



Planning Committee B

135 MINARD ROAD, LONDON, SE6 1NN.

Date: 21 February 2024

Key decision: No.

Class: Part 1

Ward affected: Hither Green

Contributors: Beverley Bewaji, Planning Officer

Outline and recommendations

This report sets out the Officer's recommendation for approval of the above proposal. This application is before committee for a decision due to the submission of 12 individual objections.

Application details

Application ref. no:	DC/23/133184
Application Date:	12 October 2023
Applicant:	TEE ESTATE
Proposal:	Retrospective application for the erection of a single storey rear extension at 135 Minard Road SE6 1NN.
Background Papers:	(1) Submission Papers (2) Submission Technical Reports and supporting Documents. (3) Internal Consultee Responses (4) External Consultee Responses
Designation:	PTAL 2 Corbett Neighbourhood Forum Local Open Space Deficiency HMO Article 4 Direction
Screening:	N/A

1 SITE AND CONTEXT

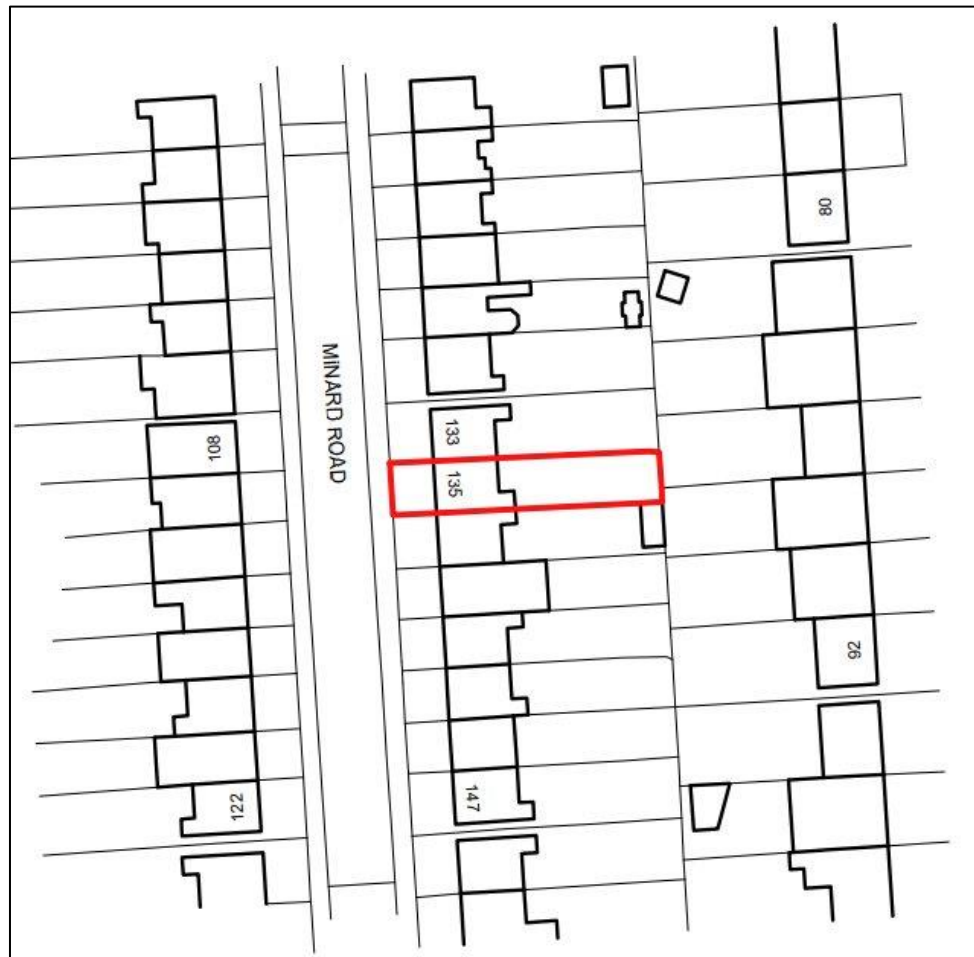
Site description and current use

- 1 The application property at No.135 Minard Road is a two-storey mid-terrace residential dwelling which is currently in use as a small HMO (Use Class C4). The site is largely rectangular in shape and is located on the east side of Minard Road. The property has a typical Victorian layout with an original single-storey rear projection which has been recently extended and the subject of this application. The site also benefits from a modest rear garden.
- 2 The property was not covered by the borough-wide Article 4 Direction that has removed permitted development rights for change of use from a single dwelling (Use Class C3) to a small HMO (Use Class C4) at the time that the change of use occurred.
- 3 The site property is not located within a conservation area and is not nor adjacent to a listed building. The area is residential in character with existing projections present on properties adjoining.

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Site Location Plan

Character of area

- 4 The surrounding area is predominately residential in nature comprising two storey terraces.

Heritage/archaeology

- 5 The application is not located within a conservation area. The building is not statutorily listed (designated heritage asset) and nor is it locally listed (non-designated heritage asset).

Surrounding area

- 6 The surrounded area site is predominately residential in nature and is comprised of a mix of buildings which were built between 1900 and 1929. The application site is in Corbett society Forum.
- 7 Local school, shops, and supermarkets within short distance of the property.

Local environment

- 8 The site is located within flood zone 1 which is indicative to low probability to flood risk.

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Transport

- 9 The Public Transport Accessibility Level (PTAL) rating of a site is a measure of its relative accessibility to public transport considering factors such as distance, type and frequency of service. PTAL ratings are categorised into categories, 1a to 6b, where 6b represents an excellent level of accessibility and 1a a very poor level of accessibility. The application site has a PTAL rating of 2. Minard Road provides access to a number of buses.
- 10 The site is not within a controlled parking zone (CPZ) and, Catford Bridge train station is within 10-20 minutes walking distance.

2 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 11 ENF/23/00170 – unauthorised HMO use and ground floor rear extension – case under investigation.

3 CURRENT PLANNING APPLICATION

THE PROPOSALS

Background

- 12 It is important to note that the existing property is currently in use as a small HMO (Use Class C4) which was implemented prior to the borough-wide HMO Article 4 Direction that came into effect on 19th January 2024. An HMO licence was granted for up to 6 persons at the property in July 2023. The existing plans are indicative of the 6-person HMO unit. An inspection of the property by Officers in late 2023 confirms the HMO use of the property.
- 13 A single-storey rear extension without the benefit of planning permission has been constructed on the site which is the subject of the current planning application. A rear dormer extension has also been constructed under permitted development. As such, planning permission is not sought for the current HMO use or rear dormer, and retrospective planning permission is only sought to regularise the unauthorised single-storey rear extension.

Scope of application

- 14 The existing single-storey full-width rear extension has a depth 3m and a maximum height of 3m with a flat roof design.
- 15 Planning permission is required as the development does not constitute permitted development as it projects beyond the side elevation of the original single-storey rear outrigger and is greater than half the width of the dwellinghouse and thereby conflicts with A.1 (j)(iii) of the General Permitted Development Order 1995 (as amended).
- 16 The extension has been finished in brickwork with a felt roof, to match the existing. The rear elevation contains a pair of uPVC, double glazed windows and single doors.
- 17 Revised plans were received during the application to reflect the current and correct layout of the property following a site inspection and objections received from residents.

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4 CONSULTATION

PRE-APPLICATION ENGAGEMENT

- 18 No pre-application engagement was held with the applicant prior to the lodgement of the current application.

APPLICATION PUBLICITY

- 19 Site notices were displayed on 16/10/2023.
- 20 Letters were sent to residents and business in the surrounding area, and the Corbett Neighbourhood Forum and the relevant Ward Councillors were consulted on 16/10/2024.
- 21 12 individual objections and 2 letters of support were received regarding the proposal.

Comments in objection (residents and businesses)

Comment	Para were addressed
Construction of the extension without consultation with neighbours.	Although good practice there is no requirement for the applicant to formally consult with neighbours prior to the application being lodged. Neighbour notification letters were sent out during the application.
Noise, traffic and anti -social behaviour.	Planning permission is only sought for the retention of the single-storey rear extension and not for the use of the property. Officers are of the opinion the development does not give rise to any noise, traffic or anti-social impacts.
Plans are misleading.	The plans have been updated following the identification of inconsistencies in the original drawings.
The extension has been built from the wrong floor level.	The application has been assessed based on the built form.
Lack of correct information in the submission, the documents / planning forms and how the property is being used	The latest plans are sufficient to allow Officers to make a proper and accurate assessment of the application. Planning permission is only sought for the retention of the single-storey rear extension and not for the use of the property.
The application is a misrepresentation of the current layout, with a loft dormer and rear extension subdivided into 6 bedrooms and use as an HMO.	The plans have been updated following the identification of inconsistencies in the original drawings. Any current use of the property as an HMO would be subject to an HMO licence.
The ground floor extension (now built) is against permitted development	Planning permission is only sought for the retention of the single-storey rear extension

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	and is not a lawful development certificate application.
It's too high from ground level and is now overbearing, intrusive and impacting neighbouring privacy.	Officers have assessed the impact on neighbouring amenity to be acceptable. Para 46 - 48
Increased noise once completed and during building	Officers are of the opinion the development does not give rise to any noise and disturbance impacts.
The development has two doors, but one is shown on the drawing.	The plans have been updated following the identification of inconsistencies in the original drawings.
No party wall in place	This is covered by the Party Wall Act 1996 and is not a material planning consideration.
Building works started in June and not in August.	This is not relevant to the assessment of the application, but a site visit confirmed the works have been completed.

Comments in support (residents and businesses)

Comment	Para were addressed
In general support of the application	Noted.
The proposal is acceptable, and the depth of the extension is less than 3m.	Para 37 to 38 and 44 to 45.
The proposal is in keeping with the design of the house.	Para 37 to 38.

INTERNAL CONSULTATION

22 No internal consultees were notified.

EXTERNAL CONSULTATION

23 No external Consultees were notified.

POLICY CONTEXT

LEGISLATION

24 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

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MATERIAL CONSIDERATIONS

- 25 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.
- 26 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.
- 27 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to afore mentioned directions and the test of reasonableness.

NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2023 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

DEVELOPMENT PLAN

28 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)

SUPPLEMENTARY PLANNING GUIDANCE

29 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

PLANNING CONSIDERATIONS

30 The main issues are:

- Principle of Development

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- Urban Design
- Impact on Adjoining Properties

PRINCIPLE OF DEVELOPMENT

General policy

31 The National Planning Policy Framework (NPPF) at paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

32 The development is general supportive of people extending or altering their homes. As such, the principle of development is supported subject to an assessment of detail.

6.2 URBAN DESIGN

General Policy

33 The NPPF at paragraph 131 states the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

34 CSP 15 outlines how the council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the of design potential of sites and is sensitive to the local context and responds to local character.

35 DMLP 30, Urban design and local character states that all new developments should provide a high standard of design and should respect the existing forms of development in the vicinity. The London Plan, Core Strategy and DMLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design.

36 DMLP 31, states that extensions will not be permitted where they would adversely affect the architectural integrity of a group of buildings as a whole or cause an incongruous element in terms of the important features of a character area.

Discussion

37 The extension replaces the original single-storey small outrigger with a full-width replacement that extends 3m from the rear elevation of the host building with a maximum height of 3m with a flat roof design. Timber steps and handrails grant access from the 2 individual doors into the rear garden. The yellow bricks match the existing building which will naturally age over time. The extension does not take up more than half the depth of the rear garden.

38 Although the original ground floor rear outriggers remain in the majority of the terrace it is noted that there are examples of properties that have been extended rearwards including Nos. 139, 129 and 127 Minard Road with further examples located to the North. This being

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the case, Officers take the view that the scale and size of the extension is respectful and subservient to the host building and in keeping with the character of the prevailing pattern of rear developments that can be found in the same terrace.

6.3 Urban design conclusion

39 In summary, the extension, due to its scale and design and use of materials, preserves the character and appearance of the host dwelling and its wider surroundings.

40 Officers conclude that the proposal responds sensitively to its context and the character of the site and surrounding area and therefore should be approved in terms of its design.

7.0 LIVING CONDITIONS OF NEIGHBOURS

General Policy

41 NPPF paragraph 135 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At paragraph 191 it states decisions should ensure that new development is appropriate for its location taking into account the likely effect (including cumulative effects of pollution on health and living conditions).

42 This is reflected in relevant policies of the Core Strategy (CP15), The Local Plan (DMLP 31) and associated Council guidance (Alterations and Extensions SPD 2019).

43 The Council has published the Alterations and Extensions SPD (2019) which establishes generally acceptable standards relating to these (see below), Although site context will mean these standards however could be tightened or relaxed accordingly.

Discussion

44 The extension projects 3m beyond the rear extent of the neighbouring property at No. 133 Minard Road and be sited on the common boundary with a maximum height of 3m. This projection and height are in accordance with the Council's SPD which recommends a maximum depth and height of 3m so as to safeguard neighbouring amenity. Given its compliance the development does not give rise to any impact in terms of loss of daylight/sunlight and outlook to the occupiers of No. 133 Minard Road.

45 Turning to the impact on the adjoining property at No. 137 Minard Road located on the opposite side, this property benefits from a 1m deep original rear outrigger which straddles the property boundary. Likewise, the siting and scale of the extension on the application site does not incur any significant degree of loss of living conditions currently enjoyed by the occupiers of neighbouring property at No. 127 Minard Road.

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46 There are no openings to the flank walls of the extension and as such no overlooking effects into 133 and 137 Minard Road are incurred.

47 **Impact on neighbour's conclusion**

48 The development does not introduce any unacceptable harmful impacts to the living conditions of any of the neighbouring properties and therefore is compliant to Core Strategy Policy 15 and Local Plan Policy 31 and the provisions of the Council's Alterations and Extensions SPD.

8.0 LOCAL FINANCE CONSIDERATIONS.

49 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

50 The weight to be attached to a local finance consideration remains a matter for the Decision maker.

51 The CIL is therefore a material consideration.

52 This application does not attract CIL.

9.0 EQUALITIES CONSIDERATIONS

53 The Equality Act 2010 (the Act) introduced a new sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

54 In summary, the Council must in the exercise of its function, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic and person who do not share it.

55 The duty continues to be a "have regard duty" and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality.

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It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

56 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention in drawn in Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/tecnical-guidance-public-sector-equality-duty-england>

57 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision -making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

58 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more details guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

59 The planning issues set out above do not include any factors that relates specifically to any of the equalities categories set out in the Act, therefore it has been concluded that there is no impact on equality.

10 HUMAN RIGHTS IMPLICATIONS

60 In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1989. Section 6 of the Human Rights Act 1998 prohibits authorises (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights, certain parts of which

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were incorporated into English law under the Human Rights ACT 1998. Various convention rights are likely to be relevant including:

- Article 3: United Nations Convention on the Rights of the Child (“NCRC”)
- Article 8: Respect for your private and family life, home, and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

61 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local Planning Authority.

62 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority’s powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore carefully consider the balance to be struck between individual rights and the wider public interest.

63 This application has the legitimate aim of providing an extension to an existing residential property. The rights potentially engaged by this application, including Article 8 and Protocol 1 are not considered to be unlawfully interfered with this proposal.

11 CONCLUSION

64 Retrospective planning permission is sought only for the single-storey rear extension. The proposal is acceptable. The size and design quality maintains the character of the host property and its wider surroundings. It does not create any significant loss of amenity in terms of daylight/sunlight, outlook and privacy impacts on the adjoining residential properties.

65 This application has been considered in the light of policies set out in the development plan and other material considerations.

66 In reaching this recommendation. Officers have given weight the comments and objections that were received regarding this application and consider the development preserves the host building in terms of the design. No unacceptable harm arises to the living conditions of neighbours, therefore Officers recommend that planning permission should be granted subject to the imposition of suitable planning conditions.

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12 RECOMMENDATION

67 That the committee resolve to GRANT planning permission subject to the following conditions and informatives.

12.1 CONDITIONS

1) DEVELOP IN ACCORDANCE WITH PLANS.

The development shall be in strict accordance with the application plans, drawings and documents hereby approved and as detailed below:

MR.135.L.P.RV00; MR.135.EX-AP.01 Rev B; MR.135.EX-AP.02; MR.135.EX-AP.03; Rev A; MR.135.PRE.EX.01 Rev B; and MR.135.PRE-EX.03 Rev A.;5ND15.

Reason: To ensure that the development is in accordance with the approved documents, plans drawings submitted with the application and is acceptable to the local planning authority.

2) USE OF FLAT ROOF

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roofed extension approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011), and DM Policy Alterations and Extensions to existing buildings including residential extensions, of the Development Management Local Plan (November 2014).

12.2 INFORMATIVES

- 1) Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the details advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.
- 2) You are advised of the appropriate party wall agreements will be needed as required by the Party Wall Act.

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