

## LONDON BOROUGH OF WALTHAM FOREST

Committee/Date:	Planning – 7 <sup>th</sup> July 2026
Application reference:	252999
Applicant:	Mrs Uzma Hussain
Location:	41 Orford Road, Walthamstow, London E17 9NL
Proposed development:	Installation of ventilation duct to rear, painting of shopfront and new signage.
Wards affected:	Hoe Street
Appendices:	None

### 1 RECOMMENDATION

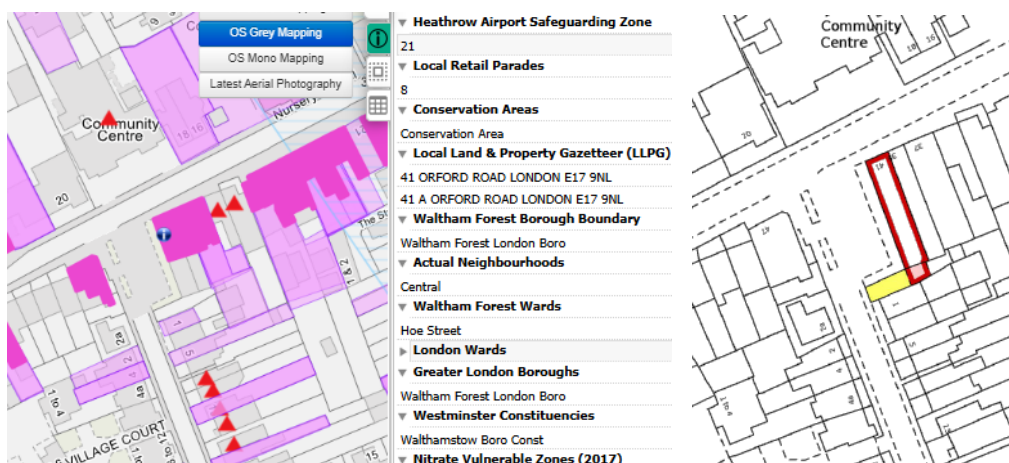
- 1.1 That planning permission is GRANTED subject to conditions and informatives.

### 2 REASONS REFERRED TO COMMITTEE

- 2.1 This application is referred to the Planning Committee due to the number and type of representations received which are contrary to the planning officer's recommendation of approval. The application has also been referred to committee members following a call-in request by ward councillors (Cllrs Dixon, Khan & Mirwitch).

### 3 SITE AND SURROUNDINGS

- 3.1 The property is located on the corner of Orford Road and Eden Road at the heart of the Orford Road Conservation Area, which contains a collection of buildings dating from the early Victorian period onwards and evidences the original commercial and civic centre of Walthamstow before it moved westward following the opening of the railway in the 1870s. The property is typical of the local character: a two-storey building with a commercial unit at ground-floor level featuring a traditional shopfront and residential accommodation above.
- 3.2 The application relates to the ground floor only, which is in lawful use as a restaurant (Class E).



#### **4 APPLICATION PROPOSAL**

- 4.1 The application proposes a new ventilation flue system to replace the existing, which is explained to be no longer fit for purpose.
- 4.2 The application also proposes repainting of the front elevation and new signage. There is no extension proposed to the building itself.

#### **5 RELEVANT SITE HISTORY**

##### 5.1 Planning:

- 252985 – Installation of one hanging sign to front elevation. (Invalid application)
- 000556 – Change of use from A1 to A3 use. Installation of new shopfront. (Approval)
- 990273 – Change of use from retail shop (Class A1) to wine bar (Class A3). Installation of new shopfront. (Approval)
- 950981 – Self-containment of first-floor flat involving installation of new shopfront and roller shutters. (Approval)
- 850242 – Single-storey rear extension. (Approval)
- 790713 – Use of ground floor for printing purposes. (Approval)

##### 5.2 Pre-application:

None

##### 5.3 Enforcement:

(i) Enforcement investigations:

- ENF/240326 – Unauthorised outdoor seating. (Case closed: Not development under S55)
- ENF/240081 – Installation of bay window that protrudes onto footway without planning permission. (Case closed: Breach resolved)
- IN\_383513 – Rear porch. (Case closed: Breach resolved)
- IN\_382481 – Use of first floor as a function suite. (Case closed: No breach found)
- IN\_382462 – Floodlit advertising hoarding erected on public flank wall. (Case closed: Breach resolved)
- IN\_381267 – Installation of air conditioning. (Case closed)
- IN\_380506 – Unauthorised timber and canopy structure. (Case closed: No further action)

(ii) Enforcement notices:

None

##### 5.4 Neighbouring sites:

- 232089 (no. 37) - Construction of a single storey rear extension, air extraction and ventilation system to rear and alterations to fenestration at side elevation. (Approval)

## 6 CONSULTATION

The application site was visited on 18 February 2026 from the public highway only.

### 6.1 Public Consultation

The application was advertised by site notice dated 19 February 2026 and a press notice was published 19 February 2026. The following addresses were consulted by individual letter notification:

- 1-11 (odds) Eden Road, Walthamstow, London, E17 9JS
- 2-2A Eden Road, Walthamstow, London, E17 9JT
- 4-4A Eden Road, Walthamstow, London, E17 9JT
- 16-18A Orford Road, Walthamstow, London, E17 9LN
- 20A-D Orford Road, Walthamstow, London, E17 9NJ
- 22 Orford Road, Walthamstow, London, E17 9NJ
- 33-41A (odds) Orford Road, Walthamstow, London, E17 9NL
- 47, 47A and 47B Orford Road, Walthamstow, London, E17 9NJ
- 49-51 (odds) Orford Road, Walthamstow, London, E17 9NJ

The Council received a total of **27** representations: **2** letters of support and **25** objections.

Representation	Response
<p><i>Objections</i></p> <p>Principally relating to residential amenity from noise, smoke/odour and wider air quality and public health concerns, including effects on nearby homes and the adjoining public square regarding the existing situation.</p> <p>Concerns are raised about adequacy of the proposed system, its discharge height and claimed.</p> <p>Additional issues include impact on conservation area, intensification of use and lack of supporting assessments.</p>	<p>Refer to full amenity assessment section</p> <p>Refer to environmental health assessment section</p> <p>Refer to design and heritage assessment; this is considered the least harmful location</p>
<p><i>General comments</i></p> <p>Dissatisfaction with enforcement service, wider regulatory concerns, general commentary on operations of the business and claimed retrospective nature of the works and the existing planning breach.</p>	<p>It is acknowledged that the system in-situ is a planning breach and this application seeks to resolve this matter through the granting of planning permission</p>

	Separately Environmental Health have been actively dealing with statutory nuisance issues
<i>Supporters</i> Broadly encourage the presence of a local, independent business and welcome new mitigation against fumes and odours	No response

## 6.2 Statutory Consultation

Consultee	Response
Highways	No objection
Environmental Health	No objection subject to standard condition(s) relating to noise impact and odour management
Place & Design	Painting of shopfront is acceptable, new signage acceptable, principle of a flue is acceptable given the operational needs of a restaurant, justification requested for location/height
Planning Enforcement	No comments received (no open investigations)
London Fire Brigade	No objection

## 7 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:

- GG2: Making best use of land
- D1: London's form, character and capacity for growth
- D4: Delivering good design

### Waltham Forest Local Plan LP1 (2024)

7.2 The draft version of the Local Plan underwent Regulation 18 public consultation between July 2019 and September 2019 and consultation on the proposed submission version between 26 October and 14 December 2020. It underwent examination and consultation on proposed modifications concluded on 21 September 2023. The Waltham Forest Local Plan (LP1) was subsequently adopted 29 February 2024 and therefore now forms a key part of the development plan in determining all planning applications. The previous Core Strategy (2012) and Development Management Policies (2013) are superseded by LP1. The relevant policies are:

- 1: Presumption in Favour of Sustainable Development
- 53: Delivering High Quality Design
- 57: Amenity
- 72: Conservation Areas
- 88: Air Pollution

## **8 OTHER MATERIAL PLANNING CONSIDERATIONS**

### National Planning Policy Framework (2024)

- 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 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:
- Achieving well-designed places
  - Conserving and enhancing the historic environment

### Local Finance Considerations

- 8.5 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.

### Other Planning Guidance

8.6 Orford Road Conservation Area Appraisal & Management Plan (2009)

## **9 ASSESSMENT**

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

- A. Principle of development
- B. Urban design and heritage
- C. Residential amenity
- D. Environmental Health
- E. Biodiversity

### **A. Principle of development**

9.2 No objection is raised to the improvement of the existing facilities for the benefit of the conservation area and surrounding occupiers.

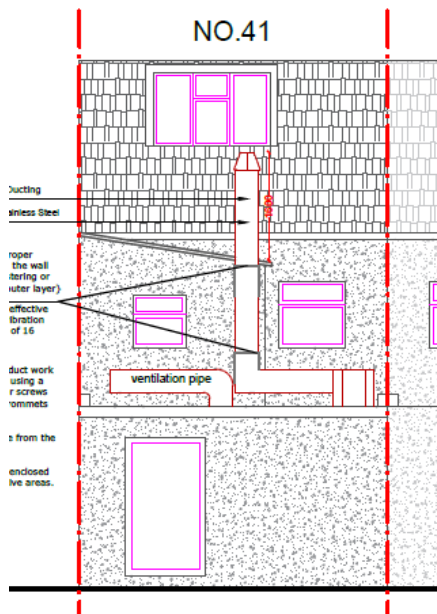
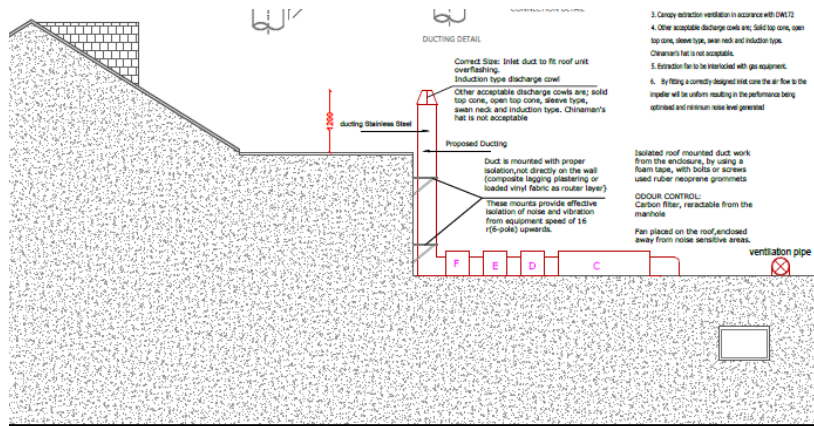
9.3 Additionally, no objection is raised to installing external equipment which is reasonably necessary for the continuation of the lawful Class E operation(s).

### **B. Urban design and heritage**

9.4 Policy 53 seeks to ensure that development responds appropriately to its context in terms of scale, height and massing, enhancing local character in relation to the architectural integrity of the area.

9.5 The development at the front of the building would include repainting and installing a small non-illuminated hanging sign for the purpose of advertising (0.7m width). No objection is raised to minor maintenance works and signage. The applicant is reminded that any new commercial signage or branding may require additional advertisement consent.

9.6 The proposed kitchen ventilation system would be standard in its appearance and sited towards the rear elevation, exiting ca. 1.6m above the outrigger side eaves. The extract flue would be visible from public vantage points given its proximity to the public square, though this is not harmful per se. It would be set back from the side elevation and side roof eaves, therefore, this is considered the least harmful location for a flue to be located, which protects the character of the wider area, including heritage assets. It is also the least visible option. The roof-mounted equipment would also not be visible from eye-level within Orford Road and is therefore less likely to impact the significance of the conservation area. The proposal is also supported by conservation officers.



**Proposed side and rear elevations above**

- 9.7 As seen above, the proposed flue would exit at the corner of the existing outrigger but, from eye-level and with perspective, only the top parts of the flue would be visible from public vantage points.
- 9.8 In response to the comments received by representations, it is noted that a ventilation system is reasonably necessary for a restaurant business to continue to operate. Other similar ancillary equipment is present at the rear of commercial operations on Orford Road, which provides a precedent, and past applications have granted permission for similar schemes. Full details of the system would be requested by condition, including its detailed design and materials.
- 9.9 It is also noted to objectors that the existing situation has been identified as a breach of planning. The proposal seeks to propose mitigation for existing environmental issues; therefore, it has been subject to additional discussions with the applicant, conservation officers and environmental health officers prior to being scheduled to be determined by the planning committee. The application does not seek to regularise the existing situation; it seeks consent for the matters outlined in the application form and development description only.

- 9.10 For the above reasons, subject to discharge of any necessary conditions, the development is considered to comply with the design objectives of Policies 53 and 72 of the Local Plan. Should the development fail to comply with the relevant conditions or guidance, objectors are assured that the Council has powers to enforce, whether this be from a planning or environmental health perspective.

**C. Residential amenity**

- 9.11 Policies 50 and 57 seek to maintain the amenity of neighbouring occupiers in terms of overlooking, enclosure and/or the loss of daylight, sunlight, outlook and privacy and to protect residents from undue fumes and odours. Noise is an additional amenity consideration.
- 9.12 Given the limited amount of physical built development proposed, there would be no harm caused to daylight, sunlight, outlook and privacy.
- 9.13 The kitchen extraction fan system would have a sound power level of 82dB and, with mitigation measures in place (including an attenuator and acoustic enclosure), is predicted to generate a rating level of 29 dB at the nearest residential property – 13dB below existing daytime background level of 42dB, indicating a low impact generally. The predicted level also meets the target of 32dB at the nearest sensitive receptor and internal noise levels would be even lower. As such the development is not expected to give rise to unacceptable noise impacts on neighbouring occupiers in terms of their residential amenity and continued enjoyment of their homes.
- 9.14 The noise and odour impact of the development can be managed successfully by condition(s) to ensure the development is implemented in accordance with the submitted documents.
- 9.15 Overall, subject to compliance with the relevant conditions, there would be no harm caused to neighbouring amenity and the proposal would comply with Policies 50 and 57 of the Local Plan.

**D. Environmental health**

- 9.16 Environmental health officers were consulted during the assessment period of the application and raised no objection to the proposed flue design subject to compliance with conditions.
- 9.17 Noise and odour from the extract flue are additional considerations in terms of environmental health and amenity due to the potential for nuisance and disturbance. A specification has been submitted which indicates that the noise at the nearest sensitive receptor is 32dB.
- 9.18 Taking into consideration the general outdoor ambient sound levels of everyday life, particularly in an urban area of London, this is not considered to be at a level that would cause undue harm to the amenities of existing or future occupiers, or one that would warrant refusal of the application in its own right. Additionally, it should be noted that the system would only be operational within the opening hours which, equally, are not considered unneighbourly, especially in a vibrant, mixed-use area in Walthamstow Village.

- 9.19 Additional information found through Google Maps specifies that the restaurant is open 4 evenings per week, which is not unneighbourly and is consistent with several other businesses in the immediate area.
- 9.20 In response to the comments received by representation, the Council relies on consultation responses from specialist teams for certain aspects of development proposals. Planning officers are satisfied that, if environmental health officers consider the layout and heights acceptable under the relevant guidance, it can be acceptable in planning terms. This is considered the least harmful location for the flue to exit when assessed together with other material considerations such as urban design and heritage.
- 9.21 It is recommended that a condition is added that the system is maintained and operated in accordance with the submitted documents to ensure nearby occupiers are protected from undue fumes and smells and additional conditions to demonstrate compliance with the submitted documents. The LPA acknowledges and reminds the applicant that a high level of odour control would likely be required due to the nature of the restaurant.

#### **E. Biodiversity**

- 9.22 Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 specifies that planning permission granted for the development of land in England is deemed to have been granted subject to the condition (“the biodiversity gain condition”). All planning permissions granted in England have to deliver at least 10% biodiversity net gain (BNG), effective from 12 February 2024. There are statutory exemptions and transitional arrangements which mean that the BNG condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the BNG Requirements (Exemptions) Regulations 2024. In this instance there would be no increase in footprint of the building, meaning that the development constitutes a de-minimis exemption to BNG and the condition does not apply.
- 9.23 Other biodiversity matters raised by objectors includes removal of ivy from the side elevation. Whilst loss of any biodiversity or local habitat is regrettable, this is not considered to be a matter that requires consent in its own right or constitutes development.

### **10 CONCLUSION**

- 10.1 In summary it is considered that the proposal would not cause harm to the overall character and appearance of the host property or terrace row. It is the least harmful intervention to secure the longer-term viability of the lawful use of no. 37 Orford Road, whilst also protecting the appearance of the wider conservation area. Likewise, there would be no unacceptable impacts in terms of residential amenity and highways safety, subject to compliance with the relevant conditions.
- 10.2 Taking into account the consistency of the scheme with the Local Plan and considering all relevant material planning considerations, it is recommended that planning permission is granted subject to conditions.

## **11 ADDITIONAL CONSIDERATIONS**

- 11.1 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.
- 11.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 11.3 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 balanced against other relevant factors.
- 11.4 It is not considered that the recommendation to grant planning permission in this case would have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 11.5 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.
- 11.6 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 RECOMMENDATION

12.1 It is recommended to the Planning Committee that planning permission is granted subject to the following conditions and informatives:

### 12.2 Condition(s):

1. The development hereby permitted shall begin no 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 following approved plans and thereafter maintained as such for the lifetime of the development: - drawing numbers P102 and P103 dated 15<sup>th</sup> May 2026.

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

3. Prior to the commencement of development on site, notwithstanding site investigation, clearance works, demolition, samples and/or a schedule of materials and finishes to be used in the construction of the external surfaces of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained as such for the lifetime of the development.

**Reason:** To safeguard and enhance the visual amenities of the locality, in accordance with Policies 53 and 72 of the adopted Waltham Forest Local Plan LP1 (2024).

4. The extraction system shall be correctly installed, operated, maintained and regularly serviced in accordance with the manufacturer's instructions, as specified in the noise impact assessment issue 01 dated 25<sup>th</sup> November 2025 and the odour management plan and ventilation impact statement (undated).

**Reason:** To ensure that the system is operating correctly and efficiently so as to not cause an odour or noise nuisance to neighbouring properties and in the interest of amenity protection, in accordance with Policy 57 of the adopted Waltham Forest Local Plan LP1 (2024).

5. Within 3 months of the kitchen extraction system hereby permitted, an assessment report, confirming compliance with the findings of the noise impact assessment issue 01 dated 25<sup>th</sup> November 2025 shall be submitted to and approved by the Local Planning Authority. The approved details shall be retained for the lifetime of the development.

**Reason:** To protect the amenities of adjoining properties and the surrounding area and in accordance with Policy 50 of the adopted Waltham Forest Local Plan LP1 (2024).

6. Within 3 months of the kitchen extraction system hereby permitted, an assessment report, detailing compliance to the odour management plan

and ventilation impact statement (undated), shall be submitted to and approved by the Local Planning Authority. The approved details shall be retained for the lifetime of the development.

**Reason:** To protect the amenities of adjoining occupiers and the surrounding area in accordance with Policy 57 of the adopted Waltham Forest Local Plan LP1 (2024).

12.3 **Informative(s):**

1. This notice is without prejudice to your responsibilities under any other legislation including Building Regulations.

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 which have been followed in this instance, and offers a pre-planning application advice service. The scheme as submitted did not comply with guidance and no pre-application discussions were entered into. The Local Planning Authority's suggested improvements were adopted by the applicant/agent. The Local Planning Authority has delivered the decision in a timely manner.

3. Construction and demolition works audible beyond the boundary of the site should only be carried out between the hours of 08:00-18:00 Monday to Friday, 08:00-13:00 on Saturdays and not at all on Sundays or on Public/Bank Holidays.

4. The applicant is reminded that this notice relates to planning permission only and that any replacement signage to no. 41 Orford Road may require advertisement consent.