

## LONDON BOROUGH OF WALTHAM FOREST

Committee/Date:	Planning – 5 <sup>th</sup> October 2021
Application reference:	201184
Applicant:	MR AHSAN KHAN & MR MUNIR KHAN
Location:	40 - 42 Hatherley Road, Walthamstow, London, E17
Proposed development:	Construction of single storey rear and rear infill extensions to 40 & 42 Hatherley Road.
Wards affected:	William Morris
Appendices:	None

### 1 RECOMMENDATION

1.1 Recommendation to GRANT planning permission subject to conditions.

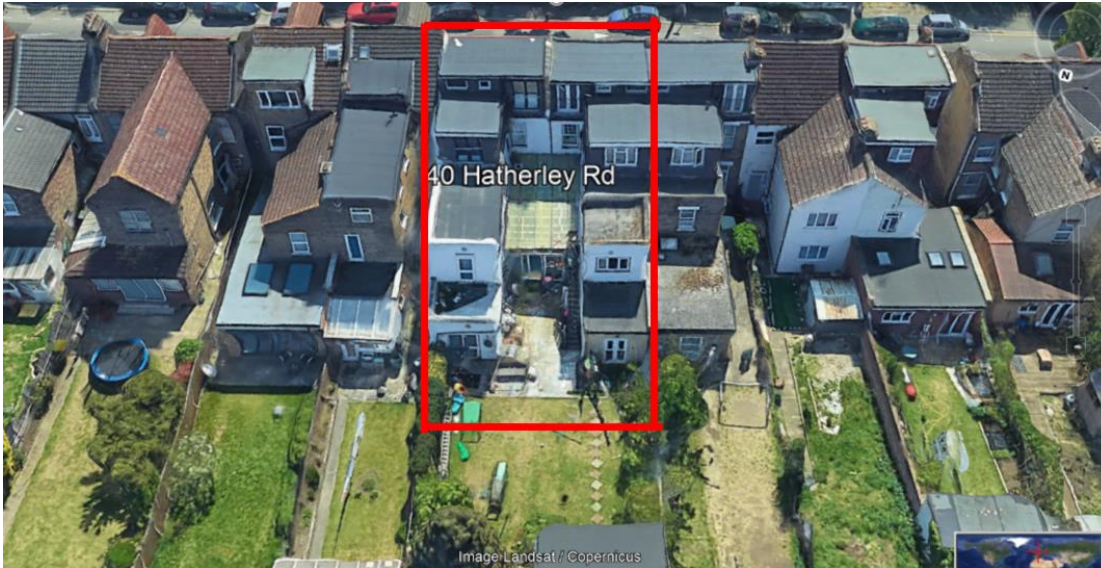
### 2 REASONS REFERRED TO COMMITTEE

2.1 One of the applicants is Councillor Ahsan Khan who owns 40 Hatherley Road.

### 3 SITE AND SURROUNDINGS

- 3.1 The application site comprises of two properties, both of which are two-storey terrace residential properties located on the northern side of Hatherley Road, Walthamstow. Each property has undergone extensive alterations in their rear portions.
- 3.2 Each five-bedroom property has been extended by way of a part two-storey, part single storey rear extension, which at ground, first floor and second floor roof level largely mirror each other. At ground floor level a centrally located single storey conservatory extension links both properties together. An officer site visit to the properties confirmed that the existing ground floor conservatory links both properties and is used by both sets of occupiers.
- 3.3 The single storey rear extension attached to each of the property's two-storey extensions is to the same depth as the majority of properties along this road. The two rear gardens of the properties are also used as one garden space with no boundary fence between them.
- 3.4 The neighbouring property at 38 Hatherley Road is extended by way of an original two-storey rear projection with a single storey rear extension attached to this that extends to the same depth as the extension at 40 Hatherley Road. The neighbouring property at 44 Hatherley Road is extended similarly to 42 Hatherley Road apart albeit without the additional first floor rear element found on this property. This property also has a single storey rear extension to the same depth as 42 Hatherley Road.

- 3.5 The property is not located within a Conservation Area, is not listed and is not subject to an Article 4 direction.
- 3.6 Below, the aerial image showing the two properties alongside each other with No.40 on the left and No.42 on the right outlined in red.
- 3.7



- 3.8 The photograph below, shows the existing rear portions of the two properties at 40 (left) and 42 (right) Hatherley Road showing rear dormer roof extensions, first floor rear extensions and single storey rear extensions, with a conservatory extension between the two properties.



#### 4 APPLICATION PROPOSAL

- 4.1 The application seeks permission for the construction of a single storey rear and rear infill extension to 40 & 42 Hatherley Road.

- 4.2 The proposed scheme would remove an existing conservatory extension that is positioned in the gap between the two properties at 40 and 42 Hatherley Road and replace this with a single storey infill extension and a rear courtyard for each property.
- 4.3 The proposed single storey rear infill extension would be 9.68m in length and 4.5m in width and would be positioned up to the rear elevation of both of the two single storey rear extensions at the subject properties. At the rear of the infill extension and set back from the rear wall of each property by 3.63m would be a rear courtyard. The extension, although built as a single structure, would be divided into two sections, one half lengthways for each property.
- 4.4 The structure would have a flat roof with a height of 2.94m. The infill extension would have four skylights, two for each property, in the roof of the infill section leading down towards the rear courtyards where an ensuite bedroom is located in each half of the structure, and two large skylights that would provide light into both the infill extension and the two existing single storey rear extensions at the properties.
- 4.5 The two large skylights would have a height of 300mm above the height of the roof. On the rear elevation of the structure would be two small side windows at each side and two sets of bi-folding doors towards the centre of the extension as it faces the two rear gardens.
- 4.6 The structure would have render walls to match the existing, flat roof and uPVC windows and doors to match those on the two properties.
- 4.7 The scheme has been amended to remove two rear extensions were to extend from each property's existing rear extensions. These would have extended 3m beyond the established rear building line along this street. The proposal including these extensions, were considered to be an overdevelopment of the site, lacking sufficient subordination to the existing properties and being out of keeping with the character of properties in the area.
- 4.8 There was also a concern that the additional extensions, which would have enabled the properties to increase their bedrooms to 6 from 5 would reduce the amount of available rear garden amenity space to an unacceptable degree for properties of this size.

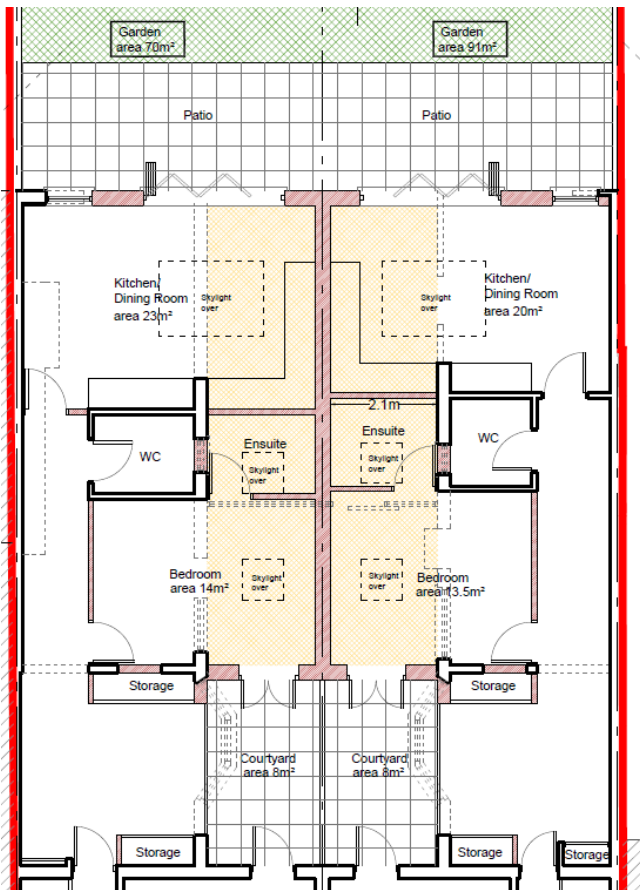


Image: The cream coloured area in the centre of the plan above shows the location of the proposed infill extension. The plan also shows the rear courtyards created between the extension and the rear wall of each property.

## 5 RELEVANT SITE HISTORY

### A. Planning

- 5.1 **40 Hatherley Road - 900350** - ERECTION OF PART TWO STOREY, PART SINGLE STOREY REAR EXTENSION. Approved with conditions 19-12-1990
- 5.2 **42 Hatherley Road - 900117**– CONVERSION OF DWELLINGHOUSE TO FORM TWO SELF CONTAINED FLATS - Approved with conditions 29-11-1990
- 5.3 **42 Hatherley Road – 880614** – RETENTION OF PART 2 STOREY, PART SINGLE STOREY REAR EXTENSION - Approved 18-10-1989

### B. Pre-Application

- 5.4 No pre-application meeting was held with Council in respect to this application.

### C. Enforcement

- 5.5 40 Hatherley Road – Ref: IN\_529900 – Change of Use without necessary planning permission – Opened 22/6/2020. No breach found, use of property found to be Class C3 dwelling house so case to be closed 08/09/2021.

- 5.6 42 Hatherley Road – Ref: IN\_529902 – Change of Use without necessary planning permission – Opened 22/6/2020. No breach found, use of property found to be Class C3 dwelling house so case to be closed 08/09/2021.

#### **D. Adjacent Sites**

##### **38 Hatherley Road**

- 5.7 **770679** – SINGLE STOREY REAR EXTENSION – Permitted Development 14/11/1998

##### **44 Hatherley Road**

- 5.8 **930697** – ERECTION OF A SINGLE STOREY REAR EXTENSION - Approved with conditions 14/02/1994
- 5.9 **891306**- ERECTION OF PART TWO STOREY PART SINGLE STOREY REAR EXTENSION - Approved with conditions 04/08/1989
- 5.10 **620133** - ALTERATIONS TO FRONT ELEVATION - Approved 30/07/1962

#### **6 PUBLIC CONSULTATIONS**

- 6.1 The application was put out for public consultation in May 2020, and again between 23rd August and 6th September 2021. A site visit took place on 26<sup>th</sup> October 2020.

The following properties have been consulted:

7-15 Boleyn Close, E17 6QZ (odd)

8-16 Boleyn Close, E17 6QZ (even)

38 – 44 Hatherley Road, E17 6SF

- 6.2 The Council received 1 letter of objection as a result of the public consultation. The objection was for the scheme submitted during the first public consultation in May 2020. The objections refer to the scheme before it was amended in 2021.

- 6.3 The representations relating to the issues of concerns raised are detailed in the table below and matters are also addressed within the “Assessment” section of this report.

<b>Objection received</b>	<b>Response</b>
ern over overshadowing and a feeling of being ‘boxed in’.	proposed extensions are infill and therefore would not impact either neighbouring property by way of overshadowing or creating a sense of enclosure.
ern over height of party wall.	evised scheme is within the footprint of the two properties and therefore would have no projecting party wall impacting any other property.

ern over impact on access to light.	revised scheme will remain within the curtilage of the two properties at 40 and 42 Hatherley Road, and therefore would not impact either neighbouring property by way impacts on access to light.
ct on rear amenity garden space	revised scheme will not project in depth past the rear extensions at 40 and 42 Hatherley Road, and therefore would not have any impact on the existing rear amenity garden space at either property.

## **7 INTERNAL CONSULTATION**

7.1 No internal consultation was required for the application.

## **8. DEVELOPMENT PLAN**

### National Planning Policy Framework (2021)

- 8.1 The National Planning Policy Framework 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.
- 8.2 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".
- 8.3 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'
- 8.4 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

### The London Plan 2021

- 8.5 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 policies relevant to this application are:

- D1 London's form, character and capacity for growth
- D4 Delivering good design

#### Waltham Forest Local Plan Core Strategy (2012)

- 8.6 The Waltham Forest Core Strategy (2012) was adopted on 1st March 2012.
- 8.7 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.
- 8.8 The policies considered relevant to this application are as follows:
- CS13: Promoting Health and Well-Being
  - CS15: Well Designed Buildings, Places and Spaces

#### Waltham Forest Local Plan Development Management Policies (2013)

- 8.9 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:
- DM4 - Residential Extensions and Alterations
  - DM7 – External Amenity and Internal Space Standards
  - DM29 - Design Principles, Standards and Local Distinctiveness
  - DM32 - Managing Impact of Development on Occupiers and Neighbours

#### Epping Forest Special Area of Conservation

- 8.10 Natural England issued an Interim Advice Letter on 6th March 2019, in relation to the Epping Forest SAC (Special Area of Conservation), which is based on updated research on the impacts on the SAC and proposed measures to mitigate those impacts with particular reference to those understood to arise from the recreational impact generated by occupiers of new development. The Local Planning Authority is a "competent authority" under the Habitat Regulations and is legally obliged to take Natural England's advice into account in decision making and attach great weight to it.
- 8.11 Waltham Forest shares a boundary with the Epping Forest Special Area of Conservation and following research in the form of a visitor survey by Footprint Ecology, has been found to fall within a wider Zone of Influence (ZOI) based on the distance the majority of visitors will travel to visit Epping Forest SAC. This report identified that 75% of visitors travelled up to 6.2Km to the SAC and as result of the



whole of the London Borough of Waltham Forest falls within this ZOI for recreational pressure. It is anticipated that new residential development within this ZOI constitutes a LSE (Likely Significant Effect) on the sensitive interest features of the SAC through increased recreational pressure, either when considered 'alone' or 'in combination'.

- 8.12 The Council as Local Planning Authority is obliged to ensure that any grant of planning permission would have sufficient mitigation measures in place so as to ensure that there would be no harmful impact on the Epping Forest SAC arising from LSE.
- 8.13 Natural England's Interim Guidance assumes that all new residential development within Waltham Forest will create an impact on the Epping Forest SAC which will need to be mitigated. The Interim Guidance suggests that mitigation measures should take a threshold approach whereby development of 100 dwellings or more is treated differently to schemes of 99 dwellings or less.
- 8.14 For schemes of 99 units or less, an initial draft of costed Strategic Access Management Measures (SAMM) has been prepared by the City of London Conservators of Epping Forest. This package of measures is to be used in the interim period until the full Mitigation Strategy has been agreed and adopted. However, as an indication under the interim Strategic Access Management Measures, Waltham Forest is expected to contribute circa £1m towards the mitigation works which equates to 37% of the total.
- 8.15 For applications received after 1st April 2019 a SAMM levy is requested for all new residential developments of 10 units or more to contribute towards the Epping Forest mitigation. This is calculated at £100 per unit. The SAMM levy is not being sought for schemes of less than 10 units as the administrative costs are greater than the amount collected. Natural England is supportive of this approach, provided the total expected contribution is delivered. In this case, the change of use does not warrant a SAMM contribution.

## **9. MATERIAL PLANNING CONSIDERATIONS**

### Other policies

- Waltham Forest Supplementary Planning Document Urban Design (2010)
- Department for Communities and Local Government Technical Housing Standard – Nationally Described Space Standard (2016)
- Residential Extensions and Alterations SPD (2010)

### Emerging Policy

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

- 9.1 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.

- 9.2 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.
- 9.3 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). The relevant policies are:
- Policy 58 Residential Space Standards
  - Policy 59 Amenity
  - Policy 62 - Delivering High-Quality Design

#### Local Finance Considerations

- 9.4 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 but does expect to receive income from LBWF CIL in relation to this development.
  - iii) The Council has not received but does expect to receive income from Mayoral CIL in relation to this development.

## **10. ASSESSMENT**

- 10.1 The main issues for consideration, in relation to the proposed development, are as follows:
- A.** Design and Character
  - B.** Neighbour Amenity
  - C.** Proposed Accommodation and Living Conditions

### **A. Design and Character**

- 10.2 London Plan Policy D4 states that new development should respect the character and existing grain of the area and follow good design principles. Section 12 of the NPPF (2021) requires good design within developments which should be of a high quality and design due to the contribution towards making better places for people. Policy CS15 of the Local Plan seeks to ensure the highest quality architecture and urban design that respond to local context and character. Policy DM29 in the Local Plan requires that all development should have a high standard of design that reinforces

and/or enhances local character and distinctiveness, urban form, massing and detailing.

- 10.3 The proposed rear infill would not be visible from the street scene but would be located in between the two properties at 40 and 42 Hatherley Road.
- 10.4 The structure, at the height, width and length proposed, would be considered proportionate to the existing rear arrangements at both properties. The development also, in only infilling the existing side return of the two properties would not extend beyond the established rear building line of properties, not projecting any further in depth. This would respect the established general urban grain and pattern of development in the area.
- 10.5 It is noted that the existing internal configurations at ground floor for each property is not ideal to meet the needs of larger families. It is considered that the proposed revised scheme would significantly improve the layout and living conditions for the occupants, which is supported and would meet the objectives of policies that encourage good internal design.
- 10.6 Given the proposed proportions of the development alongside the proportions of the existing buildings and the rear amenity area that would remain as existing, and the matching materials as proposed, the scheme would be considered subservient to both the existing dwellings and would not be out of keeping with the surrounding area.
- 10.7 The scheme is considered to accord with policies CS15, DM4 and DM29 of the LBWF Local Plan, policy 56 of the draft new LBWF Local Plan and policies D1 and D4 of the London Plan.

### **B. Neighbour Amenity**

- 10.8 Policies DM4 and DM32 seek to maintain the amenity of occupiers of adjoining properties in terms of daylight/sunlight, outlook and privacy. LBWF will only find development acceptable where it would not cause an unacceptable loss of amenity to adjoining or future occupiers of the development.
- 10.9 Due to the location of the proposed rear infill extension, in between the two properties at 40 and 42 Hatherley Road, and with no projection beyond the rear elevations of either property's existing extensions, the properties at 38 or 44 Hatherley Road would not incur any loss of light, privacy or outlook.
- 10.10 In order to mitigate any adverse impact from the construction of one part of the extension (assessed in this report as a single rear infill extension) against the other, there is a need to ensure that both parts of the extension are built together under one engineering operation. In order to ensure this, a condition is proposed to be attached in the event that the application is approved.
- 10.11 The proposal is considered to comply with policies DM4 and DM32 of the LBWF Local Plan.

### **C. Proposed Accommodation / Living Conditions**

- 10.12 Policy CS2 of the Local Plan states that all new residential units will be required to be of a high quality and design. To ensure that good quality homes are built, to create a

suitable and sustainable living environment for present and future generations and to mitigate against the adverse effects of overcrowding Policy DM7 of the Local Plan and the Technical Housing Standards – nationally described space standard (2015) sets out the required minimum internal standards for new residential units.

- 10.13 It is noted that the scheme proposes two ensuite bedrooms within the proposed infill extension to meet the particular needs of the families. These bedrooms would receive light from the proposed internal rear courtyards and two rooflights which would be considered acceptable. Each bedroom meets the space standards under policy DM7 for a double bedroom and would have acceptable outlook. The scheme does not affect the remaining rear amenity space and therefore sufficient amenity area remains to meet the needs of the families.
- 10.14 As such, the revised scheme would accord with Policies CS2 and CS13 of the Adopted Waltham Forest Local Plan – Core Strategy (2012), Policies DM7 of the Adopted Waltham Forest Development Management Policies (2013), the London Plan Supplementary Planning Guidance Housing (2016) and the Adopted Urban Design SPD (2010).

## **11. CONCLUSION**

- 11.1 Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposal would be acceptable in principle.
- 11.2 The proposed development is not considered to have an adverse impact on the amenities of neighbouring occupiers.
- 11.3 The proposal would be of good quality design and materials and, would have an acceptable impact on the character and appearance of the application site, the street scene and the wider locality.

## **12. ADDITIONAL CONSIDERATIONS**

### Public Sector Equality Duty

- 12.1 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:
- A.** Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - 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).
  - C.** Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 12.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 12.3 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.
- 12.4 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

- 12.5 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.
- 12.6 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.
- 12.7 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.

## **13. RECOMMENDATION**

- 13.1 The Planning Committee is requested to resolve that planning permission be granted subject to the following conditions.

### 13.2 Conditions and Reasons:

- 1. The development hereby permitted shall begin not later than the expiration of three years from the date of this permission.

**Reason:** to comply with the provisions of section 91(1) (a) of The Town and Country Planning Act 1990 (as amended).

- 2. The development hereby permitted shall be carried out in accordance with the approved plans and thereafter maintained as such for the lifetime of the development: 292-50A and 292-51A dated 30th June 2020, 292-20 dated April 2020, 292-53B, 292-54B, 292-55A and 292-56A dated 26th May 2021.

**Reason:** for the avoidance of doubt and in the interests of proper planning.

3. The roof area of the development hereby approved shall not be used as a balcony, roof garden or sitting out area at any time, unless designated/marked as such on the approved plans.

**Reason:** To preserve the privacy and amenities of the adjacent property occupiers, in accordance with Policy CS13 of the adopted Waltham Forest Local Plan – Core Strategy (2012) and Policy DM32 of the adopted Waltham Forest Local Plan – Development Management Policies (2013).

4. The materials to be used for the external surfaces of the development hereby permitted shall match those of the existing building. All new works and works of making good to the retained fabric shall be finished to match the adjacent work with regards to the methods used and to material, colour, texture and profile, unless the prior written approval of the Local Planning Authority is obtained to any variation, or except where otherwise stated on the approved drawings.

**Reason:** To safeguard the visual amenities of the area, in accordance with Policy CS15 of the Waltham Forest Local Plan – Core Strategy (2012) and Policies DM4 and DM29 of the Waltham Forest Local Plan – Development Management Policies (2013).

5. The development hereby permitted shall be carried out as a single development to both properties (40 & 42 Hatherley Road) in accordance with the approved details and neither property shall be extended individually.

**Reason:** To preserve the amenities of each property's occupiers, in accordance with Policy CS13 of the adopted Waltham Forest Local Plan – Core Strategy (2012) and Policy DM32 of the adopted Waltham Forest Local Plan – Development Management Policies (2013).

### 13.3 Informatives:

1. To assist applicants the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website and which offers a pre planning application advice service. The scheme was submitted in accordance with guidance and the decision was delivered in a timely manner.