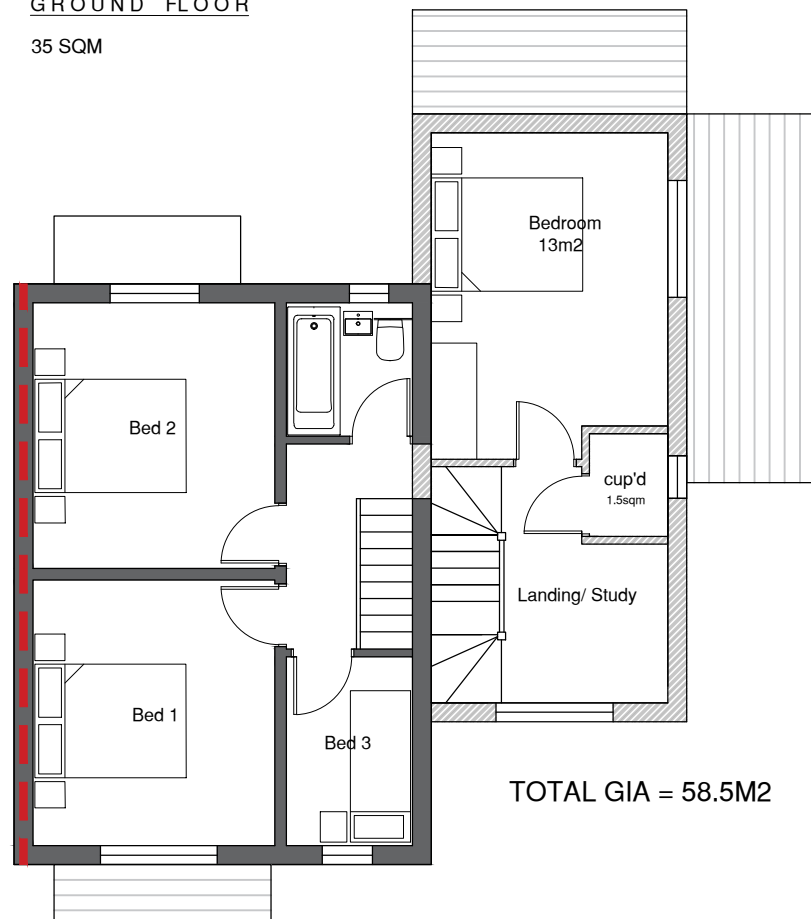
INSPECTOR





No. 2 PROPOSED DWELLING

GROUND FLOOR
35 SQM



No. 2 PROPOSED DWELLING

FIRST FLOOR
23.5 SQM



EAST ELEVATION

No. 2 PROPOSED DWELLING

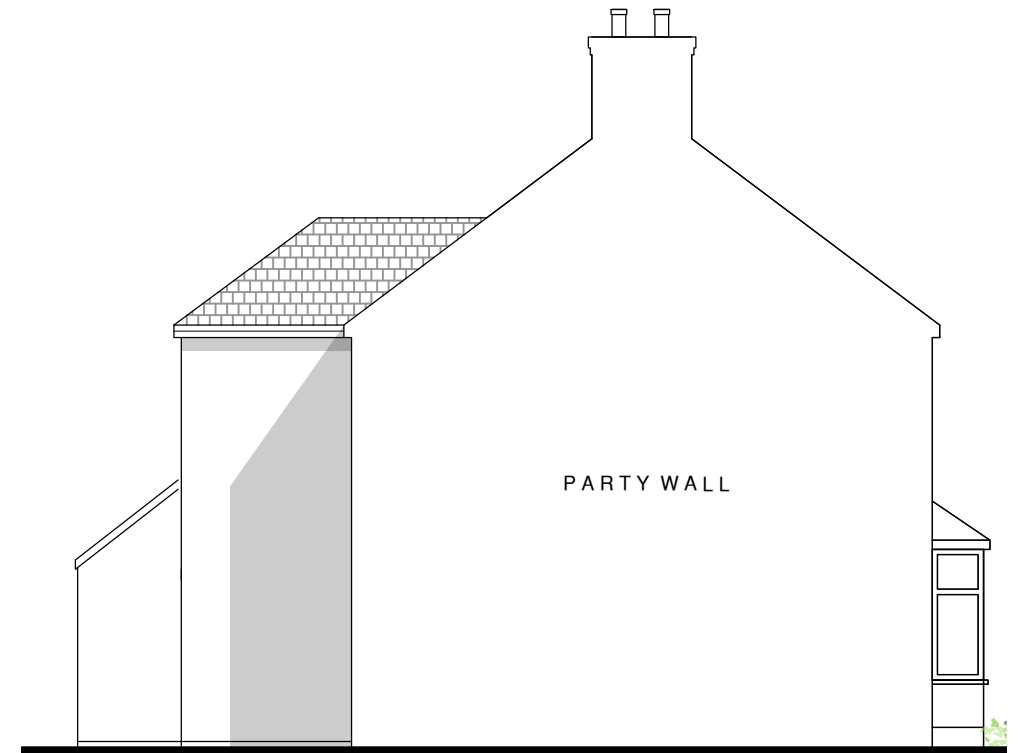


NORTH ELEVATION



WEST ELEVATION

PROPOSED DWELLING No. 2



SOUTH ELEVATION

PARTY WALL



NOTE: THESE DRAWINGS ARE FOR PLANNING PURPOSES ONLY. DO NOT CONSTRUCT FROM THESE DRAWINGS. A MEASURED SURVEY IS REQUIRED ON SITE BEFORE CONSTRUCTION.

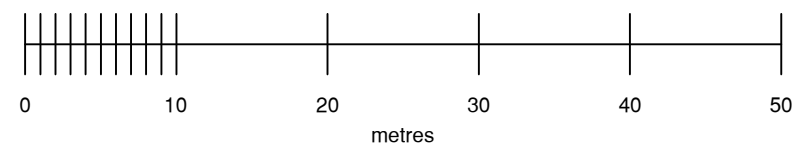
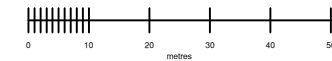
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Drawing title PROPOSED PLANS			
Job No 2002_PL04B	Scale @ A3 1:100	Date 04/18	Drawn by RJ
r&R PLANNING www.randRplanning.co.uk RobertJon@Live.co.uk Tel: 07436007718			



SITE PLAN 1:500



LOCATION PLAN 1:1250



Job title 2 HERBERT GARDENS			
Drawing title LOCATION PLAN			
Job No 2002_PL01	Scale @ A3 1:500	Date 11/17	Drawn by RJ



PLANNING
www.randRplanning.co.uk
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Tel: 07436007718

Application No. 18/00319/FUL

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (England) ORDER 2015**

To: Mr Bharadia
c/o R&R Planning
40 Parkview House
Sunrise Avenue
Hornchurch
Essex RM12 4YW
FAO: Mr R Fry

In pursuance of the powers exercised by them as Local Planning Authority, the Council of the London Borough of Barking and Dagenham, having considered your application to carry out the following development:-

Demolition of garage and erection of part single/part two storey side extension to provide one bedroom house.

At 2 Herbert Gardens Chadwell Heath Romford Essex RM6 4BS

In accordance with the drawing(s) accompanying the said application, do hereby give notice of their decision to **GRANT PERMISSION** for the said development, subject to the following condition(s):-

1) The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by S.51 of the Planning and Compulsory Purchase Act 2004).

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2002_PL02; 2002_PL03B; and 2002_PL04B.

Reason:

For the avoidance of doubt and in the interests of proper planning.

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building.

Reason:

To ensure the development respects the appearance of the existing property and to maintain the amenity of the area in accordance with policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document.

4) No development above ground level shall take place until a scheme showing those areas to be hard landscaped and the details of that hard landscaping have been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be carried out prior to the occupation of the development and thereafter permanently retained.

Reason:

To safeguard and improve the appearance of the area in accordance with policy BP11 of the Borough Wide Development Policies Development Plan Document.

5) No development above ground level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, design, materials and type of boundary treatment to be erected. The house hereby approved shall not be occupied until the approved boundary treatment has been provided. The approved boundary treatment shall be retained unless the Local Planning Authority gives prior written approval for its removal.

Reason:

To ensure the boundary treatment protects or enhances the character and amenity of the area in accordance with policy BP11 of the Borough Wide Development Policies Development Plan Document.

6) Before occupation the proposed one bedroom house shall comply with Building Regulations Optional Requirement Approved Document M4(2) Category 2: Accessible and adaptable dwellings (2015 edition). Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Reason:

To ensure that accessible housing is provided in accordance with policy 3.8 of the London Plan (March 2016).

7) Before occupation, the proposed one bedroom house shall comply with the water efficiency optional requirement in paragraphs 2.8 to 2.12 of the Building Regulations Approved Document G. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Reason:

To minimise the use of mains water in accordance with policy 5.15 of the London Plan (March 2016).

8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), no development falling within Class A in Part 1 of Schedule 2 to that Order shall be carried out at the proposed one bedroom house hereby approved without the prior written permission of the Local Planning Authority.

Reason:

To avoid loss of amenity to neighbouring properties in accordance with policies BP8 and BP11 of the Borough Wide Development Policies DPD.

APPROACH TO DECISION-TAKING:

The council has adopted the approach detailed in paragraphs 186 and 187 of the National Planning Policy Framework in dealing with this application.

**Dated 2nd May 2018
London Borough Of Barking & Dagenham
Barking Town Hall
1, Town Square
Barking IG11 7LU**



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Daniel Pope – Head Of Planning

INFORMATIVES

In connection with this decision, it would be appreciated that you take notice of the following:-

You are advised to contact the Official Street Naming and Numbering body for the area prior to either the sale or occupation of the new building(s).

This will assist you and subsequent interests in the property in properly identifying it in legal documents and in the case of emergencies, the emergency services should already know the whereabouts of the property.

Failure to secure an approved street name or number may effect your ability to purchase services such as gas, water or electricity for the property and may prevent the issue of a postcode for the address.

The official Street Naming and Numbering service may be contacted through StreetNamingAndNumbering@lbld.gov.uk or by phone on 0208 227 5305/3954.

IMPORTANT - ATTENTION IS DRAWN TO THE NOTES OVERLEAF

NOTES

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice (except in the case of applications subject to an Enforcement Notice where appeals must be lodged within 28 DAYS).
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk>.
- 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 special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

PURCHASE NOTICES

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its present state nor can render the land capable of a reasonable beneficial use by carrying out any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council. His notice will require the Council to purchase his interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990.

NOTES

- (1) The attention of developers is drawn to the fact that any failure to adhere to the details of the approved plans, or failure to comply with conditions attached to a planning permission, constitutes a contravention of the provisions of the Town and Country Planning Acts in respect of which enforcement action may be taken.
- (2) The decision overleaf is for planning permission only, but it may be necessary for your plans to be passed under BUILDING REGULATIONS (unless this has already been done). Nor does this consent relieve the applicant of any duties or obligations to obtain the necessary consent of any other interested party under Common Law or any other Statute other than the Town and Country Planning Acts.

Application for Planning Permission

Application No: 18/00319/FUL

Site Address: 2 Herbert Gardens, Chadwell Heath

Applicant: Mr Bharadia

Proposal and Site Description

The Applicant seeks permission for the demolition of a garage and the erection of a part single/part two storey side extension to provide a one bedroom house. The application site is a corner plot comprising an existing end-of-terrace house. It is likely the proposal would result in the removal of the mature tree in the rear garden which is not subject to a tree protection order.

Background

Relevant planning history is summarised below:

17/01978/FUL, permission refused for demolition of garage and erection of part single/part two storey side extension to provide two bedroom house.

17/01486/FUL, permission granted for conversion of garage into habitable room involving a part first floor, part two storey side and rear extension.

Consultation

Neighbour consultation letters were sent to the occupants of 11 adjacent properties. No objections have been received.

Consultation responses from specialists are summarised below:

- Transport Development Management recommended that the existing vehicular crossover should be reverted into public footpath.
- Council's Access Officer's requested widths of doors and the staircase.

Policy

The London Plan (March 2016)

- Policy 3.5 Quality and Design of Housing Developments.
- Policy 3.8 Housing Choice.
- Policy 6.13 Parking.

Barking and Dagenham Local Plan Development Plan Documents:

Borough Wide Development Policies (2011):

- Policy BR3 Greening the Urban Environment.
- Policy BR9 Parking.
- Policy BR10 Sustainable Transport.
- Policy BP5 External Amenity Space.
- Policy BP8 Protecting Residential Amenity.
- Policy BP11 Urban Design.

Assessment

On-Site Living Conditions

Policy 3.5 of the London Plan seeks to ensure that developments provide the highest quality internal and external space. Under paragraph C of the policy, boroughs are required to ensure that new development take account of factors relating to 'arrival' at the building and the 'home as a place of retreat'. Moreover, new development must reflect minimum space standards set out in Table 3.3 of the London Plan and the Nationally Described Space Standard (NDSS).

Under Table 3.3, a minimum gross internal area (GIA) of 58m² and built-in storage of at least 1.5m² are required for 1 bedroom, 2 person and 2 storey dwellings. The GIA of the proposed house (58.1m²) would exceed the minimum standard. Sufficient provision for built-in storage is made. Outlook, light admission and privacy within the proposed dwelling would be acceptable.

Policy BP5 of the Local Plan requires the provision of external private amenity space which meets the needs generated by the development. In the absence of a minimum standard for 1 bedroom houses, it is considered appropriate to apply the minimum standard for a 1 bedroom flats (20m²). The proposed 23m² of external amenity space for the new house would be consistent with Policy BP5.

A truncated area of 40m² external amenity space will be retained for the existing 3 bedroom house. The proposed space is 20m² short of the applicable minimum standard for 3 bedroom houses. The application indicates 70m² of garden space but this would include the front garden, where the car parking space is located. However, it is noted that the third bedroom is no more than a 'box' room and may not be big enough to readily be used as a bedroom. The remaining garden would also be not too dissimilar in shape and size to that of neighbouring properties. On balance the garden space broadly meet the needs of the likely number of occupiers of the house and is generally consistent with Policy BP5.

Transport

The public transport accessibility (PTAL) of the application site is 4, which is considered medium/good on the PTAL scale. Furthermore, the site is located only 100 metres from the Chadwell Heath District Centre.

The transport officer recommended that the existing vehicular crossover is reverted into public footpath. This is considered unnecessary as the crossover is existing and such an action would result in the loss of an on-site car parking space.

In accordance with Policy BR9 of the Local Plan, the London Plan maximum parking standards for 1 – 2 bedroom dwellings (less than 1 per unit) and 3 bedroom dwellings (up to 1.5 per unit) are applied to the proposed development. The provision of one car parking space for the existing dwelling accords with the maximum standard. A higher provision is considered unnecessary because the PTAL of the site represents a medium/good level of public transport accessibility.

Local Character and Amenity of Adjacent Properties

With the exception of a small ground floor side projection and a larger ground floor rear projection, the proposed house is a similar form and scale as the two storey side extension approved under application 17/01486/FUL. In accordance with policies BP8 and BP11 of the Local Plan it is considered that the proposed dwelling would not harm the character and amenity of the local area.

Local Finance Considerations

The development would be liable to pay a Mayor's Community Infrastructure Levy of £1,628.16 and £711.92 towards the Borough Community Infrastructure Levy.

Recommendation

In accordance with Regulation 7(3)(c) of the Openness of Local Government Bodies Regulations 2014 the options considered are to approve or refuse the application. As the proposed development accords with the development plan the application is recommended for approval.



A	24/10/2019	Changes requested by LPA: rear wing reduced, 2nd floor removed & pitch roof added.	DW
Rev.	Date	Description	Init.

Client

KNIGHTSPUR HOMES LTD.

Project Title
PROPOSED NEW HOUSE
16 WESTERDALE ROAD

Drawing Title

PROPOSED REAR ELEVATION
(WESTCOMBE HILL)

Cad File	Sheet Size	Scale
1598_PL_H_PLOT	A3	1:100
Drawn by	Drawing Date	Approved by
DW	June 2019	DW

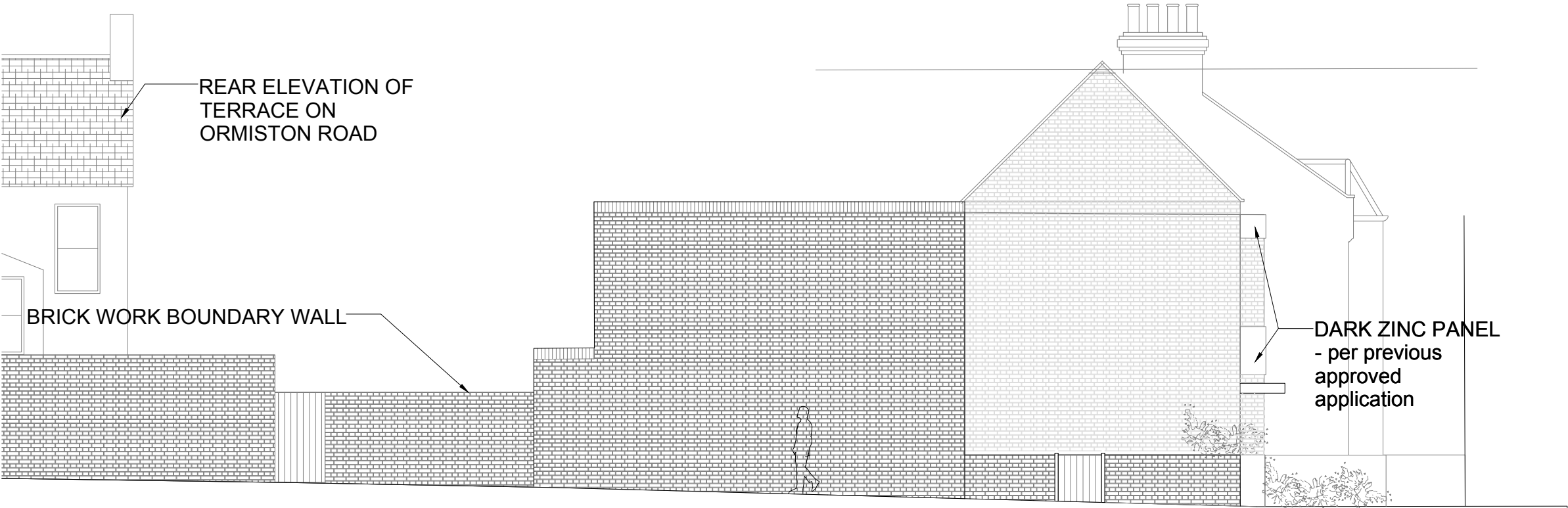
Project No.	Drawing No.	Revision
1598	PL_H_E03	A

DARIA WONG ARCHITECTS

UNIT CS.B04
CLERKENWELL WORKSHOPS
27/31 CLERKENWELL CLOSE
LONDON
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PLANNING ISSUE



C	29/10/2019	Notes added	DW
B	24/10/2019	Changes requested by LPA: canopy added, 2nd floor removed & pitch roof added.	DW
A	30/07/19	LEVELS AMENDED	JB
Rev.	Date	Description	Init.

Client

KNIGHTSPUR HOMES LTD.

Project Title
PROPOSED NEW HOUSE
16 WESTERDALE ROAD

Drawing Title

PROPOSED SIDE ELEVATION
(WESTCOMBE HILL)

Cad File	Sheet Size	Scale
1598_PL_H_PLOT	A3	1:100
Drawn by	Drawing Date	Approved by
DW	June 2019	DW
Project No.	Drawing No.	Revision
1598	PL_H_E02	B

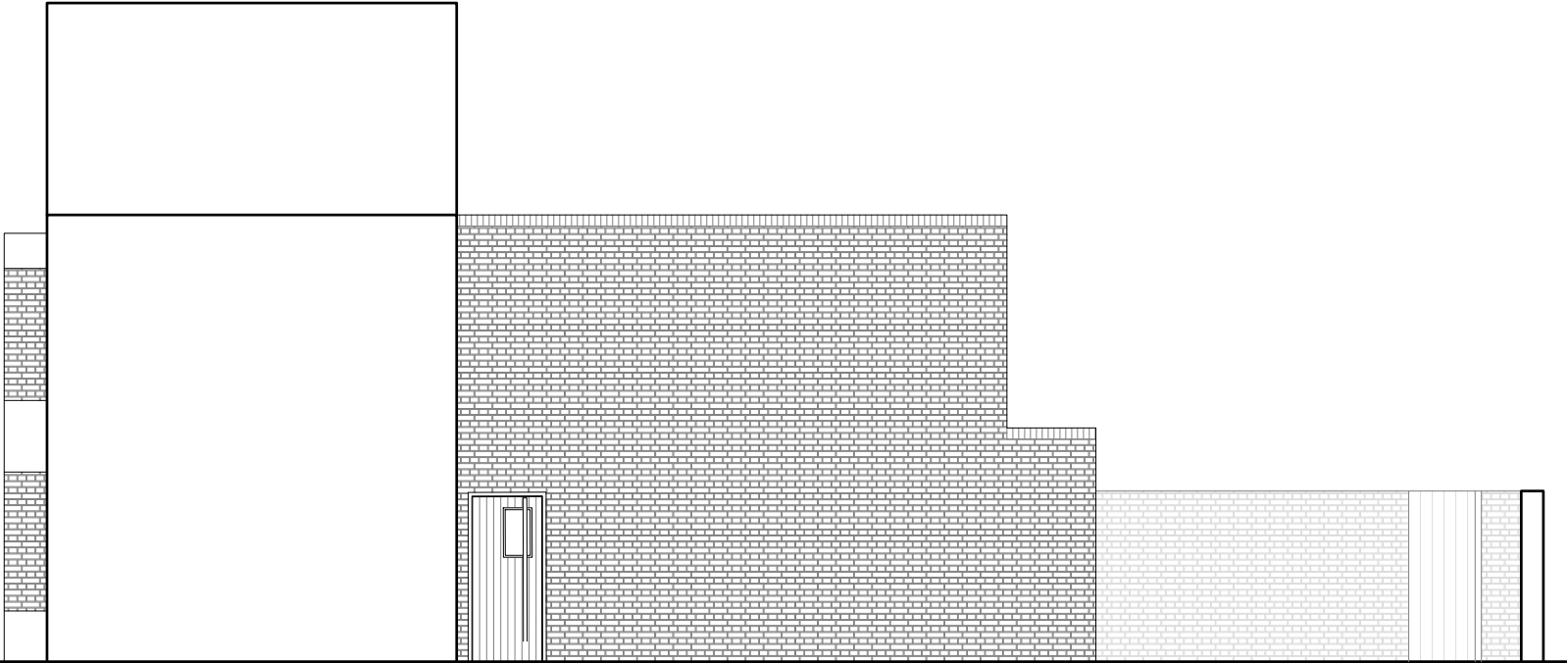
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PLANNING ISSUE

WESTERDALE ROAD



-	-		-
Rev.	Date	Description	Init.

Client

KNIGHTSPUR HOMES LTD.

Project Title
PROPOSED NEW HOUSE
16 WESTERDALE ROAD

Drawing Title

PROPOSED SIDE ELEVATION
(WEST ELEVATION)

Cad File	Sheet Size	Scale
1598_PL_H_PLOT	A3	1:100
Drawn by	Drawing Date	Approved by
JB	NOV 2019	DW
Project No.	Drawing No.	Revision
1598	PL_H_E04	—

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PLANNING ISSUE



A	24/10/2019	Changes requested by LPA: Rear wing reduced, canopy added, 2nd floor removed .	DW
Rev.	Date	Description	Init.

Client

KNIGHTSPUR HOMES LTD.

Project Title
PROPOSED NEW HOUSE
16 WESTERDALE ROAD

Drawing Title

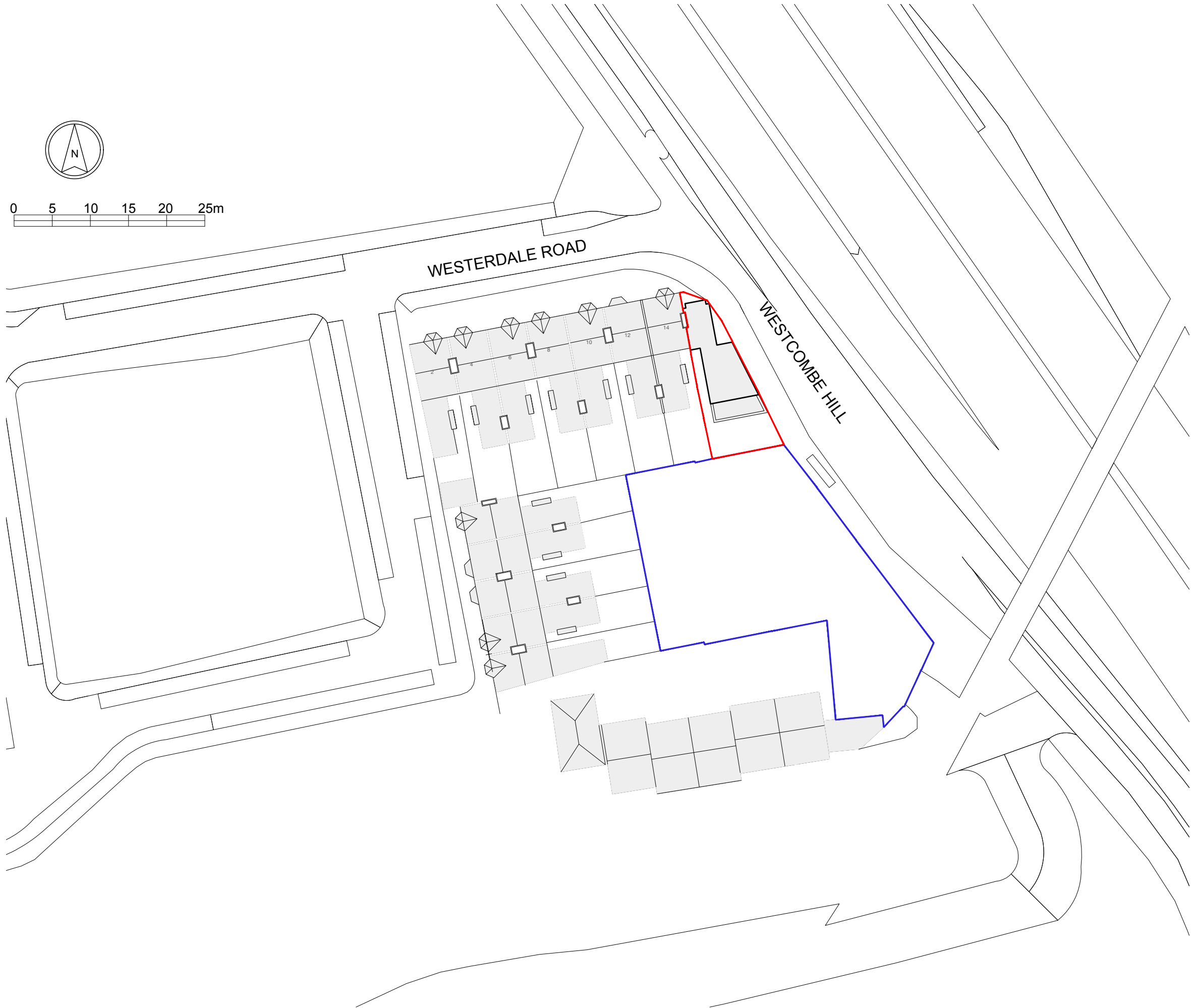
PROPOSED FIRST FLOOR PLAN

Cad File	Sheet Size	Scale
1598_PL_H_PLOT	A3	1:100
Drawn by	Drawing Date	Approved by
DW	June 2019	DW
Project No.	Drawing No.	Revision
1598	PL_H_L01	A

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PLANNING ISSUE



PROPOSED SITE PLAN
1:500

NOTES:

APPLICATION SITE

ADJACENT LAND OWNED BY APPLICANT

-	-	-	-
Rev.	Date	Description	Init.

Client

KNIGHTSPUR HOMES LTD.

Project Title
PROPOSED NEW HOUSE
16 WESTERDALE ROAD

Drawing Title
PROPOSED SITE PLAN

Cad File	Sheet Size	Scale
1598_PL_H_PLOT	A3	1:500
Drawn by	Drawing Date	Approved by
JB	JULY 2019	DW
Project No.	Drawing No.	Revision
1598	PL_H_SP01	—

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PLANNING ISSUE



-	-	-	-
Rev.	Date	Description	Init.

Client

KNIGHTSPUR HOMES LTD.

Project Title

PROPOSED NEW HOUSE
16 WESTERDALE ROAD

Drawing Title

EXISTING REAR ELEVATION
(WESTCOMBE HILL)

Cad File	Sheet Size	Scale
1598_EX_E_PLOT	A3	1:100
Drawn by	Drawing Date	Approved by
JB	JULY 2019	-

Project No.	Drawing No.	Revision
1598	EX_E_03	—

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PLANNING ISSUE



Appeal Decision

Site visit made on 6 October 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2020

Appeal Ref: APP/E5330/W/19/3242713

Land adjacent 14 Westerdale Road, Greenwich Peninsula, London SE10 0LW

- 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 Knightspur Homes Ltd against the decision of Royal Borough of Greenwich Council.
 - The application Ref 19/2345/F, dated 1 July 2019, was refused by notice dated 15 November 2019.
 - The development proposed is the erection of a single family dwelling house.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single family dwelling house at land adjacent 14 Westerdale Road, Greenwich Peninsula, London SE10 0LW in accordance with the terms of the application Ref: 19/2345/F, dated 1 July 2019 subject to the conditions below;
 - 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: Location Plan, EX_E_01, EX_E_02, EX_E_03, PL_H_E01 Rev. C, PL_H_E02 Rev. B, PL_H_E03 Rev. C, PL_H_E04, PL_H_L00 Rev. A, PL_H_L01 Rev. A, PL_H_L02Rev. A, PL_H_L03, PL_H_S01 Rev. A & PL_H_SP01.
 - 3) Prior to occupation of the dwelling hereby permitted, full details of cycle parking provision (to include a minimum of 2 secure and dry cycle parking spaces) shall be submitted to and approved in writing by the local planning authority. Prior to occupation the cycle parking shall be implemented in full and shall thereafter be retained solely for its designated use.
 - 4) Prior to occupation of the dwelling hereby permitted, a scheme for protecting the proposed dwelling from road, rail and aircraft noise sources shall be submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the dwelling is occupied and retained thereafter.
 - 5) Prior to occupation of the dwelling hereby permitted, details shall be submitted to and approved in writing by the local planning authority to demonstrate that the dwelling meets the required built-in storage standards within Policy 3.5 of the LP. The built-in storage shall be provided before the dwelling is occupied and retained thereafter.

- 6) Prior to the occupation of the dwelling all refuse and recycling facilities shown on the plans hereby approved shall be provided and made available for use and retained thereafter for their designated purpose for the lifetime of the development.
- 7) The dwelling shall not be occupied until Regulation 36(2)(b) of the Building Regulations 2010 (as amended by the Building Regulations (Amendment) Regulations 2015/767) and as set out in section G2 of the Building Regulations Approved Document (110 litres per person per day) has been complied with.
- 8) The dwelling shall not be occupied until the Building Regulations Optional requirement M4 (2) 'accessible and adaptable dwellings' has been complied with.

Procedural Matters

2. The description of the proposal has been altered from the application form to the decision notice, however the application form adequately describes the proposal and I have determined the appeal on this basis. The reasons for refusal are labelled no's 1 and 3, however I am only aware of two reasons for refusal and I have determined the appeal on that basis.

Application for costs

3. An application for costs was made by Knightspur Homes Ltd against Royal Borough of Greenwich Council. This application is the subject of a separate decision.

Main Issues

4. The main issues are a) the effect of the proposal on the character and appearance of the area and b) the effect of the proposal on the living conditions of occupiers at No 14 Westerdale Road (No 14) with particular regard to daylight, sunlight, privacy and outlook.

Reasons

Character and appearance

5. The appeal site is located at the eastern end of a row of traditional terraced properties of pleasant appearance. The site has a sense of purposelessness, separated from No 14 and from Westcombe Hill and the multi lane A102 by an imposing brick wall. The partially broken fencing reveals the rather scruffy and overgrown appearance of the site from Westerdale Road. It does not therefore contribute positively to the character and appearance of the area.
6. The dwelling would effectively represent a modern take on the neighbouring traditional terraced properties. The front part of the property, although narrow would reflect the prevailing roof form and window proportions.
7. The rear and side section of the property would incorporate a flat roof. This would serve to limit the bulk, scale and mass of the dwelling. The developed proportion of the plot would be similar to existing established properties within the terrace and would allow for a well sized private external amenity area.

8. I therefore conclude on this matter that the bulk, scale and mass of the dwelling would be acceptable and would not represent overdevelopment of the plot. The proposal would not have a detrimental impact on the appearance of the street scene or neighbouring properties. There would therefore be no adverse impact on the character and appearance of the area and the proposal would comply with Policies DH1 and H5 of the Royal Greenwich Local Plan (2014) (RGLP) and Policies 3.5, 7.4 and 7.6 of the London Plan (2016) (LP) which amongst other things require housing of high-quality design which is appropriate to the character of an area.

Living conditions

9. Windows on the rear elevation of the main body of No 14 as well as those on the two storey rear off shot currently enjoy greater levels of daylight, sunlight and outlook than would have previously been the case for much of the year when the appeal site was covered in a thick sycamore coppice. Some, but not all, of these windows service habitable rooms.
10. However, the rear off shot of the new dwelling would be set away from the boundary with No 14 and the two storey element would be limited to matching the depth of the adjacent two storey outrigger, while a flat roof would be incorporated into this element of the proposal. These factors would serve to limit the impact of the proposal in terms of loss of daylight, sunlight and outlook.
11. It is also relevant that the proposal seeks to replicate the well-established building pattern of the terrace. However, the outrigger would also incorporate a largely blank western elevation at ground floor level (bar an external door into a hallway) and a completely blank elevation at first floor level. As a result, there would be no detrimental impact on the privacy of the occupiers of No 14.
12. Policy DH(b) of the RGLP seeks to guard against any unacceptable loss of amenity to adjacent occupiers. In using this wording, the policy does not rule out some impact being acceptable. I acknowledge that No 14 would suffer some loss of daylight, sunlight and outlook. However, there is nothing within the evidence or from what I have observed on site to consider that such losses would not be limited and therefore acceptable. I therefore conclude on this matter that the proposal would accord with policies DH1 and DH(b) of the RGLP and Policy 7.6 of the LP which amongst other things, are concerned with such matters.
13. I have not identified any conflict with other policies within the RGLP or LP which have been brought to my attention.

Conditions

14. In addition to the standard three-year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans. A condition is necessary requiring cycle parking in the interests of encouragement of sustainable modes of travel. A condition is necessary in relation to noise protection given close proximity to the busy A102 and railway line to the south. The details of storage space are necessary to ensure high quality internal living space. The provision of the refuse and recycling facilities is necessary in the interests of sustainable waste

management. Conditions relating to water usage and accessibility are necessary in the interests of the sustainability of the dwelling.

15. I have not considered a condition relating to materials necessary as these are clearly detailed on the approved plans and planning application form. I do not consider conditions relating to a landscaping scheme or construction hours necessary given the limited scale of the proposal. I have not included a condition relating to parking permits as it would seek to impede the actions of a person and would not be a restriction on land or buildings. It would therefore not be relevant to planning and would not meet all the required tests.
16. There is no indication that surface water flooding or water pollution is a specific problem at the site and therefore the condition is not necessary. A condition requiring obscure glazing to the rear ground floor door is not necessary as the adjacent internal area only serves a hallway. There is no clear justification for removing permitted development rights and this condition would not therefore be reasonable. There is no evidence that the site suffers from contamination and therefore a condition relating to this matter is not necessary. I have not included a condition relating to boiler emissions as I have not been provided with specific policy justification for its inclusion.

Conclusion

17. For the reasons set out above and taking all relevant matters into account, I conclude that the appeal should be allowed subject to the conditions.

T J Burnham

INSPECTOR



Ministry of Housing,
Communities &
Local Government

Sadiq Khan
Mayor of London
City Hall
The Queens Walk
London SE1 2AA.

Rt Hon Robert Jenrick
*Secretary of State for Housing, Communities and
Local Government*

**Ministry of Housing, Communities & Local
Government**

Fry Building
2 Marsham Street
London
SW1P 4DF

Tel: 0303 444 3450
Email: robert.jenrick@communities.gov.uk

www.gov.uk/mhclg

29 January 2021

Dear Sadiq,

London Plan

I write further to my letter of 24th December 2020 and in full response to your letter of 21st December 2020 where you sent me your latest Intention to Publish version of your London Plan for my consideration. As you are aware, my officials have been in discussion with your officers on a series of matters since March last year when I first directed you on your emerging London Plan.

Intention to Publish

Having considered your Intention to Publish version of the plan and the implications of the Supreme Court ruling on the Airports National Policy Statement for your London Plan, I can confirm that I have no further matters to raise with you. However, I would remind you of powers afforded to me under sections 340 and 341 of the GLA Act 1999 (as amended) that allow me to direct you to review or alter your London Plan.

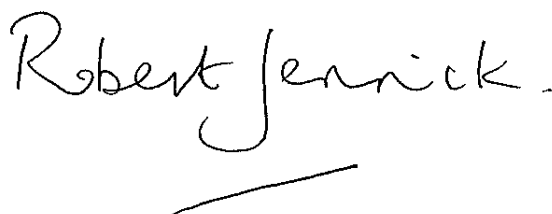
Therefore, in order for you to publish the London Plan, in accordance with section 337(8) of the GLA Act 1999, I am formally confirming that the version of the London Plan that you sent to me on 21st December 2020 contains the modifications necessary to conform with all the previously issued directions under section 337 of the GLA Act 1999 (for clarity this includes the Directions issued on both 13th March 2020 and 10th December 2020).

Notwithstanding the above you still have a very long way to go to meet London's full housing need, something your plan clearly and starkly fails to achieve. Londoners deserve better and I will be seeking to work with those ambitious London Boroughs who want to deliver over and above the housing targets you have set them; something that would not have been possible without my earlier directions.

Next Steps

Now that you are in a position to be able to publish your London Plan I fully expect you to start working to dramatically increase the capital's housing delivery and to start considering how your next London Plan can bridge the significant gap between the housing it seeks to deliver and the actual acute housing need London faces. I would again ask you to work closely with those authorities that surround London to develop a strategy to help alleviate the housing pressure that is faced both inside and immediately outside the capital.

I look forward to seeing the London Plan published and housing delivery in the capital ramped up. I will continue to monitor progress and look forward to seeing Boroughs update their Local Plans to reflect the changes in strategic policy this London Plan puts in place.

A handwritten signature in black ink that reads "Robert Jenrick." The signature is written in a cursive style with a long horizontal line underneath the name.

RT HON ROBERT JENRICK MP



Ministry of Housing,
Communities &
Local Government

Sadiq Khan
The Mayor of London
City Hall
The Queens Walk
London SE1 2AA

Rt Hon Robert Jenrick MP
*Secretary of State for Housing,
Communities and Local Government*

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24 December 2020

Dear Sadiq,

Thank you for your letter of 21 December regarding the London Plan and your notice of Intention to Publish.

When I wrote to you back in March 2020, I informed you that the government was considering the judgement handed down by the Court of Appeal in relation to the Airports National Policy Statement. Following last week's subsequent Supreme Court ruling, the government will now need to consider if this has any implications with respect to your draft London Plan.

I have been clear that I want to see the London Plan published as soon as possible in order to provide clarity to those who live and work in London and to provide the housing the capital so sorely needs. Therefore, I would like to reassure you that aside from this one outstanding matter I will not be raising any further issues and fully expect to be able to formally respond by 1 February.

RT HON ROBERT JENRICK MP