



**REGULATORY
SERVICES
COMMITTEE**

REPORT

23 June 2011

Subject Heading:

P0712.10 – 155 Hall Lane, Upminster

Single storey rear conservatory
(Received 19 May 2010)

Report Author and contact details:

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Policy context:

Local Development Framework

Financial summary:

None

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

Clean, safe and green borough	[X]
Excellence in education and learning	[]
Opportunities for all through economic, social and cultural activity	[]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[]

SUMMARY

This application seeks full planning permission for a single storey conservatory to the rear of an existing single storey element. The property is within the Metropolitan Green Belt.

The planning issues include the principle of development, design, green belt issues, amenity issues, street scene and rear garden impact and finally parking and highway matters. These issues are set out in detail in the report below. Staff consider the

proposals to be acceptable, subject to the satisfactory completion of a Section 106 Agreement and conditions.

RECOMMENDATIONS

That the proposal is unacceptable as it stands but would be acceptable subject to the applicant entering into a Deed of Variation under Section 106A of the Town and Country Planning Act 1990 (as amended) to vary the legal agreement completed on 19th August 1993 in respect of planning permission P0536.93 to allow for a redefinition of the residential curtilage of the property

That planning permission be granted subject to the following conditions.

1. 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. All new external finishes shall be carried out in materials to match those of the existing building(s) to the satisfaction of the Local Planning Authority.

Reason:-

To safeguard the appearance of the premises and the character of the immediate area, and in order that the development accords with the Development Control Policies Development Plan Document Policy DC61.

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications.

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.

INFORMATIVES

1. Reason for Approval:

The proposal is considered to represent inappropriate development, in principle, within the Metropolitan Green Belt. However, it is considered that there are

very special circumstances to justify the development proposed and that the proposal would therefore be in accordance with the provisions of PPG2. The proposal is also considered to be in accordance with the aims and objectives of Policies DC61 and DC33 of the LDF Core Strategy and Development Control Policies Development Plan Document.

REPORT DETAIL

1. Site Description

- 1.1 The application site comprises of a two storey detached dwelling which has a painted rough render appearance with a tiled roof. There is parking for six vehicles, four on a hard standing and two in the double garage to the front of the property. No trees are affected by this development.
- 1.2 The site is bounded by a high wooden fence to No.153 Hall Lane and by a mesh fence, trees and shrubbery to the northern boundary. The ground level slopes downhill from east to west in the rear garden. The surrounding area is characterised by single and two storey detached properties.
- 1.3 The site of 155 Hall Lane itself comprises of the house, a garden area to the rear within the residential area, a plot of land to the north of the house and garden and a further area of land to the west extending behind the rear gardens in River Drive. Both these sections of land to the north and west of the dwelling are within the Metropolitan Green Belt. There is no boundary treatment separating these areas and furthermore these areas are used for garden type uses continuous with the residential garden immediately to the rear of the house.

2. Description of Proposal

- 2.1 The application seeks planning permission for a single storey rear conservatory.
- 2.2 The single storey rear conservatory which measures approximately 5.5m wide, 4.5m deep with a gable end projection which projects an additional 0.8m from the centre of the conservatory.
- 2.3 The development is to be finished in UPVC and glass and provides additional accommodation in the form of a conservatory.

3. Relevant History

- 3.1 ES/HOR 12/52 – House & garage – Approved.
L/HAV 2348/73 – Extension to house & swimming pool – Approved.
L/HAV 2601/73 – Additional vehicular access – Approved.
1278/76 – Extension of curtilage of dwelling house garden –Refused.

1060/77 – Hard standing for cars – Approved.
1662/78 – External w.c. – Approved.
518/81- Greenhouse – Refused.
519/81 – Rear Extension – Approved.
PE.463 – Refused.
P1879.89 - Detached garage - Refused.
P1339.90 - Domestic garage - Refused.
P0113.91 - Rear single storey extension - Approved.
P0871.91 - Detached garage - Withdrawn.
P0536.93 - Single storey side extension - Approved (Section 106 signed).
P1020.05 – Outline application for one detached dwelling house – Refused.

4. Consultations/Representations

4.1 Notification letters were sent to 8 neighbouring properties. No letters of representation have been received.

5. Relevant Policies

5.1 Policies DC33 (car parking) and DC61 (urban design) of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document are material planning considerations, as is the Residential Extensions and Alterations Supplementary Planning Document.

5.2 Planning Policy Guidance Note 2 (PPG2) (Green Belts) is also a material consideration.

6. Staff Comments

6.1 Due to the unusual nature and planning history of the site, the proposal raises concerns as to the potential impact upon the Metropolitan Green Belt. The issues to be considered in this case are the principle of development: design/street scene issues, impact upon the Metropolitan Green Belt and amenity implications.

6.2 Background

6.2.1 There is extensive planning history on the site in relation to the construction of a garage. Two applications P1879.89 and P1339.90 were refused planning permission because the proposed development would adversely affect the character of the Green Belt at this point and no special circumstances demonstrated to warrant a departure from the Green Belt Policies.

6.2.2 Planning permission was granted in 1993 under planning reference P0536.93 for a single storey side extension to form a garage and store.

6.2.3 A legal agreement was signed in conjunction with this approval. The S106 stipulated the following:

- The approved scheme to be constructed in strict accordance with the plans.
- Not to erect any building, fence or any structure on the land hatched in blue on plan attached to the S106.
- To construct the hard standing within 6 months of this agreement.
- Finally to remove, the existing hard standing shown edged in green on the plan and to replace with grass.

6.2.4 In granting planning permission, it was acknowledged that the proposed attached garage which is located on the north side of the dwelling was within the Green Belt. However, the proposal included the removal of the existing hard standing and the Council was of the view that with the removal of the existing hard standing to the north of the dwelling, the provision of the new attached garage would be acceptable as there would be less harm to the Green Belt Land and the legal agreement would enable control over the extent of the residential curtilage and further buildings.

6.3. Green Belt Implications

- 6.3.1 National and local policies refer to a presumption against inappropriate development in Green Belt areas. Paragraph 3.4 of PPG2 states that “limited extension, alteration or replacement of existing dwellings” is not inappropriate providing the advice in Paragraph 3.6 is heeded. Paragraph 3.6 states that extensions should “not result in disproportionate additions over and above the size of the original building”. These views are reinforced in Policy DC45 of the LDF Development Control Policies Development Plan Document.
- 6.3.2 Planning Policy Guidance Note 2 Green Belts (PPG2) at paragraph 3.4 states that the construction of new buildings inside a Green Belt is inappropriate unless it is for one of a limited number of specified purposes, including along with other things: agriculture and forestry; essential facilities for outdoor sport and outdoor recreation. The proposal relates to an extension to the existing property but would have the effect of extending the residential curtilage of the property as it is on land which has been excluded from the residential curtilage of the dwelling by the Section 106 legal agreement. The proposed conservatory is outside a residential curtilage and it would not fall within the above purposes and therefore would fail to comply with the above guidance. The proposal is consequently judged to be inappropriate in principle in the Green Belt.
- 6.3.3 In order to justify inappropriate development within the Green Belt, the applicant is required to demonstrate very special circumstances. Very special circumstances will only exist where the harm by virtue of the inappropriateness and any other harm, such as visual impact, is clearly outweighed.
- 6.3.4 Before assessing the very special circumstances case, an assessment of any other harm arising from the proposal needs to be carried out. This is set out below.

6.4 Design/Impact on Street scene

- 6.4.1 It is considered that the single storey rear conservatory would be designed in sympathy with the existing dwelling. The proposal will not be visible from the street but will be noticeable within the rear garden environment and from the Green Belt.
- 6.4.2 No other objections are raised from the visual impact point of view and it is considered the development complies with guidance.

6.5 Impact on Amenity

- 6.5.1 It is noted the depth and height of the extension is greater than Council guidelines however due to the extensive width of the rear garden, staff are of the view the proposal would not impact on the amenity of the adjacent neighbours and furthermore no loss of privacy would therefore result.

6.6 Very Special Circumstances:

- 6.4.1 It has been established earlier in this report that the proposal is inappropriate development in the Green Belt as assessed against PPG2 and DC45. Staff therefore need to consider whether the in principle harm to the Green Belt is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
- 6.4.2 The applicant has submitted a statement advising the Council that the proposal would permit the occupiers to enjoy the garden and wildlife all year round. The applicant is of the view the proposal would not impact on the amenity of the adjacent neighbours. Furthermore, the additional space would allow his severely disabled wheelchair bound mother to benefit from the additional space and improve her quality of life. Staff appreciate the comments forwarded in relation to the special circumstances. However, in themselves, they are not judged to be sufficiently special or unique to justify the development.
- 6.4.3 The layout of this dwelling is unusual in Green Belt terms as the dwelling itself is outside of the Green Belt, but the garage to which the conservatory would be attached, is located within the Green Belt. Although not strictly applicable policy wise given this Green Belt/non-Green Belt split, in volume terms the existing and proposed extensions would add 179 cubic metres to the dwelling, which comprises a cumulative volume of 130% of the original volume of the dwelling. This is substantially beyond the 50% threshold identified by Policy DC45, albeit that only part of the dwelling is located within the Green Belt.
- 6.4.4 Staff consider the circumstances of this particular application to be somewhat unique, given that the existing dwelling is partly within and partly outside of the Green Belt and that the residential curtilage of the dwelling has been defined through the use of a legal agreement. Whilst the development is inappropriate in principle within the Green Belt and does increase the volume of development to 130% of the original volume of the dwelling, given the particular site

conditions Staff consider that no actual harm to the character and openness of the Green Belt would arise in this instance..

6.4.5 Staff consider that there would be no material harm to the character and openness of the Green Belt due to the relatively modest size and scale of the conservatory extension and its position to the rear of the existing garage and its limited projection beyond the rear of the existing dwelling. The conservatory does not extend any further north than the flank wall of the existing garage and so does not represent an incursion into the undeveloped Green Belt land directly to the north of the application site. When viewed from outside the site to the north the conservatory would not encroach into the currently open character of the Green Belt and Staff consider that it would not materially detract from the objectives of the original legal agreement to retain openness to the northern side of the site. The conservatory would not be readily visible from outside the site to the east and south as it is screened by the existing house and garage. Staff therefore conclude that, by virtue of the existing building line set by the existing dwelling and garage, the location of the proposed conservatory in relation to this and lack of encroachment into the northern part of the site beyond the current building line, that no material harm to the character and openness of the Green Belt.

6.4.6 There remains an 'in principle' conflict with the provisions of PPG2, as the proposal is for development outside of a residential curtilage and is inappropriate in principle. The acceptability of this proposal is therefore a matter of judgement. However, on balance, Staff consider that given the particular circumstances of the site and in the absence of demonstrable harm to the character and openness of the Green Belt arising from the proposal, that there are very special circumstances in this case to justify the grant of planning permission, subject to a variation of the original legal agreement. Members are however invited to exercise their judgement in relation to this proposal.

6.5 Highway/parking issues

6.5.1 Policy DC33 of the LDF Core Strategy and Development Control Policies Development Plan Document is relevant. The proposal would not create any highway or parking issues. There is space for four vehicles on a hard standing and a double garage, which is deemed to be sufficient.

6.5.2 No objections are therefore raised to the development from the highway point of view.

7. Conclusion

7.1 It is considered that the single storey rear conservatory has been designed in sympathy with the existing dwelling and it will not have an unsatisfactory relationship to neighbouring occupiers. There are no material adverse parking or highways implications as a result of this proposal. Although the Green Belt aspects of this case are a matter of judgement, for the reasons outlined above, Staff consider that the proposal can be supported, subject to the variation of the

legal agreement. However, Members are invited to apply their judgement in this respect.

IMPLICATIONS AND RISKS

Financial implications and risks:

None.

Legal implications and risks:

This application is considered on its merits and subject to the variation of the Section 106 Agreement.

Human Resources implications and risks:

None.

Equalities implications and risks:

The Council's planning policies are implemented with regard to Equalities and Diversity.

BACKGROUND PAPERS