

Committee	PLANNING COMMITTEE C	
Report Title	36 VICARS HILL, LONDON SE13 7JL	
Ward	Brockley	
Contributors	Kate Hayler	
Class	PART 1	09 OCTOBER 2014

<u>Reg. Nos.</u>	DC/14/87978
<u>Application dated</u>	16.06.2014
<u>Applicant</u>	T G Architecture Limited on behalf of Mr & Mrs Branch
<u>Proposal</u>	The demolition of the existing garage at the rear and the construction of a two storey, 2 bedroom detached dwelling house with associated landscaping and boundary treatment.
<u>Applicant's Plan Nos.</u>	01, 02, 03 (B), 03 (C), 04, 05 (B), 06 (E), 07 (E), 09, 10, 13 (A), 14 (A), 15, Design & Access Statement, Code for Sustainable Homes, Lindum Technical Specification, Site Walkover
<u>Background Papers</u>	(1) Case File LE/108/36/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	PTAL 2 Brockley Article 4 Direction Brockley Conservation Area Not a Listed Building

1.0 Property/Site Description

- 1.1 The site is located on the east side of Vicars Hill and comprises a semi detached residential property. The rear curtilage of the site slopes away steeply at the rear down to Ermine Road where there is an existing entrance off Ermine Road and a large flat roofed double garage building accessed down some steps. The existing garage is set behind a high timber fence with a timber gate facing onto Ermine Road. The garden is currently divided into two areas with the sloping section of the garden to the rear of the existing garage fenced off as it is subject to movement and the applicant does not feel it is safe for their children to access this part of the site. The site is also located higher in ground level in relation to its attached neighbour at No34 by approximately 1m. A 'lean to' enclosure is located in the side passage between the site and No38.
- 1.2 The proposed development is within the rear garden of No. 36 Vicars Hill which is within the Brockley Conservation Area, but the new development would be facing Ermine Road, which falls within the Ladywell Conservation Area.

2.0 Planning History

- 2.1 2014: Planning permission was granted for the erection of a single storey extension to the rear of 36 Vicars Hill SE13, together with the construction of a new roof on the existing side extension (Ref: 14/86707).
- 2.2 A planning application (Ref. DC/14/86707) was submitted in March 2014 and advice was given regarding the proposal being unacceptable, as a result of which the application was withdrawn.

3.0 Current Planning Applications

The Proposals

- 3.1 Planning permission is sought for the demolition of existing double garage and the erection of a two storey detached, 2 bedroom dwelling house including all associated landscaping and boundary treatment. This would involve the existing garden being divided in two with the top part of the garden currently being used by the applicant fenced off and a retaining wall constructed at this point to create an excavated garden to the rear of the new dwelling.
- 3.2 The proposed dwelling would comprise an open plan living room/kitchen dining area measuring 40sqm on the ground floor (leading out to an amenity space measuring 50sqm or 7m deep). At lower ground floor level (or ground level on Ermine road due to the change in level), the dwelling would comprise two bedrooms (measuring 10sqm and 14.8sqm) and a bathroom. The property would be accessed from Ermine Road at this level and there would be a front yard area that would comprise an off street parking space and space for refuse and cycle storage set behind a low brick wall and a hedge.
- 3.3 In terms of materials, the property would be clad in natural cedar cladding and would feature grey powder coated aluminium windows and what appears to be a timber front door.

4.0 Consultation

- 4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 Site notices were displayed and letters were sent to residents in the surrounding area and the relevant ward Councillors.

Written Responses received from Local Residents and Organisations

- 4.3 12 letters of objection have been received from neighbouring occupiers. Matters raised can be summarised as follows:
- Two storeys is too big for the location and design is out of character with the area;
 - Welcome the use of PV panels but their efficiency due to lack of sunlight may encourage the loss of more trees;
 - Site is in conservation area and would set precedent for gardens to be redeveloped;

- Properties at 32, 34 and 38 also have gardens stretching down to Ermine Road and if these were all developed it would result the loss of trees and a hemmed in quality;
- The loss of the garden would result in a loss of biodiversity and a loss in the capacity to soak up rainwater;
- Queried the stability of the sloping ground above the new house;
- Design would not be in keeping with surrounding area;
- There is an issue in the surrounding area resulting from the water table and the steep slope causing gardens and boundary walls to become damaged;
- There is a risk of ground contamination as the garage used to be used as a motor works;
- There is high parking stress in the area and the proposal would make this worse;
- The applicant has cut down most of the trees on site and this proposal would lead to a further loss in wildlife value;
- The proposed new dwelling would result in noise, nuisance and added traffic in what is currently a quiet area;
- Conservation Area Appraisal states that 'Brockley has many long gardens, which allow good views of trees and the backs of properties and this contributes to the character and spacious setting of the conservation area. In addition, such development leads to the loss of green space, vegetation and views across gardens from the street.' The properties on Vicars Hill and the surrounding streets are unique and fortunate in that the topography and staggered nature of the houses means that the street benefits from light, space and good sight lines up and down the hill. The proposal would disrupt this;
- No elevations showing the relationship between the building and neighbouring properties;
- Proposed materials are inappropriate;
- First floor living space will result in properties on the opposite site of the road being overlooked;
- The patio and living area would be overlooked from 36 Vicars Hill;
- Toilets and shower to the rear are effectively underground and no ventilation, extract fans are shown;
- Drainage shown does not look adequate;
- Plans do not show how subsidence of garden and patio will be avoided;
- Proposed dwelling could be a family dwelling and should therefore provide sufficient amenity space;
- Bins shown on plans are not commensurate with Lewisham's policies;
- These properties do not feature 1930's houses at the bottom of the gardens as Ermine Road sweeps up and it must have been decided that there was not enough space for additional dwellings in this location;
- Existing garage is a wonderful example of a mid 1920's brick built garage and should be preserved;

- Proposal does not meet requirements of Brockley Conservation Area Appraisal which states that single storey garden rooms which preserve views across gardens will be permitted
- Construction traffic would add to existing parking and traffic problems;
- Proposal fails to provide off site mitigation measures to accommodate the impact of the proposal on local infrastructure and makes no contribution towards affordable housing;
- There are already too many properties on this road;
- New dwelling will overlook, overshadow and cause additional noise and therefore means we cannot enjoy our property as we did before. Infringes on my human rights;
- Similar proposals have already been turned down at this site;
- Will result in the loss of trees which provide stability to the steep sloping site;
- Proposed dwelling would be small and cramped as a result of being sited in the space left by the existing garage and may be below the minimum size;
- Would result in overlooking of my garden and would be ugly to look at when viewed from my garden.

4.4 In addition, 3 letters of support were received from neighbouring occupiers. Matters raised can be summarised as follows:

- Proposal will improve aspect of roadside as existing gates are in need of work and will improve safety at night along this stretch of road where there are dark corners;
- Proposal would result in an attractive development rather than an unsightly garage.

Ecological Regeneration Manager

4.5 The living roof proposal is not our preferred system as it is a sedum based vegetated mat which has limited biodiversity and sustainable drainage value compared with other systems. Guidance about our preferred systems and the level of detail that should be included in planning applications is specified in the local information requirements document available on the Council's website.

4.6 Please also note that this application currently does not contain the detail, sections and methodologies that we ask for in submissions. I would also like to ask that if you were minded to approve a mat based system (either the current proposal or a more biodiverse system -I'm aware that the same firm do sell a wildflower version) that I do not recommend its installation on 50mm of substrate as detailed on the Planting scheme plan and advise that a minimum substrate depth of 80mm is used. This is more appropriate for our arid climate in south east England and London in particular.

4.7 I would also strongly recommend that the applicant must enter into a guarantee or maintenance contract with the living roof installer for a period of at least two growing seasons so that a healthy and performing living roof is handed over to the client after the defects and liability period as this help ensure that value engineering does not occur and appropriate maintenance is undertaken.

Highways and Transportation

4.8 No response received

Amenity Societies' Panel

OBJECTION. The proposed building is poor quality and of inappropriate bulk and scale. In addition, the proposal would lead to a loss of garden space and parking for the existing family dwelling house.

5.0 Policy Context

Introduction

5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

A local finance consideration means:

- (a) 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
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham Unitary Development Plan (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

5.3 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14, a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary, this states in paragraph 211, that policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

- 5.4 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, and 215 of the NPPF.

London Plan (July 2011)

- 5.5 The London Plan policies relevant to this application are:

Policy 3.3 Increasing housing supply
Policy 3.4 Optimising housing potential
Policy 3.5 Quality and design of housing developments
Policy 5.2 Minimising carbon dioxide emissions
Policy 5.3 Sustainable design and construction
Policy 5.11 Green roofs and development site environs
Policy 5.12 Flood risk management
Policy 5.13 Sustainable drainage
Policy 6.9 Cycling
Policy 6.10 Walking
Policy 7.2 An inclusive environment
Policy 7.3 Designing out crime
Policy 7.4 Local character
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology
Policy 7.19 Biodiversity and access to nature
Policy 7.21 Trees and woodlands

London Plan Supplementary Planning Guidance (SPG)

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

Housing (2012)

Sustainable Design and Construction (2006)

Core Strategy

- 5.7 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the Lewisham Town Centre Local Plan, the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:

Spatial Policy 1 Lewisham Spatial Strategy
Spatial Policy 5 Areas of Stability and Managed Change
Core Strategy Policy 1 Housing provision, mix and affordability
Core Strategy Policy 8 Sustainable design and construction and energy efficiency
Core Strategy Policy 10 Managing and reducing the risk of flooding
Core Strategy Policy 14 Sustainable movement and transport
Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

Unitary Development Plan (2004)

- 5.8 The saved policies of the UDP relevant to this application are:

URB 3 Urban Design
URB 12 Landscape and Development
URB 13 Trees
URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas
HSG 4 Residential Amenity
HSG 5 Layout and Design of New Residential Development
HSG 7 Gardens
HSG 8 Backland and In-fill Development

Residential Standards Supplementary Planning Document (August 2006)

- 5.9 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

Brockley Conservation Area Supplementary Planning Document (December 2005)

- 5.10 This document advises on the content of planning applications, and gives advice on external alterations to properties. It lays out advice on repairs and maintenance and specifically advises on windows, roof extensions, satellite dishes, chimneystacks, doors, porches, canopies, walls, front gardens, development in rear gardens, shop fronts and architectural and other details. It also sets out detailed guidance on the limited development that will be accepted within Brockley Mews - mainly within Harefield Mews.

Emerging Plans

- 5.11 According to paragraph 216 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:
- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
 - The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given). The following emerging plans are relevant to this application.
- 5.12 The following emerging plans are relevant to this application.

Development Management

- 5.13 The Council submitted the Development Management Local Plan (DMLP) for examination in November 2013. The Examination in Public has now concluded, and the Inspector has issued his report on the 23rd of July 2014 finding the Plan

sound subject to 16 main modifications. The 16 main modifications had previously been published by the Council for public consultation on the 29th of April 2014.

- 5.14 The Council expects to formally adopt the DMLP in autumn 2014.
- 5.15 As set out in paragraph 216 of the National Planning Policy Framework, emerging plans gain weight as they move through the plan making process. The DMLP as amended by the 16 main modifications has undergone all stages of the plan making process aside from formal adoption, and therefore holds very significant weight at this stage.
- 5.16 The following policies are considered to be relevant to this application:
- | | |
|--------------|--|
| DM Policy 1 | Presumption in favour of sustainable development |
| DM Policy 5 | Sheltered housing and care homes |
| DM Policy 22 | Sustainable design and construction |
| DM Policy 24 | Biodiversity, living roofs and artificial playing pitches |
| DM Policy 25 | Landscaping and trees |
| DM Policy 30 | Urban design and local character |
| DM Policy 32 | Housing design, layout and space standards |
| DM Policy 33 | Development on infill sites, backland sites, back gardens and amenity areas |
| DM Policy 36 | New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens |

6.0 Planning Considerations

- 6.1 The main issues to be considered in respect of this application are:
- Principle of Development
 - Design and Conservation
 - Quality of Accommodation
 - Residential Amenity and Impact on Adjoining Properties
 - Highways and Transport Issues
 - Lifetime Homes
 - Sustainability and Energy
- 6.2 The main planning considerations are the acceptability of the principle of an additional dwelling house being constructed on the site, the design of the proposals, impact of the proposals on the character and appearance of the conservation area, the quality of residential accommodation that would be created and the amenity of neighbouring occupiers.

Principle of Development

- 6.3 Housing is a priority use for all London boroughs and the Core Strategy welcomes the provision of small scale infill development provided that it is designed to complement the character of surrounding developments, the design and layout make suitable residential accommodation, and it provides for garden and amenity space. The National Planning Policy Framework (NPPF) states in Paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development.

- 6.4 The NPPF sets out in paragraph 14 a presumption in favour of sustainable development. In terms of decision-making, the document states that where a development accords with a local plan, applications should be approved without delay. Where a plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.
- 6.5 The document also encourages the effective use of land by reusing land that has been previously developed (brownfield land) and excludes gardens from the definition of previously developed land.
- 6.6 Emerging Policy DM33 of the Development Management Local Plan states that the development of back gardens for separate dwellings in perimeter form residential typologies identified in the Lewisham Character Study will not be granted planning permission and that private back gardens in all urban typologies should be retained in development proposals involving new separate dwellings. The site is considered to fall within the Suburban Housing section of the Perimeter Blocks typology set out in Table 2.1 *Urban typologies in Lewisham* of the DM Local Plan with the matching sets of semi-detached Victorian houses on Vicars Hill and the matching 1930's semis on Ermine Road. The Lewisham Character Study 'identified issues' section of Table 2.1 states that development of new separate dwellings in the rear gardens of this urban typology will not generally be acceptable. While this document has not yet been adopted, due to the stages it has undergone in the plan making process, it is considered to hold significant weight. The principle of developing this site for a self contained dwelling house is therefore not accepted.
- 6.7 Retained Policy HSG 8 of the Unitary Development Plan states that backland and in-fill development will be permitted provided the following criteria are met:
- a) sufficient garden depth and area should be retained by existing dwellings
 - b) the scheme must respect the character of the area, including the cumulative impact;
 - c) the scheme must be particularly sensitively designed;
 - d) there must be proper means of access, suitable for entry and egress of service vehicles which is convenient and safe for both drivers and pedestrians;
 - e) there would be no appreciable loss of privacy and amenity for adjoining houses and their back gardens;
 - f) there should be no appreciable loss of wildlife;
 - g) where the site was originally, in part or in whole, the private garden of one or more houses, the density calculation of the proposed development will take into account the site area of the original house and the number of habitable rooms in it.
- 6.8 The existing property at 36 Vicars Hill would retain a 10m deep garden. However, planning permission has just been granted for a 2.7m deep rear extension on this property and if this were implemented it is unlikely that the depth of the retained garden would meet the 9m requirement for a family dwelling.

- 6.9 In terms of access, the proposal would have a proper means of access that would be as existing.
- 6.10 The impact of the proposal on the character of the area, its design and the impact on neighbouring amenity are dealt with in the sections below.

Design and Conservation

- 6.11 Policy 3.4 of the London Plan 2011 specifies that Boroughs should take into account local context and character, the design principles (in Chapter 7 of the Plan) and public transport capacity; development should also optimise housing output for different types of location within the relevant density range.
- 6.12 Core Strategy Policy 15 states that for all development the Council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to the local context and responds to local character.
- 6.13 Core Strategy Policy 16 states that the Council will ensure that the value and significance of the borough's heritage assets and their settings, which include the conservation areas will continue to be monitored, reviewed, enhanced and conserved.
- 6.14 Policy HSG 5 Layout and Design of New Residential Development of the UDP states that the Council expects all new residential development to be attractive. Likewise, Policy 3.5 Quality and design of housing developments of the London Plan states that housing developments should be of the highest quality internally, externally and in relation to their context.
- 6.15 Retained Policy HSG 8 Backland and in-fill development states that the scheme must respect the character of the area, including the cumulative impact and be particularly sensitively designed.
- 6.16 Retained Policy URB 3 states that the Council will expect to achieve a high standard of design in extensions or alterations to existing buildings, while ensuring that schemes are compatible with, or complement the scale and character of existing development. Scale and mass of development will be taken into consideration where a new development might be out of scale with the existing surrounding development.
- 6.17 Both the Brockley and the Ladywell Conservation Areas have been designated for the architectural interest of their predominantly late Victorian and early Edwardian suburban development, which is notable for the quality of its design, detailing and craftsmanship, and the spatial qualities provided by the front and rear gardens to these houses. Despite differences in styles of buildings, group identity is strong due to a limited range of materials and common design elements.
- 6.18 The rear gardens to the semi-detached houses along Vicars Hill, close to the junction where Ermine Road intersects, are well visible in views from Ermine Road. The greenery and openness provided by these gardens add a verdant character and sense of spaciousness to the western entrance of Ermine Road, from which the existing, low garage to No. 36 does not detract.

- 6.19 The proposed replacement building would be a two-storey building. The term 'lower ground floor' is misleading in this context. The building is level with and facing Ermine Road - it would clearly be perceived from the street as a two storey building comprising a ground floor with the main entrance and a 1st floor.
- 6.20 The footprint of the building extends to full plot-width which is uncharacteristic to the traditional plot-coverage of the area where the pre-dominantly semi-detached buildings are arranged with gaps between them.
- 6.21 The position of the building within the rear garden of an existing property would be unique to this particular proposal and would be singularly incongruent within the established pattern of housing development in the area. By way of its bulk and height, the building would obscure the views into the rear garden of No. 36 and adjacent properties and interrupt the sense of openness created by these gardens.
- 6.22 The proposed materials, cedar cladding and aluminium windows, would be out of keeping with the character of the surrounding area and whilst the Council is not opposed to well designed contemporary development in conservation areas, the detailing of the proposal is considered to be poor, with random fenestration of different proportions on the front elevation which makes no attempt to respond to the context of the area and does not feature reveals.
- 6.23 The design is unprepossessing and neither makes any reference to the historic development nor convinces as a quality contemporary addition in its own right. The bland design is of 'anywhere' and does not add to the sense of place and local distinctiveness of the area. The ground floor recess which would provide for a partly covered off-street parking space has no precedent in the area where narrow front boundaries are predominant.
- 6.24 In summary of the above, the proposed development by way of its bulk and poor design would detract from the character and appearance of Ermine Road and as such would fail to preserve and enhance both the Brockley and the Ladywell Conservation Areas. The development would fail to add to local distinctiveness and not be of the highest quality design as required by the NPPF and local policy. In addition, the proposal would fail to be carefully designed to respect the character of the area as required by Policy HSG 8 Backland and In-fill Development and therefore the principle of the development is not accepted.

Quality of Accommodation:

- 6.25 Policy 3.5 of the London Plan (2011) Quality and Design of Housing Developments states the minimum internal floorspace required for residential units on the basis of the level of occupancy that could be reasonably expected within each unit.
- 6.26 Saved Policy HSG 5 Layout and Design of New Residential Development in the Adopted UDP states that the Council expects all new residential development to meet the functional requirements of its future inhabitants.
- 6.27 DM Policy 32 states that the standards in the London Plan and the London Plan Housing Supplementary Planning Guidance (2012) will be used to assess whether new housing development including conversions provides an appropriate level of residential quality and amenity in terms of size, a good outlook, with

acceptable shape and layout of rooms, with main habitable rooms receiving direct sunlight and daylight, and adequate privacy. The standards and criteria in this policy, including those taken from the London Plan and the London Plan Housing Supplementary Guidance, will ensure a reasonable level of residential amenity and quality of accommodation, and that there is sufficient space, privacy and storage facilities in development to ensure the long term sustainability and usability of the homes.

- 6.28 The floor area of the dwelling would be 73sqm which is 10sqm short of the floorspace requirement for a 2b4p two storey dwellinghouse.
- 6.29 The proposal would provide two double bedrooms at lower ground floor level. Whilst both of these rooms would be single aspect, with windows overlooking the street and associated problems with privacy, Bedroom 2 would be of particular concern as its window would be overshadowed by the floor above which cantilevers out. At 10sqm this room is below the floorspace requirements set out in the London Housing SPD and much of this space to the rear of the room would not be useable due to the presence of a staircase through the space. The amenity provided by this room is therefore not considered to be acceptable.
- 6.30 The proposed ground floor open plan living area and kitchen are considered to provide adequate levels of amenity in terms of layout, outlook and daylighting. However, the proposed garden would be short of the 9m depth required by Policy HSG 7 Gardens for family dwellings. The garden would also be overlooked by the existing garden at 36 Vicars Hill. The shorter length of the garden and change in level would also result in the windows to the ground floor living space being overlooked by the garden at 36 Vicars Hill resulting in a loss of privacy.
- 6.31 Overall it is not considered that the proposal would result in an acceptable standard of residential accommodation.

Residential Amenity and Impact on Adjoining Properties

- 6.32 HSG 4 Residential Amenity states that the Council will seek to improve and safeguard the character and amenities of residential areas throughout the Borough by ensuring that new dwellings are sited appropriately, resisting the siting of incompatible development in or close to residential areas and seeking higher standards of design and landscaping in all new development in residential areas.
- 6.33 Neighbouring occupiers have raised concerns that the proposal would result in overshadowing of their gardens. The existing garage on the site is 2.99m high. The proposed dwelling would be 5.6m high, however, given the orientation of the site, there would only be potential of overshadowing of the garden at 34 Vicars Hill. Given that this area of the garden is already overshadowed by the existing garage and trees and the extent of the overshadowing is limited to the far end of the garden, it is not considered that the proposal would result in an unacceptable level of overshadowing to neighbouring gardens.
- 6.34 Concerns have been raised by local residents about the risk of flooding, loss of wildlife and subsidence.
- 6.35 It was clear to officers when visiting the site that there is an issue with instability of the land in this location and the applicant has confirmed that the proposal would provide an opportunity to address this issue should it be found to be acceptable.

- 6.36 With regards to the loss of biodiversity, a planting scheme has been submitted in support of the application that includes a number of native species which would partially mitigate the loss of wildlife resulting from the garden being developed.
- 6.37 The proposal would result in an increase in the area of the garden covered by building and would therefore result in increased run off. The applicant has sought to mitigate this through the use of a soakaway in the garden and a sedum roof. However, the Council's Ecological Regeneration Manager has raised concerns in relation to the proposal on the grounds that the green roof proposal is not the Council's preferred system as it is a sedum based vegetated mat which has limited biodiversity and sustainable drainage value compared with other systems. If the proposal were otherwise acceptable it is considered that the use of a different green roof type could adequately address these concerns and that this could be dealt with by condition.
- 6.38 The proposal, combined with the recently approved extensions at 36 Vicars Hill have the potential to result in an unacceptable loss of garden space for the existing occupiers at 36 Vicars Hill.
- 6.39 The design of the front elevation of the proposed new house would result in unusually large windows at first floor level which would be opposite first floor windows of the properties on the opposite side of Ermine Road and are considered to result in a loss of privacy to these occupiers as a result of overlooking.
- 6.40 It is considered that the proposal would result in an unacceptable loss of privacy to neighbouring occupiers and would result in an unacceptable loss in garden space for the existing occupiers.

Highways and Traffic Issues

- 6.41 It is not considered that the addition of a single dwelling that would be served by the existing cross over and would provide an off street parking space would have an adverse impact on highway safety or cause increased on street parking.

Lifetime Homes

- 6.42 Core Strategy Policy 1 (Housing provision, mix and affordability) requires all new residential development to be Lifetime Homes compliant. The applicant has confirmed on plan that the development will be Lifetime Homes compliant. A condition could be recommended which ensures that the completed development achieves this were the proposals otherwise acceptable.

Sustainability and Energy

- 6.43 Policy 5.3 Sustainable Design and Construction of the London Plan states that the highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new developments and to adapt to the effects of climate change over their lifetime.
- 6.44 Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:
- Be Lean: use less energy

- Be clean: supply energy efficiently
- Be green: use renewable energy

- 6.45 Core Strategy Policy 7 Climate change and adapting to the effects, states that the Council will adopt a partnership approach to implement the principles of 'avoidance, mitigation and adaptation' by applying the London Plan policies relevant to climate change including those related to: air quality, energy efficiency, sustainable design and construction, retrofitting, decentralised energy works, renewable energy, innovative energy technologies, overheating and cooling, urban greening, and living roofs and walls and recognising the role that the reuse and modification, where appropriate, of heritage assets can play in securing sustainable development in order to reduce carbon emissions.
- 6.46 Core Strategy Policy 8 Sustainable design and construction and energy efficiency requires all new housing development to achieve a minimum of Level 4 when assessed using the Code for Sustainable Homes criteria.
- 6.47 The applicant has submitted a Code for Sustainable Homes Pre-assessment Report and separate Sustainability Statement. The statement confirms that it will be possible for the development to meet Code Level 4 in accordance with the requirements of the Core Strategy. A condition could be recommended to require a Design Stage Certificate to ensure that the development achieves Code Level 4 were the proposals otherwise acceptable.

7.0 Local Finance Considerations

- 7.1 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:
- (a) 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
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).
- 7.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 7.3 The Mayor of London's CIL is therefore a material consideration. CIL is payable on this application and the applicant has completed the relevant form.

8.0 Equalities Considerations

- 8.1 Section 149 of the Equality Act 2010 ("the Act") imposes a duty that the Council must, in the exercise of its functions, have due regard to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 8.2 The protected characteristics under the Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.3 The duty is a “have regard duty” and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.
- 8.4 In this matter there is considered to be no impact on equality.

9.0 Conclusion

9.1 The principle of a separate dwelling house being constructed on this site is not accepted both in terms of Policy DM 33 of the DMLP (for adoption in November 2014) and its failure to be particularly sensitively designed and to respect the character of the area as required by retained Policy HSG 8 Backland and In-fill Development of the UDP(2004). The design of the proposal is considered to be poor and would fail to preserve the character and setting of the Ladywell and Brockley Conservation Areas. The proposal would fail to provide an adequate standard of accommodation and would have an unacceptable impact on the amenity of neighbouring occupiers and the occupiers of 36 Vicars Hill.

10.0 RECOMMENDATION REFUSE PERMISSION subject to the following reasons:-

- (1) The proposed development by reason of its design, mass and height would not be compatible with the character of the surrounding area. It would therefore represent an inappropriate and visually obtrusive development that would neither preserve or enhance the character and appearance of the Ladywell and Brockley Conservation Areas nor the visual amenities of the locality contrary to Policy 3.5 Quality and Design of Housing Developments of the London Plan (2011), Policy 15 High quality design for Lewisham and Policy 16 Conservation areas, heritage assets and the historic environment of the adopted Core Strategy (June 2011), Policies URB 3 Urban Design, URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas, HSG 5 Layout and Design of New Residential Development, HSG 8 Backland and In-fill Development in the adopted Unitary Development Plan (2004) and DM Policy 32 Housing design, layout and space standards of Development Management, DM Policy 33 Development on Infill Sites, Backland Sites, Back Gardens and Amenity Areas and DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens of the Development Management Local Plan (for adoption November 2014).
- (2) The proposed development would fail to provide a satisfactory size of accommodation and amenity area for future occupiers and would fail to provide adequate privacy to the ground floor living areas and adequate outlook and daylighting to Bedroom 2 contrary to Policy 3.5 Quality and Design of Housing Developments of the London Plan (2011), The London Plan Supplementary Planning Guidance: Housing (November 2012), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Policy HSG 5 Layout and Design of New Residential Development and Policy HSG 7 Gardens in the adopted Unitary Development Plan (July 2004) and DM Policy 32 Housing design, layout and space standards of

Development Management, DM Policy 33 Development on Infill Sites, Backland Sites, Back Gardens and Amenity Areas of the DMLP (for adoption November 2014).

- (3) The proposal, as a result of its design, would have an unacceptable impact on neighbouring occupiers in terms of a loss of privacy, contrary to Policies HSG 4 Residential Amenity and HSG 8 Backland and In-fill Development in the adopted Unitary Development Plan (2004) and DM Policy 32 Housing design, layout and space standards of the DMLP (for adoption November 2014).

INFORMATIVE

Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquires and the detailed advice available on the Council's website. On this particular application, a previous application (DC/14/86707) was submitted and advice was given regarding the proposal being unacceptable resulting in the application being withdrawn. The application was re submitted in the form of the current application which had not changed significantly from the withdrawn application other than being supported by a Code for Sustainable Homes Pre-Assessment. Discussions were held with the applicant during the application process and they were advised that a two storey self contained dwelling house would not be acceptable in this location. The application was not willing to amend the scheme so no solution was possible.