



# REGULATORY SERVICES COMMITTEE

27 October 2016

# REPORT

**Subject Heading:**

P1099.16 - 1 Berwick Road, Rainham

Extension of existing outbuilding and construction of residential annexe with basement.

(Application received 15-07-2016,  
Revised plans received 19-09-2016).

**Ward**

Rainham & Wennington

**Lead Officer**

Helen Oakerbee  
Planning Manager

**Report Author and contact details:**

Cole Hodder  
Planner  
cole.hodder@havering.gov.uk  
01708 432829

**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Framework

**Financial summary:**

None

**The subject matter of this report deals with the following Council Objectives**

Havering will be clean and its environment will be cared for	[X]
People will be safe, in their homes and in the community	[X]
Residents will be proud to live in Havering	[X]

## SUMMARY

The Council are in receipt of an application seeking planning permission for the construction of an annexe building in the rear garden of 1 Berwick Road.

The development proposed is considered to be acceptable in all material aspects and it is recommended that planning permission is granted. Due to the potential for the annexe to be accessed independently of the main dwelling, a legal agreement is required to ensure that the annexe shall be used only for living accommodation ancillary to that of the main dwelling and to ensure that the annexe and main dwelling operate as a single planning unit.

## RECOMMENDATIONS

That the application is unacceptable as it stands but would be acceptable subject to applicant entering into a Section 106 Legal Agreement to secure the following:

- That the residential annexe hereby approved shall be permanently retained as an annexe to the existing dwelling at 1 Berwick Road and shall not be sub-divided or sold off separately from the main dwelling.
- The Developer/Owner pay the Council's reasonable legal costs in association with the preparation of a legal agreement, prior to completion of the agreement, irrespective of whether the legal agreement is completed.
- The Developer/Owner to pay the appropriate planning obligation/s monitoring fee prior to completion of the agreement.

That the Assistant Director of Regulatory Services be authorised to enter into a legal agreement to secure the above and upon completion of that agreement, grant subject to the conditions set out below:

### 1. Time Limit

The development to which this permission relates must be commenced not later than three years from the date of this permission.

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

## **2. External Materials**

No works shall take place in relation to any of the development hereby approved until samples of all materials to be used in the external construction of the building(s) are submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be constructed with the approved materials.

**Reason:** Insufficient information has been supplied with the application to judge the appropriateness of the materials to be used. Submission of samples prior to commencement will ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and comply with Policy DC61 of the Development Control Policies Development Plan Document.

## **3. Accordance with Plans**

The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications (as set out on page one of this decision notice).

**Reason:** The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

## **4. Standard Flank Window Condition**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no window or other opening (other than those shown on the submitted and approved plan), shall be constructed or inserted in the walls of the building hereby permitted, unless specific permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

**Reason:** In order to ensure a satisfactory development that will not result in any loss of privacy or damage to the environment of neighbouring properties which exist or may be proposed in the future, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

## **5. Removal of Permitted Development Rights - Outbuildings**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) no curtilage buildings falling within

Class E of Part 1 of Schedule 2 shall be erected unless otherwise submitted to and approved in writing by the Local Planning Authority.

**Reason:** In the interests of amenity and to enable the Local Planning Authority to retain control over future development, and in order that the development accords with Development Control Policies Development Plan Document Policy DC61.

## **6. Balcony Condition**

The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the Local Planning Authority.

Reason: In the interests of the amenity of the occupiers of neighbouring dwelling, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

## **7. Removal of Permitted Development Rights - Gates, Walls or Enclosures**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, Article 3, Schedule 2, Part 2, Class A no gates, walls or enclosures shall be erected, constructed or altered within the site known as No. 1 Berwick Road (including the annexe) unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

**Reason:** In order that the annexe approved remains ancillary to the main dwelling and that the development accords with Policy DC61 of the Development Control Policies Development Plan Document.

## **8. Removal of Existing Fence**

Prior to the commencement of the development hereby permitted, the existing boundary fence subdividing the property from the garage shall be demolished in its entirety.

Reason: To ensure that the annex is occupied on an incidental basis and that the development accords with Policy DC61 of the Development Control Policies Development Plan Document

## **9. Removal of Existing Vehicular Access**

The residential annex hereby permitted shall not be occupied until works to the highway to remove the vehicle crossover which serves the rear access have been carried out, in accordance with details previously approved by the Highway Authority.

**Reason:** In order that the annexe remains ancillary to the main dwelling and in the interests of highway safety, in accordance with Policy DC61 of the Development Control Policies Development Plan Document.

## **INFORMATIVES**

### **1. Approval - Following revision**

Statement Required by Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015: In accordance with para 186-187 of the National Planning Policy Framework 2012, improvements required to make the proposal acceptable were negotiated with the agent following a meeting held September 2016 and involved the removal of separate access and the subdivision of the site and alterations to the access of the outbuilding required to demonstrate a more dependent relationship with the main dwelling. The revisions were subsequently submitted 19-09-2016.

### **2. Fee Informative**

A fee is required when submitting details pursuant to the discharge of conditions. In order to comply with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which came into force from 22.11.2012, a fee of £97 per request or £28 where the related permission was for extending or altering a dwelling-house, is needed.

<b>REPORT DETAIL</b>
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#### **1.0 Site Description**

1.1.1 The application site relates to an area of land within the rear garden of 1 Berwick Road, Rainham which itself comprises of a detached residential bungalow.

1.2 The application site is not located within a Conservation Area, nor any other area of designation

## **2. Description of Proposal**

- 2.1 The application is for the extension of an existing detached garage/outbuilding, with a retained extended basement level to be used as an annexe.
- 2.2 The applicant has provided a written declaration stating that the annexe will be occupied by the adult children of the homeowner, as an extension of the living accommodation of the main dwelling.

## **3. History**

- 3.1 P1067.08 - Single storey side/ rear extension with pitched roof, part crown hipped roof - Approved

## **4. Consultation/Representations**

- 4.1 Notification letters were sent to seventeen neighbouring properties. No letters of representation were received.
- 4.2 Environmental Health – No response received
- 4.3 Highway Authority - No objection.

## **5. Relevant Policy**

- 5.1 Policies DC33 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document are relevant.
- 5.2 Also relevant is policy 7.4 of the London Plan and the National Planning Policy Framework (NPPF)
- 5.3 The Residential Extensions and Alterations SPD is also relevant in this instance.

## **6. Staff Comments**

- 6.1 The issues arising from this application are the principle of development, the impact on local character and the rear garden environment, visual impact, the impact on amenity and highway and parking issues.
- 6.2 Revised plans were received on 19 September 2016.

## **7. Principle of Development**

- 7.1 The Council does not have a policy specifically referring to residential annexes, however the Residential Extensions and Alterations SPD refers to provision of outbuildings.
- 7.2 Whilst it is stated that the building would be provided as an annexe and would remain ancillary to the main dwelling, the development shown on submitted plans at submission failed to demonstrate any reliance on the main dwelling. The site circumstances are unique, as the garden at present is currently subdivided giving the impression that the detached garage in situ has little functional connection to the main dwelling. Revised plans received on 19 September 2016 remove the close boarded fence which subdivides the site and the separate means of access to the highway. The entrance to the annexe is also relocated such that it is located directly opposite towards the main dwelling.
- 7.3 Whilst the proposed annexe is entirely self-contained in respect of the facilities within, as a result of the revisions sought by staff the annexe now appears to be arranged to demonstrate clear connections with the main dwelling and its use would be entirely in an ancillary capacity to No.1 Berwick Road. Although it is capable of independent occupation by virtue of its facilities, it would be unlikely to be occupied by anyone other than people closely associated with the occupants of the main house and who would therefore be content to share the remaining curtilage area to No.1 Berwick Road and live closely overlooked by those in the main house. In any event the issue of occupancy and future subdivision could be satisfactorily controlled by conditions and the obligation contained within the recommended legal agreement.

## **8. Design/Impact on Street-scene**

- 8.1 Policy DC61 of the LDF Development Plan Document seeks to ensure that new developments are satisfactorily located and are of a high standard of design and layout. Furthermore, the appearance of new developments should be compatible with the character of the surrounding area, and should not prejudice the environment of the occupiers and adjacent properties. Policy DC61 of the DPD states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.
- 8.2 There are a number of detached buildings nearby, in particular a substantial outbuilding to the rear of the unattached neighbour to the north and therefore an outbuilding of the scale proposed would not appear visually incongruous.
- 8.3 When reviewing the merits of this application, consideration was given to the fact that the annexe would extend/alter an existing detached

outbuilding in the rear garden environment, of greater overall height and a comparable footprint.

- 8.4 Staff consider that the annexe would integrate satisfactorily in the rear garden environment, as it is single storey and of moderate height, therefore would not appear disproportionate in relation to the main residence.

## **9 Impact on Amenity**

- 9.1 In terms of noise and disturbance the proposal does have the potential to increase levels of activity within this rear part of the application site. However, given that it is a one bedroom unit, stated to be used as an annexe, situated at the far end of the garden with no separate means of access other than via the main dwelling it is not considered the proposal would give rise to levels of noise and disturbance which would be materially harmful to neighbouring residential amenity.

- 9.2 Staff consider that there would be comings and goings to the annexe and increased use of the garden area in a general sense but no more so than an outbuilding in use as a hobby, games and garden room, particularly in the summer months. As such, staff are of the view that the use of the outbuilding proposed as a residential annexe would not give rise to an unacceptable level of noise and disturbance and would be unlikely to give rise to significant adverse impacts.

- 9.3 Nevertheless it is still considered reasonable to impose conditions removing permitted development rights in respect of the insertion of additional windows and openings in the proposed building, to avoid the potential for overlooking and increased noise transmission. It is also considered necessary to impose a condition to remove permitted development rights under Class E for ancillary buildings and structures as this could result in further intensification of use of the curtilage to the possible detriment of neighbouring residents' living conditions and reduction in the amount of amenity space provision. Officers also consider it necessary to impose a condition removing PD rights under Class A Part 2 for fencing and walling as these rights could result in the curtilage being subdivided again. An obligation within the legal agreement would prevent the independent occupation and sale of the annexe

- 9.4 Finally, although staff view the application as acceptable on its own merits, it is acknowledged that no letters of objection have been received.

- 9.5 Subject to safeguarding conditions and the provision of a legal agreement officers are of the view that the proposed annexe would be in accordance with provisions of Policy DC61 and the Residential Extensions & Alterations SPD.



## **10. Highway/Parking**

- 10.1 The application site presently has off street parking for several vehicles to the frontage. Additional parking is available at the rear of the site but this would no longer be available if the development were to go ahead. However, the remaining car parking spaces would be sufficient for a property of this size.
- 10.2 The Highway Authority have raised no objections.

## **11 Conclusion**

- 11.1 The proposed single storey detached annexe building would demonstrate clear connections with the main dwelling and its use would be entirely in an ancillary capacity to No.1 Berwick Road. The scale, height and massing of the proposed building would be sympathetic to the rear garden setting and officers are of the opinion that the proposal would not result in an undue impact on the amenity of neighbouring residents.
- 11.2 As such the proposal is considered to be in accordance with the provisions of Policy DC61 and the Residential Extensions & Alterations SPD and it is recommended that planning permission is GRANTED subject to conditions and a Section 106 Legal Agreement.

## **IMPLICATIONS AND RISKS**

### **Financial Implications and risks:**

None.

### **Legal Implications and risks:**

Legal resources will be required for the drafting of a legal agreement.

### **Human Resource Implications:**

None.

### **Equalities and Social Inclusion Implications:**

The Council's planning policies are implemented with regard to equality and diversity. The proposal will provide a form of accommodation that meets the particular needs of an individual.

## **BACKGROUND PAPERS**

Application form and drawings received 15-07-2016 (Revised plans received 19 09-2016).