

PLANNING COMMITTEE A

Date of Meeting: **WEDNESDAY, 5 JUNE 2019 TIME 7.30 PM**

PLACE: **COUNCIL CHAMBER - CIVIC SUITE**

Members of the Committee are summoned to attend this meeting:

**Membership
Councillors:**

**James-J Walsh (Chair)
Tom Copley (Vice-Chair)
Obajimi Adefiranye
Sophie Davis
Liam Curran
Caroline Kalu
Jacq Paschoud
Luke Sorba
Octavia Holland
Abdeslam Amrani**

The public are welcome to attend our committee meetings, however, occasionally committees may have to consider some business in private. Copies of reports can be made available in additional formats on request.

**Janet Senior
Acting Chief Executive
Lewisham Town Hall
London SE6 4RU
Date: Tuesday, 28 May 2019**

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	PLANNING COMMITTEE (A)	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 05 June 2019

Members are asked to declare any personal interest they have in any item on the agenda.

(1) Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (a) Disclosable pecuniary interests
- (b) Other registerable interests
- (c) Non-registerable interests

(2) Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person* for profit or gain.
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.
- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member's knowledge, the Council is landlord and the tenant is a firm in which the relevant person* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-
 - (a) that body to the member's knowledge has a place of business or land in the borough; and
 - (b) either
 - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or

- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

(3) Other registerable interests

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council;
- (b) Any body exercising functions of a public nature or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party;
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25.

(4) Non registerable interests

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members' Interests (for example a matter concerning the closure of a school at which a Member's child attends).

(5) Declaration and Impact of interest on member's participation

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.

- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

(6) Sensitive information

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

(7) Exempt categories

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception);
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt;
- (d) Allowances, payment or indemnity for members;
- (e) Ceremonial honours for members;
- (f) Setting Council Tax or precept (subject to arrears exception).

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Committee	PLANNING COMMITTEE (A)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date 05 June 2019

MINUTES

To approve the minutes of the meeting of Planning Committee (A) held on the **28 MARCH 2019**.

LONDON BOROUGH OF LEWISHAM

MINUTES of the PLANNING COMMITTEE (A) THURSDAY, 28 MARCH 2019 TIME 7.30 PM

PRESENT: Councillors Abdeslam Amrani (Chair), Peter Bernards, Juliet Campbell, Liam Curran, Mark Ingleby, Luke Sorba, James-J Walsh, Jacq Paschoud

APOLOGIES: Councillors Octavia Holland and Paul Maslin

DECLARATION OF INTERESTS

None

MINUTES OF THE PREVIOUS MEETING – 07 February 2019

RESOLVED:

That the Minutes of the Planning Committee (A) meeting held on 7th February 2018 were approved as an accurate record of the meeting.

83 ERLANGER ROAD, LONDON, SE14 5TQ

PROPOSAL: Demolition of the ground floor side return wall and conservatory, and the construction of a single storey side return infill extension at 83 Erlanger Road, SE14.

RECOMMENDATION: GRANT PERMISSION subject to conditions

Mr Vincent Murphy (Senior Planning Officer) presented the details of the application and answered Members questions.

The architects presented their case for the proposal on behalf of the applicant.

Councillor Sorba raised a question about the light spill, answered by the architect and Mt Murphy as being insignificant additional light.

Councillor Ingleby asked about the materials: the architects explained that all materials to be used would be in keeping with the existing material.

Councillor Curran moved to accept the officer's recommendation, seconded by Councillor Walsh.

DECISION: Grant planning permission as recommended

FOR: Councillors Amrani, Bernards, Campbell, Curran, Ingleby, Walsh and Paschoud

AGAINST: None

ABSTAINED: Councillor Sorba

Committee	PLANNING COMMITTEE A	
Report Title	46 ERMINE ROAD, LONDON, SE13 7JS	
Ward	Ladywell	
Contributors	Jesenka Ozdalga	
Class	PART 1	5 June 2019

Reg. Nos. DC/18/109871

Application dated 14.01.2018.

Applicant Mr Griffiths

Proposal The construction of a single storey infill extension to the rear of 46 Ermine Road SE13, together with the construction of a two storey, two bedroom dwellinghouse on the land to the side of the property with associated cycle and refuse storage, landscaping and boundary treatment.

Applicant's Plan Nos. 0252-01; 0252-02 Rev A; 0252-03; 0252-04; 0252-05; 0252-06; 0252-07; 0252-08 Received 27 November 2018

20-125; A19-100 Rev 02; A20-201 Rev 03; A20-202 Rev 03; A20-204 Rev 03; A20-221 Rev 02; A20-222 Rev 02; A20-231 Rev 02; A20-232 Rev 02; A20-233 Rev 02; A20-234 Rev 02; A94-300 Rev 00 Received on 9 May 2019

Background Papers

- (1) Core Strategy (June 2011)
- (2) Development Management Local Plan (November 2014)
- (3) London Plan (March 2016)

Designation PTAL 3

Screening N/A

1 **SUMMARY**

1 This report sets out Officer's recommendation for the above proposal. The report has been brought before members for a decision as the recommendation is to approve and there are more than three valid planning objections

2 **SITE AND CONTEXT**

2 The application site is located on the north corner of the Ermine Road and Vicars Hill/Ellerdale Street junction. The subject site is an end-of-terrace two storey single family dwellinghouse and land adjacent to it which is currently used as a

garden and car park. The existing dwelling features yellow brick façade facing Ermine Road, and pebbledashed side and rear elevation visible from Vicars Hill.

3 The surrounding area is predominantly residential with various types of buildings including Victorian and early 20th century terraces, post war and contemporary buildings.

4 The site is not located within a conservation area, not subject to an Article 4 direction or listed. It has a PTAL rating of 3.

3 **RELEVANT PLANNING HISTORY**

5 **DC/13/084671** – The construction of a two storey, two bedroom end of terrace house to the side of 46 Ermine Road, SE13.

Refused by reason of its design, prominent siting, massing and encroachment on the open junction setting of Ermine Road/Vicars Hill/Ellerdale Road and its relationship to the existing and adjacent dwellings in this prominent corner location would not be compatible with the existing building or the character of the surrounding development and by reason of failing to provide a satisfactory layout, standard and size of quality accommodation for future occupiers by reason of its substandard floor space arrangement.

6 **DC/18/108273** - Lawful Development Certificate (Proposed) in respect of the construction of a side hip to gable roof extension and installation of two rooflights to the front elevation at 46 Ermine Road, SE13, together with construction of rear dormer roof extension. **Granted but not yet implemented: remains extant.**

4 **CURRENT PLANNING APPLICATION**

7 The current application proposes a two storey, two bedroom dwellinghouse on the land to the side of No.46 along with the construction of an infill extension to the rear of No. 46.

8 The applicant is owner of the property no.46.

9 The proposed two storey dwellinghouse would be located on the land to the side of the existing property. The existing rear garden would be divided into two to provide external amenity space for each dwellinghouse.

10 The dwellinghouse would measure 3.1m wide on the front elevation (Ermine Road) and 4.7m wide on the rear elevation by 13.5m deep along the side elevation (Vicars Hill). It would be a maximum of 6.7m high from the Ermine Road level. As Vicars Hill slopes up from Ermine Road, the rear of the property would have an approx. height of 4.7m above Vicars Hill street level.

11 The proposed dwellinghouse would have two double bedrooms on the first floor and an open plan kitchen and dining with separate living area on the ground floor. The total GIA (Gross Internal Area) would be 90sqm.

12 The proposed materials are:

Roof and first floor	Eco-composite panels
Ground floor walls	London stock brick
Windows	Powder coated aluminium

Doors	Timber
Hard landscaping	Brick steps to the front
Bin and cycle storage	Timber

13 The development would also involve hard and soft landscaping of the site, boundary treatment and the provision of two cycle parking spaces as well as refuse storage. The development proposes planting of two appropriate sized trees to both rear gardens.

14 The proposed infill extension would accommodate enlarged kitchen and dining area and have a depth of 4.0m with a flat glazed roof of max 3.1m height. The infill extension would incorporate a lightwell that would allow natural light and ventilation for the space in the existing basement.

5 **CONSULTATION**

5.1 **PRE-APPLICATION ENGAGEMENT**

15 Pre-application advice was sought with the response in January 2018 prior to submission.

16 Following receipt of the advice the applicant subsequently revised the proposals in line with the comments received.

5.2 **APPLICATION PUBLICITY**

17 The Council's consultation and publicity met the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

18 A Site notice was displayed on 8 February 2019 and letters were sent to seven adjoining addresses, Ladywell Ward Councillors and Highways on 15 January 2019.

19 Six objections were received, raising the following substantive material planning considerations:

5.2.1 **Objections**

Material planning consideration	Para where addressed
Overdevelopment of a small site	Para. 35
Inappropriate design	Paras. 36, 37, 39
Overlooking / lack of privacy, reduction in sunlight and daylight and increase in overshadowing	Paras. 44, 45
Inadequate standard of accommodation	Paras. 52, 53, 54
Location and nature of cycle and refuse store	Para. 62

Impact on highways; removal of off-street parking, increase in parking stress and construction issues	Paras. 60, 61
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20 Other concerns were raised relating to the accuracy of the drawings and the potential for adverse impact on foundations due to excavations and site boundary and ownership to the land at the rear. Officers have reviewed the drawings and are satisfied they are accurate. The latter is not a relevant material consideration in this case.

21 Complaints were received about site notice not being displayed on the property during the consultation period. The applicant completed the certificate of site notice display stating the notice was erected on 8 February.

6 **POLICY CONTEXT**

6.1 **LEGISLATION**

22 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

23 **MATERIAL CONSIDERATIONS**

24 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

25 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

26 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

6.2 **NATIONAL POLICY & GUIDANCE**

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance

6.3 **DEVELOPMENT PLAN**

27 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Draft London Plan: The Mayor of London published a draft London Plan on 29 November 2017 and minor modifications were published on 13 August. The Examination in Public commenced on 15 January 2019 and concluded

on 22 May 2019. This document now has some limited weight as a material consideration when determining planning applications. There are no relevant draft policies that are materially different from the adopted London Plan for the purposes of this decision.

- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013)

6.4 SUPPLEMENTARY PLANNING GUIDANCE

28 The London Plan SPG's relevant to this application are:-

- Housing (March 2016)

7 PLANNING CONSIDERATIONS

29 The relevant planning considerations are:

- Principle of development
- Urban design
- Impact on the living conditions of adjoining residents
- Standard of residential accommodation
- Traffic, parking and highways issues
- Landscaping and environmental matters

7.1 PRINCIPLE OF DEVELOPMENT

30 Officers recognise that housing is a priority use in the borough and infill sites are a sustainable use of land to help meet housing targets.

31 The proposal constitutes infill development as defined by DM Policy 33 because it is within a street frontage and on the street corner. Development is therefore supported in principle subject to details including design quality. These details are addressed below.

7.2 DESIGN

Policy

32 Para. 131 of the NPPF states that "in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area".

33 Relevant regional and local policies are London Plan Policies 7.1, 7.4 and 7.6, Core Strategy Policy 15 and DM Policies 25, 30 and 33.

Discussion

34 The layout, massing and scale responds to the surrounding context of two storey attached dwellinghouses and the design is innovative and high quality.

35 Neighbours have raised a concern that the building would sit uncomfortably on the prominent corner of the Ermine Road and Vicars Hill junction and would constitute overdevelopment. The building would close the existing gap between

the end of the terrace and Vicars Hill. The loss of openness on this corner is not harmful to the character of the area as other properties on that junction and others in the area also do not have open corners. Therefore this change would not result in an unusual relationship in the context of the wider area. Additionally, the proposed building would be lower and narrower than surrounding properties. The resulting massing is subordinate to the local form, which is considered acceptable and not held to be overdevelopment.

36 Turning to the detailed design, the scheme seeks to avoid replicating the design of other properties in the area. Instead the building is clearly of its time and innovative. The key feature is the unusual and prominent roof form. In order to avoid long flank wall along Vicars Hill, the side elevation of the proposed building is activated with use of composite cladding and brick and narrow windows hidden behind aluminium fins.

37 The use of composite cladding, glazing, aluminium windows and fins introduce modern elements into the design of the building. The quality of these materials has been adequately demonstrated within the Design and Access Statement.

38 Compared to previously refused scheme, it is considered that the scale and massing of this proposal corresponds better to the surrounding area with its high quality design and use of contemporary materials.

Summary

39 Officers conclude the proposed building would be innovative and of very good design quality, evident in the detail and proposed materials, and relate successfully to the surroundings. Great weight is given to this in accordance with para 131 of the NPPF.

40 Physical samples of the materials are recommended to be secured by condition. In light of the weight given to the design of the building, Officers recommend that if this application is approved a condition is imposed to remove permitted development rights in respect of the site.

7.3 LIVING CONDITIONS OF NEIGHBOURS

Policy

41 Relevant regional and local policies are London Plan Policy 7.6 and DM Policies 32 and 33.

42 The main considerations in terms of amenity in this case are: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas. Noise would be limited to that generated by domestic properties.

Discussion

43 The living conditions of neighbours would not be harmed by this development.

44 Neighbours have raised concerns that the development would harm the living conditions of neighbours, in terms of loss of privacy and loss of daylight and sunlight. The only neighbours that would be affected are those living in No. 46, which is also subject to this application. The dwellinghouse has been designed to

minimise the impacts on No. 46 to acceptable levels. The relationship between the development and other neighbours is such that there would be no effect on their living conditions.

- 45 No windows are proposed to the side elevation of the new building towards no.46. To the rear, the separation distance between the new building and no. 55 Vicars Hill would be approx. 19.7m. and to no.69 Shell Road approx. 23.2m, which is considered a sufficient distance so as not to affect outlook, particularly given the change in levels. The garden space for the proposed building would be in the same location as the existing with the proposed building sits lower than the buildings of Shell Road. For the same reason, the building would not have an impact on neighbours in terms of daylight and sunlight.
- 46 The proposed infill extension to the rear of property no.46 is not considered to have harmful impact on the future occupiers of the new building on the adjacent land and their amenities.
- 47 Neighbours have raised concerns about the impact of development works and the eventual use of the building on local amenity. Some degree of disruption is expected from construction works. Construction working hours, noise and dust pollution is covered by Lewisham's Good Practice Guide - Control of Pollution and Noise from Demolition & Construction Sites and by the Control of Pollution Act. Due to the scale of the development and the fact there is other legislation which covers this point, it is not recommended that a Construction Management Plan is secured by condition. The introduction of a residential use to a residential area is considered acceptable.
- 48 Neighbours have raised concerns about the impact of the basement excavation on neighbouring properties. This is not a relevant planning consideration in this case: no new basement would be excavated. The ground level to the rear would be excavated for approx. 0.7m to allow the building to sit lower and reduce the total height of the development. Furthermore, structural issues are not a relevant planning consideration and are covered by the Party Wall Act 1996 and Building Control regulations.

Summary

- 49 Taking the above into account, it is considered that this application would have no harmful impact on neighbouring residential amenity.

7.4 STANDARD OF ACCOMMODATION

Policy

- 50 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. This is reflected in relevant policies of the London Plan (LPP 3.5), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA).
- 51 The main components of residential quality in this case are: (i) space standards; (ii) outlook and privacy; (iii) overheating; (iv) daylight and sunlight and (v) external space standards.

Discussion

- 52 LPP 3.5 seeks to achieve housing development with the highest quality internally and externally in relation to their context. Minimum space standards are set out in Table 3.3 of the London Plan. The proposed dwelling, at 90sqm GIA, would be larger than the minimum standard of 79sqm.
- 53 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its future residents. The proposed development has dual aspect at the ground, and triple aspect at the first floor and the windows are considered to give adequate natural light and ventilation. Furthermore, all windows within the new building are oriented towards east and west with side elevation windows on the first floor facing south. This would help to avoid the risk of overheating. Similarly this would ensure daylight and sunlight would be satisfactory.
- 54 Standard 4.10.1 of the Mayor's Housing SPG states that 'a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant'. The amenity space provided for the new dwelling (29sqm rear garden) would be in excess of those requirements.
- 55 Previously refused scheme had approx. GIA of 63m², which was not compliant with minimum standard of 70m² for two storey 2 bedroom 3 person house.

Summary

- 56 As such, Officers deem that the proposal provides a high standard of accommodation for future occupiers.

7.5 HIGHWAYS AND SERVICING

Policy

- 57 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 102. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places.
- 58 Regionally, the Mayor's Transport Strategy ('the MTS', GLA, March 2018) sets out the vision for London to become a city where walking, cycling and green public transport become the most appealing and practical choices. The MTS recognises links between car dependency and public health concerns.
- 59 London Plan Policy 6.9 Cycling states that developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards set out in Table 6.3 and the guidance set out in the London Cycle Design Standards (or subsequent revisions).
- 60 The Core Strategy, at Objective 9 and CSP14, reflects the national and regional priorities.

Discussion

- 61 The proposal results in the loss of one off-street parking space, which is located on the area proposed for the development of a new building and accessed from the dropped kerb on the corner of Ermine Road and Vicars Hill.
- 62 Neighbours have raised concerns that the development would result in loss of off-street parking and an increase in on-street parking stress. The scheme would displace one car to the street (from No. 46). A further car would be generated by the new house. In this case it is not considered reasonable to impose a restriction on future parking permits (a 'car-free' condition). This is because the stretch of Vicars Hill along which this site is located has parking bays which do not have houses fronting them.
- 63 Neighbours have raised concerns about the location and nature of the cycle and refuse storage. These have since been revised. The new dwellinghouse would be provided with two cycle parking spaces in a structure in the rear garden, which meets London Plan standards, and is therefore acceptable. However, further details are recommended to be secured by condition. The occupiers of the house no.46 would store their bikes in the rear garden as per existing arrangement.
- 64 Refuse bins are proposed to be located in the front of the building, in an enclosed timber box, in a similar location to the existing arrangements along the terrace. Furthermore, the same arrangement for bin storage is to be provided in front of the property no.46. This would comply with guidance on waste and refuse.
- 65 Neighbours have raised concerns about the impact of construction on the highway network. Given the scale of the development and the extent of highway frontage, it is not considered reasonable to require a Construction Management Plan in this case.

Summary

- 66 Officers raise no objection on highways or servicing grounds subject to conditions.

7.6 LANDSCAPING AND ENVIRONMENTAL MATTERS

Policy

- 67 Para 153 (b) of the NPPF requires Local Planning Authorities to expect new development to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.
- 68 Relevant regional and local policies are London Plan Policy 5.10 (Urban Greening), Core Strategy Policies 12 and 15 and DM Policies 25 and 32.

Discussion

- 69 The house would be built to a higher standard than Part L1A of the Building Regulation, through the incorporation of insulation, double glazed windows, mechanical ventilation with heat recovery and low energy lighting. The proposed windows to the south elevation would feature screening aluminium fins to prevent overheating. This is welcome.
- 70 In terms of the landscaping, the site would be hard and soft landscaped in the form of a patio at ground level with steps up to a garden to the rear and planting

area with refuse storage and brick steps to the front of the proposed building. This would result in an improvement to the situation. To the rear, planting of two new trees and other associated soft landscaping are proposed. Further details of the front and rear landscaping, to include suitable tree species, are recommended to be secured by condition.

71 Furthermore, the boundary wall with Vicars Hill is to be re-built as a brick wall and timber fence, incorporating the cycle store at the end of the site. No objection is raised to this since the existing treatment is a timber fence and details of the replacement wall is covered within the boundary treatment condition.

Summary

72 Officers conclude that building orientation, massing, provision of the amenity space for future occupiers with high quality hard and soft landscaping, including planting of new trees to the rear garden positively contribute to the sustainability of this proposal. Great weight is given to this in accordance with 153 (b) of NPPF.

8 LOCAL FINANCE CONSIDERATIONS

73 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

74 The weight to be attached to a local finance consideration remains a matter for the decision maker.

75 The proposal is liable to pay £5,653.11 MCIL (with new MCIL2 rate of £60 per sqm) and £8,225.03 LCIL (total £13,878.14) and there are no local finance considerations.

9 EQUALITIES CONSIDERATIONS

76 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

77 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

78 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

79 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

80 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

81 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:
<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

10 **HUMAN RIGHTS IMPLICATIONS**

82 In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence

- Protocol 1, Article 1: Right to peaceful enjoyment of your property

83 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

84 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

85 This application has the legitimate aim of providing a new extension to the residential property and creation of a new residential property. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

11 **CONCLUSION**

86 This application has been considered in the light of policies set out in the development plan and other material considerations.

87 In reaching this recommendation, Officers have given significant weight to the merit of an additional family sized house in a sustainable location. Great weight is given to the high standard of innovative design and the improvement to the streetscene. As such, Officers recommend that planning permission should be granted subject to the imposition of suitable planning conditions.

12 **RECOMMENDATION**

88 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

12.1 **CONDITIONS**

1) **FULL PLANNING PERMISSION TIME LIMIT**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

2) **DEVELOP IN ACCORDANCE WITH APPROVED PLANS**

The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

0252-01; 0252-02 Rev A; 0252-03; 0252-04; 0252-05; 0252-06; 0252-07; 0252-08 Received 27 November 2018

20-125; A19-100 Rev 02; A20-201 Rev 03; A20-202 Rev 03; A20-204 Rev 03; A20-221 Rev 02; A20-222 Rev 02; A20-231 Rev 02; A20-232 Rev 02; A20-233 Rev 02; A20-234 Rev 02; A94-300 Rev 00 Received 9 May 2019

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the Local Planning Authority.

3) DESIGN AND MATERIALS

No development shall commence on site until a detailed material schedule and product specification for the composite panels, brick and aluminium fins have been submitted to and available and approved on site and in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the Local Planning Authority may be satisfied as to the external appearance of the building and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

4) CYCLE STORAGE

(a) A minimum of two secure and dry cycle parking spaces shall be provided within the development.

(b) No occupation of the proposed dwelling shall commence until the full details of the cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority.

(c) All cycle parking spaces shall be provided and made available for use prior to occupation of the development and maintained thereafter.

Reason: In order to ensure adequate provision for cycle parking and to comply with Policy 6.9 Cycling of the London Plan (March 2016) and Policy 14 Sustainable movement and transport of the Core Strategy (2011).

5) HARD AND SOFT LANDSCAPING

(a) The proposed dwelling shall not be occupied until drawings showing hard and soft landscaping of any part of the site not occupied by buildings (including details of the permeability of hard surfaces and new planting) have been submitted and approved in writing by the Local Planning Authority.

(b) All hard and soft landscaping works which form part of the approved scheme under part (a) shall be completed prior to occupation of the development.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the proposal and to comply with Policy 5.13 Sustainable Drainage of the London Plan (March 2016), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Policies 25 Landscaping and trees and 30 Urban design and local character of the Development Management Local Plan (November 2014).

6) BOUNDARY TREATMENTS

(a) Details of the proposed boundary treatments including any gates, walls or fences shall be submitted to and approved in writing by the Local Planning Authority prior to construction of the above ground works.

(b) The approved boundary treatments shall be implemented prior to occupation of the buildings and retained for the lifetime of the development.

Reason: To ensure that the boundary treatment is of adequate design in the interests of visual and residential amenity and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

7) REMOVAL OF PERMITTED DEVELOPMENT RIGHTS

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no extensions or alterations to the building under Classes A, B, C and D of Part 1, Schedule 2, including the insertion of windows (or other openings), shall be constructed in any of the elevation of the building other than those expressly authorised by this permission. Any further alterations shall require the prior written permission of the Local Planning Authority.

Reason: In order that, in view of the nature of the development hereby permitted, the Local Planning Authority may have the opportunity of assessing the impact of any further development in the interests of amenity and privacy of adjoining properties in accordance with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policies 31 Alterations and extensions to existing buildings including residential extensions, 32 Housing design, layout and space standards and 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

8) THE RETENTION OF THE AMENITY SPACE

The whole of the amenity space as shown on drawing nos. A20-201 Rev 03 and A94-300 hereby approved shall be retained permanently for the benefit of the occupiers of the residential unit hereby permitted.

Reason: In order that the Local Planning Authority may be satisfied as to the amenity space provision in the scheme and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 32 Housing Design, layout and space standards of the Development Management Local Plan (November 2014).

9) CONSTRUCTION DELIVERIES AND HOURS

No deliveries in connection with construction works shall be taken at or despatched from the site other than between the hours of 08:00 and 18:00 on Mondays to Fridays and 08:00 and 13:00 on Saturdays and not at all on Sundays or Public Holidays.

No work shall take place on the site other than between the hours of 08:00 and 18:00 on Mondays to Fridays and 08:00 and 13:00 on Saturdays and not at all on Sundays or Public Holidays.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policies 26 Noise and Vibration and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

10) REFUSE STORAGE

The approved storage of refuse and recycling facilities shall be provided in full prior to occupation of the proposed dwelling and shall thereafter be permanently retained and maintained.

Reason: In order that the Local Planning Authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general in compliance with Policy 13 Addressing Lewisham waste management requirements of the Core Strategy (2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

11) THE USE OF FLAT ROOF

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roof above the ground floor to the rear of the building hereby approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011), DM Policy 32 Housing design, layout and space standards, and DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

12.2 INFORMATIVES

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. Positive discussions took place during the application process which resulted in further information being submitted so that the proposal was in accordance with the Development Plan.
- 2) The applicant is advised that any works associated with the implementation of this permission (including the demolition of any existing buildings or structures or cleaning of the site) will constitute commencement of

development. Furthermore, all pre-commencement conditions attached to this permission must be discharged, by way of a written approval in the form of an application to the Local Planning Authority, before any such works take place.

- 3) As you are aware you have declared that the approved development is exempt from the payment of the Community Infrastructure Levy (CIL). You should note that any claims for relief, where they apply, must be submitted and determined prior to commencement of the development. Failure to follow the CIL payment process may result in penalties. More information on CIL is available at: -
<http://www.lewisham.gov.uk/myservices/planning/apply-for-planning-permission/application-process/Pages/Community-Infrastructure-Levy.aspx>
- 4) You are advised that all construction work should be undertaken in accordance with the "London Borough of Lewisham Code of Practice for Control of Pollution and Noise from Demolition and Construction Sites" available on the Lewisham webpage.
- 5) In preparing the scheme of dust minimisation, reference shall be made to the London Councils Best Practice Guide: The Control of Dust and Emissions from Construction and Demolition. All mitigation measures listed in the Guide appropriate to the size, scale and nature of the development will need to be included in the dust minimisation scheme.
- 6) The applicant is advised that the implementation of the proposal will require approval by the Council of a Street naming & Numbering application. Application forms are available on the Council's website.



Outline Proposal

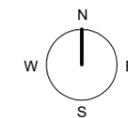
Block A, Unit 401,
The Biscuit Factory,
100 Clements Road,
London SE16 4DG

Tel. +44(0) 02070 432303
Email: mail@thorarchitects.com

1. This drawing has been based upon a measured survey drawn by others. As a result, the precision of the dimensions indicated is dependent upon the information supplied.
2. While this drawing can be used as a base for construction purposes, it is very important that all dimensions are checked carefully on site before any work commences or any materials are ordered.
3. Where applicable, a suitable Structural Engineer and/or a Party Wall Surveyor should be consulted. Although as far as possible these instances have been indicated, this is not necessarily exhaustive and the whole scope of proposed works should be reviewed.
4. Unless other arrangements have been specifically made, your building contractor should serve a Building Notice, as and where applicable, to your local authority to satisfy the requirements of the Building Regulations. Your building contractor should also liaise with the Building Control Officer regarding routine inspections of the work.
5. While this drawing can be used as a base drawing for construction purposes, your building contractor may require more information. It is therefore important to discuss, with your architect & builder together, where more detail would be appropriate.

Revision:

Rev.	Date	Note

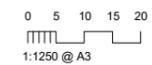


All dimensions are in millimetres
All dimensions to be checked on site
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Stage:

Planning

Scale:



Issued for:

Information

Date:
15/03/18

Postcode:
SE9 3TA

Drw by: GTE
Chk by: -

Drawing name:
Site Location Plan

Project name:
265 Green Lane

Job no: 18-001
Drawing no: 20-125

Revision:
-

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Committee	PLANNING COMMITTEE A	
Report Title	1 Lawn Terrace, London, SE3 9LJ	
Ward	Blackheath	
Contributors	Alfie Williams	
Class	PART 1	5 June 2019

Reg. Nos. DC/18/108388

Application dated 06.08.2018

Applicant Mr Smillie

Proposal An application submitted under Section 73 of the Town & Country Planning Act 1990 for the variation of Condition (7) of planning permission (DC/99/044289) dated 6 May 1999 for the change of use of the ground floor of 1 Lawn Terrace SE3 to a bar/restaurant :- **in order to use the forecourt as a customer eating/sitting out area.**

Plan Nos LC/BH/500/01; Heritage Statement; Design And Access Statement

Background Papers

- (1) Case File LE/407/C
- (2) Core Strategy (June 2011)
- (3) Development Management Local Plan (November 2014)
- (4) The London Plan (March 2016)

Designation Blackheath Conservation Area
PTAL 5
Blackheath District Centre

1 **SUMMARY**

1 This report sets out Officer's recommendation for the above proposal. The report has been brought before members for a decision as the recommendation is to approve and there are more than three valid planning objections

2 **SITE AND CONTEXT**

2 Lawn Terrace is a 2-storey detached property used as a restaurant and bar (use class A3), situated on the south side of Lawn Terrace close to the junction with Blackheath Village and Lee Road. On the western side of the building is a vehicle and pedestrian access leading to the rear of the building. The main restaurant area is at first floor level. At ground floor level is a private dining room, an ancillary office and the toilets.

3 Selwyn Court, a three to five storey block with flats on the upper floors, is situated to the east and rear of the application site. The ground floor of Selwyn Court is used commercially and is mainly in retail use. To the west are residential dwellings fronting Lawn Terrace.

4 The property is located within the Blackheath Conservation Area but is not subject to an Article 4 Direction. The site is located in a Secondary Shopping Frontage within the designated Blackheath District Centre and has a PTAL of 5.

3 **RELEVANT PLANNING HISTORY**

5 Planning Permission was granted on 16 June 1997 for the change of use of the first floor from light industrial purposes to a restaurant together with the erection of an extension at first floor level at the rear. A condition of the approval required that the rear yard be retained for servicing and for a disabled parking facility only, and that no customer seating or service shall be provided outside the building.

6 Planning permission was granted in May 1999 (DC/99/044289) for the change of use of the ground floor to a bar/restaurant in connection with the use of the existing first floor restaurant, along with alterations to the front elevation and the erection of a refuse/general store at the rear. That permission included a number of conditions similar to those imposed on the earlier planning permission for the use of the first floor. Condition 7 states that the forecourt area should not be used as a customer sitting/eating out area at any time.

7 In July 2001, planning permission was granted for the use of part of the ground floor for retail purposes together with new doors in the front elevation.

8 In September 2003, the Council refused permission for the retention of the area at the rear of 1 Lawn Terrace as a terrace for dining in connection with the existing restaurant. The Council's reason for the refusal of planning permission was:

"The proposed retention of the rear terrace for outdoor dining is considered to represent an unneighbourly form of development leading to excessive noise and light disturbance to neighbouring residential occupiers, contrary to policy HSG.18: Residential Environment and SHP 14 Restaurants and Takeaway Hot Food Shops of the adopted Unitary Development Plan (July 1996) and Policies STC 9 Restaurants, A3 Uses and Take Away Hot Food Shops and HSG 3 Residential Amenity of the Revised Deposit Draft Unitary Development Plan (August 2001) and also results in the loss of the rear service area and disabled parking for the restaurant ."

9 The applicant appealed against this refusal of planning permission and the appeal was dismissed.

10 In July 2004 planning permission was refused for retention of the area to the rear of 1 Lawn Terrace SE3 as a terrace for dining in connection with the existing restaurant, trading from 20 March to 30 September 2004, during the hours of 12 noon to 3 pm on Saturdays, 12 noon to 4 pm on Sundays and 6 pm to 8 pm Tuesdays to Saturdays, together with the construction of a pergola and trellis above the existing boundary wall to a height of 2.85 metres. The application was refused on the following grounds:

"The use of the rear terrace for outdoor dining, even on the restricted hours now proposed, would be an un-neighbourly form of development leading to excessive noise disturbance to neighbouring residential occupiers, contrary to policies HSG 18: Residential Environment and SHP 14: Restaurants and Takeaway Hot Food Shops in the Council's adopted Unitary Development Plan and STC 9 Restaurants, A3 Uses and Take Away Hot Food Shops and HSG 3 Residential Amenity in the Revised Deposit Draft Unitary Development Plan (August 2001)".

11 In January 2006, planning permission was allowed on appeal for the non-determination of application reference DC/05/59363 for construction of a terrace extension at first floor level to the front in connection with the existing restaurant, together with the construction of a frameless glass front ground floor entrance lobby.

12 In December 2009, planning permission (reference DC/09/72752) was refused and dismissed on appeal for the variation of Condition (7) of the planning permission dated 06 May 1999 to allow the existing forecourt area at the front of 1 Lawn Terrace SE3, to be used as a customer eating/sitting out area. The application was refused for the following reason:

"The use of the forecourt for customer seating is inappropriate and would result in an un-neighbourly and incompatible use, giving rise to excessive noise disturbance to neighbouring residential occupiers, contrary to policies HSG 4: Residential Amenity and ENV.PRO 11 Noise Generating Development in the Council's adopted Unitary Development Plan 2004."

13 In November 2017, planning permission and advertisement consent were granted for the construction of a steel and timber pergola entrance and replacement signage (reference DC/17/102099 & DC/17/102100).

14 In May 2018, an enforcement case (ENF/18/00155) was opened for the breach of condition 7 of permission DC/99/044289 in respect of use of external area to the front for customer seating/eating.

4 CURRENT PLANNING APPLICATION

15 The application is for the variation of Condition 7 of planning permission DC/99/044289 for the change of use of the ground floor of 1 Lawn Terrace SE3 to a bar/restaurant. Condition 7 states that:

16 'The use of the forecourt area to the front shall not be used as a customer eating/sitting out area at any time.'

17 The proposal seeks to amend condition 7 to allow an alfresco dining area to the left side of the front entrance until 20:00 on any day of the week. The area measures 16m wide by 2.5m deep and would facilitate the provision of four tables providing sixteen covers.

18 The area to the right of the front entrance would remain as a smoking area. The planters on the boundary of the forecourt would remain and no alterations are proposed to the external elevations of the building.

5 **CONSULTATION**

5.1 **APPLICATION PUBLICITY**

19 The Council's consultation and publicity met the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

20 A public notice was displayed on 26 September 2019 and letters were sent to residents and business in the surrounding area and the relevant ward Councillors. The Council's Highways and Environmental Health Departments were also consulted in addition to the Blackheath Society.

21 Four objections were received, raising the following substantive material planning considerations:

5.1.1 **Objections**

Material planning consideration	Para where addressed
Disturbances to the living conditions of local residential accommodation by way of noise. Reference was also made to planning history of the property, in particular the application for a similar proposal refused and dismissed at appeal in 2010 (reference DC/09/72752)	Paras 39-45

22 Consistency errors in the Design and Access Statement and Heritage Statement relating to the size of the forecourt and the number of tables/covers proposed were noted within the objections. These have subsequently been addressed

23 The Blackheath Society commented on the proposal to state that a period of pre-application consultation with the neighbouring residential properties should have been undertaken prior to the submission of the application. Whilst the Council encourage applicants to consult with neighbours as part of the pre-application process, it is not a requirement and as such would not be a reason to refuse the application.

24 No objections were received from Environmental Health.

25 No objections were received from Highways.

6 **POLICY CONTEXT**

6.1 **LEGISLATION**

26 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

27 **MATERIAL CONSIDERATIONS**

28 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

29 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

30 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

6.2 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance

6.3 DEVELOPMENT PLAN

31 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Draft London Plan (expect 2019): The Mayor of London published a draft London Plan on 29 November 2017 and minor modifications were published on 13 August. The Examination in Public commenced on 15 January 2019 and concluded on 22 May 2019. This document now has some limited weight as a material consideration when determining planning applications. There are no relevant draft policies for the purposes of this decision.
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013)

7 PLANNING CONSIDERATIONS

32 The relevant planning considerations are:

- Principle of development
- Impact on the living conditions of adjoining residents
- Impact on the Blackheath Conservation Area.

7.1 PRINCIPLE OF DEVELOPMENT

33 Guidance for determining s73 applications is set out in the NPPG, which states that a minor material amendment is one “whose scale and nature results in a development which is not substantially different from the one which has been approved”.

34 It is further stated that the development, which the application under s.73 seeks to amend, will by definition have been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations are somewhat restricted and only the amendments being applied for should be

considered at this stage. When determining the application the local planning authority have to consider the application in the light of current policy. The local planning authority therefore has to make a decision focusing on national or local policies, which may have changed significantly since the original grant of planning permission as well as the merits of the changes sought.

35 Officers are satisfied that the impact of the proposed amendments are minor material in the context of the original application.

36 Policy HC6 *Supporting the Night-time economy* of the emerging London Plan is also relevant to this application. Policy HC6 states that when considering planning decisions councils should have regard to protecting and supporting evening and night-time venues. The proposal to allow the forecourt to be used for outdoor dining would support the existing restaurant/bar business and given that the property is located within the Blackheath District Centre is considered to accord with this principle.

7.2 LIVING CONDITIONS OF NEIGHBOURS

Policy

37 This site is located in a Secondary Shopping Frontage within the designated Blackheath District Centre. The policy support for this type of activity at this site is established in the Core Strategy Spatial Policy 3 and further detailed in CSP6 and DMP14, subject to controls on amenity in part (2)(b) of DMP14.

38 The Council's policy relating to Restaurants is DMP17, which echoes DMP14(2)(b) in stating that applications for restaurants should demonstrate there is no harm to the living conditions of nearby residents, including that created by noise and disturbance from users and their vehicles, smell, litter and unneighbourly opening hours. Emerging draft London Plan policy D12 introduces the "Agent of Change principle". This places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. Officers have attributed this limited weight due to the status of the draft London Plan and the degree of noise generation resulting from this scheme.

Discussion

39 The living conditions of neighbours would not be harmed by this development. This proposal is materially different to previously refused schemes, as set out below.

40 A proposal to vary condition 7 to allow the use of the whole of the forecourt for outdoor dining has previously been proposed as part of application DC/09/72752. The application was refused and dismissed on appeal as it was determined that outdoor seating would result in an un-neighbourly impact by virtue of excessive noise disturbance. In dismissing the appeal the inspector concluded that "customers/diners would bring noise disturbance not only of voices but from other factors like serving, use of cutlery on crockery and possibly scraping chairs as people fit into seating" and rejected the idea that this impact could be managed or the impact mitigated by a restriction of the hours of use.

41 The current proposal has been revised from the application refused and dismissed on appeal in 2010. The new proposal restricts the seating area to the

left side of the front entrance next to Selwyn Court and Blackheath. The proposal would also restrict the hours of use to between midday and 8pm and reduce the number of covers from 24 to 16.

- 42 Lawn Terrace is predominantly residential, however the eastern end of the road at the junction with Blackheath Village is within the boundaries of the Blackheath District Centre and includes both Selwyn Court and 1 Lawn Terrace. The Blackheath District Centre was designated as part of the spatial strategy established by the Lewisham Core Strategy adopted in June 2011, subsequent to the refusal of application DC/09/72752. The application site is therefore no longer considered to be residential in character and as such the principle of an outside dining area at the property could now be considered appropriate given the current policy context; however, an assessment of the impact on the living condition of the residential accommodation located in the vicinity of the site is required.
- 43 The revisions made to the application restrict the dining area to the eastern side of the forecourt, away from the residential part of Lawn Terrace. The seating area would be located approximately 12m from No.5 Lawn Terrace and would not directly adjoin the property as was the case with the previous application in 2009. Officers consider that this distance and the restricted operating hours would prevent any unacceptable impacts to the living conditions of the residential properties on Lawn Terrace by way of noise disturbance. These measures would satisfy the Agent of Change principle.
- 44 The distance between the forecourt and nearest window at Selwyn Court is approximately 7.5m. These windows serve the communal staircase for the entrance on Lawn Terrace and are located at first floor level and above. Selwyn Court addresses both Blackheath Village and Lawn Terrace. The building is mixed use with commercial premises at ground floor and is located within the Blackheath District Centre. The restrictions to the operating hours of the forecourt and the distance to the nearest residential windows are also considered sufficient to ensure a neighbourly impact to the residential accommodation on the upper floors.
- 45 It is noted that the objections from local residents reference a history of complaints relating to noise and other antisocial behaviour deriving from customers leaving the restaurant and entering Lawn Terrace. However, it is not clear that formalising the use of the forecourt would add to this problem given that the forecourt would have an increased staff presence to provide table service for the dining area, and would not be open for customer business later than 8pm in the evening. It is also noted that the Council's Environmental Health Department do not raise any objections to the proposal.

Summary

- 46 Officers consider that the revisions made to the 2009 application would mitigate potential noise disturbances and other unneighbourly impacts to the surrounding residential properties. The proposal would therefore comply with CSP6 and DMP14 and 17.

7.3 IMPACT ON THE BLACKHEATH CONSERVATION AREA

Policy

47 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that (in summary) with respect to any buildings or other land in a conservation area, the Council is required to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

48 Chapter 16 of the revised NPPF relates to conserving and enhancing the historic environment. The principles and policies set out in Chapter 16 apply to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making, decision-taking and design. Policies CSP16 and DMP36 relate to Conservation Areas.

Discussion

49 The proposal does not include any external alterations to the property beyond the four tables to be located to the eastern side of the forecourt. Alfresco dining areas are an established part of the Blackheath District Centre and as such, the proposal is considered appropriate for a restaurant.

Summary

50 The proposal is therefore considered to preserve the character of the Blackheath Conservation Area.

8 LOCAL FINANCE CONSIDERATIONS

51 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

52 The weight to be attached to a local finance consideration remains a matter for the decision maker.

53 The applicant has completed the relevant form however; CIL is not payable on this application.

9 EQUALITIES CONSIDERATIONS

54 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

55 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;

- foster good relations between people who share a protected characteristic and persons who do not share it.

56 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

57 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

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58 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

59 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

10 **HUMAN RIGHTS IMPLICATIONS**

60 In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

61 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

62 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

63 This application has the legitimate aim of providing a new extension to the residential property. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

11 **CONCLUSION**

64 This application has been considered in the light of policies set out in the development plan and other material considerations.

65 Officers consider that the proposal would have an acceptable impact on the surrounding residential properties given the restrictions to the area of the forecourt being used for alfresco dining and the proposed operating hours. The modest changes to the exterior of the property would ensure that the development would preserve the character and appearance of the Blackheath Conservation Area. Therefore, the proposed development is recommended for approval.

12 **RECOMMENDATION**

66 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

12.1 **CONDITIONS**

- 1) The ground floor bar area shall not be used other than as ancillary accommodation to the first floor restaurant and shall not be used as a separate trade or business.
Reason: In order that the Council may be satisfied as to the intensity of the use and to safeguard the amenities of adjoining occupiers and the area generally in accordance with DM Policy 17 Restaurants and cafés (A3 uses) and drinking establishments (A4 uses).
- 2) The windows at ground floor level shown on drawing nos.7178/003 and 7178/004 shall not be opened at any time during customer opening hours.
Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with DM Policy 17 Restaurants and cafés (A3 uses) and drinking establishments (A4 uses) and DM Policy 26 Noise

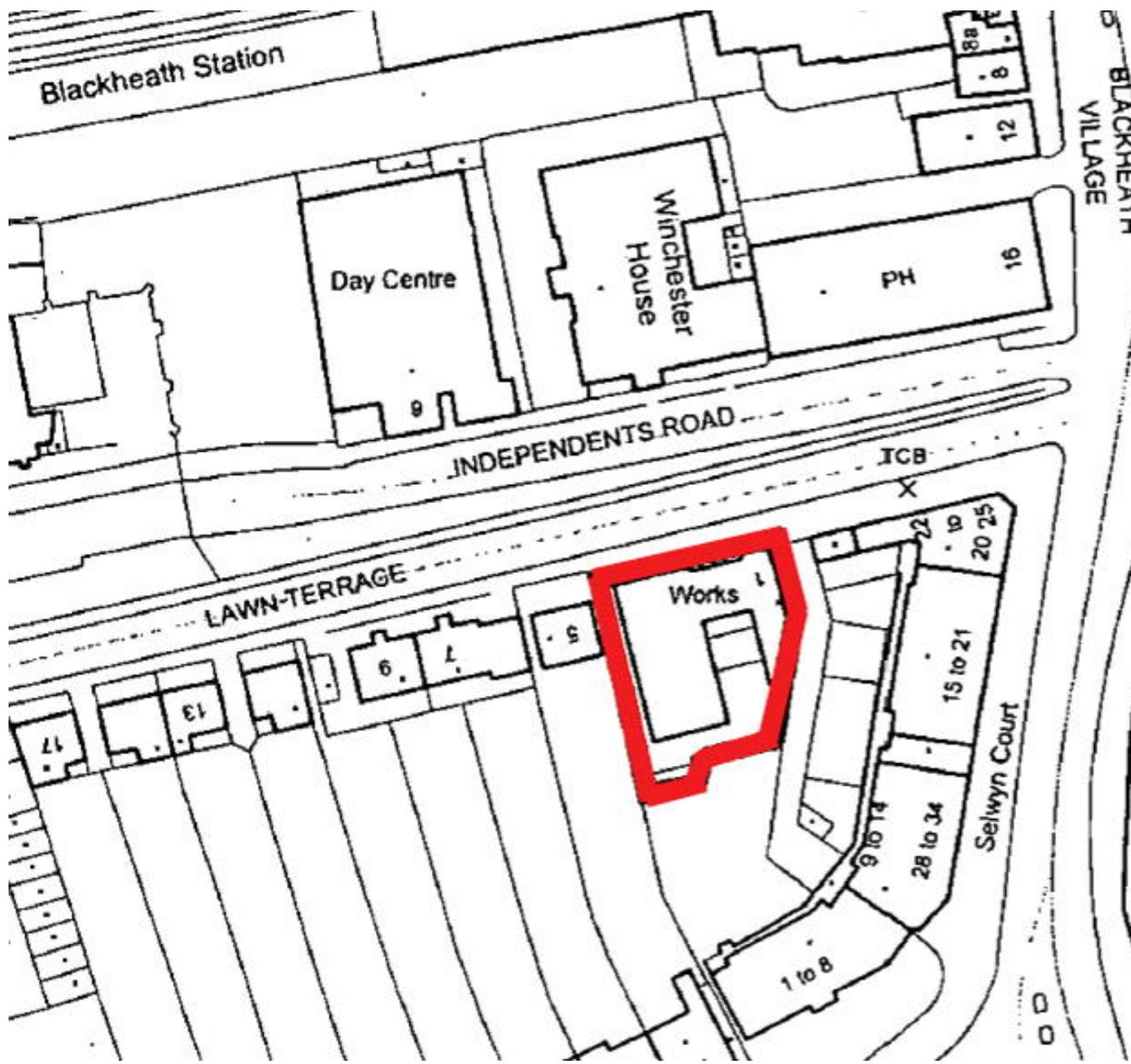
and Vibration of the Development Management Local Plan (November 2014).

- 3) The approved ventilation system shall be permanently maintained in accordance with the approved specification.
Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with Policy 17 Restaurants and cafes (A3 uses) and drinking establishments (A4 uses) of the Development Management Local Plan (November 2014).
- 4) No music or amplified sound system shall be used which is audible outside the premises or within adjoining buildings.
Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014).
- 5) The premises shall not be open for customer business between the hours of 24:00 and 08.00.
Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and, DM Policy 17 Restaurants and cafés (A3 uses) and drinking establishments (A4 uses) and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014).
- 6) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2015 or any Order revoking, amending or re-enacting that Order, the premises shall not be used for any purpose other than the sale of food or drink for consumption on the premises, except with the prior consent of the local planning authority.
Reason: To ensure that the use does not result in parking and congestion in surrounding streets, and to safeguard the amenities of adjacent premises.
- 7) The outdoor seating area in the front forecourt shall be used in accordance with plan no. LC/BH/500/01 and shall only be open for customer business between the hours of 12:00 and 20:00.
Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and, DM Policy 17 Restaurants and cafés (A3 uses) and drinking establishments (A4 uses) and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014).

12.2 INFORMATIVES

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place, which resulted in further information being submitted.

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Committee	PLANNING COMMITTEE A	
Report Title	9 Wolfram Close, London, SE13 5QR	
Ward	Lee Green	
Contributors	Rory Newman	
Class	PART 1	5 June 2019

<u>Reg. Nos.</u>	DC/19/111037
<u>Application dated</u>	18/02/2019 [as revised on 29/04/2019]
<u>Applicant</u>	Marianne Pachonick Architects on behalf of the applicant, Ms Brennan.
<u>Proposal</u>	Construction of a two-storey extension at the side of 9 Wolfram Close, SE13.
<u>Background Papers</u>	(1) Case File LE/989/9/TP (2) Core Strategy (June 2011) (3) Development Management Local Plan (November 2014) (4) London Plan (March 2016)
<u>Designation</u>	C3 Residential
<u>Screening</u>	N/A
<u>Plan Nos.</u>	M1830/001 Rev F2:M1830/100 Rev F2:M1830/101 Rev F2:M1830/105 Rev F2:M1830/110 Rev F2:M1830/115 Rev F2 (superseded by M1830/115 Rev F4):M1830/111 Rev F2 (superseded by M1830/111 Rev F3).

1 **SUMMARY**

1 This report sets out officer's recommendation in regard to the above proposal. The report has been brought before members for a decision as:

- Permission is recommended to be approved and there are 3 or more valid planning objections

2 **SITE AND CONTEXT**

2.1 **SITE DESCRIPTION AND CURRENT USE**

2 The application site comprises a two-storey, end of terrace single dwelling house on Wolfram Close. The property is at the western end of a six-terrace row with a small garden area to the front and a large garden area to the side and rear of the property. To the west of the property and abutting the side garden of the property there is an access road to two rows of garages that serve the neighbouring properties.

- 3 The area surrounding the property is predominantly residential in nature and is typically comprised of two-storey properties many of which have had alterations at roof level. The site has a PTAL score of 3 with many bus services running along the commercial Lee High Road to the north.
- 4 The site is not situated within a Conservation Area, nor is it within the setting of a Listed Building.
- 5 The site is within an Archaeological Priority Area as defined on the Council's Proposals Map.

3 RELEVANT PLANNING HISTORY

6 There is no relevant site history for this application.

4 CURRENT PLANNING APPLICATION

7 The proposals submitted are for a two-storey side extension to the residential property at no. 9 Wolfram Close. The extension will extend out to the west of the property by approximately 3.7m and the two extensions will be at staggered heights of approximately 7.2m and 6.6m stepping down away from the original property. The proposed extension does not expand past the existing building line to the north and south of the property and does not propose any extension that will exceed the maximum building height of 8.2m (approx.).

5 CONSULTATION

5.1 PRE-APPLICATION ENGAGEMENT

- 8 The applicant engaged with the Duty Planner and received advice in January 2019. The Officer's view was that the proposed width of the extension was unacceptable and then recommended that any future planning application should reduce the width of the extension in order to be subordinate.
- 9 Following receipt of the Duty Planner's advice the applicant subsequently revised the proposals in line with the comments received to reduce the width and prominence of the proposed two-storey side extension.

5.2 APPLICATION PUBLICITY

- 10 Site notices were displayed on 6th March 2019 and subsequently again on the 15th of April 2019 following revisions to the scheme.
- 11 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors.
- 12 Three responses received which comprised of three objections, none in support and no comments.

Objections

Material planning consideration	Para where addressed
---------------------------------	----------------------

That the proposal would be overbearing on neighbouring properties.	Please see paragraph 36 and 37 of this report.
The proposal would result in the loss of visual amenity and a cohesive frontage may be lost.	Please see paragraph 32 and 36 of this report.
The extension would lead to a loss in daylight and sunlight.	Please see section 38 of this report.
The increase in hard surfaces would remove natural ground drainage.	The site is in flood zone 1 and is not in a surface water drainage area. The change would not materially alter the current situation so no appreciable weight is given to this.
The proposal would result in an increase in traffic congestion	The proposed extension will enable a small increase to the size of the property and will still function as one residential unit, therefore any impact to the traffic as a result would be considered negligible.
Concerns raised regarding the continued access to the garages and the impact of the construction.	Any disturbance will only be temporary and the developer should ensure access is not inhibited. An informative of this nature would be added to the decision notice.

13 A number of non-material planning considerations were also raised as follows:

- The use of the property in future as a HMO;
- Further extension to the property through permitted development rights and the impacts of this.

14 The use of the property as a HMO in future is not relevant to the current planning application. However, this is further explained in paragraph 39 of this report.

15 Officers are of the view it would not be reasonable to remove permitted development rights for extensions and alterations.

6 POLICY CONTEXT

6.1 LEGISLATION

16 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

17 MATERIAL CONSIDERATIONS

18 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

19 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

20 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

6.2 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance

6.3 DEVELOPMENT PLAN

21 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Draft London Plan (expect 2019): The Mayor of London published a draft London Plan on 29 November 2017 and minor modifications were published on 13 August. The Examination in Public commenced on 15 January 2019 and concluded on 22 May 2019. This document now has some limited weight as a material consideration when determining planning applications. There are no relevant draft policies for the purposes of this decision.
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013)

6.4 SUPPLEMENTARY PLANNING GUIDANCE

22 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

7 PLANNING CONSIDERATIONS

23 The main issues are:

- The acceptability of the proposal by way of its design, scale and massing; and
- the whether the proposals give rise to unacceptable harm to the living conditions of neighbours.

7.1 DESIGN

Policy

- 24 Core Strategy Policy 15 requires that for all development in Lewisham, the Council will seek the highest quality design.
- 25 DM Policy 30 sets out the Council's objectives for urban design and local character throughout the Borough. The policy seeks to achieve a high standard of design in all development proposals.
- 26 DM Policy 31 provides standards for alterations and extensions to existing buildings within the Borough including residential extensions.
- 27 Specific regard is also had to the Council's Alterations and Extensions SPD which recommends that two storey side extensions be set back from the front façade by 1m and should be set down from the main ridgeline and be at least 1 metre away from the boundary of the site.

Discussion

- 28 In general, the extension complies with the guidance in the Alterations and Extensions SPD.
- 29 The staggered form of the extension, which is set back from the front elevation by over 1m, is welcome as it reduces the mass of the extension. The proposed works do not extend above the existing roofline and the extension would be subsidiary to the main structure.
- 30 The proposed extension seeks to utilise London stock brick and concrete roof tiles both of which are to match what currently is present at the property and along the row of terraces. The windows proposed are to be uPVC. The materials chosen are sympathetic to the existing building, are of high quality, and will preserve the architectural integrity of the surrounding area.
- 31 The proposed extension will not develop in excess of 50% of the existing garden area, and is therefore compliant with policy DM31.
- 32 Neighbours have raised concerns that this proposal would harm the cohesiveness of the area. The proposed extension is in accordance with DM policies 30 and 31 and the Alterations and Extensions SPD. The detailing and materials proposed in this application are acceptable and satisfies the requirements of Core Strategy Policy 15. Furthermore, permission was granted in 2014 for a side extension at the neighbouring 8 Wolfram Close (ref: DC/14/088980 and further amended by DC/14/91421) which is of a similar design and is considered acceptable. Additionally, this extension at No.8 is identified within the Alterations and Extensions SPD to be an example of an acceptable two-storey side extension.

Summary

- 33 The proposed extension by way of its scale, mass and design is compliant with policies DM30 and DM31 and is in line with the guidance set out in the Council's Alterations and Extensions SPD. It would not result in harm to the character or appearance of the property or the area.

7.2 LIVING CONDITIONS OF NEIGHBOURS

Policy

34 As listed within DM policy 31 and paragraph 30 of this report, development proposals, namely residential extensions should not result in a loss in a loss of residential amenity for neighbouring properties. The main considerations in terms of amenity in this case are: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas. DM policy 6 part b) considers any significant amenity impact (s) on the surrounding neighbourhood when new Houses in Multiple Occupation are proposed.

Discussion

35 The living conditions of neighbours would not be harmed by this development.

36 Neighbours have raised concerns that this proposal would be dominant and overbearing to neighbouring residents. Taken into account that the proposal is set back from the front elevation and does not extend to the rear, as well as the presence of roof extensions along the row of terraces, it is considered that the proposal does not give rise to any additional impact as a result of the extension. Furthermore, the proposed extension is to the north and west of the property where the rear of the site is bound by a row of garages.

37 Turning to privacy, the proposed windows on the front elevation would face onto the side elevation of no.8 Wolfram Close where no windows exist; therefore it is considered that the proposed windows do not give rise to any loss of privacy or amenity at this location. One thin window is proposed on the west elevation, which faces out onto an access road and a row of garages. Given the low visibility available from this window and its outlook onto an access road and garages, it is considered that it is acceptable at this location as it would not result in reduced privacy for the neighbouring properties.

38 Neighbours have raised concerns that this proposal would result in loss of daylight and sunlight. The extension is to the south of the garden of No. 38 Manor Lane Terrace, however the scale of the development combined with its distance from neighbouring habitable rooms and amenity spaces mean the impact on daylight and sunlight to neighbouring residents will likely be negligible.

39 Concerns have been raised by local residents regarding the potential future use of the property as a HMO. Officers are of the view it is not reasonable or necessary to revoke permitted development rights at the site to prevent the C3 residential use being able to change to a C4 small-scale HMO. If the number of persons living at the property exceeds six unrelated persons then it would become a large-scale HMO and would require full planning permission. This would be assessed against the Council's development plan policies which amongst other things seek to safeguard the amenity of neighbouring residents and the community.

Summary

40 Taking the above into account, it is considered that this application would have no harmful impact on neighbouring residential amenity.

8 LOCAL FINANCE CONSIDERATIONS

41 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

42 The weight to be attached to a local finance consideration remains a matter for the decision maker.

43 The proposal is not liable to pay CIL and there are no local finance considerations.

9 EQUALITIES CONSIDERATIONS

44 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

45 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
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46 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

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The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

10 **HUMAN RIGHTS IMPLICATIONS**

50 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence
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51 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

52 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

53 This application has the legitimate aim of providing a new extension to the residential property. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

11 **CONCLUSION**

54 This application has been considered in the light of policies set out in the development plan and other material considerations.

55 This application provides a high quality residential extension that is acceptable with regard to scale, massing and design, and does not give rise to a detrimental impact on residential amenity. The proposed works are compliant with Core Strategy Policy 15 and DM Policies 30 and 31 and the provisions of the Alterations and Extensions SPD.

12.0 **RECOMMENDATION**

56 That the Committee resolve to **GRANT** planning permission subject to the following conditions:

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

- 2) The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

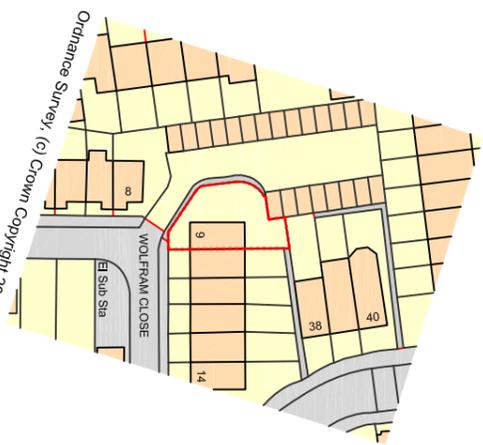
M1830/001 Rev F2:M1830/100 Rev F2:M1830/101 Rev F2:M1830/105 Rev F2:M1830/110 Rev F2: M1830/115 Rev F4: bya M1830/111 Rev F3.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

- 3) The development shall be constructed in those materials as submitted namely:
 - London Stock Brick;
 - Concrete Roof Tiles;
 - Timber Cladding;
 - PVC Windows and Doors; and
 - Render.

Reason: To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan DM Policy 30 Urban design and local character.

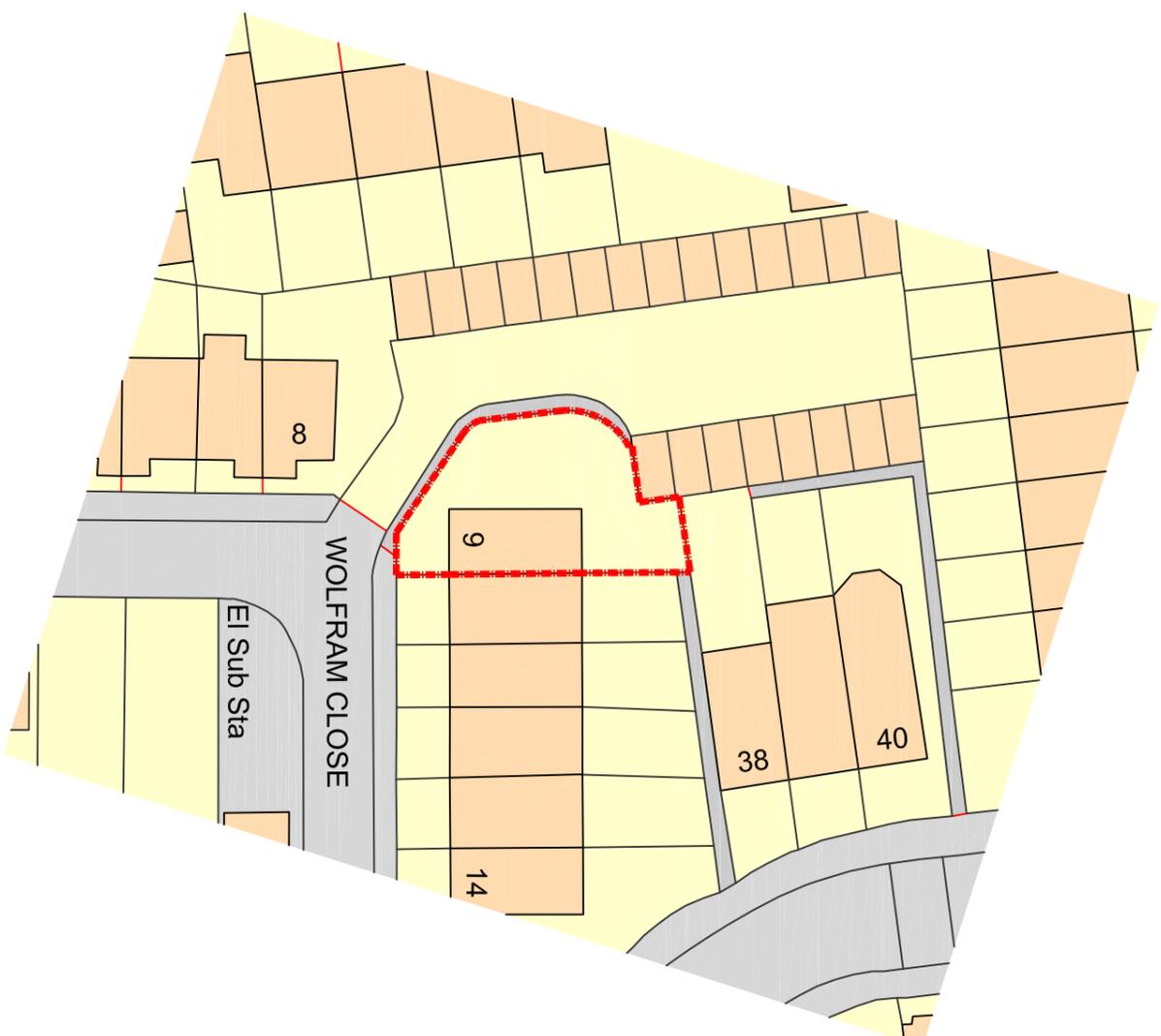
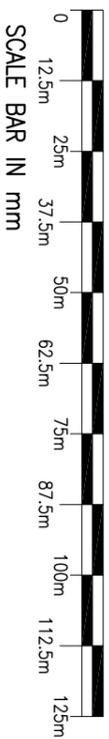
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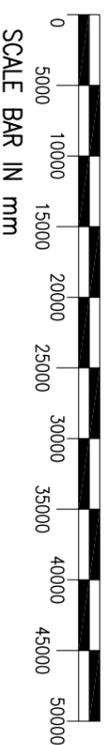
1 SITE LOCATION PLAN

SCALE 1:1250



2 BLOCK PLAN

SCALE 1:500



Unspecified dimensions are not to be scaled off this drawing. If dimensions or details on these drawings conflict with other drawings, the drawings shall prevail. The contractor is responsible for checking that these dimensions are correct. Where the drawing relates to existing buildings or completed construction, the contractor is responsible for checking that these dimensions are correct. In the event of discrepancies between this drawing and subcontractor's working drawings for relevant building components, subcontractor's working drawings shall prevail. This drawing is the property of Marienne Pachonick Architects. This drawing is to be used for the purposes stated and shall not be reproduced or used in any other way without written permission. All dimensions are in millimetres unless otherwise stated.

MARIENNE PACHONICK ARCHITECTS
 272 POKKHURST RISE BR4 0AX | 07825067240

Client **MR HESLOP & MS BRENNAN**

Project **9 WOLFRAM CLOSE
 SE13 5QR**

Title **SITE LOCATION PLAN
 & BLOCK PLAN**

Scale **VARIOUS A3** Date **20.12.2018**

Issue Status

PLANNING

Stages C-D (Design)

By	MP	CHK	MP	MP	Appr.
Drawing Number	M1830	001	F2	Rev.	

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