

Committee	PLANNING COMMITTEE B	
Report Title	14 Netherby Road, London, SE23 3AN	
Ward	Forest Hill	
Contributors	Samuel James	
Class	PART 1	28 <sup>th</sup> SEPTEMBER 2017

Reg. Nos. DC/17/102569

Application dated 17.07.2017

Applicant Ms Thompson-Hill

Proposal The construction of a single storey rear extension and the creation of a new raised patio area with retaining walls at 14 Netherby Road, SE23, together with the removal of a ground floor window and the insertion of a door to the side elevation.

Applicant's Plan Nos. PL 01; PL 10 R; PL 11 R; PL 13 R; PL 14 R; PL 15 R; PL 20 R; PL 21 R; PL 22 R; PL 23 R; PL 24 R; PL 25 R; PL 26 R; Supporting Letter

Background Papers (1) Case File LE/54/14/TP  
(2) Development Management Local Plan (adopted November 2014) and Core Strategy (adopted June 2011)

Designation PTAL 3  
Not located in a conservation area.  
No Article 4(2) Direction

## **1.0 Property/Site Description**

- 1.1 The application relates to a two storey semi-detached single-family dwellinghouse, located on the Northern side of Netherby Road.
- 1.2 The natural ground level at the host plot, and those surrounding and adjoining it slope steeply away from the front of the house towards the end of the gardens. The garden of the host property is approximately 36m in length.
- 1.3 There is an existing patio area, which provides level access with a depth of 4.9m from the rear elevation of the host property. The rear (highest part) of the existing patio is approximately 0.5m above natural ground level. There are a set of steps to the west side of this, which descend down to the natural ground level (which continues to slope away).

There is an existing decking with approximately the same height and depth as this patio at the property adjoining to the east, the host property's semi-detached pair, No.12 Netherby Road.

- 1.4 There is a raised decking area to the rear of No.16 Netherby Road, which is approximately 1m higher than the ground level at the host property. This steps down to natural ground level approximately 2m from the existing rear elevation of No.14. The main rear building line of No.16 is recessed approximately 4.5m from the rear building line of No.14, and it has a seemingly original rear projection, which extends out approximately as far.

## **2.0 Planning History**

- 2.1 **DC/17/100320:** The construction of a single storey rear extension and the creation of a new raised patio area with retaining walls at 14 Netherby Road, SE23, together with the removal of 1 window and the insertion of a door and ground floor window to the side elevation. **Refused on 26 April 2017, for 2 reasons:**

1. The proposed single-storey extension, by virtue its excessive height and positioning on the boundary, would result in an unacceptable sense of enclosure and overbearing visual impact upon the amenities of No.12 Netherby Road, contrary to DM Policy 31 Alterations and Extensions to Existing Buildings including Residential Extensions of the Development Management Local Plan (2014) and the Residential Standards SPD of the Local Development Framework (2012).
2. The proposed raised patio area, by virtue of its excessive height and depth, would result in a significant increase in overlooking opportunities and therefore a potential loss of privacy to the occupiers of both No.12 and No.16 Netherby Road, contrary to DM policy 31 Alterations and Extensions to Existing Buildings including Residential Extensions of the Development Management Local Plan (2015) and the Residential Standards SPD of the Local Development Framework (2012).

## **3.0 Current Planning Applications**

### The Proposals

- 3.1 The construction of a single storey rear extension and the creation of a new raised patio area with retaining walls at 14 Netherby Road, SE23, together with the removal of a ground floor window and the insertion of a door to the side elevation.
- 3.2 This is a resubmission of previous application DC/17/100320, which sought approval for a full width, 3m deep extension with a patio. The extension and patio have both been reduced in size, in response to the previous reasons for refusal.
- 3.3 Single Storey Rear Extension

The rear extension would be the full width of the house, and would have a staggered rear elevation. From the west side elevation it would have a depth of

3m, for a width of 5.05m, and from the shared boundary with No.12 it would have a depth of 2.2m from for a width of 1.05m. It would have a monopitched roof.

- 3.4 The 3m deep section of the extension would have an eaves height of 3.4m, and a maximum height of 3.8m, measured from the proposed adjacent ground level (which would be slightly raised in the side return adjacent to No.16). Measured from the existing patio level, the 3m deep section would have an eaves height of 3m and a maximum height of 3.6m.
- 3.5 The 2.2m deep section of the extension would have an eaves height of 3.25m, measured from the existing patio at the host property, as well as the patio at No.12.
- 3.6 The extension would incorporate 2 sets of white painted timber French doors on the rear elevation of the 3m deep section, and a full height picture window on the rear elevation of the inset 2.2m deep section. 3 rooflights would be incorporated into the roof of the extension.
- 3.7 The roof would be covered in tiles to match the main roof, and the walls would be finished in painted render to match the main house.
- 3.8 A dark grey door with obscure glazing would be installed, and a window removed at first floor level of the side elevation.
- 3.9 Raised Patio Area and retaining walls

The proposed extension would step down 0.6m to the proposed patio area, which would have a depth of 3.1m from its rear elevation. At its highest point, at a depth of 6.1m from the original rear elevation, the patio would raise the ground level by approximately 0.85m.

- 3.10 The retaining wall would be set in 0.85m, and the patio 1.05m away from the shared boundary with No.12. They would carry across for the rest of the width of the garden to shared boundary with No.16. The wall would have a height of 1.4m at its rear face and would be approximately 0.5m higher than the patio. There would be another set of steps down to the natural ground level of the garden. The wall would be constructed of dark grey bricks.

#### **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 A site notice was displayed and letters were sent to the 4 adjoining residents in and the Forest Hill ward Councillors.
- 4.3 3 Neighbouring residents have raised objection to the proposal. 2 of which are the neighbours adjoining to either side, the other is one house away. Their comments are summarised below.

- *The properties currently benefit from their original building line, which allows a good level of outlook and vistas from left to right.*
- *An extension of the proposed dimensions would result in an unacceptable impact upon visual amenity. It would lead to a feeling of being 'boxed in' – a sense of enclosure and a loss of daylight and sunlight.*
- *The extension would be overbearing, and result in a heavily shaded patio area which would stay damp. This is the only flat area of the garden as the rest slopes away. Due to the northerly orientation of the garden, 'the sun comes round to the left in the afternoon, depending on the time of year.*
- *Proposal would have a detrimental effect on the view, available sunlight and daylight to kitchen and dining room at the rear of the house.*
- *'The charm and unique feature of the houses is the openness at the back of the properties' - an extension would substantially alter the outlook and character.*
- *Requested an amendment to reduce the depth of the whole structure to 2.2m.*

## **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.
- 5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), the Development Management Local Plan (adopted November 2014) and policies in the London Plan (March 2015). The NPPF does not change the legal status of the development plan.

### National Planning Policy Framework

- 5.3 The NPPF was published on 27th 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 that (paragraph 211), 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 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.

#### Other National Guidance

- 5.5 On 6 March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents.

#### The London Plan (2016)

- 5.6 The policies relevant to this application are:  
Policy 7.4 Local character  
Policy 7.6 Architecture

#### 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 London Plan and 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:  
Core Strategy Policy 15 High quality design for Lewisham

#### Development Management Local Plan

- 5.8 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core Strategy and the London Plan is the borough's statutory development plan.
- 5.9 The following policies are considered relevant to this application:  
DM Policy 30 Urban design and local character  
DM Policy 31 Alterations/extensions to existing buildings

#### Residential Standards Supplementary Planning Document (Updated 2012)

- 5.10 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.
- 5.11 Paragraph 6.2 (Rear extensions) states that when considering applications for extensions the Council will look at these main issues:
- How the extension relates to the house;

- The effect on the character of the area - the street scene and the wider area;
- The physical impact on the host building, and the amenity of occupiers of neighbouring properties;
- A suitably sized garden should be maintained.

5.12 Paragraph 6.3 (Materials) states that bricks and roofing material used to construct an extension should match those in the original building. However, the use of modern materials is supported where appropriate.

## **6.0 Planning Considerations**

6.1 The main issues to be considered in respect of this application are:

- Principle of Development
- Design
- Impact on Adjoining Properties

### Principle of Development

6.2 The principal of a single storey rear extension to a residential dwelling is acceptable, subject to design and amenity concerns.

### Design

6.3 Paragraph 63 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'. Paragraph 131 states that 'in determining applications, local planning authorities should take account of the desirability of new development making positive contribution to local character and distinctiveness'.

6.4 Core Strategy Policy 15 states that 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.

6.5 DM Policy 30 'Urban design and local character' states that the Council will require all development proposals to attain a high standard of design.

6.6 The proposed single storey rear extension has been reduced in size from the previous refusal and now would be of an appropriate height and scale so as to be proportionally subservient to the host dwelling, and within the context of the garden. No objections are raised to the use of matching materials or rooflights.

6.7 The raised patio has also been reduced in size from the previous refusal and is considered to be of an acceptable appearance, traditionally seen in rear gardens, which raises no objections, they dark grey bricks would complement the pebbledash render finish of the main building; it is therefore considered acceptable in terms of design.

- 6.8 Notwithstanding the above assessment, the proposals would not be visible from the public realm.
- 6.2 Officers consider the proposed extension and decking would be compatible within the host property and surrounding area in terms of design, in line with DM Policy 30 and 31.

#### Impact on Adjoining Properties

- 6.9 Core Strategy Policy 15 states that new development should be designed in a way that is sensitive to the local context. More specific to this, DM Policy 31 seeks to ensure that residential alterations should result in no significant loss of privacy and amenity to adjoining houses and their back gardens. It must therefore be demonstrated that proposed alterations are neighbourly and that significant harm will not arise with respect to overbearing impact, overshadowing, and loss of light, loss of outlook or general noise and disturbance.

#### *The rear extension*

- 6.10 The proposed extension would be built on the boundary with No.12 Netherby Road for a depth of 2.2m, where it would step in away from the boundary by 1.05m for the final 0.8m of depth (total of 3m deep). As there is a patio area with an approximate depth of 3m, and the same height as the existing patio at No.14, the effect of the proposal would be the addition of a 2.2m deep wall with a height of between 3.85m and 3.25m on the boundary, with an additional 0.8m deep wall with an eaves height of 3m, 1.05m away from the boundary.
- 6.11 Officers note that a 3m deep extension is under most circumstances permitted development, i.e. not requiring planning permission. However, in this instance due to the sloping ground levels and therefore elevated position of the extension mean this cannot be classified as permitted development, notwithstanding that the height of the extension has been designed to lessen the impact upon no. 12 by projecting 2.2m along the boundary with the further 0.8m being inset over 1m from the boundary. This is considered to reduce the visual impact, and mitigate against any over-bearing sense of enclosure or loss of outlook, taking into account the length of the gardens and semi-detached arranged of the dwellings. It is therefore considered that no adverse impacts would arise with regard to the occupiers of No. 12 Netherby Road.

- 6.12 The proposal would be set 1.2m away from the shared boundary with No.16 Netherby Road. The ground level at No.16 steps up significantly to their patio area, which infills the area between the side elevation of their original rear projection, and the boundary with the host property. The extension would therefore be highly unlikely to have any significant impacts in terms of loss of natural light, overbearingness or an increased sense of enclosure for the residents.

#### *The raised patio area*

- 6.13 The patio area would be set 1.1m away from the shared boundary with No.12, and would carry across the boundary with No.16. Its total depth, not including the retaining wall, would be 3.1m from the rear of the extension, and 6.1m from the original rear elevation. It would be 0.4m lower than the existing patio, and 1.1m

further from the shared boundary with No.12, but protruding 1.3m deeper into the garden.

- 6.14 The proposed patio area, although deeper than the existing, is also lower. Due to the steep ground levels at the property, and the existing patio, the additional 1.3m of depth would not be expected to allow significantly greater overlooking than the existing situation. It is noted that the fences are low at the properties, so some mutual overlooking is to be expected, as is typical of developed residential locations.
- 6.15 Considering the above, the proposed patio area would not be expected to afford any significant additional overlooking opportunities into No.12, or No.16 than those which are already experienced. There would therefore be no significant impact on their privacy.

## **7.0 Equalities Considerations**

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.

- 7.1 In summary, the Council must, in the exercise of its function, have due regard to the need to:
- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - (b) advance equality of opportunity between people who share a protected characteristic and those who do not;
  - (c) Foster good relations between people who share a protected characteristic and persons who do not share it.
- 7.2 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.
- 7.3 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: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 7.4 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- 1. The essential guide to the public sector equality duty
  - 2. Meeting the equality duty in policy and decision-making



3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

7.5 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: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

7.6 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.

## **8.0 Conclusion**

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

8.2 The proposed extension and patio area are acceptable with regards to design and would have no significant impact on the amenity of neighbouring occupiers at No.12 and No.16 Netherby Road.

## **9.0 RECOMMENDATION: GRANT 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:

PL 01; PL 10 R; PL 11 R; PL 13 R; PL 14 R; PL 15 R; PL 20 R; PL 21 R; PL 22 R; PL 23 R; PL 24 R; PL 25 R; PL 26 R;

**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.

## **INFORMATIVES**

- A. 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 and proactive discussions took place with the applicant prior to the application being submitted through a pre-application discussion. As the proposal was in accordance with these discussions and was in accordance with the Development Plan, no contact was made with the applicant prior to determination.
- B.** You are advised that all construction work should be undertaken in accordance with the 'London Borough of Lewisham Good Practice Guide: Control of Pollution and Noise from Demolition and Construction Sites' available on the Lewisham web page.