

Committee Date	11/06/2020	
Address	74 West Common Road Hayes Bromley BR2 7BY	
Application Number	05/03149/RECON	Officer - Susanna Stevenson
Ward	Hayes And Coney Hall	
Proposal	Removal of condition 2 of permission 05/03149/FULL6 granted for the construction of a detached garage to allow conversion of part of the garage to habitable accommodation for use as a 'granny annexe' ancillary to the host dwelling at No. 74 West Common Road. RETROSPECTIVE	
Applicant	Agent	
Mr Steve Bainbridge		
74 West Common Road, Hayes, Bromley, BR2 7BY		
Reason for referral to committee	Significant Objections/Controversial	Councillor call in No

RECOMMENDATION	Application Permitted
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<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Smoke Control SCA 51</p>
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Land use Details		
Existing (as Approved 05/03149/FULL6)	Residential garage/storage	c. 38sqm
Proposed	Residential garage/annexe	c. 38sqm

Vehicle parking	Existing number of spaces (as approved)	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	2	1	-1

Representation summary	Site Notice displayed – expires 13 th April 2020 Letters to neighbouring residents		
Total number of responses	16		
Number in support	1		
Number of objections	15		

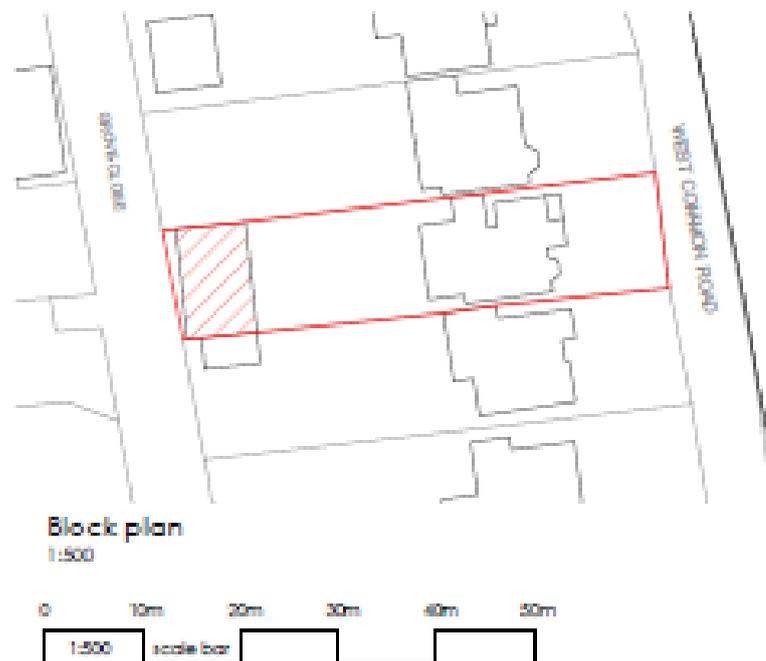
UPDATE

This application was reported under the protocol for planning decisions during the COVID-19 outbreak for consideration by Members on Thursday 16th April 2020. Members advised the Assistant Director that they were not in favour of the recommendation and advised that retrospective planning permission should not be granted. The report considered by Members is repeated below to enable further consideration.

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal would have no significant impact on the residential amenities of the area
- No technical objections are raised to the conversion from a highways perspective
- No external alterations facing the roadway at the back are proposed

2. LOCATION



- 2.1 The application site lies on the western side of West Common Road and comprises an extended detached dwelling set within a generously deep plot, which backs onto Grove Close. Grove Close is an unmade private road. The site lies adjacent to a Conservation Area (i.e. land on the other side of West Common Road lies within the Bromley, Hayes and Keston Commons Conservation Area).

3. PROPOSAL

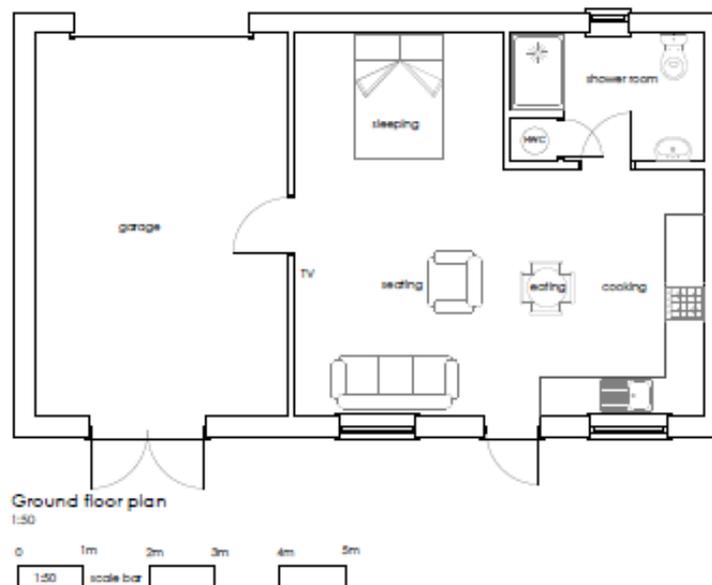
- 3.1 Planning permission was granted in 2005 under reference 05/03149/FULL6 for the construction of a detached garage fronting Grove Close, at the end of the host dwelling's rear garden.

- 3.2 Permission was granted subject to a condition (condition 2) which stated:

"The garage(s) hereby permitted shall be used solely for the accommodation of private motor vehicles and for purposes incidental to the dwelling(s), and shall not be converted to living accommodation without the prior approval in writing of the Local Planning Authority.

Reason: The storage of other vehicles (e.g. vans, lorries etc) or use for other purposes would conflict with Policy T.15 of the adopted Unitary Development Plan and Policy T3 of the second deposit draft Unitary Development Plan (Sept 2002), would be detrimental to the amenities of the neighbourhood, and conversion of the garage to living accommodation would deprive the property of adequate parking facilities.

- 3.3 The approved scheme incorporated two wide garage doors and a single access door leading onto a small hardstanding area in front of the garage. Subsequently a non-material amendment was approved under reference 05/03149/AMD which related to the omission of rooflights, the removal of the window and door to the rear elevation, the removal of a garage door and single door on the front elevation (facing Grove Close) and the installation of a window in the front elevation.
- 3.4 The application seeks retrospectively to remove the condition on 05/03149/FULL6 which required that the structure be used solely for the accommodation of private cars and for purposes incidental to the dwellinghouse, prohibiting the conversion of the unit to living accommodation.
- 3.5 The application includes a statement from the applicant which states that all correspondence/visitors come through the main dwelling and that all utilities, including water, electricity and broadband are connected to the main dwelling and are not independent of the host property.
- 3.6 The submitted application form suggests that the development was completed on 1/6/2015, with the commencement of the structure having occurred in 2006. The use of the annexe by the elderly relative of the applicant is stated to have commenced in March 2016.



4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history relating to the application site is summarised as follows with the cases specifically relating to the detached garage in bold:

89/02141/FUL Single storey rear extension
 GRANTED PLANNING PERMISSION 09.08.1989

**05/03149/FULL6 Detached garage
GRANTED PLANNING PERMISSION 27.10.2005**

05/03410/FULL6 First floor side extension, side dormer and two rear dormers in the enlarged roof
GRANTED PLANNING PERMISSION 26.01.2006

05/03412/FULL6 Single storey rear and two storey side extension
GRANTED PLANNING PERMISSION 09.11.2005

**05/03149/AMD AMENDMENT: Removal of roof lights. Removal of exterior door and one garage door from the front elevation and insertion of small window. Insertion of French doors and two windows to the rear elevation.
AMENDMENT APPROVED 09.10.2012**

15/00832/FULL6 Two storey rear extension and rooflights
PLANNING PERMISSION GRANTED 12.11.2015

17/00105/PLUD Loft conversion to include rooflights to flank elevations and removal of chimney to flank elevation. LAWFUL DEVELOPMENT CERTIFICATE (Proposed)
LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) GRANTED 21.02.2017

5. CONSULTATION SUMMARY

A) Statutory

None

B) Local Groups

Hayes Village Association

Would breach covenant which states that no building on the land shall be less than 5000 cubic feet and that such building should only be used as a dwellinghouse.

C) Adjoining Occupiers

Objections

- Concern that the proposal would set a precedent for the construction of additional residential dwellings fronting Grove Close
- Grove Close is the only vehicular access/parking for Grove Close residents while West Common Road properties already have access to the front
- The road is narrow and unmade with limited parking available for residents of Grove Close and the road is managed and maintained by these residents
- Proposal is not a granny annexe but rather a detached bungalow

- Would be contrary to covenant/deeds as would not be 'substantial' property and would not be a dwellinghouse.
- Concern that the application is retrospective and results from enforcement action - would be wrong for permission to be granted following concealment
- Concern regarding the suitability of the living accommodation and its siting detached from the main family dwelling.

Representations have also been received which comment on the history of how the occupation of the garage has come about, disputing the terms of the application and the background information provided by the applicant. The representations do not raise material planning considerations, as they relate to matters outside of planning control, including regarding level of care, guardianship and legal disputes associated with the occupant, their affairs and the Court of Public Protection. The representations also refer to there being alternative suitable accommodation elsewhere.

6. POLICIES AND GUIDANCE

6.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

6.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

6.3 The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.

6.4 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.

6.5 The application falls to be determined in accordance with the following policies:

6.6 The London Plan

- 7.4 Local Character
- 7.6 Architecture

6.7 Draft London Plan

The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application.

The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This

is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.

The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan.

Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan. This affects the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.

6.8 Bromley Local Plan 2019

Policy 30 - Parking

Policy 37 - General Design of Development

Policy 7 - Accommodation for Family Members

Policy 42 - Development Adjacent to a Conservation Area

6.9 Bromley Supplementary Guidance

SPG 1 General Design Principles

SPG2 Residential Design Guidance

7. ASSESSMENT

- **Principle of development**
- **Design – Layout, scale height and massing**
- **Conservation**
- **Neighbourhood Amenity**
- **Standard of outlook and amenity for future occupiers**
- **Transport and Highways**
- **Other matters**

7.1 Principle of development - Acceptable

7.1.1 Policy 7 of the Bromley Local Plan states that an extension to provide space for additional family members will be expected to meet three criteria, including that access to the extension is provided and maintained through the original dwelling house and that the extension should not be capable of being severed from the main dwelling-house.

7.1.2 The applicant has confirmed that the access to the accommodation is only provided from the frontage dwelling. It is noted that the amendment to the grant of planning permission for the original garage (05/03149/AMD) deleted the door originally provided within the 'front' elevation facing Grove Close and substituted a window for that door. One of the two garage doors was removed. One garage door remains.

7.1.3 While as a detached building with a frontage onto Grove Close the building is more readily capable of severance than if the development were within an enclosed rear garden with no access, it is noted that the applicant has expressed agreement with the imposition of a planning condition which would require that the accommodation provided within the building be tied to the occupation of the main dwelling.

7.1.4 Furthermore, the lack of an easy door access onto Grove Close, the structure's limited size, the internal layout and the lack of separate services/utilities to the structure are considered to limit the scope, in tandem with suitably worded conditions, for the structure to be used as a self-contained dwellinghouse.

7.1.5 The principle of the size, scale and siting of the building itself has been established through the granting of planning permission for the structure as a garage for purposes incidental to the host property, and in consideration of the original application it was noted that the occupants of No. 74 West Common Road have rights of access onto Grove Close.

7.2 Design – Layout, scale, height and massing - Acceptable

7.2.1 The proposal does not include any external elevational alterations. The structure would be retained as constructed and is not considered to have a significant impact on the visual amenities of the area.





7.2.2 Other structures of similar size and scale were noted to front onto Grove Close. It is not considered that the building is detrimental to the character and appearance of the area and in any case, in granting planning permission and the subsequent amendment to the permission to allow elevational alterations the design and appearance of the structure was considered acceptable.

7.3 Conservation - Acceptable

7.3.1 The site lies adjacent to a Conservation Area, but the application does not relate to alterations to or enlargement of the existing building, for which planning permission was granted under reference 05/03149/FULL6.

7.3.2 Policy 42 of the BLP states with regards to development adjacent to a conservation area that development will be expected to preserve or enhance the setting of the CA and should not detract from views into or out of the area. Since the development bulk, massing, scale and siting is unchanged it is not considered that the proposal would fail to preserve the character and appearance of the conservation area, which in any case lies opposite the property frontage, on the other side of West Common Road.

7.4 Neighbourhood Amenity - Acceptable

7.4.1 The use of the existing structure as proposed does not have a significant impact on the amenities of neighbouring residents. It does not result in a loss of light, daylight, sunlight or unacceptable additional noise and disturbance, taking into account the relationship of the building and its occupation to the main host dwelling and that the use involves an existing structure.

7.4.2 Comments received from neighbouring residents have referred to there being a covenant relating to the size of properties within the locality, stating that as a dwelling the detached structure would be significantly smaller than surrounding development and would not meet the terms of the covenants. Restrictive covenants are matters of private property law and fall outside of planning control. This proposal does not relate to the provision of a separate detached dwelling in any

case, providing instead ancillary residential accommodation in the form of an annexe rather than a separate self-contained house.

7.5 Standard of outlook and amenity for future occupiers - Acceptable

- 7.5.1 Comments from the Housing Enforcement Officer have expressed concern regarding the extent to which the accommodation would meet the Housing Health and Safety Rating System provided by the ODPM.
- 7.5.2 If this were an entirely self-contained unit of accommodation separate from the main dwelling in function and not used as an annexe or for purposes incidental to the enjoyment of the dwellinghouse it is considered that the accommodation provided would be of a limited standard of amenity.
- 7.5.3 However, in this instance the accommodation provided would, from a planning perspective, be an annexe or ancillary type of accommodation which would benefit from its link to the host dwelling in terms of the additional services and accommodation which the occupant of the annexe would be capable of utilising, including amenity space, access into the garden and to the larger main accommodation within the dwellinghouse.
- 7.5.4 The proposal does not relate to the formation of a separate, severed unit of accommodation which would operate as a distinct planning unit or an individual dwellinghouse. As such it is not considered that the usual standards associated with self-contained and separately occupied residential dwellings (rather than annexes) would be applicable.
- 7.5.5 Where concerns are expressed under the separate guidance provided by the ODPM this guidance is separate to and outside of planning control. It is noted that the comments provided by the Housing Enforcement Officer refer to the separate action available to the Housing Enforcement Team to consider taking formal action in respect of means of escape and ventilation. If planning permission is granted (subject to planning conditions) it is recommended that the applicant is advised of these comments by way of an informative.

7.6 Transport and Highways - Acceptable

- 7.6.1 The comments of the Council's highways officer were sought regarding the proposal. The response received referred to the scope of the proposal in terms of highways impacts, being principally concerned with the reduction in off-street parking spaces serving the host dwelling.
- 7.6.2 No technical objections are raised from a highways perspective regarding the conversion of part of the garage to habitable accommodation, taking into account the retained access and off-street parking available to the front of the host dwelling facing West Common Road and the occupation of the building being tied to the household occupying the host dwelling.
- 7.6.3 It would be appropriate to impose a condition relating to the retained parking within the structure to require that only vehicle(s) associated with the host dwelling be

stored within the building, to meet the terms of the original condition and in the interest of neighbouring amenity.

7.7 Other matters - Outside of planning control

- 7.7.1 It is noted that representations have been received providing detailed comment on the circumstances leading to the use of the building by the applicant and disputing the need for the accommodation to be used for the housing of an elderly relative. The comments refer also to the care provided for the occupier. These comments have been considered but do not raise material planning considerations relevant to the assessment of whether the conversion of part of the garage to an annexe ancillary to the host dwelling would be acceptable in planning terms, taking into account the site's characteristics and surroundings and the extent to which the retrospective conversion would be capable of being effectively controlled by way of a condition.
- 7.7.1 It is generally the principle that planning relates to land and property rather than the individual person. While it is noted that the applicant has referred to the accommodation provided being used by an elderly relative, in assessing the proposal the more general occupation of the annexe by a family member of existing/future householders at No. 74 West Common Road has been carefully considered. To this end, the theoretical occupation by a young family member, a child, an aunt or other relative has been seen as the implication of the application and any decision on the extent to which the application is acceptable.
- 7.7.2 It is considered that a condition linking the use of the building to the host property's household would be a suitable mechanism to ensure that the occupation is not severed from the main property to form a separate self-contained residential dwelling. Such a condition is important and integral to the assessment of the proposal in that as a separate self-contained residential unit the proposal would be uncharacteristic of the quality and layout of residential development in the locality, whereas as an annexe for purposes incidental to the enjoyment of the host dwelling this would not be the case.

8. CONCLUSION

- 8.1 The proposal would have no significant impact on residential amenity on the basis that as an annexe the accommodation would be limited to use ancillary to/for purposes incidental to the enjoyment of the host house rather than operating as a self-contained dwellinghouse.
- 8.2 There are no technical highways objections to the proposal for a residential annexe linked to the main host dwelling.
- 8.3 In terms of the impact of the proposal on visual amenity, no external elevational alterations are proposed.
- 8.4 Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: PERMISSION

SUMMARY OF CONDITIONS AND INFORMATIVES

1. Accordance with application submission
2. Restriction on use (accommodation and garage) to household at No. 74 – no severance.

Any other planning condition(s) considered necessary by the Assistant Director of Planning.

Informative

1. Attention drawn to Housing Enforcement Officer comments