

LONDON BOROUGH OF WALTHAM FOREST

Committee/Date:	Planning – 02 nd May 2023
Application reference:	223388
Applicant:	Mr & Mrs Champion
Location:	38 Ropers Avenue, Chingford, London, E4 9EQ
Proposed development:	Construction of a dropped kerb to allow vehicular access to front of property including alterations to grass verge.
Wards affected:	Larkswood
Appendices:	None

1 RECOMMENDATION

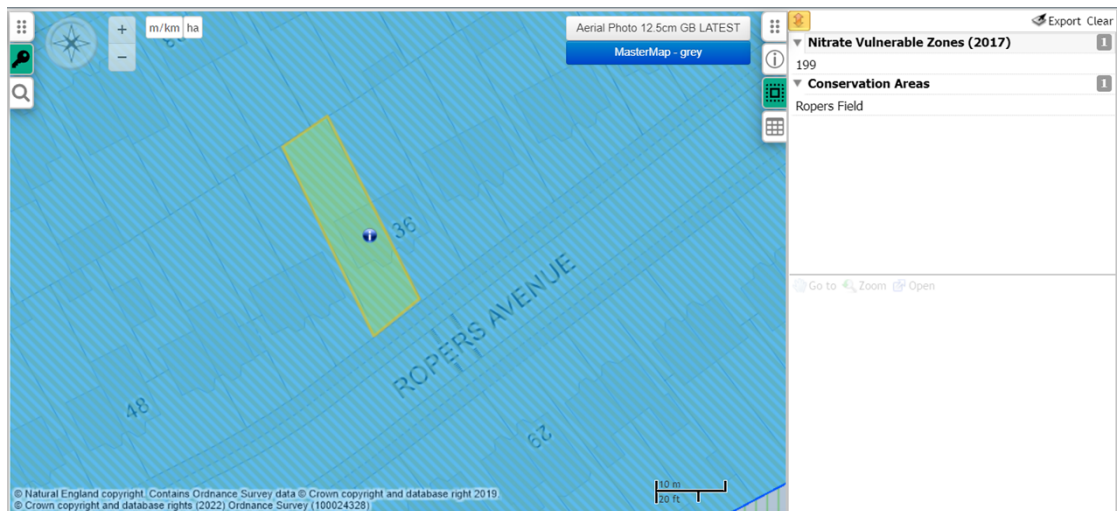
- 1.1 That planning permission is REFUSED with reasons.

2 REASONS REFERRED TO COMMITTEE

- 2.1 Application has been referred to committee by Cllr Moss.

3 SITE AND SURROUNDINGS

- 3.1 The application site is a semi-detached two storey property located to the north of Ropers Avenue, Chingford. The property is located on a large rectangular plot with a hipped roof form and a large front garden with privet hedge to part of the front boundary.
- 3.2 The proposal site is residential in use and is located within Ropers Field Conservation Area.
- 3.3 Ropers Field Conservation Area is characterised by low-density development and semi-detached houses which echo the Garden City design. The front privet hedges and grass verges along the public highway remain as original features of the dwellings are identified as key features of the conservation area.
- 3.4 Site visit was held on 21/12/2022 and officer noted that some properties, including the application site have trimmed back the hedges and removed the small metal gates which were originally situated to the front garden. Applicant has confirmed that the hedge and gate were removed in January 2022.



4 APPLICATION PROPOSAL

- 4.1 The application is sought for the construction of a dropped kerb to allow vehicular access to front of property including alterations to grass verge.
- 4.2 The existing grass verge fronting Ropers Avenue would be partially removed to facilitate the formation of a dropped kerb. The proposed parking area to the front garden would be built with permeable paving. Existing paving to the north of the front garden would be replaced by planting, along the existing hedges.
- 4.3 This application follows previously refused applications (200373 and 221453) at the site, as detailed within the planning history section of this report. That application was refused on the following grounds:
- 4.4 The proposal would be an unacceptable addition to the street scene and would result in harm to the character of the host site and the conservation area.
- 4.5 The current proposal has not addressed the above issues. Compared to the refused schemes, the current design does not have any significant changes. The additional details only relate to a proposed drainage and an indication of possible future extension of dropped kerb on 40 Ropers Avenue.
- 4.6 Applicant has submitted amended plans (dated 13/02/2023) to include proposed soft landscaping to the front garden area, replacing existing hard paving, next to the proposed parking space.

5 RELEVANT SITE HISTORY

A. Planning

- 5.1 200373 - Householder Planning - Provision of dropped kerb to facilitate vehicular access within the front garden - Refused (with reasons) 14-05-2020
Appeal reference: APP/U5930/D/20/3253783 - Appeal Dismissed 14/09/2020
Reasons: the proposed dropped kerb would not preserve or enhance the character or appearance of Ropers Field CA and would fail to comply with national and local policies.

- 5.2 221453 - Householder Planning - Construction of a dropped kerb to allow vehicular access to front of property including alterations to grass verge - Refused (with reasons) 06-07-2022

Reasons: the proposal would be an unacceptable addition to the street scene and would result in harm to the character of the host site and the conservation area.

Note: the current application is a re-submission of the previously refused schemes under 200373 and 221453 and the above refusal reasons has not been addressed.

B. Pre-Application

- 5.3 None

C. Enforcement

(i) Enforcement Investigations

- 5.4 IN_531789 - Problem with building works in a conservation area (installation of a new porch, a gate and a dropped kerb) - Complaint received 03-08-2020 - Not investigated, repeated complaint below:

- 5.5 IN_531791 - Building works in a conservation area (installation of a new porch, a gate and a dropped kerb) - Complaint received 03-08-2020 - Not investigated, Enforcement Officer confirmed in an email dated 05.08.2020 that during site inspection, no relevant works has been identified. Enforcement Closure Report created on 22-07-2022 yet not completed nor delivered.

(ii) Enforcement Notice

- 5.6 None

D. Adjacent Site

- 5.7 30 Ropers Avenue

193018 - Alterations to boundary treatment and provision of dropped kerb to facilitate vehicular access and formation of associated hardstanding within front garden. (Amended description) - Approved (with Conditions & Informatives) 18/11/2019

212920 - Alterations to boundary treatment and provision of dropped curb to facilitate vehicular access and formation of associated hard-standing within front garden, with gated access - Refused (with Reasons) 10/11/2021

Reasons: The application for the retention of boundary treatment would be an unacceptable addition to the street scene and would result in harm to the character of the host site and the conservation as a whole.

- 5.8 41 Ropers Avenue

193189 - Formation of hardstanding to front of property together with dropped kerb/vehicle crossover, together with installation of front gate - Approved (with Conditions & Informatives) 15/11/2019

6 PUBLIC CONSULTATIONS

6.1 Public Consultation

The Council circulated 9 consultation letters to local residents on the 02nd Dec 2022, as follows:

- 42 Inks Green, Chingford, London, E4 9EL
- 33 Ropers Avenue, Chingford, London, E4 9EG
- 29 Ropers Avenue, Chingford, London, E4 9EG
- 36 Ropers Avenue, Chingford, London, E4 9EQ
- 40 Ropers Avenue, Chingford, London, E4 9EQ
- 31 Ropers Avenue, Chingford, London, E4 9EG
- 27 Ropers Avenue, Chingford, London, E4 9EG
- 40 Inks Green, Chingford, London, E4 9EL
- 35 Ropers Avenue, Chingford, London, E4 9EG

The application was advertised via one site notice on the 09th Dec 2022 and one press notice on the 8th Dec 2022.

The Council received no responses as a result of the public consultation.

6.2 Statutory Consultation

Highways Officer: No objection to the crossover. The Depth of the front garden is over 4.8 meters and meets the criteria. The applicant will need to ensure that they comply with the new vehicle crossover policy.

Tree Preservation and Urban Greening Officer: No objection raised. A mature cherry tree is situated on the highway adopted grass verge opposite to 38/36 Ropers Avenue, however is not shown on plan. The proposed works might affect the root area of the tree. As such, in the event of approval, an Arboricultural Method Statement and a detailed soft landscaping scheme shall be submitted and approved by Tree Preservation and Urban Greening Team.

Design and Conservation Officer: Objection. The associated Conservation Area Appraisal document notes that the front hedges are identified as 'characteristic and attractive feature' of the conservation area. Whilst it is noted that the front hedge and garden gate have been removed, which have resulted in an erosion of the character and appearance of the site and its setting within the conservation area, the proposed dropped kerb would result in further removal of greenery to the front of the site in that a substantial area of the grass verge would be removed to facilitate the works. As such, the proposal would

still result in harm to the character and appearance of the conservation area.
Development Plan

7 DEVELOPMENT PLAN AND MATERIAL PLANNING CONSIDERATIONS

Development Plan

The London Plan (2021)

7.1 On Tuesday 2nd March 2021 the Mayor of London published the replacement London Plan. From this date it forms part of the Development Plan for the purpose of determining planning applications. The 2021 London Plan supersedes the 2016 London Plan, which no longer has any effect. The relevant policies within the London Plan 2021 are:

- Policy D1 London's form, character and capacity for growth
- Policy D4 Delivering good design
- Policy HC1 - Heritage conservation and growth
- Policy SI 12 Flood risk management
- Policy SI 13 Sustainable drainage
- Policy T6 Car Parking

Waltham Forest Local Plan Core Strategy (2012)

7.2 The Waltham Forest Core Strategy (2012) was adopted on 1st March 2012.

7.3 The Core Strategy contains 16 policies designed to deliver the Council's vision for the physical, economic, environmental and social development of the Borough. These policies will be used to direct and manage development and regeneration activity up to 2026.

7.4 The policies considered relevant to this application are as follows:

- Policy CS4: Climate Change
- Policy CS5: Enhancing Green Infrastructure and Biodiversity
- Policy CS12: Protecting and Enhancing Heritage
- Policy CS13: Promoting Health and Well Being
- Policy CS15: Well Designed Buildings, Places and Spaces

Waltham Forest Local Plan Development Management Policies (2013)

7.5 The Local Plan Development Management Policies Document was adopted in November 2013. This sets out the borough-wide policies that implement the Core Strategy and delivering the long-term spatial vision and strategic place shaping objectives. There is an emphasis on collaboration and a positive proactive approach to reaching a balance agreement that solves problems rather than a compromise that fails to meet objectives. The following policies are relevant in this case:

- Policy DM4: Residential Extensions and Alterations
- Policy DM7: External Amenity and Internal Space Standards
- Policy DM16: Parking
- Policy DM28 - Heritage Assets
- Policy DM29: Design Principles, Standards and Local Distinctiveness

- Policy DM32: Managing Impact of Development on Occupiers and Neighbours
- Policy DM34: Water
- Policy DM35: Biodiversity and Geodiversity

Highams Park Neighbourhood Plan

7.6 The Plan was adopted on the 21st May 2020 and has the aim to facilitate development in the Highams Park area that provides suitable accommodation and facilities for the anticipated growth in the area's population. The document seeks to protect and enhance the existing open spaces and revitalise/improve the Highams Park District Centre by delivering improved civic and community facilities together with the residential environment of the area. The policies considered relevant to this application are the following:

- CDP1: Heritage Assets
- CDP2: Character and Design

MATERIAL PLANNING CONSIDERATIONS

National Planning Policy Framework (2021)

- 7.7 The National Planning Policy Framework was revised on 20 July 2021 and sets out the government's planning policies for England and how these are expected to be applied. It is a material consideration in planning decisions. It contains a presumption in favour of sustainable development, described as at the heart of the framework.
- 7.8 This revised Framework replaces the previous National Planning Policy Framework published in March 2012, revised in July 2018 and updated in February 2019.
- 7.9 For decision-taking the NPPF states that the presumption means "approving development proposals that accord with an up-to-date development plan without delay" and 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 "...any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".
- 7.10 The NPPF gives a centrality to design policies; homes should be locally led, well-designed, and of a consistent and high-quality standard. Local planning authorities (LPAs) are to make sure that the quality of approved developments does not materially diminish 'between permission and completion, as a result of changes being made to the permitted schemes'
- 7.11 The specific policy areas of the NPPF considered to be most relevant to the assessment of this application are as follows:
- Achieve well-designed places
 - Conserving and enhancing the historic environment

Shaping the Borough – London Borough Waltham Forest Draft Local Plan
Part One Submission Draft (April 2021)

- 7.12 The Draft Local Plan underwent Regulation 18 public consultation between July 2019 and September 2019 and consultation on the proposed Submission Version between 26th October 2020 and 14th December 2020. It has now been submitted to the Secretary of State for examination. This is an early stage of the plan making process and less weight will be given to its policies.
- 7.13 The Draft new Local Plan proposes to be a “combined” document comprising 12 thematic policies and a revised spatial strategy, splitting the borough into North, South and Central Waltham Forest.
- 7.14 The Draft Local Plan clearly sets out the Council’s growth agenda which seeks to facilitate the sustainable delivery of 27,000 new homes and 46,000sqm of employment floorspace over the next plan period. The draft policies relating to housing type and mix are reflective of the London Plan (2021).
- Policy 56 Delivering High Quality Design
 - Policy 58 Residential Space Standards
 - Policy 59 Amenity
 - Policy 68 Managing Vehicle Traffic
 - Policy 74 Conservation Areas
 - Policy 81 Biodiversity and Geodiversity

Other relevant policies and guidance

- Supplementary Planning Document Residential Extensions and Alterations (2010)
- Supplementary Planning Document Urban Design (2010)
- Ropers Field Conservation Area Appraisal & Management Plan (2006)

Local Finance Considerations

- 7.15 Local Finance Considerations are a material consideration in the determination of all planning applications. Local Finance Considerations can include either a grant that has been or would be given to the Council from central government or money that the council has received or will or could receive in terms of Community Infrastructure Levy (CIL).
- i) There are no grants which have been or will or could be received from central government in relation to this development.
- ii) The Council has not received and does not expect to receive any income from LBWF CIL in relation to this development.
- iii) The Council has not received and does not expect to receive any income from Mayoral CIL in relation to this development.
- 7.16 Statutory DutyThe Council has a statutory duty under Sec 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to

the desirability of preserving or enhancing the character or appearance of that area.

8 ASSESSMENT

8.1 The main issues for consideration, in relation to the proposed development are as follows:

- A. The impact of the development on the character and appearance of the area;
- B. The visual and residential amenity;
- C. Highway safety;
- D. Flood risk; and
- E. Trees

A. Character and Appearance

- 8.2 Policy DM4 and DM29 of the Waltham Forest Local Plan - Development Management Policies (2013) seeks to ensure developments enhance local character in relation to the architectural integrity of the existing building and the surrounding area. Policy DM28 seeks to preserve or enhance the significance, including character or appearance of the conservation areas. Policy CDP2 of the Highams Park Neighbourhood Plan (2020) continues this approach, stating that development shall be of high-quality design and should complement the existing character and appearance of the Area. In all development there shall be a presumption in favour of preserving the distinct character and appearance of the Area, as well as the views across it.
- 8.3 The London Plan (2021) Policy HC1 seeks to ensure that development proposals affecting heritage assets and their settings, should conserve their significance. This policy applies to designated and non-designated heritage assets.
- 8.4 The proposal site is located within the Ropers Field Conservation Area. The area consists of symmetrical semi-detached post-war dwellings, each originally built with spacious front gardens bounded by privet hedges and metal gates. The Ropers Field Conservation Area Appraisal & Management Plan notes that the front hedges are identified as 'characteristic and attractive feature' of the conservation area and the continued loss of front garden privet hedges, the complete opening up of front gardens and replacement with paved areas, the increase in use of front gardens for off-street car parking has introduced increasingly urban elements into the streetscape to the detriment of the conservation area. The continued development of front boundaries in the area would gradually erode the special qualities that justified the original designation.
- 8.5 As the Planning Inspector as part of the dismissed appeal against application reference 200373 concluded, although there are a few planning applications for dropped kerbs have been granted in recent years, they do not set a binding precedent for other similar developments to take place. Besides, the application site is located on the best preserved row of original frontages within Ropers Avenue, as such 'the dropped kerb would neither preserve or enhance the CA.' There would be no public benefit that would outweigh the less than

substantial harm caused by the development. It is noted that the current application proposes a "possible future extension of dropped kerb" to the adjacent property on 40 Ropers Avenue. However, even if No.40 applies for the relevant development, the contribution to public interest would still be considered minimal.

- 8.6 It is noted that the front hedge and garden gate have been removed since January 2022, which is after the appeal and before the previously refused application 221453. Planning Officers agree with the previous refusal and reiterate that the removal of front hedge and garden gate have resulted in an erosion of the character and appearance of the site and its setting within the conservation area. As confirmed by the Council's Design and Conservation Officer, the grass verge also forms part of an important characteristic of this section of the streetscape on Ropers Avenue, the proposed dropped kerb would result in further removal of greenery to the front of the site in that a substantial area of the grass verge would be removed to facilitate the works. As such, the proposal would result in harm to the appearance of the street scene and the character of conservation area.
- 8.7 The applicant has argued that on-street parking is dangerous because Ropers Avenue is a busy vehicle route between Highams Park and Chingford Mount and, in particular for accessing the car seat on the street side of the vehicle. The applicant has highlighted that a neighbour on Winchester Avenue was hit by a car while removing a baby from the back seat of the car. In addition the replacement of part of the paved front garden with soft landscaping is presented as an improvement for surface water drainage.
- 8.8 While the safety concern is appreciated, on-street residential parking is widespread in the borough and across London. This is concern is not sufficient to justify a proposal that is it harmful to the conservation area. The replacement of hard paving with soft landscaping would have some public benefit by reducing the amount of surface water run-off. However, this is not considered sufficient to outweigh the harm to the conservation area, in the context of the balancing exercise required by paragraph 202 of the NPPF.
- 8.9 In light of the above, the proposed development would be contrary to Policies CS12 and CS15 of the Waltham Forest Local Plan - Core Strategy (2012), Policies DM4, DM28, DM29 of the Waltham Forest Local Plan - Development Management Policies (2013), Policy HC1 of the London Plan (2021) and Policy CDP2 of the Highams Park Neighbourhood Plan (2020).

B. Residential Amenity

- 8.10 Policy DM32 seeks to maintain the amenity of occupiers of adjoining properties in terms of daylight/sunlight, outlook and privacy.
- 8.11 It is considered that due to the nature of the development the proposal would not reduce the residential amenity of the surrounding neighbouring properties in any discernible way by the development of a dropped kerb. The proposal would not result in a loss of light, privacy or a sense of enclosure.
- 8.12 As such, in terms of neighbouring amenity, the proposal is considered to be acceptable and satisfies the requirements Policy DM32 of the Local Plan Development Management Policies (2013).

C. Highways

- 8.13 Policy DM16 states that the Council would seek to effectively manage parking by encouraging car-free and car-capped development in locations that have high levels of parking stress. Adding that in car-free and car-capped developments, the Council would limit on-site car parking for developments to spaces designed for disabled people and operational and service needs; and by the introduction of controlled parking zones in the vicinity of the development.
- 8.14 The application property is not located within a Controlled Parking Zone. There is on-street parking along both sides of Ropers Avenue.
- 8.15 The depth of the front garden exceeds the minimum required 4.8m and meets the criteria as confirmed by the Council's Highways Officers. It is also noted from site visit and submitted drawings that a reasonable sized car could be comfortably park in the existing front garden area without any overhang onto the public highway. There would be sufficient space for pedestrians to access the front door leading into the property with a car parked to the front garden.
- 8.16 No visibility issues affecting safety for highway users were identified from site visit and plans. Ropers Avenue is a long linear road, and without any prominent structures and street furniture. Although there is a street tree located near the application site, the proposed works would set away approximately 4m away from the tree. As such there are no significant visibility issues adjudged to affect the entry into and out of the proposed site and no objection was raised from the Council's Highways Officers.
- 8.17 As confirmed by the Highways Officers, there is no objections raised to the proposal regarding road and pedestrian safety. As such the proposed work would be considered acceptable in terms of highway impact.

D. Flood Risk

- 8.18 Policies CS4 and DM34 of the Local Plan, Policies 81 and 93 of the Draft Local Plan, SI12 and SI13 of the London Plan seek to reduce the vulnerability of the environment to flooding. Whilst permeable pavers provide some soakage, they are not as effective without an area of natural soak away and the proposal would increase flood risk in terms of increased runoff from the site and increased pressure on stormwater systems. Given climate concerns and policies regarding flooding and biodiversity proposals should seek to maintain an area of soft landscaping.
- 8.19 The application site is not located within any flood zone. It is noted on plans that the proposed parking would be built with permeable surface to facilitate the drainage of surface water.
- 8.20 Besides, the proposed planting at the front garden would cover approximately half of the front garden to mitigate potential flood risk. Considering the permeable paving and sufficient soft landscaping, the flood risk incurred from the proposal would not be significant nor unreasonable.

E. Trees and Biodiversity

- 8.21 In terms of Biodiversity and Geodiversity, Policy DM35 of the Development Management Policies (2013) advises that development proposals will not normally be granted planning permission where they pose adverse direct or indirect effects on any land or area within the identified Sites of Special Scientific Interest (SSSI), Sites of Importance to Nature Conservation (SINC), Special Areas of Conservation (SAC), RAMSAR sites, Special Protection Areas (See Schedules 13 to 16 and 24 to 26 and the Policies Map) or to protected or priority species.
- 8.22 The application site is not located within any of the above designated areas. There are no trees with Tree Protection Order present on site.
- 8.23 Council's Tree Preservation and Urban Greening Officers were consulted and it is noted that a mature cherry tree is situated on the highway adopted grass verge opposite to 38/36 Ropers Avenue, however it is not shown on plan.
- 8.24 The tree is likely to have the majority of its roots in the grass verge area. The proposal would remove part of the grass verge and might incur impacts on the tree roots.
- 8.25 The amended plan (dated 13/02/2023) was submitted to incorporate more soft landscaping to the front yard area to improve biodiversity.
- 8.26 As such, to access and mitigate the impacts on the mature tree, an Arboricultural Method Statement and a detailed soft landscaping scheme shall be submitted and approved by Tree Preservation and Urban Greening Team if the proposal is approved.

9 CONCLUSION

- 9.1 The proposed dropped kerb and vehicle cross-over would be an unacceptable addition to the street scene and would result in harm to the character of the application site and conservation area. The proposal would result in the removal and loss of existing public grass verge which forms part of an important characteristic of this section of the streetscape on Ropers Avenue. The proposed development would be contrary to Policies HC1 of the London Plan (2021), CS12 and CS15 of the Waltham Forest Local Plan - Core Strategy (2012), DM28, DM29 of the Waltham Forest Local Plan - Development Management Policies (2013), Policy CDP2 of the Highams Park Neighbourhood Plan (2020) and Ropers Field Conservation Area Appraisal & Management Plan (2006).

10 ADDITIONAL CONSIDERATIONS

Public Sector Equality Duty

- 10.1 In making your decision you must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

- 10.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- 10.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
- 10.4 C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 10.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 10.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149 is only one factor that needs to be considered, and may be balance against other relevant factors.
- 10.7 It is not considered that the recommendation to grant permission in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 10.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as the London Borough of Waltham Forest to act in a manner that is incompatible with the European Convention on Human Rights.
- 10.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

11 RECOMMENDATION

- 11.1 The Planning Committee is requested to refuse planning permission for the reasons set out out below.
 - 1. The proposal for a dropped kerb/vehicle cross-over would be an unacceptable addition to the street scene and would result in harm to the character of the host site and the conservation as a whole. The proposal would result in the removal and loss of existing public grass verge which forms part of an important characteristic of this section of the streetscape on Ropers

Avenue. The proposed development would be contrary to Policies CS12 and CS15 of the Waltham Forest Local Plan Core Strategy (2012), Policies DM4, DM28, DM29 and DM32 of the Waltham Forest Local Plan Development Management Policies (2013) and Policy HC1 of the London Plan 2021.

Informative(s)

1. The applicant is advised that the application has been considered on the basis of drawing number(s):
 - 2021.BP, dated 21.11.22
 - 2021.LP, dated 21.11.22
 - 2021.001, REV A, dated 13.02.23
 - 2021.002, dated 21.11.22
 - 2021.003, dated 21.11.22
 - Amended Planning Statement, dated 13.02.23
2. To assist applicants the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website and offers a pre planning application advice service. The scheme does not comply with guidance and no pre application were entered into.