



Planning Committee A

Report title:

3 ARBUTHNOT ROAD, LONDON, SE14 5LS

Date: 06 January 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Telegraph Hill

Contributors: Max Curson

Outline and recommendations

This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision as the Telegraph Hill Society have objected to the proposal.

Application details

Application reference number(s): DC/21/123299

Application Date: 01 September 2021

Applicant: Mr Darnell of UNFOLD Architecture + Design Ltd on behalf of the applicant.

Proposal: Construction of a single storey rear and side infill extension at 3 Arbuthnot Road, SE14.

Background Papers: (1) Submission drawings
(2) Submission technical reports and documents
(3) Statutory consultee responses

Designation: PTAL 4
Air Quality
Telegraph Hill Article 4(2) Direction
Telegraph Hill Conservation Area
Not a Listed Building

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site is a two storey mid-terrace single family dwellinghouse located on the northern side of Arbuthnot Road, between the junction with Gellatly Road and Dennett's Road. It has an outrigger typical of those built during the period. The rear of the property is not visible from the public realm.
- 2 There was no site visit for the application due to travel restrictions related to the Covid-19 global pandemic. The site photos provided by the applicant, aerial and recent images available on Streetview and Google Earth are considered to be a sufficient basis to make an informed recommendation.

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Figure 1: Site Location Plan

Character of area

- 3 The surrounding area is predominantly residential in nature and characterised by terraces of two storey Victorian dwellings.
- 4 The application site lies within the Telegraph Hill Conservation Area and is subject to an Article 4 Direction. It is not a listed building nor in the vicinity of one. The Conservation Officer identified the property to be a non-designated heritage asset (NDHA) due to its positive contribution to the Conservation Area.

Surrounding area

- 5 Hollydale Primary School is located approximately 250m to the south-west of the application site. There are a number of shops, takeaways and public houses within a 250m radius.

Local environment

- 6 The site falls within Air Quality Management Area.

Transport

- 7 The site has a Public Transport Accessibility Level (PTAL) score of 4 on a scale of 1-6b, 1 being lowest and 6b the highest.

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4.2 APPLICATION PUBLICITY

12 Site notices were displayed on 30 September 2021 and a press notice was published on 29 September 2021.

13 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 06 September 2021.

14 The Telegraph Hill Society objected to the application. A summary of the Society's objection is set out in the table below.

4.2.1 Neutral comments

15 One response was received comprising one neutral comment.

16 The response informed that the neighbour would not object, but noted that that the extension would be built over a sewer pipe, and that a Thames Water build-over agreement would be required. This is not a material planning consideration and will not be assessed in the judgement of this application.

17 The Telegraph Hill Society objected to the application. A summary of the Society's objection is set out in the table below.

Comment	Para where addressed
Loss of the side bay window and original fabric of the host building.	50-53
The proposal would create a wind tunnel for the rear access of the neighbouring property (5 Arbuthnot Road).	64
It would reduce the levels of daylight and sunlight available to the back door and side bay window of 5 Arbuthnot Road.	62, 63
The skylight on the proposed extension would lead to light pollution and impact the amenity of the neighbours.	65
The height of the extension is larger than the guidelines set out in the Alterations and Extensions SPD.	40
The design of the proposal is not sympathetic to the host building.	41
The ridge height of the proposed extension is not visibly lower than the sill of the first floor windows.	40

4.3 INTERNAL CONSULTATION

18 The following internal consultees were notified on 06 September 2021.

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19 Conservation: raised no objections. See paras 50 and 51 for further details.

4.4 EXTERNAL CONSULTATION

20 No external consultees were notified given the nature of the application.

5 POLICY CONTEXT

5.1 LEGISLATION

21 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).

22 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

5.2 MATERIAL CONSIDERATIONS

23 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.

24 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.

25 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 aforementioned directions and the test of reasonableness.

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

26 The Development Plan comprises:

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

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- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

27 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

5.6 OTHER MATERIAL DOCUMENTS

- Telegraph Hill Conservation Area Character Appraisal (2008)

6 PLANNING CONSIDERATIONS

28 The main issues are:

- Principle of Development
- Urban Design and impact on heritage assets
- Living Conditions of the Neighbours.

6.1 PRINCIPLE OF DEVELOPMENT

General policy

29 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.

30 The London Plan (LP) sets out a sequential spatial approach to making the best use of land set out in LPP GG2 (Parts A to C) that should be followed.

6.1.1 Principle of development conclusions

31 The Development Plan is generally supportive of people extending or altering their homes. The principle of development is supported, subject to details.

6.2 URBAN DESIGN AND IMPACT ON HERITAGE ASSETS

General Policy

32 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

33 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 potential of sites and is sensitive to the local context and responds to local character.

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- 34 DMLP 30 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.
- 35 DMP 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.
- 36 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.
- 37 Paragraph 4.2.3 of Alterations and Extensions SPD (2019) sets out:
- As a general rule, extensions extending up to 3m in length should be no more than 3m in height on the boundary. Extensions which exceed this length and exceed a height of 2.5m on the boundary are unlikely to be supported.*
- 38 Paragraph 4.2.4 sets out the following guidance for single storey rear extensions in conservation areas:
- Alterations within conservation areas should be of the highest quality design using high quality materials. The rear building line, the size of the rear garden and the prevailing characteristics of adjoining properties should all be taken into account.*
- Rear extensions should:*
- *Remain clearly secondary to the host building in terms of location, form, scale and detailing.*
 - *Respect the original design and architectural features of the existing building.*
 - *On semi-detached properties extensions should not extend beyond the main side walls of the host building.*
 - *Have a ridge height visibly lower than the sill of the first floor windows (2 to 3 brick courses) and roof pitches to complement those of the main building.*
- 39 Paragraph 4.2.5 sets out that:
- A modern, high quality design can be successful in achieving a clear distinction between old and new. In some locations, a traditional approach can be a more sensitive response to a historic building, particularly where homogeneity of groups of buildings is part of their special character.*
- Discussion*
- 40 The existing timber glazed structure adjoining the rear of the property would be demolished as part of the proposals. The proposed mono pitched roof rear and infill extension would involve the creation of a small courtyard. The Telegraph Hill Society, in their objection to the proposal, incorrectly noted that the extension appears to be 3.3m in height on the boundary with No.1 and 3.1m with No.5, and as such, is not compliant with paragraph 4.2.3 of the Alterations and Extensions SPD. However, the extension would actually be 8.29m in depth with a height of 2.5m on the boundary with No.5, and 2.6m in

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depth and 2.6m in height on the boundary with No.1. The proportions of the proposed rear infill extension are within the guidelines of paragraph 4.2.3 of the Alterations and Extensions SPD and considered subordinate to the host property. Whilst the ridge height is not 2 to 3 brick courses below the first floor rear elevation window, on balance, the high quality design and materials of the proposed extension is of sufficient quality to be acceptable.

41 Officer's note that the Telegraph Hill Society have objected to the proposal on the grounds that the design of the proposed extension does not respect the host building. The proposed extension would be constructed of grey-multi brickwork with light coloured pointing, with vertical timber cladding and large fully opening rear windows. Three skylights would be inserted into the roof of the extension. The grey brickwork was chosen to offer a contemporary but differing style of the existing Victorian building and clearly define the new addition. The proposed extension would utilise high quality design features and materials and thus is considered acceptable. As such, the proposed extension is considered of high quality design that achieves a clear distinct between old and new in line with paragraph 4.2.5 of the Alterations and Extensions SPD.

42 A condition is recommended to ensure that the materials are of high quality.

6.2.1 Impact on Heritage Assets

Policy

43 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

44 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

45 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.

46 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.

47 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced. DMP37 relates to non-designated heritage assets.

48 Further guidance is given in Telegraph Hill Conservation Area Character Appraisal (2008).

Discussion

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- 49 The application site is located within character area 1a of the Telegraph Hill Conservation Area. Gellatly Road, Bousfield Road and the west end of Arbuthnot Road form an architecturally cohesive sector of two storey terraces of almost identical design. Properties in this location are built to a smaller scale with a narrower carriageway and smaller front gardens.
- 50 The Telegraph Hill Society have objected to the loss of the side bay window and original fabric of the host building required as part of the infill extension. The bay is a traditional feature on some Victorian terraced housing in the Conservation Area and is an integral part of the character of this type of housing. However, it is set to the rear on a less visible side elevation where views are restricted to the adjoining house. Therefore, while the removal would result in the loss of a historic feature of a degree of architectural interest, the impact on the character and appearance of the Conservation Area would be negligible given the minimal visibility. As such, no harm to the Conservation Area is identified.
- 51 As mentioned in para 4, the property is identified as an NDHA i.e. the host property makes a positive contribution to the CA. NPPF para 203 requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The effect of this proposal would be to erode the NDHAs architectural integrity somewhat and that of the terrace within which it falls. In this case the significance of the NDHA is moderate (being a NDHA that makes a positive contribution to a CA, within a consistent group of NDHAS) and the scale of harm or loss is at the low end of less than substantial, affecting the NDHA in a minimally visible location. As such, the impact of the proposal on the NDHA is also considered acceptable.
- 52 The Telegraph Hill Society quotes application DC/14/89277 regarding the loss of a side bay window which was refused and dismissed on appeal. This is not a materially similar precedent as the bay window in question was visible from the public realm, which both the delegated officer and planning inspector gave considerable weight. As the bay window at No.3 is not visible from the public realm, the two applications are not comparable.
- 53 In addition, as the rear of the property is not visible from the public realm, permitted development rights for the rear of the property are not removed by the Telegraph Hill Conservation Area Article 4 Direction. As such, the bay window could be removed via an infill extension through permitted development rights.
- 54 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would preserve the character or appearance of the Telegraph Hill Conservation Area.

6.2.2 Urban design and impact on heritage assets conclusion

- 55 In summary, the extension, due to its design and use of high-quality materials, would preserve the character and appearance of the host dwelling.
- 56 Officers conclude that the proposal responds sensitively to its context and the character of the surrounding area and therefore is acceptable in terms of design.

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6.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 57 NPPF para 130 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 para 185 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions
- 58 This is reflected in relevant policies of the London Plan (D3), the Core Strategy (CP15), the Local Plan (DMP 31) and associated guidance (Alterations and Extensions SPD 2019).
- 59 The Council has published the Alterations and Extensions SPD (2019) which establishes generally acceptable standards relating to these matters (see below), although site context will mean these standards could be tightened or relaxed accordingly.
- 60 Daylight and sunlight are generally measured against the Building Research Establishment (BRE) standards however this is not formal planning guidance and should be applied flexibly according to context

Discussion

- 61 The proposed extension would be 2.6m in depth and 2.6m in height on the boundary with No.1. The modest proportions of the extension would be well within the guidelines of The Alterations and Extensions SPD and have no impact on the amenity of the western neighbour.
- 62 Officers note that comments raised by the Telegraph Hill Society in objection to the proposal have concerns over loss of daylight/sunlight and enclosure for No.5, particularly the impact on the bay window in the ground floor west facing side elevation. Officers note that no objection has been received from the neighbour at No.5.
- 63 The proposed extension would be located 1.4m from the centre of the bay window, and 1.725m from the side elevation of No.5. The boundary height of the proposed infill extension, at 2.5m, is within the Guidelines of the Alterations and Extensions SPD and considered modest enough to not impact the amenity of No.5 via loss of outlook or overbearing enclosure. There is an existing glazed roof extension/structure at the rear of No.5, with large windows at the rear elevation, which provides the primary source of natural light to the rear ground floor of the property. Whilst it is expected that the proposed extension may impact upon the level of daylight or sunlight of the ground floor side elevation windows at No.5, on balance this is considered acceptable given that the window is located at lower ground level facing the side return and naturally would expect to receive a lower level of light, and the glazing and windows at the rear extension would remain unaffected.
- 64 The Telegraph Hill Society has objected to the proposed extension on the grounds that it would create a 'wind tunnel' at the rear of No.5. The scale of the development is such that this is not a realistic proposition and Officers are satisfied no such impact would arise.
- 65 The Telegraph Hill Society objected to the proposed extension on the grounds that the skylights in the side extension would shine into the windows of the neighbouring property

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and impact their amenity. The lighting in the proposed extension and kitchen would come from the ceiling. As such, no light will shine directly at the neighbour's property.

66 The proposed rooflights would face skywards and not offer a view of a neighbouring property. The proposed extension would not offer any new lines of sight not already available from the host building or garden. As such, it will not impact the privacy of the neighbours.

67 The application site will remain a single family dwellinghouse. No increase in noise or disturbance is expected.

6.3.1 Impact on neighbours conclusion

68 The proposed development would not introduce any unacceptably harmful impacts to the living conditions of any of the neighbouring properties and therefore would be compliant with LPP D3, CSP 15 and DMP 31 and the provisions of the 2019 SPD.

7 LOCAL FINANCE CONSIDERATIONS

69 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).

70 The weight to be attached to a local finance consideration remains a matter for the decision maker.

71 The CIL is therefore a material consideration.

72 This application does not attract CIL.

8 EQUALITIES CONSIDERATIONS

73 The Equality Act 2010 (the Act) introduced a new public 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.

74 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 persons who do not share it.

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- 75 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. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 76 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 is drawn to 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/technical-guidance-public-sector-equality-duty-england>
- 77 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
- 78 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 detailed 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>
- 79 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

9 HUMAN RIGHTS IMPLICATIONS

- 80 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:
- Article 8: Respect for your private and family life, home and correspondence
 - Protocol 1, Article 1: Right to peaceful enjoyment of your property

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81 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.

82 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.

83 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 by this proposal.

10 CONCLUSION

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

85 In reaching this recommendation, Officers have given weight to the comments and objections that were received regarding this application and consider the proposed development would preserve the host building and Telegraph Hill Conservation Area in terms of design. No unacceptable harm would arise to the living conditions of neighbours, therefore Officers recommend that planning permission should be granted subject to the imposition of suitable planning conditions.

11 RECOMMENDATION

86 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

11.1 CONDITIONS

1) FULL PLANNING PERMISSION TIME LIMIT

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

2) DEVELOP IN ACCORDANCE WITH THE APPROVED PLAN

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

097-001; 097-010; 097-020; 097-100; 097-200

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

3) MATERIALS / DESIGN QUALITY

- (a) The development shall be constructed in those materials as submitted namely: grey multi colour brickwork, timber cladding, aluminium framed windows, rooflights and doors, aluminium coping, new timber fence, reclaimed London stock brick boundary wall and in full accordance with 097-001; 097-010; 097-020; 097-100; 097-200.
- (b) The scheme shall be carried out in full accordance with those details, as approved.

Reason: To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

4) USE OF FLAT ROOFS

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 on the building 5 Arbuthnot Road hereby 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 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, and DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

11.2 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 detailed advice available on the Council's website. On this particular application, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.

12 BACKGROUND PAPERS

- 1) Submission drawings
- 2) Submission technical reports and documents

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3) Statutory consultee responses

13 REPORT AUTHOR AND CONTACT

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