



Planning Committee C

Report title:

72 WOOD VALE, LONDON, SE23

Date: 24 February 2022

Key decision: No.

See "[Legal Requirements](#)" in the guidance for more information.

Class: Part 1

See "[Legal Requirements](#)" in the guidance for more information.

Ward(s) affected: Forest Hill

Contributors: Antigoni Gkiza

Outline and recommendations

This report sets out the officer recommendation of approval for this planning application.

The case has been brought before members for a decision as three objections have been received from the neighbouring properties.

Application details

Application reference number(s): DC/21/123740

Application Date: 01 September 2021

Applicant: Yeates Design LLP submitted on behalf of Mr & Mrs Corbin

Proposal: Construction of a garden room at 72 WOOD VALE, SE23.

Background Papers: Submission drawings
Submission technical reports
Statutory consultee responses

Designation: PTAL 2
Air Quality
Forest Hill Article 4 (2) Direction

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 This application relates to a two-storey detached property, located on the eastern side of Wood Vale, at No 72. The property benefits from a two-storey rear extension and a large rear garden.



Figure 1: Site Location Plan

Character of area

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- 2 The surrounding area is predominantly residential in character with detached and semi-detached properties.

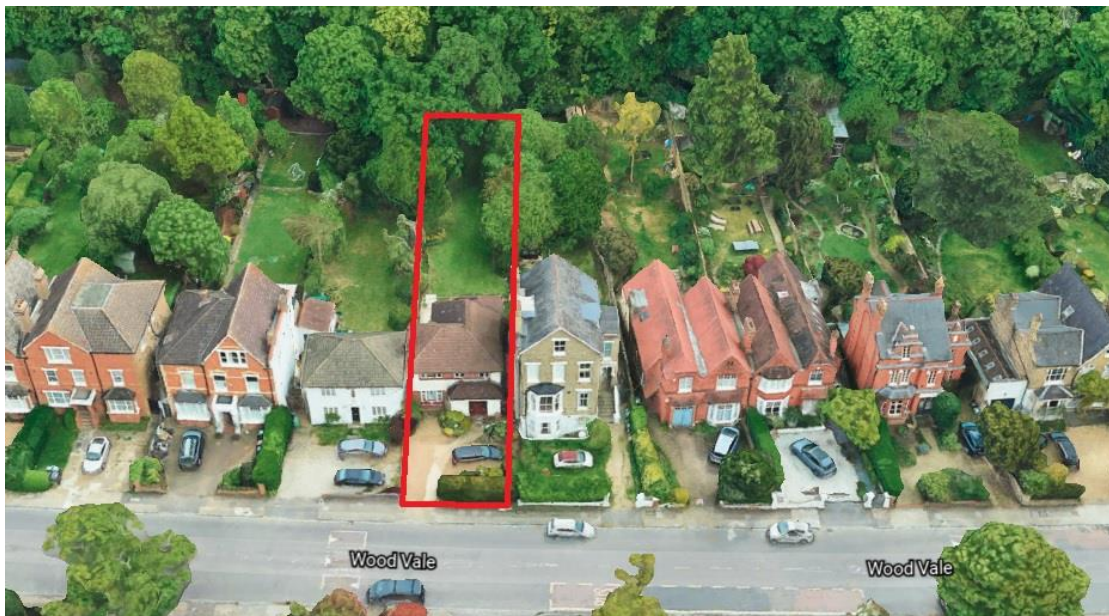


Figure 2: Aerial View

Heritage/archaeology

- 3 The site is within the Forest Hill Conservation Area and is subject to an Article 4 Direction.

Surrounding area

- 4 The site adjoins the Horniman Nature Trail and is located close to Horniman Gardens and Camberwell Old Cemetery.

Local environment

- 5 The site falls within Air Quality Management Area

Transport

- 6 The site has a Public Transport Accessibility Level (PTAL) score of 2 on a scale of 1-6b, 1 being lowest and 6b the highest.
- 7 Forest Hill train station is located 0.18m/17 minutes' walk from the site.

2 RELEVANT PLANNING HISTORY

- 8 **DC/92/035359** - Determination under Section 64 of the Town and Country Planning Act 1990 as to whether planning permission is required for the erection of a porch at 72 Wood Vale SE23. **Refused** 5 August 1992.
- 9 **DC/92/035839** - To determine whether the erection of a conservatory at the rear of 72 Wood Vale SE23 would constitute lawful development. **Granted** 7 January 1993.

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- 10 **DC/92/035877** - The erection of a porch on the front elevation of 72 Wood Vale SE23. **Granted** 8 February 1993.
- 11 **DC/06/062146/FT** - The alteration of the existing roof to provide a mansard roof at 72 Wood Vale SE23, incorporating the construction of an extension to the rear roof slope and a dormer window and roof light in the front roof slope to provide additional living accommodation. **Refused** 22 May 2006. Reasons for refusal:
- The proposed roof extension, by virtue of its size, bulk and mansard design would be out of proportion with the existing dwelling and would be a dominant feature, giving the appearance of a top heavy building, to the detriment of the character of the original building and would therefore be contrary to Policies URB 3 Urban Design and URB 6 Alterations and Extensions in the adopted Unitary Development Plan (July 2004).
 - The proposed roof extension by virtue of its size, bulk and design would detract from the integrity of the two properties No.72 and No.74 Wood Vale as both properties are of a similar design in a street where the architectural style of these properties is not typical. The proposal would render the property an incongruous feature within the street scape which, due to its prominence, would have an adverse impact on the Forest Hill Conservation Area, contrary to Policies URB 6 Alterations and Extensions and URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the adopted Unitary Development Plan (July 2004).
- 12 **DC/14/086923** - The removal of an existing conservatory and the construction of a double-storey rear extension at 72 Wood Vale SE23. **Granted** 8 July 2014.
- 13 **DC/21/123638** - Construction of a front and rear extension at 72 WOOD VALE, SE23. **Withdrawn** 29 November 2021.

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 14 Construction of a garden room at 72 WOOD VALE, SE23.

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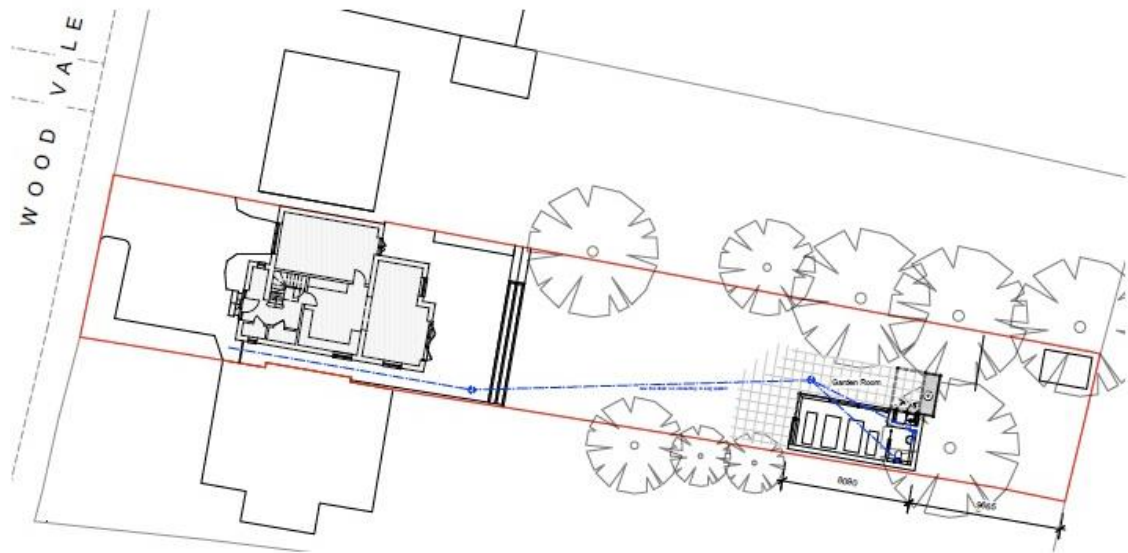


Figure 3: Proposed Site Plan

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

15 No pre-application advice was sought from the council regarding the proposal.

4.2 APPLICATION PUBLICITY

16 Site notices were displayed on 20 October 2021 and a press notice was published on 20 October 2021.

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

18 Three responses were received, comprising three objections.

4.2.1 Comments in objection

Comment	Para where addressed
The sitting of the proposed building is close to the neighbouring boundary which would affect the garden of the neighbouring flats.	43, 59, 62 & 63
The proposed material is out of keeping with the character of the Conservation Area.	51 & 52
The proposal is predicated on the fact that the neighbouring trees will hide the proposed outbuilding, which will hold the	61

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neighbouring property hostage in the future.	
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19 A number of other comments were also raised as follows:

20 Concerns regarding the lack of information of the management of the construction noise that will occur due to the construction of the outbuilding.

21 Officer comment: Planning Officers can only assess the proposed development, and the management of the construction noise is not a material planning consideration.

4.3 INTERNAL CONSULTATION

22 The following internal consultees were notified on 06 October 2021.

23 Conservation: no comments received.

4.4 EXTERNAL CONSULTATION

24 No External Consultees were notified given the nature of the application.

5 POLICY CONTEXT

5.1 LEGISLATION

25 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).

26 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

27 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.

28 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.

29 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.

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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

30 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

31 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

5.6 OTHER MATERIAL DOCUMENTS

- Forest Hill Conservation Area Appraisal Part 1 & 2 (July 2010)

6 PLANNING CONSIDERATIONS

32 The main issues are:

- Principle of Development
- Urban Design
- Impact on Adjoining Properties

6.1 PRINCIPLE OF DEVELOPMENT

General policy

33 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.

6.1.1 Principle of development conclusions

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

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6.2 URBAN DESIGN

General Policy

- 35 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.
- 36 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.
- 37 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.
- 38 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.

Discussion

- 39 According to Section 6.9.4 of the Alterations and Extensions SPD outbuildings should be subordinate to the host building and ancillary to the house. The materials to be used should be appropriate for a garden setting. Section 6.9.6 goes on to state that they should relate well to the design of the existing house, be of simple form, modest scale and complementary materials. They should be discreetly positioned so that they are not read together with the host building.
- 40 The proposed outbuilding would be set in from the rear boundary by approximately 9.6m, 0.5m from the boundary with No 70 Wood Vale and 5.8m from the boundary with No 74 Wood Vale. The garden room would have a width of 3.6m, a depth of 8.09m and a height of 2.8m. The proposed structure would incorporate a barbecue cupboard to store barbecue equipment and fuel and also have an integrated sink and preparation worktop for use when cooking. There would be a pergola over the BBQ area which would have a width of 2.64m, a depth of 2.8m and a height of 2.6m. The outbuilding would have a paved terrace area which would cover approximately 29m².

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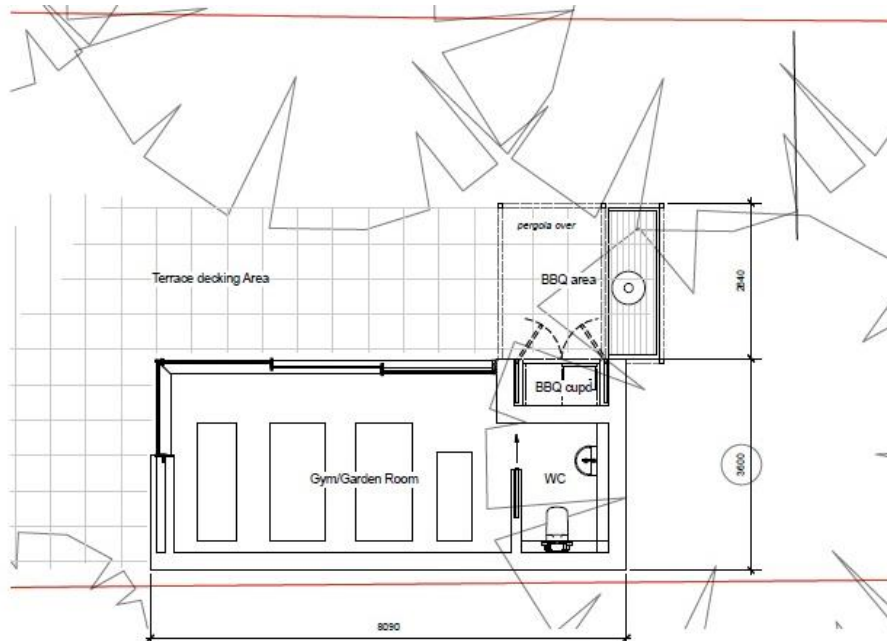


Figure 4: Proposed Floor Plan

- 41 The submitted documents indicate that the interior of the outbuilding would be used as a gym space and it would contain a WC. The drainage from the WC will connect to the main house system. Officers note that the applicant has provided evidence that the outbuilding would be used as a gym space for medical reasons.
- 42 The proposed outbuilding would have a raised parapet which would contain a green roof system and a highly insulated roof. The external walls would be made of a charred, black timber cladding and internally it would comprise a light coloured natural timber. The pergola over the barbecue area would be made of stained timber. In addition, the outbuilding would include sliding glass doors in black aluminium frame and clear double glazing. The barbeque cupboards would have sliding concealed flush doors. The paved terrace area will have a semi-porous paving system to allow rainwater to easily soak into the subsoil, which is considered acceptable.

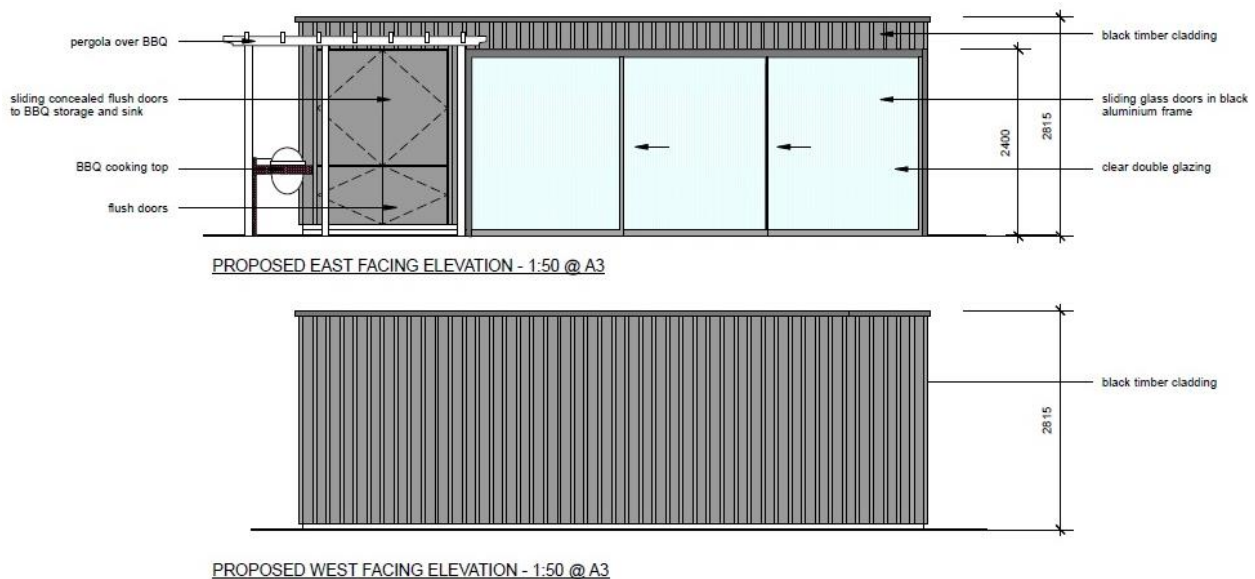


Figure 5: Proposed East/West Elevations

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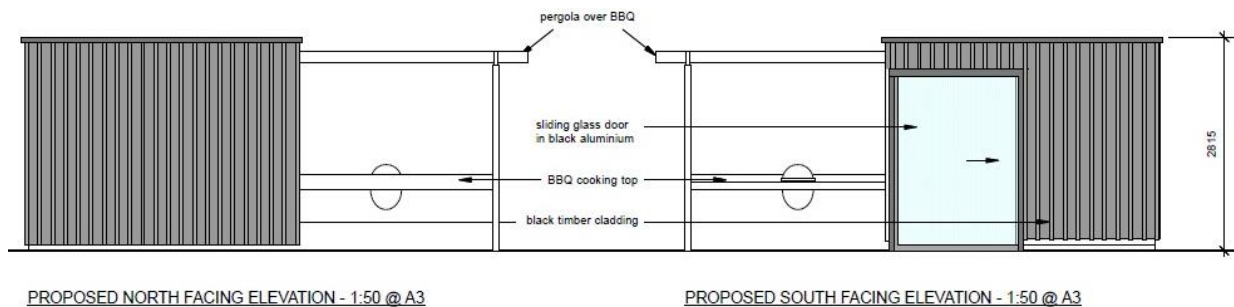


Figure 6: Proposed North/South Elevations

43 It is noted that the garden room would be located at distance of 0.5m from the boundary with No 70 Wood Vale and positioned at a place which is covered by trees which would act as a visual screening and would not be obtrusive to the neighbouring property.

6.2.1 Impact on Heritage Assets

Policy

- 44 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.
- 45 Section 72 of the 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.
- 46 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.
- 47 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.
- 48 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.
- 49 Further guidance is given in Forest Hill Conservation Area Appraisal Part 1 & 2 (July 2010).

Discussion

- 50 Officers note that objections to the proposal raise concerns over the unsuitability of the proposed materials as they do not complement the character of the Conservation Area.
- 51 Officers note that there are several properties along Wood Vale which benefit from garden rooms or rear outbuildings such as Nos 64, 75, 79, 86. The proposed outbuilding is considered acceptable given the context of the surrounding area comprising structures

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at the back of gardens. Although, the materials of the proposed outbuilding are not similar to the materials of the host building, they are considered appropriate for this type of development located in a garden setting. It would be more sympathetic to the host building, the surrounding area and it would maintain the character of the Conservation Area. It would have an appropriate footprint within the context of the host site, and would leave ample amenity space.



Figure 7: Proposed 3D Image

- 52 Officers consider that the current proposal would lead to no harm to the Forest Hill Conservation Area. Officers also note that the Forest Hill Article 4 Direction only precludes Permitted Development that is visible from the Highway. Given the orientation of the property, a Class E outbuilding is achievable at the site as a fall back.

Summary

- 53 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 Forest Hill Conservation Area. As no harm arises, no balancing exercise is required.

6.2.2 Urban design conclusion

- 54 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.

6.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 55 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

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- 56 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).
- 57 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.
- 58 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

- 59 The proposed outbuilding would extend for 8.09m along the boundary with No 70 Wood Vale with a maximum height of 2.8m. The outbuilding would have a minimal setback of 0.5m from the boundary with No 70 and a setback of 5.8m from the boundary with No 74 Wood Vale.
- 60 Officers note that objections to the proposal raise concerns over the negative impact on the garden use of the neighbouring properties and the inappropriate use of the neighbouring landscaping to act as a visual screening to the proposed development.
- 61 The fence at the side with No 74 would cover most of the outbuilding and only a small part would be visible, which is considered acceptable. To the side with No 70 Wood Vale the existing fence becomes shorter at the proposed position of the outbuilding but due to the long depth of the gardens and the presence of dense vegetation, the proposed development is not considered to have any adverse impact on the neighbouring amenity. The presence of dense vegetation and high trees is a distinctive feature of the area, which acts as a visual screening for the majority of the properties. Officers also note the placement of the outbuilding below overhanging neighbouring trees is at the applicant's discretion provided the impacts to amenity are acceptable. That trees beyond the applicant's property line may screen the building is not a material planning consideration.
- 62 Therefore, the proposed outbuilding is not considered to result in any unreasonable harm to the residential amenity of these neighbouring properties, in terms of loss of daylight, outlook and creation of sense of enclosure that would warrant a refusal of the application. The use of the building as a gym space is judged ancillary to the host dwelling.

6.3.1 Impact on neighbours conclusion

- 63 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

- 64 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

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- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

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

66 The CIL is therefore a material consideration.

67 This application is householder development, does not attract a CIL charge.

8 EQUALITIES CONSIDERATIONS

68 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.

69 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.

70 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.

71 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>

72 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

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- Equality objectives and the equality duty
- Equality information and the equality duty

73 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>

74 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

75 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

76 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.

77 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.

78 This application has the legitimate aim of providing a new outbuilding 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

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

80 In conclusion, the proposal is overall considered acceptable in its design, scale, materials and impact on neighbouring amenity.

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81 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 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

82 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 PLANS**

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

639/P/101; 639/P/102; 639/P/103; 639/P/104; 639/P/105; 639/P/106; Design, Access and Heritage Statement (Received 5/10/2021).

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) **USE OF ANCILLARY BUILDINGS/ANNEXES**

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the residential accommodation hereby approved shall only be used for purposes ancillary to the residential use of the dwellinghouse known as 28 BORDER ROAD, SE26 and shall not be occupied as any form of self-contained residential accommodation without prior the benefit of planning permission.

Reason: The application has been assessed only in terms of this restricted use and any other use may have an adverse effect on the character and amenity of the area and amenity for future occupiers contrary to relevant policies in the London Plan (March 2021), Core Strategy (2011) and Development Management Local Plan (2014).

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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

- 83 Submission drawings
- 84 Submission technical reports and documents
- 85 Statutory consultee responses

13 REPORT AUTHOR AND CONTACT

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