

Committee Date	19.05.2022	
Address	21 Windsor Drive Orpington BR6 6EY	
Application Number	20/04944/FULL1	Officer - Gill Lambert
Ward	Chelsfield And Pratts Bottom	
Proposal	Part one/two storey rear extension to provide enlarged restaurant space on ground floor, and staff live/work accommodation on first floor with ventilation ducting.	
Applicant	Agent	
Mrs Shu Juan Zhang	Mr Calvin Ho	
21 Windsor Drive Orpington BR6 6EY	5 Tanner Street London SE1 3LE	
Reason for referral to committee	Councillor call in	
Call-In	Yes	

RECOMMENDATION	Application Permitted
-----------------------	-----------------------

<p>KEY DESIGNATIONS</p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 28</p>
--

Land use Details		
	Use Class or Use description	Floor space (GIA SQM)

Existing	Outbuilding	12.5
Proposed	Commercial	96
	Residential	50

Residential Use – See Affordable housing section for full breakdown including habitable rooms

	Number of bedrooms per unit				
	1	2	3	4 Plus	Total / Payment in lieu
Market	1				
Affordable (shared ownership)					
Affordable (social rent)					
Total	1				

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	0	0	0
Disabled car spaces	0	0	0
Cycle	0	0	0

Representation summary	Neighbour letters were sent 20/01/2021, 03/09/2021, 22/12/2021 & 18.02.2022
Total number of responses	12
Number in support	5
Number of objections	7

UPDATE

This application was deferred from the 10th June 2021 meeting in order to seek a reduction in the size of the two storey element of the proposals, and to either reposition the extract flue or provide it with additional filtration. The application had originally been recommended for refusal by Officers for the following reason:

“The proposed part one/two storey rear extension is considered to be a bulky and incongruous form of development due to its size, scale and design which is considered to be out of character with the surrounding area and overbearing to neighbouring properties, thereby contrary to Policy 37 of the Bromley Local Plan”

Revised plans were submitted on 16th December 2021 and 18th February 2022, and contain the following main changes:

- The eaves height of the two storey extension has been reduced by 1-1.5m and the ridge height by 0.5m
- The first floor rear flat would now be set 2m further away from the rear of the frontage building
- Revisions have been made to the extractor system with additional technical details also provided.

The report has been updated accordingly. Following the submission of the revised plans the concerns originally raised by Officers are considered to have been addressed. The Officer recommendation has been updated accordingly.

SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposals would not result in an overdevelopment of the site
- The development would not result in a harmful impact on the character and appearance of the surrounding area
- The development would not adversely affect the amenities of neighbouring residential properties
- The development would provide an adequate standard of residential accommodation for future occupiers
- The development would not have a detrimental impact on traffic or parking in the surrounding area
- The details of the extract duct are considered acceptable.

1 LOCATION

- 1.1 The application site is a three storey mid-terrace property with a restaurant at ground floor level facing Windsor Drive and residential accommodation at first and second floor level which is accessed via an external staircase at the rear of the building. The site lies within a local shopping parade.
- 1.2 There are other single storey extensions to the rear of the commercial properties in Windsor Drive, most commonly at the south-western end which is accessed off Windsor Drive.



2 PROPOSAL

- 2.1 It is proposed to add a part one/two storey rear extension in order to provide an enlarged restaurant on the ground floor, and staff live/work accommodation in the form of a one bedroom 2 person flat on the first floor located towards the rear of the extension and accessed from the rear service road. The extension would cover virtually the whole of the rear yard, extending up to the side boundaries but set back 1.7m from the rear boundary with the service road that leads from The Meadway.
- 2.2 The single storey element of the proposals would have a flat roof whilst the two storey rear part of the extension would have a low pitched roof measuring up to 5.8m in height. An extract duct would be located against the rear wall of the proposed

live/work flat facing the back of the commercial parade, and it would terminate 1.5m above the eaves of the roof over the live/work flat.

2.3 No car parking would be provided as part of the proposals.

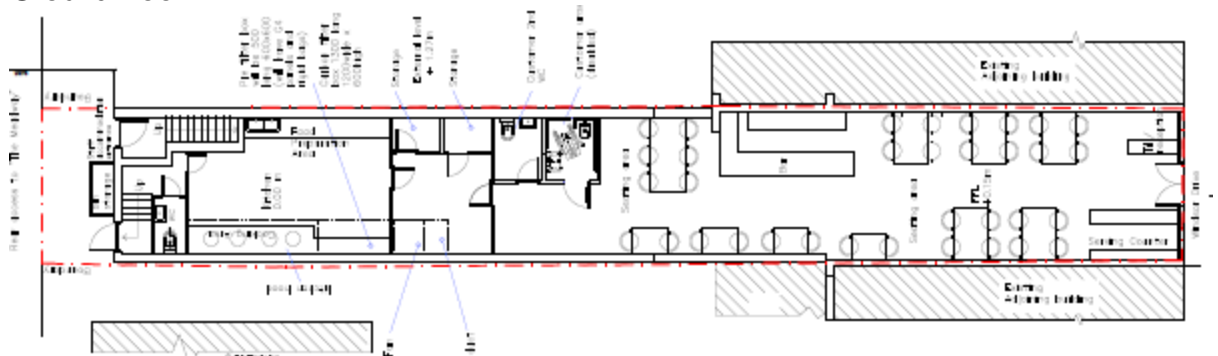
2.4 The applicant states that the development would assist with the much-needed improvement of the rear accessway leading off The Meadway which currently suffers from lack of maintenance and general untidiness.

2.5 The application was supported by the following documents:

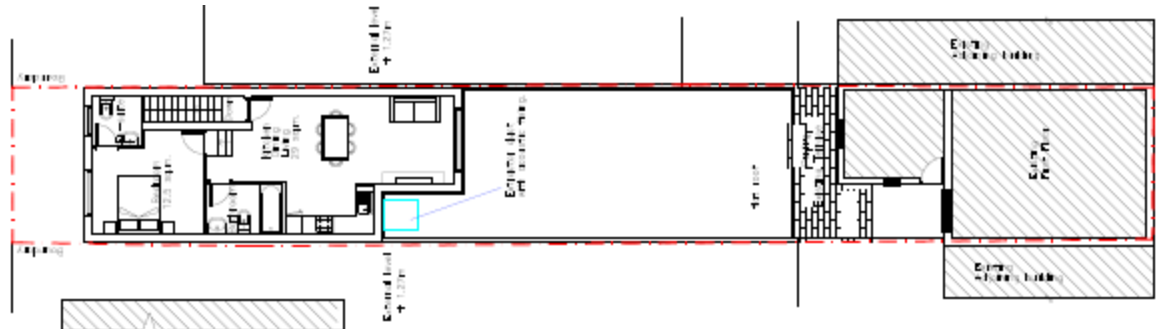
- Planning Statement

2.6 Floor plans originally proposed:

Ground floor:

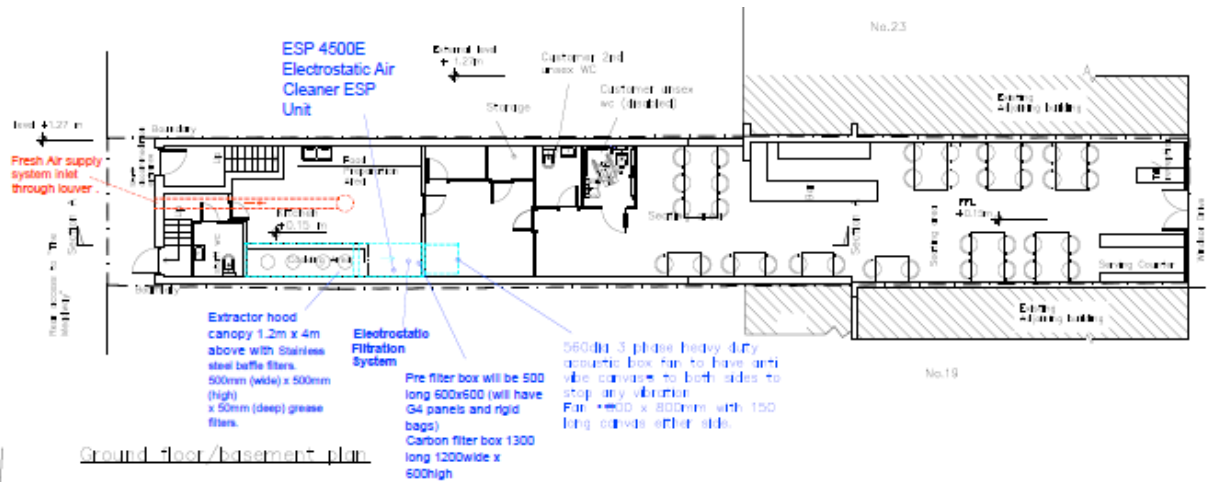


First floor:



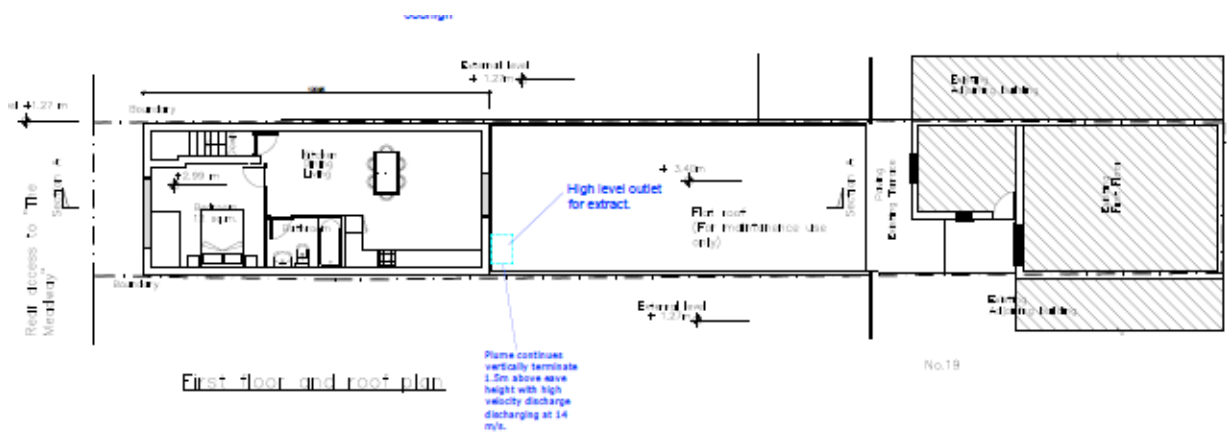
2.7 Revised floor plans (18.02.22):

Ground floor:



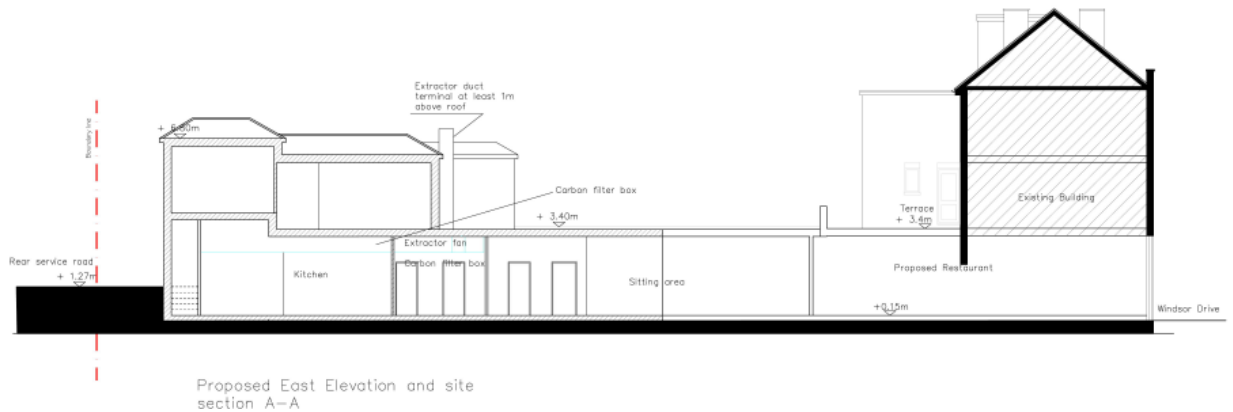
Ground floor/basement plan

First Floor:



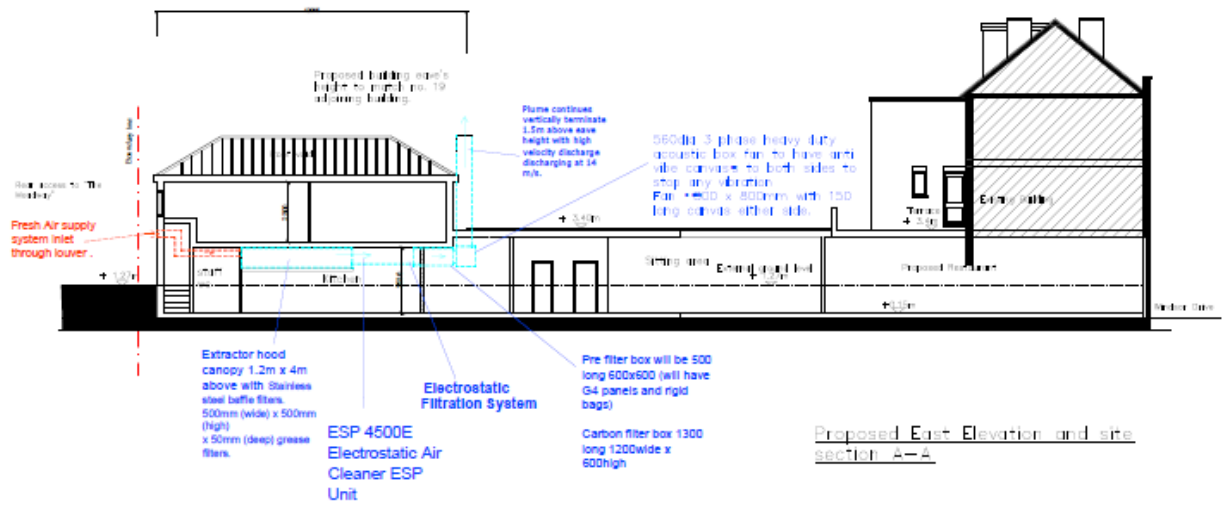
First floor and roof plan

2.7 Section originally proposed:

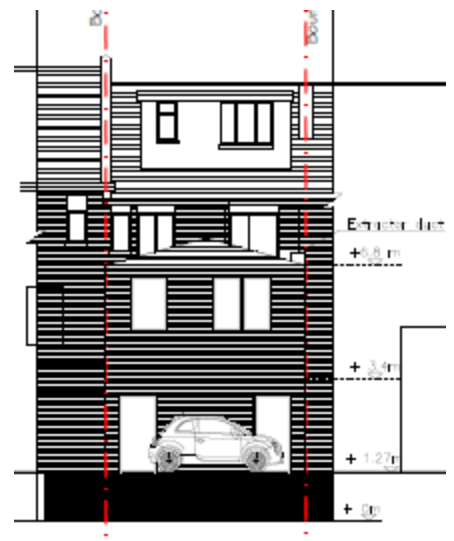


Proposed East Elevation and site section A-A

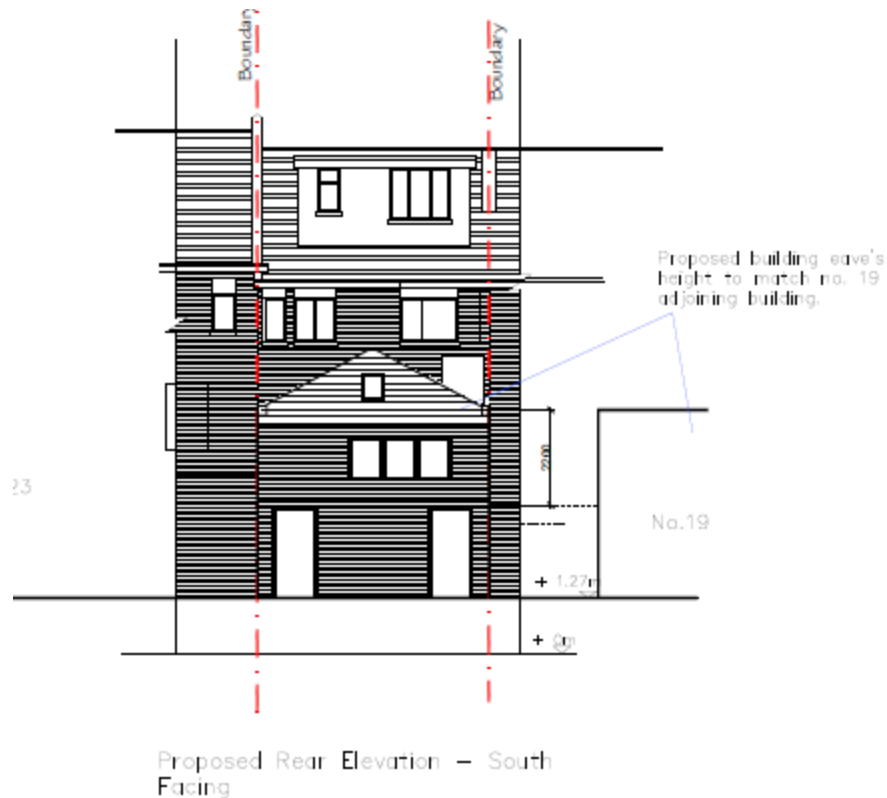
Revised section (18.02.22):



2.8 Original rear elevation:



Revised rear elevation (27.04.22):



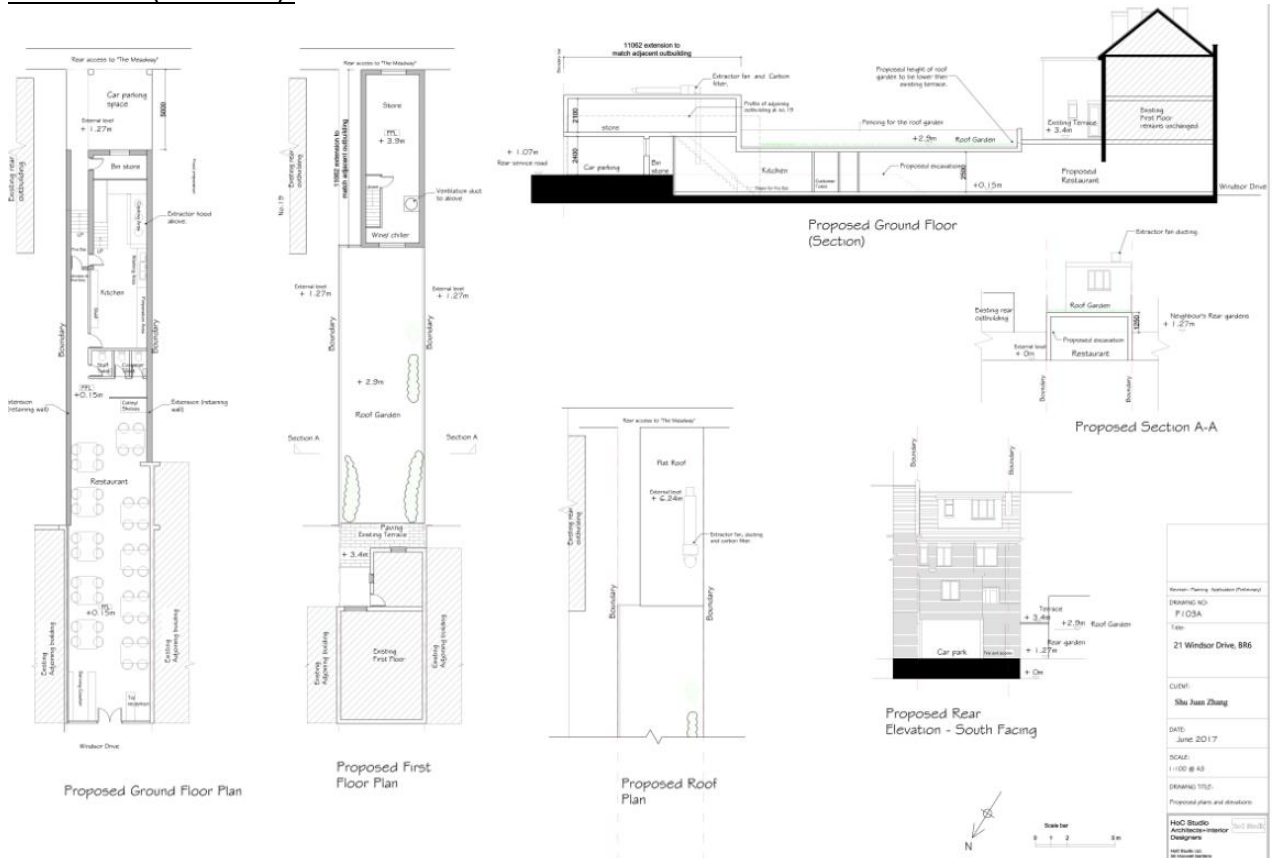
3 RELEVANT PLANNING HISTORY

- 3.1 The relevant planning history relating to the application site is summarised as follows:
- 3.2 Permission was refused in 2015 (ref.15/01138) for a single storey rear extension and the change of use from post office to restaurant/takeaway.
- 3.3 Permission was granted in 2015 (ref.15/01432) for a loft conversion with rear dormer windows and front velux windows.
- 3.4 Permission was refused in 2015 (ref.15/04507) for a single storey rear extension.
- 3.5 Prior approval was granted in 2016 (ref.16/02189/RESTCA) for the change of use from retail (Class A1) to restaurant (Class A3).
- 3.6 Permission was refused in 2016 (ref.16/04445) for a single storey rear extension and kitchen extract system.
- 3.7 Permission was refused in 2017 (ref.17/03328) for change of use from Class A1 to A3, single storey/basement extension, two storey outbuilding with undercroft parking and associated ventilation equipment on the following grounds:
- 1 The proposed single storey rear extension is considered a bulky and incongruous form of development due to its size, scale and design which would be considered out of character within the surrounding locality and overbearing to neighbouring

properties contrary to Saved Policy BE1 Design of New Development of the adopted Unitary Development Plan (2006).

- 2 The proposed raised roof garden, by reason of its location, size, elevated position and proximity to neighbouring properties would result in overlooking and a loss of privacy to neighbouring residential occupiers contrary to Saved Policy BE1 Design of New Development of the adopted Unitary Development Plan (2006).
- 3 The proposal would, due to the lack of an effective ventilation/flue system, be prejudicial to the amenities of occupants of nearby residential accommodation by reason of noise and disturbance (including smell) contrary to Policies ER9 and S9 of the Unitary Development Plan and Policy 7.15 of the London Plan 2015.

17/03328 (Refused):



3.8 Permission was granted in 2019 (ref.18/02106) for change of use from Class A1 to A3 incorporating a single storey rear extension and associated ventilation equipment.

4 CONSULTATION SUMMARY

A) Statutory/Non-Statutory

Highways – No objection

- There are other businesses within the parade with rear extensions so it would be difficult to insist that the parking facility at the rear is kept for servicing and delivery. The existing garage is old and is not big enough to park a car. No highways objections are raised to the proposals so long as the extension would remain part of the main building.

Environmental Health Pollution – No objection

- No objections are raised to the revised details of the ventilation ducting. With regard to the potential for transmission of noise from the kitchen area to the proposed flat above, the noise generation from the commercial kitchen with busy activities and noise from the ventilation fan will give rise to levels of noise that would not be compatible where there is an adjoining residential use, without enhanced sound insulation, i.e. above the Building Regulation Approved Document E standards. A planning condition is therefore recommended.

Environmental Health Housing – No objection

- No objections are raised to the proposals.

B) Adjoining Occupiers

Light, privacy and outlook (addressed in paras.6.6.2 and 6.6.3)

- Potential overlooking of residential properties to the rear

Character and appearance (addressed in paras.6.2.3, 6.3.3, 6.3.4 and 6.3.5)

- Out of keeping with the area
- Overdevelopment of the site
- Proposals are effectively to build a house in a small back garden

General (addressed in para 6.6.4)

- Noise and disturbance during construction works
- The existing premises are already large enough for the restaurant use
- Would result in increased rubbish in the unkempt alleyway
- Smell and noise disturbance from lower level ventilation duct
- Would set an undesirable precedent

Support:

- If the application is approved, the owners will be more motivated to improve the condition of this part of the service road
- A great improvement to what is a dumping ground
- There is a need for affordable housing in the area
- Similar extensions have been built at the south-western end of this shopping parade
- There is a need for affordable accommodation for the chefs and waiters who work at the premises.

5 POLICIES AND GUIDANCE

5.1 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.

5.2 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.

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

5.4 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2021). The NPPF does not change the legal status of the development plan.

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

5.6 **National Planning Policy Framework 2019**

5.7 **The London Plan**

D1	London's form and characteristics
D3	Optimising site capacity through the design-led approach
D4	Delivering good design
D5	Inclusive design
D6	Housing quality and standards
D7	Accessible housing
D11	Safety, security and resilience to emergency
D12	Fire safety
D14	Noise
H1	Increasing Housing Supply
H2	Small sites
H10	Housing Size Mix
S4	Play and informal recreation
G5	Urban greening
G6	Biodiversity and access to nature
G7	Trees and woodlands
SI1	Improving air quality
SI4	Managing heat risk
SI5	Water infrastructure
SI7	Reducing waste and supporting the circular economy
SI12	Flood risk management
SI13	Sustainable drainage
T2	Healthy Streets
T3	Transport capacity, connectivity and safeguarding
T4	Assessing and mitigating transport impacts
T5	Cycling
T6	Car parking
T6.1	Residential Parking
T7	Deliveries, servicing and construction

5.8 **Bromley Local Plan 2019**

4	Housing Design
30	Parking
32	Road Safety
37	General Design of Development
96	Neighbourhood Centres, Local Parades and Individual Shops

119	Noise Pollution
121	Ventilation and Odour Control

5.9 Supplementary Guidance

SPG1 - General Design Principles

SPG2 - Residential Design Guidance

Housing: Supplementary Planning Guidance. (March 2016)

Technical housing standards - Nationally Described Space Standard (March 2015)

National Design Guide - (September 2019)

6 ASSESSMENT

6.1 Principle - Acceptable

- 6.1.1 The current Bromley's Five Year Housing Land Supply (FYHLS) has been updated since the previous application was determined in March 2021. The current position in respect of Bromley's Housing Trajectory, including the Five Year Housing Land Supply (FYHLS), was agreed at Development Control Committee on the 2nd November 2021. The current position is that the FYHLS (covering the period 2021/22 to 2025/26) is 3,245 units, or 3.99 years supply. This is acknowledged as a significant undersupply and for the purposes of assessing relevant planning applications and means that the presumption in favour of sustainable development applies.
- 6.1.2 The NPPF (2019) sets out in paragraph 11 a presumption in favour of sustainable development. In terms of decision-making, the document states that where a development accords with an up to date local plan, applications should be approved without delay. Where a plan is out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 6.1.3 According to paragraph 11(d) of the NPPF in the absence of a 5 year Housing Land Supply the Council should regard the Development Plan Policies for the supply of housing including Policy 1 Housing Supply of the Bromley Local Plan as being 'out of date'. In accordance with paragraph 11(d), for decision taking this means where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.1.4 London Plan Policy H1 sets Bromley's housing target at 774 homes per annum. In order to deliver this target, boroughs are encouraged to optimise the potential for housing delivery on all suitable and available brownfield sites. This approach is consistent with Policy 1 of the Bromley Local Plan, particularly with regard to the types of locations where new housing delivery should be focused.

6.1.5 Policy H2 requires Boroughs to pro-actively support well-designed new homes on small sites (below 0.25 hectares in size). Policy D3 requires all development to make the best use of land by following a design led approach.

6.1.6 This application includes the provision of one residential unit linked with the commercial use, and would represent a minor contribution to the supply of housing within the Borough. This will be considered in the overall planning balance set out in the conclusion of this report, having regard to the presumption in favour of sustainable development.

6.2 Density – Acceptable

6.2.1 Policy D3 of the London Plan relates to 'Optimising site capacity through the design-led approach' and states that all development must make the best use of land by following a design-led approach that optimises the capacity of sites. Form and layout should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape. The quality and character shall respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character.

6.2.2 Policy D4 of the London Plan outlines the various methods of scrutiny that assessments of design should be based on depending on the level/amount of the development proposed for a site.

6.2.3 The provision of a one bedroom live/work unit at the rear of these premises would not be out of character with the surrounding area as there are similar residential units at the rear of this commercial parade towards its south-western end, and the proposals would not therefore constitute an overdevelopment of the site in terms of the number of residential units proposed.

6.3 Design, layout and scale – Acceptable

6.3.1 Design is a key consideration in the planning process. Good design is an important aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

6.3.2 Policies 4 and 37 of the Bromley Local Plan (BLP) and the Council's Supplementary design guidance seek to ensure that new development, including residential

extensions are of a high quality design that respect the scale and form of the host dwelling and are compatible with surrounding development.

6.3.3 The previously refused 2017 application proposed a similar part one/two storey rear extension, but the two storey element at the rear did not extend across the full width of the site (as in the current scheme), and it measured 5m in height compared with 5.8m in the current proposals. One of the grounds for refusal of the 2017 scheme related to the bulky and incongruous form of development due to its size, scale and design which was considered to be out of character with the surrounding area and overbearing to neighbouring properties.

6.3.4 Although the revised scheme would still propose a slightly taller and wider building than the scheme previously refused in 2017, it would have a pitched roof rather than a flat roof, and the eaves would be lower than the adjacent outbuilding to the rear of No.19. The revised proposals are therefore considered to result in a less bulky and incongruous form of development than previously proposed, and would not now appear out of character with the surrounding area, nor be overbearing to neighbouring properties.

6.3.5 The proposed ventilation duct would be largely hidden from the rear by the proposed first floor extension, and its design and appearance would not be out of character in this commercial parade location.

6.4 Standard of residential accommodation – Acceptable

6.4.1 Policy D6 of the London Plan relates to 'Housing quality and standards', and states that housing development should be of high quality design and provide adequately sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners. The policy also prescribes internal space within new dwellings and external spaces standards that are in line with the National Technical Housing Standards.

6.4.2 Policy D7 of the London Plan - Accessible Housing, states that to provide suitable housing and genuine choice for London's diverse population, including disabled people, older people and families with young children, residential development must ensure that at least 10 per cent of dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(3) 'wheelchair user dwellings' and; all other dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.

6.4.3 Policy 4 of the BLP sets out the requirements for new residential development to ensure a good standard of amenity. The Mayor's Housing SPG sets out guidance in respect of the standard required for all new residential accommodation to supplement London Plan policies. The standards apply to new build, conversion and change of use proposals. Part 2 of the Housing SPG deals with the quality of residential accommodation setting out standards for dwelling size, room layouts and circulation space, storage facilities, floor to ceiling heights, outlook, daylight and sunlight, external amenity space (including refuse and cycle storage facilities) as well

as core and access arrangements to reflect the Governments National Technical Housing Standards.

6.4.4 The proposals include a one bedroom 2 person live/work flat for which The London Plan suggests that the minimum size should be 50sq.m. in floor area. The revised plans show that the dwelling unit has been rearranged but it would still have a floorspace of 50sq.m. which would meet the standard for a 2 person flat.

6.4.5 No amenity space would be provided for the flat, but this is not uncommon in a location above or to the rear of commercial premises. Other residential units in this commercial parade similarly have little or no amenity areas.

6.5 Highways – Acceptable

6.5.1 The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. The NPPF clearly states that transport issues should be considered from the earliest stage of both plan making and when formulating development proposals and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

6.5.2 The NPPF states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

6.5.3 London Plan and BLP Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards within the London Plan and Bromley Local Plan should be used as a basis for assessment.

6.5.4 For a dwelling of this size in a PTAL 2 area, the London Plan would require a maximum of 0.75 spaces per dwelling. No highways objections are raised to the proposals so long as the extension would remain part of the main building however this condition is not considered to be necessary in this case having regard to the maximum parking standards that would be required.

6.6 Neighbouring amenity - Acceptable

6.6.1 Policy 37 of the BLP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

6.6.2 In the revised scheme, the proposed two storey element of the rear extension would now be set back 14.8m from the rear elevations of the flats above the shops in Windsor Drive (as opposed to 12.8m in the previous scheme), and the overall height of the extension would be lowered, thus reducing any impact on outlook from the occupiers of the flats above the shops. The living room window of the proposed

live/work flat would face the rear elevation of the first floor flats, but given the separation distance involved, no significant overlooking would occur.

6.6.3 With regard to the impact on properties to the rear of the site in Spring Gardens, they have 17m deep rear gardens backing onto the service road and are screened from the application site by trees along the boundary, therefore, the proposals are not considered to unduly affect the privacy and general amenities of these properties.

6.6.4 Concerns have previously been raised by residents regarding potential smells and noise from the proposed ventilation duct, but Environmental Health raise no objections to the details of the revised extract duct.

6.7 CIL

6.7.1 The Mayor of London's CIL is a material consideration. CIL is payable on this application but the applicant has not completed the relevant form.

7 CONCLUSION

7.1 The revised proposal is not now considered to result in a bulky or incongruous form of development within the surrounding area, nor would it be significantly overbearing to neighbouring properties. It would provide an adequate standard of accommodation for future occupiers, and would not have a detrimental impact on traffic or parking in the surrounding area. The details of the extract duct are now considered acceptable.

7.2 The provision of one additional dwelling unit on the site would make a minor contribution towards meeting the Council's housing targets, which also weighs in its favour.

7.3 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 BE GRANTED (Amended documents received 16.12.21, 18.02.22 & 27.04.22)

The following conditions are suggested:

- 1. Standard time limit**
- 2. Standard compliance with plans**
- 3. Accommodation to be used in conjunction with main use of commercial unit only**
- 4. Slab levels**
- 5. Details of sound insulation between restaurant and live/work flat**
- 6. Refuse storage**
- 7. Implementation of kitchen extract system**
- 8. Materials in accordance with plans**

Informatives:

1 CIL