



Application Reference:	P0762.20
Location:	3 Cedar Avenue,
Ward:	Upminster
Description:	Retention of outbuilding.
Case Officer:	Halima Chowdhury
Reason for Report to Committee:	A Councillor call-in has been received which accords with the Committee Consideration Criteria.

BACKGROUND

This application was scheduled to be heard at the planning committee meeting in August 2020 but it was deferred to allow neighbour re-consultation period to expire and the planning officer to visit the application site.

The planning committee report reproduced below has been updated with any consultation responses.

1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- 1.1 It is acknowledged that the height of the outbuilding to be retained exceeds the permitted development criteria and now planning permission is being sought for the structure. The proposal is of a size, scale and mass that is typical form of outbuilding acceptable within a plot of this size. The internal layout consists mainly of open plan with 1 no. toilet and sink enclosure. A planning condition would restrict the use of the outbuilding for purposes incidental to the enjoyment of the house. The patio area has a raised height of only 0.20 metres above ground level therefore it is deemed to benefit from permitted development right which does not require planning permission.

2 RECOMMENDATION

- 2.1 That the Committee resolve to GRANT planning permission subject to:
- Any other planning condition(s) considered necessary by the Head of Planning

- 2.2 That the Head of Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

Conditions

- 1) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans (as set out on page one of this decision notice).
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015(or any order replacing or amending that said order), no window or other opening (other than those shown on the submitted and approved plan,) shall be formed in the flank wall(s) of the building(s) 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.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015(or any order replacing or amending that said order) the outbuilding hereby permitted shall be used only for purposes incidental to the enjoyment of the dwelling house and not for any trade or business nor as living accommodation.

Informatives

- Statement Required by Article 35(2) of the Town and Country Planning (Development Management) Order 2015: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraph 38 of the National Planning Policy Framework 2018.

3 PROPOSAL AND LOCATION DETAILS

Proposal

- 3.1 The proposal seeks planning permission for the retention of an outbuilding. The outbuilding is located at the bottom of the rear garden to the eastern part of the application site. The dimensions of the outbuilding consists of 2.7 metres high at the front, 2.8 metres high at the rear, 7.10 metres width, 4.76 metres depth at northern elevation which increases to 5.94 metres depth at southern elevation and the floor area of 29.45m². The building is situated approximately 16 metres from the rear part of the house.

Site and Surroundings

- 3.2 The application site is located on the eastern side of Cedar Avenue. The property is a two storey semi-detached dwelling. It is constructed of cream paint at upper level, brick face at lower level and hipped tiled roof. The front of

the property has a hipped roof two storey bay window, mono-pitched front porch and an attached garage situated on the southern elevation. The property has a setback two storey side extension on the southern elevation as well. The front garden is a combination of paving and lawn area with low retaining wall forming the boundary. A driveway with vehicular access onto the highway is situated on the western boundary. To the rear the property has a flat roof outbuilding situated at the bottom of the garden covering almost the full width of the rear garden (subject to this application). The rear garden is screened by approximately 1.7m high close board fencing.

The application site is located in a residential area and it is not within a Conservation area. Nor is it a Listed Building.

Planning History

3.3 There are no planning decisions that are relevant to this application.

4 CONSULTATION RESPONSE

4.1 The views of the Planning Service are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

4.2 No consultation was necessary for this type of application.

5 LOCAL REPRESENTATION

5.1 A total of 4 no. neighbouring properties were notified about the application and invited to comment.

5.2 The number of representations received from neighbours, local groups etc. in response to notification and publicity of the application were as follows:

No of individual responses:	After re-consultation a total of 4 no. representations were received from the occupiers of the same address, raising objections as well as comments on the application.
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Petitions received:	No petition received.
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5.3 There were no local groups/societies made representations

5.4 The following Councillor made representations:

- Councillor Chris Wilkins objecting and calling in:
 - 1. The Building is not in keeping with existing properties and is really a large purpose-built building. I understand that a bar has been fitted in the

building and facilities to provide a WC. My understanding is that neither things were contained in the original plan. I have seen, first-hand, that what appears to be bar is being constructed. This is all despite the agent stating that it was not the case.

- 2. The floor of the outbuilding, in my opinion, appears to be higher than the permitted level of 300mm. There was a suggestion by the Agent that the ground has been flattened to accommodate the higher floor, but from observation the floor is still higher than permitted so I'm not sure what impact the flattening has had.
- 3. There is a raised patio, which again I believe is above the permitted height and contributes to the resident at number 5 being overlooked and their privacy compromised.

Representations

- 5.5 The following issues were raised in representations that are material to the determination of the application, and they are addressed in substance in the next section of this report:

Objections

1. Request raised boundary fence with slatted trellis to reduce impact.
2. Built on elevated ground violating privacy of neighbours.
3. Built and designed without consideration to impact on neighbours.
4. Raised platform built from outbuilding not included in plans.
5. Affects visual amenity of the area.
6. Extremely intrusive for neighbours, overlooking into gardens.
7. Bar and toilet not included in the plans concerned about incidental use affect noise level.
8. Boundary fence not correctly depicted on plan.
9. Large fence does not address privacy issue as not permanent fixture.
10. Out of character, detriment to the local environment.
11. Building is overbearing.
12. Breaches privacy.
13. Nothing locally comparable in scale regarding design, scale, mass or bulk.
14. No site visit undertaken and no evidence of independent checks on plans.
15. Application P0521.20 (76 Coniston Avenue, Upminster) was refused due to significant and overbearing impact on the enjoyment of the neighbour's private amenity space, question why proposal not overbearing.

Non-material representations

- 5.6 There were no issues raised in representations that are not material to the determination of the application.

Procedural issues

5.7 A procedural issue regarding the lack of site visit raised in representations, and are addressed below:

- Due to the current social distancing measures brought on by the Covid 19 pandemic, officers were initially unable to undertake a full site inspection. Site photos were received from the agent on the 18th June 2020, from the objector on the 27th July 2020 and subsequently from the agent on the 29th July 2020.
- A colleague in the planning enforcement team had carried out a site visit on the 26th August who verified the anomalies that were raised by the objectors.
- The planning officer visited the application site on the 01st October 2020 and assessed the planning merits as well as the impacts of the development. In determining this planning application, the google street, the site photos and the site visit assessment were used to evaluate the site and submitted drawings.

6 MATERIAL PLANNING CONSIDERATIONS

6.1 The main planning issues raised by the application that the committee must consider are:

- Issue 1 - The size of the outbuilding not in keeping with the existing properties and facilities to provide WC was omitted from original plans.
- Issue 2 - The floor of the outbuilding is higher than 300mm, the suggestion of a need to flatten the ground has limited impact as the floor is still higher than permitted level of 300mm.
- Issue 3 - The raised patio appears to be above permitted height and contribute to the resident at no. 5 Cedar Avenue being overlooked as well as privacy being compromised.

[Issue 1]

6.2 Policy DC61 seeks to ensure that new development is of the highest standards of design which respects, and where possible maintains, enhances or improves the character and appearance of the local area. In particular the form, scale, massing, height of the surrounding neighbouring buildings, public amenity and detailed design.

The proposal is of a size, scale and mass that is typical form of outbuilding acceptable within a plot of this size. The proposal consists of a brick/render built, flat roof structure with minimal fenestration comprising of a single opening at the front. The design is common characteristic for an outbuilding of this style. The building would be about 16 metres from the main house, set in from the boundaries by between 0.25 and 0.36 metres and a maximum height

of 2.8 metres to a flat roof. The neighbouring property to the south has a similar type of outbuilding located at the bottom of the rear garden. Furthermore, the surrounding rear garden environment is characterised by outbuilding of various sizes and designs. As such the proposal is not considered to be overbearing nor out of character in the rear garden.

Upon receipt of the concerns raised relating to a bar being constructed internally, the agent provided updated floor plan showing the internal layout consisting mainly of open plan with 1 no. toilet and sink enclosure. The provision of a bar within the building is not material to the consideration of the application – provided the use of the building is incidental to the main dwelling then the proposal is considered acceptable. Incidental outbuildings can be put to many uses by householders, including for example, gym for use of household, entertainment room, garden room, home office, children's playroom, storage and similar uses. Use for business purposes involving visitors or business storage or use for living accommodation would not usually be considered to be incidental.

A condition would be imposed to ensure that the outbuilding be used for purposes incidental to the enjoyment of the house. It is considered that the proposal is of subordinate scale to the existing dwelling and in keeping with the character of the rear garden environment in accordance with Havering's Residential Extensions and Alterations SPD.

[Issue 2]

- 6.3 The proposed retention of the outbuilding consists of 2.7 metres in height at the front and 2.8 metres in height at the rear. The agent explained that previously the site was at a slight gradient raising upwards towards the rear boundary. The ground level has been reduced by around 200mm in preparation for a planting scheme. It is acknowledged that the internal floor level is approximately 300mm above existing ground levels, however, this does not result in significant impacts on neighbours over and above a veranda or patio which could be constructed up to 300mm above ground level without the need for planning permission. Furthermore, the overall height of the outbuilding marginally exceeds the permitted development criteria by 0.3 metres. Therefore the height of the proposal is considered acceptable in this instance.

It should be noted that the anomalies raised by objectors regarding the various dimensions and the accuracy of the submitted information was verified by a colleague in the planning enforcement team. The colleague's site photos shows the land slopes upwards toward the rear of the property and would appear to be on a hill. In particular the photo shown from the rear garden to the front of the site.

[Issue 3]

- 6.4 Whilst a patio area projects approximately 3 metres beyond the front elevation of the outbuilding the raised height is only 0.20 metres above ground level. This element of the proposal is not considered to require consent. A raised platform can be built with a height no greater than 0.30 metres above ground level under permitted development rights without the need for planning permission. It is acknowledged that an external step to the outbuilding marginally exceeds the permitted development criteria by 0.03 metres. However, this element of the proposal would only be used to enter / exit the outbuilding whereas the lower part of the patio would be occupied by garden furniture. It is inevitable that within a suburban residential environment consisting of semi-detached dwellings that there will be a degree of overlooking between properties including from the garden area – the addition of an outbuilding does not significantly change the existing relationship and it is considered to be difficult to substantiate that the proposal causes harm given its size and position. The officer's site visit carried out on the 01st October 2020 confirmed this to be the case.

Financial and Other Mitigation

- 6.4 The proposal would not attract the Community Infrastructure Levy contributions as the new floorspace created would be less than 100 square metres.

Other Planning Issues

- 6.6 Concerns were raised with regards to the height of the boundary fence. The plans show the height of the boundary fence at 2 metres, whereas southern neighbour provided photo of a tape measure against the neighbour's side of the fence at a height of 1.69 metres. It is unclear where the measurement was taken from, in particular the variation in ground levels makes it difficult to assess this aspect. Nonetheless, the height of the boundary fence is not subject to this planning application. The rear of the application site is screened by close board fencing and high level mixed vegetation along the northern boundary on the neighbour's side. Fences can be provided up to 2 metres in height without the need for planning permission. It is not considered to be reasonable to require a higher fence to be provided – the provision of screening (up to 2 metres) between properties is usually a matter of individual choice for householders.

An objector mentioned the Council's recent decision regarding an outbuilding at Coniston Avenue (P0521.20). It should be explained that all applications are considered on individual merits. However, it is considered that there are material differences in the two developments, with the outbuilding at Coniston Avenue being a significantly larger, L-shaped structure, which extends

significantly further down the rear garden. It is also marginally taller at 3m high.

Conclusions

6.7 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.