

Committee	PLANNING COMMITTEE A	
Report Title	LAND AT REAR OF 60 BREAKSPEARS ROAD, LONDON, SE4 1TS	
Ward	BROCKLEY	
Contributors	Jan Mondrzejewski	
Class	PART 1	01 March 2018

<u>Reg. Nos.</u>	DC/17/102243
<u>Application dated</u>	23.06.2017
<u>Applicant</u>	Mr Confino
<u>Proposal</u>	The demolition of the three garages to the rear of 60 Breakspears Road, SE4, and the construction of a two storey plus basement, two bedroom house with roof terrace.
<u>Applicant's Plan Nos.</u>	DESIGN AND ACCESS STATEMENT - PART 1 ; DESIGN AND ACCESS STATEMENT - PART 2 ; DESIGN AND ACCESS STATEMENT - PART 3 ; DESIGN AND ACCESS STATEMENT PART 4; GA-001; GA-002; GA-003; GA-004; GA-010; GA-011; GA-012; GA-013; GA-014; GA-101; GA-102; GA-103; GA-104; GA-110; GA-111; GA-112; GA-113; GA-114; GA-115; GA-116; GA-120; GA-121; GA-122; HERITAGE STATEMENT; PLANNING STATEMENT - PART 1; PLANNING STATEMENT - PART 2 & SUSTAINABILITY STATEMENT (Received June). INTERNAL VIEWS (Received 10 th November)
<u>Background Papers</u>	(1) Case File LE/19/A/TP (2) Core Strategy (June 2011) (3) Development Management Local Plan (November 2014) (4) London Plan (March 2016) (5) Residential Design Standards SPD (Updated 2012) (6) Brockley Conservation Area Character Appraisal and SPD (December 2005)
<u>Designation</u>	Brockley Conservation Area Brockley Article 4 Direction Area of Archaeological Priority PTAL 3
<u>Screening</u>	N/A

1.0 Property/Site Description

- 1.0 The application site comprises an area of approx 80sqm occupied by a row of three garages at the rear of No 60 Breakspears Road. No 60 forms part of a semi-detached pair of Victorian houses of circa 1880, located at the junction of Breakspears Road and Cranfield Road. Access to the site is from Cranfield Road and there is a concrete forecourt in front of the garages, which allows cars to pull in off the road to access the garages. The site originally formed part of the rear garden of No 60 Breakspears Road.
- 1.1 To the west of the garages is a single storey electricity substation and a modern block of flats known as Oaklands House. Oaklands House comprises 12 flats constructed in the 1990s on the site of former tennis courts associated with St Peter's Church Hall, which is located to the west of the flats. The Church Hall, which dates from circa 1880 has been used as an Indian Orthodox Church for the past 10 years.
- 1.2 The site is located within the Brockley Conservation Area, which is subject to an Article 4(2) direction, which removes permitted development rights for street elevations of dwelling houses in the area. The site is also within an Area of Archaeological Priority, associated with the buildings of a former Premonstratensian Abbey that was established in the 12th Century. However, by the early 13th Century it was considered that the community was failing and they were moved to a new site in Bayham in Sussex where the ruins of the abbey still survive. The remains of the original Brockley foundation are indicated on early O/S maps but no above ground remains have survived.
- 1.3 The site has a Public Transport Accessibility Level of 3.

2.0 Relevant Planning History

- 2.0 Planning permission was granted in January 1971 for the conversion of No. 60 to three flats with domestic storage at basement level. In November 1973, planning permission was granted for the erection of an extension at the rear of the property and the erection of a block of three garages in the rear garden. A condition of this permission was that the garages shall not be used for any purpose (including use as living accommodation) other than the storage of a private motor vehicle and no trade or business shall be carried on therefrom. An enforcement notice issued in December 1976 implies that the garages and extension were constructed at this time but there were clearly issues in relation to compliance with the approved plans in respect of window details. It would appear that this matter was subsequently rectified.
- 2.1 Planning permission for alterations to 60 Breakspears Road including the erection of a dormer window on the rear roof slope was granted in April 1985.
- 2.2 In 2008 conservation area consent and planning permission (DC/08/68482 and DC/08/68665) was refused for the demolition of the existing garages to the rear of 60 Breakspears Road and the construction of three prefabricated micro compact homes with associated landscaping.
- 2.3 In February 2016, planning permission (DC/15/094160) was refused for the demolition of the existing garages at the rear of 60 Breakspears Road (fronting Cranfield Road) and the erection of a four-storey plus basement dwelling and flat. The proposed building comprised five bedrooms, three kitchens, and four bathrooms across four levels above ground, with the basement level containing a storage area and plant room. A roof terrace with 2.45m high walls and solar panels was also proposed. The ground floor was arranged as a self-contained one-bedroom flat, with the remaining four bedrooms, bathrooms and kitchens on the first, second and third floors. The application was refused for the following reasons:
 1. *The proposed development, by reason of its scale, massing, and design, would be overly dominant, representing a visually intrusive addition harmful to the character and appearance of the street scene and surrounding conservation area. As such, the*

proposal would be contrary to Policy 15 in the adopted Core Strategy (2011); and DM Policy 30, 32, 33 and 36 in the Development Management Local Plan (2014).

2. The proposed development would result in the provision of an undersized flat with no outdoor amenity space and poor outlook, resulting in an inadequate standard of accommodation that would not provide a reasonable level of residential amenity and quality of life for occupants, contrary to the Technical Housing Standards (2015), Policy 3.5 of the London Plan (2015) and DM Policy 32 (Housing design, layout and space standards) of the Development Management Local Plan (2014).

2.4 In January 2016, officers responded to a pre-application enquiry (PRE/16/002661) in respect of the demolition of the three garages and the construction of a three storey, plus basement dwelling at the land to the rear of 60 Breakspears Road, including a roof terrace. The reply made the following points:

- Officers are satisfied that the principle of demolishing the three garages and redeveloping the site for residential use is acceptable, subject to adherence to policies with regard to scale, design and standards of accommodation for future occupiers.
- The site would further infill the building masses of the buildings fronting Breakspears and Wickham Roads. Officers accept that this space has already been interrupted by the presence of Oaklands House, however the visual relationship between 60 Breakspears Road and the single storey garages still maintains the hierarchical relationship between primary and subsidiary buildings which forms a key characteristic of the Brockley Conservation Area.
- Officers consider that the proposed part 2/3 storey building would still be too high in this context. The three storey mass would not achieve the required level of subordination to the host building (being 60 Breakspears Road), therefore undermining the long vistas down Cranfield Road which are considered important to the conservation area. As highlighted within page 13 of the Design Access statement submitted with the pre-application documents, the buildings within back gardens are typically no more than 2 storeys in height, and while there are some exceptions, Officers do not consider this site to host any characteristics, which would justify or allow the third storey.
- Officers do, however consider that the set back of the building from Cranfield Road, to align with the flank of 60 Breakspears Road has been successful in reducing some of the impact on the street scene. It also allows the dwelling to pick up on the building line of the host building. Holding this line in any future iterations of the scheme is recommended.

2.5 As with all replies to formal pre-application enquiries, the letter to the applicant included a caveat to note that pre-applications are the views expressed at officer level only and do not prejudice any formal decision of the Council.

3.0 Current Application

3.1 The current application is for the demolition of the three garages to the rear of 60 Breakspears Road, SE4, and the construction of a two storey plus basement, two bedroom, four-person house with roof terrace. At basement level the dwelling comprises a kitchen (12.6sqm), utility room (5.4sqm), bathroom (5.4sqm) and a living room labled 'cinema room' (12.6sqm) at basement level. The kitchen and cinema room have full height glazed windows

and sliding glazed doors onto a basement area adjoining the rear garden of 60 Breakspears Road. This area measures 1.5m in width, 8m in length and is located 3m below the level of the rear garden of No 60, with the rear garden boundary wall of No 60 adding a further 1.5m in height to the enclosing retaining walls. The basement kitchen also has a double height space with obscured glazed clearstory lighting located above the garden wall with No 62 Breakspears Road.

- 3.2 In addition to the kitchen lightwell, the proposed ground floor comprises a living/dining room of 17.5sqm, a bathroom of 5.4sqm and an entrance hall/landing of 8.1sqm, incorporating vertical storage for two full sized bikes. As in the case of the kitchen lightwell, the ground floor bathroom will be lit by an obscured glazed window located above the boundary wall with No 62. The living room will be lit by full height, clear glazed, inward opening, bi-fold doors located on the elevation of the proposed building facing the rear garden of No 60 Breakspears Road. To prevent future occupiers falling into the adjoining basement area and to protect the residents of No 60 from overlooking and loss of privacy, an obscured glazed screen of 1.8m in height will be fixed to the outside of the proposed bifold doors. The street elevation of the proposed building is set back approximately 1m from Cranfield Road, and includes bin stores to the right of the front entrance of the new dwelling and steps down to the basement area.
- 3.3 The first floor comprises two double bedrooms, each of 12.6sqm, a bathroom of 5.4sqm, a study of the same size and a landing of 2.7sqm. The study has a clear glazed window on the elevation adjoining the electricity substation and one of the bedrooms has a clear glazed window overlooking Cranfield Road. The proposed bathroom is lit by a lantern light and the second bedroom has a window with external obscured glazed screen on the elevation adjoining No 62 Breakspears Road.
- 3.4 The roof of the building has a parapet with flat green/living roof (labeled a flower meadow on the submitted roof plan) enclosing a roof terrace of 12.5sqm. The living roof has a greater area on the sides of the building adjoining the rear gardens of Nos 60 and 62 Breakspears Road, which is intended to prevent overlooking of these gardens by persons using the roof terrace. The roof terrace is enclosed by a metal balustrade, the uppermost part of which is 1.1m in height above the surface of the roof terrace. Access to the roof terrace is via an openable rooflight accessed from the stairwell.
- 3.5 The applicant has provided internal views of the proposed accommodation to give an impression of the levels of natural light and outlook within the proposed dwelling at basement and ground floor level.
- 3.6 In terms of materials, the submitted Design and Access Statement states that the base of the building will be constructed in a simple bonded brickwork, which is meant to replicate the plinth of the Victorian buildings and give a sense of solidity to the building. The brickwork of the upper floors will be laid with a special bond inspired by the ornamental bands typical of the Victorian building in the area. A change of bond in the brickwork crowning the top of the building is intended to respond to the stucco architraves of the Victorian houses in Breakspears Road. Windows will be timber framed.
- 3.7 The application has been submitted with a Design and Access Statement and a sustainability statement

4.0 Consultation

- 4.0 The Council's consultation met the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.1 A site notice was displayed, press notice issued, and letters sent to adjoining occupiers, Brockley Ward Councillors, the Council's Highway Officer and UK Power Networks, who are responsible for the sub station adjoining the site.

Written Responses received from Local Residents

4.2 Twenty three replies were received from the occupiers of Nos 56, 57,62A, 62B, 62C, 64B, 64C and 66B Breakspears Road, 87A and 91 Cranfield Road, Flats 1, 2, 3, 4, 5, 9 and 10 Oaklands House, Cranfield Road, 13 Brockley Park and No 4 Garington Mews, raising the following concerns:

- The proposed property would significantly obstruct views from 62c Breakspears Road.
- The development is described as a two storey house, but with the added height of a roof terrace it becomes equivalent in height to a three storey house and would have a detrimental impact on the existing open vista which is clearly a heritage feature of the Brockley Conservation Area.
- The construction of the roof terrace would make overlooking of adjoining flats and gardens possible.
- The proposed dwelling is described as being 16.5 metres away from No 60 Breakspears Road. However, an acceptable distance as required by government legislation is considered to be 21 metres.
- The proposed property is described as a 2 bedroom family house but the application includes 3 bathrooms and is likely that in the long term to be converted into a number of micro units as was previously proposed.
- The roof terrace and basement lightwell are enclosed by walls and fences that can be climbed by children which is extremely dangerous.
- The garages are frequently described in the application as an eyesore but this is not a community held view.
- The current plot of land is far too small for this development and will also change the look of the street.
- The construction of this building will also cause a lot of noise and disruption for those living close by.
- The garages are not in a bad state of repair but even if they were, it is the owner's responsibility to maintain them. Three garages were built for the subdivision into 3 flats of 60 Breakspears in 1973, but today planning permission would not be allowed for garages.
- The scale and the mass are overbearing and is not subservient to 60 Breakspears.
- The proposed building is one or two meters lower than 60 Breakspears, but visually at street level and for surrounding residents, it will dominate the heritage vista along Cranfield Road and across back gardens.
- The dominance, mass and scale of the building destroys the current solid to void ratio along this section of Cranfield Road and blocks out the open vistas across the Breakspears' Gardens (a designated Brockley Conservation heritage asset) for all residents.
- Viewed along Cranfield Road from St Peter's Church, the balance of the vista rests with the sight line created by Oaklands House and the Gregorian church. To align the front of the property with the flank wall of 60 Breakspears destroys this visual line to the detriment of the street.
- The garages are not an "inappropriate presence", they are useful space to take cars off the road. If modern cars are larger than they were in 1973, the owner could build 2 new larger garages for rental. The third roof has already been raised to accommodate a campervan. Any building taller than the substation could not be deemed "subservient" to the host building.
- The garages do not "detract from an otherwise pleasant and attractive street scene". They are set back to the correct site line of the street and now attractive foliage has blurred their edges. The contrary is true of the current planning application. If granted, the stark height and mass of a 7m – 8m dwelling would intrude on the present attractive street scene.
- The basement courtyard would be too narrow to sustain any plant growth. The height of the garden wall plus the 3m depth makes it 4.6 from any available light.

- The claims that the terrace is set back and therefore surrounding properties could not be overlooked are spurious. An adult standing on this terrace at 1m20 above the parapet and would therefore overlook all surrounding properties.
- The windows of the proposed dwelling would have frosted glass for the bottom 2/3rds and 1/3 clear glass above which would be overlooked by first and second floor flats in 60, 62 and Oaklands house.
- The suggestion in 4.15 of the Planning Statement that the “design will progress once the scale and massing has been established” suggests that the present design is not final. The roof terrace actually functions as a second storey taking the height of the building up to 8 meters in line with the second floor windows of Oaklands House.
- Current planning policy would not allow the development of a back garden in Breakspears Road for a new dwelling so why should garages built on former garden land be treated any differently.
- The proposed roof terrace on a flat roof is of an unsympathetic design to the neighbouring properties in Cranfield Road which have pitched roofs.
- The proposed building will make the top end of Cranfield Road less desirable and reduce the value of the flats in Oaklands House.
- The applicant is trying to push through a 3 bedroom home with a basement dining room, as a two bedroom home with a basement 'cinema room.'
- If the applicant wishes to build a single unit, he could produce plans for something more in keeping with the size of plot available.
- Cranfield Road Streetview Photos indicate that the new building will be clearly visible from as far back as the junction with Wickham Road and Cranfield Road; along the full length of both sides of this section of Cranfield Road.
- All buildings in Cranfield are set back uniformly from the pavement.
- The proposed block (four storeys including rooftop garden and a basement), will adversely dominate this half of the street from all angles. It will not merge into the surroundings, as the applicant's documents try to imply.
- The flats in Oaklands House on the same side of the building as the plot are already dark. The windows at the side which look out directly onto the site offer the only real daylight/sunlight during daylight hours and so the proposed structure would seriously affect light into the flats and thereby quality of living with the lower floors will be particularly affected.
- When residents of Oakland House have to apply and pay for permission simply to replace windows in a like for like style, why is the Council even considering an application which entirely contradicts what a conservation area should be.
- Approval of the scheme would suggest that anything goes and there would be a decline in observance of conservation area requirements.
- The existing garages are a useful amenity to anyone living locally – where there is a serious shortage of garage space.
- Whilst the design statement quotes the officers' reservations about various aspects of the pre-application, it ignores their comments.
- The proposal is contrary to Core Strategy Policy 6 New Development, Changes of Use and Alterations to Buildings in Conservation Areas
- The proposal does not take any account of the historic layout of the property boundaries nor of the vistas along Cranfield Road or the spaces between buildings, if it did the proposed building would sit back at the present boundary of the garages in line with Oaklands House and be no higher than the existing substation.
- The site is not viable for such a large building which offers no amenity space at ground level.
- Part 4 of the applicant's Heritage Statement states that 'proposed scheme will have a beneficial impact on its surroundings by reinstating an urban hierarchy where there is none'. However, the building would not “reinststate” anything. As until 1973 this site formed the lower half of the garden of 60 Breakspears Road.
- The garages are low and unobtrusive in appearance, the solid to void ratio and the vista along Cranfield have not been disturbed for nearly 45 years. The present

proposal, would have a negative and highly intrusive impact on its surroundings and be utterly out of context with the existing urban hierarchy of Cranfield Road.

- 4.3 No comments were received from Ward Councillors although Cllr Adefrianye asked, at the request of the applicant, that the application be put to the Planning Committee for determination.

Objection from UK Power Networks

- 4.4 UK Power Networks, the distribution network operator for this area of London operates a distribution network substation adjacent to the proposed development. UKPN will require further information relating to the development, for example construction methods etc to review to confirm that there is no impact on the equipment located within the substation enclosure. UKPN will require the developer to raise the appropriate notices, for example party structure notice, for the proposed development. Until UKPN have received all relevant information from the developer for the works they are proposing to undertake UKPN will raise an objection to the proposal.

4.5 Response received from Brockley Society

- The proposal is welcomed as a substantial improvement on the previous application (DC/15/094160) that was refused on 17 February 2016 in that it now goes a long way to offer a more acceptable and innovative design solution. The Society thereby recognises the efforts made to comply with points raised previously by the Planning Group on height, massing, bulk and scale in its letter of 08 January 2016 (as below) and as reflected in LBL's refusal notice of 17 February 2016.
- However, whilst the Society was originally consulted in detail on the development of the original scheme it regrets that this process has not been followed through with the current proposals and, more importantly, nor would it seem with neighbours. This omission is of concern as a number of issues arise:

Brickwork

- Whilst the reversion to use indigenous brickwork is applauded, the excessive use of projecting stepped horizontal banding is considered to be out character for the CA. A simpler, less dominant and strident pattern of banding is recommended (see the attached JPG of NHow Berlin by NPS Tchoban Voss, Architects)
- As for the possible use of 'reflective paint' is proposed to replicate the rendered plinths of Victorian houses nearby, more detail is requested in order to validate the suitability of this suggestion and as the type of bricks remains to be selected and agreed it is advised that a materials sample palette be prepared for discussion with the Society in order to advance the proposals. The Planning Statement (p26, para 7.16) concedes that there is still a need for 'future design investigation'.

Overlooking and glazing

- The efforts made to address previous concerns are appreciated but as the solutions proposed concern window areas that directly overlook the gardens of Nos 60 and 62 Breakspears Road it is essential that affected neighbours be consulted and solutions be pre-agreed (ie as per our letter of 08 January 2016).
- This will involve demonstrating that the obscure glazing system shown on p29 of the Planning Statement is visually viable re 2-way overlooking and can deal with night-time light spillage (ie unlike the parallel case of 165 Upper Brockley Road which currently fails - see DC/17/101922).
- It will be essential therefore to prove that the glazing and support system to be used is genuinely obscure in practice and is not in any way translucent.

Green Roof

- A restriction on the use of the roof as an amenity area for parties, etc will need to be applied to prevent any unacceptable loss of privacy to adjoining properties (see the recent approval granted on 18 August 2017 for 36 Vicar's Hill - DC/17/101595).

Highways Comments

- 4.6 The applicant will need to undertake two overnight parking surveys on weekdays (not during school holidays). As for the cycle parking, the proposed vertical stands are unacceptable. A Sheffield stand or shed (large enough to accommodate two bicycles comfortably) would be acceptable.
- 4.7 As the applicant has declined to provide the requested information, he has failed to demonstrate that parking can be accommodated without an unacceptable impact on on-street parking. Given the loss of 3 off street car parking spaces it is likely that these would be displaced on street, which is unacceptable. The Highway Officer stressed that their concerns relate to parking stress and not traffic movement.

5.0 Policy Context

5.0 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) 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 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), DMLP (adopted in November 2014) and policies in the London Plan (March 2015 as further altered in 2016). 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 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.

London Plan (March 2016)

- 5.6 The London Plan was adopted on 14th March 2016. The new, draft London Plan was published by the Mayor of London for public consultation on 29 November 2017 (until 2 March 2018). However, given the very early stage in this process, this document has very limited weight as a material consideration when determining planning applications, does not warrant a departure from the existing policies of the development plan in this instance and is therefore not referred to further in this report. The policies relevant to this application are:

- Policy 3.3 Increasing housing supply
- Policy 3.5 Quality and design of housing developments
- Policy 3.8 Housing choice
- Policy 5.3 Sustainable design and construction
- Policy 5.10 Urban greening
- Policy 5.11 Green roofs and development site environs
- Policy 5.21 Contaminated land
- Policy 6.3 Assessing effects of development on transport capacity
- Policy 6.9 Cycling
- Policy 6.13 Parking
- Policy 7.1 Building London's neighbourhoods and communities
- Policy 7.2 An inclusive environment
- Policy 7.3 Designing out crime
- Policy 7.4 Local character
- Policy 7.5 Public realm
- Policy 7.6 Architecture
- Policy 8.3 Community infrastructure levy

Core Strategy

- 5.7 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together the Development Management Local Plan and the London 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 7 Climate change and adapting to the effects
- Core Strategy Policy 8 Sustainable design and construction and energy efficiency
- Core Strategy Policy 12 Open space and environmental assets
- Core Strategy Policy 13 Addressing Lewisham's waste management requirements
- 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

Development Management 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 Core Strategy and the London Plan is the borough's statutory development plan. The following policies are relevant to this application:-

DM Policy 1 Presumption in favour of sustainable development
DM Policy 22 Sustainable design and construction
DM Policy 25 Landscaping and trees
DM Policy 26 Noise and vibration
DM Policy 28 Contaminated land
DM Policy 29 Car parking
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 35 Public realm
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.

Residential Standards Supplementary Planning Document (updated May 2012)

- 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 sets out advice on repairs and maintenance and specifically advises on windows, roof extensions, satellite dishes, chimney stacks, 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 may be acceptable within Brockley Mews - mainly within Harefield Mews.

6.0 Planning Considerations

- 6.0 The relevant planning considerations are:

- a) Principle of development
- b) Design and impact on the character and appearance of the surrounding conservation area
- c) Impact on the amenities of adjoining properties
- d) Proposed standard of residential accommodation
- e) Traffic and parking issues
- f) Contamination
- g) Sustainability and energy
- h) Community infrastructure levy

Principle of development

- 6.1 The principle of the proposal will be assessed in relation to DM Policy 33 that relates to 'Development on infill sites, backland sites, back gardens and amenity areas'. The policy defines these various types of sites, outlining the suitability of residential development on each type of site. It does however recognise that there will be some instances where a

particular site will not fall squarely within any one of these definitions. The policy states that in these cases, the principles that will be applied will be taken from the appropriate parts of this policy. Although the site is in separate ownership to the dwelling at 60 Breakspears Road and is accessed from Cranfield Road, it was originally part of the rear garden of No.60 and therefore consideration is given to if the site should constitute a 'back garden' or 'infill' site.

- 6.2 The application site as originally planned formed part of the garden of no. 60 Breakspears Road, however following the sub-division of the property into three self-contained flats in the early 1970s the land was developed for the construction of three garages. The garages were clearly seen as ancillary to the residential sub-division and were subject to a planning condition stating that the garages shall not be used for any purpose (including use as living accommodation) other than the storage of a private motor vehicle and no trade or business shall be carried on therefrom.
- 6.3 However over time the relationship between the dwellings and garages has eroded and the garages no longer provide parking for the properties of no. 60 Breakspears Road and have no direct access into the land of no. 60. It is therefore considered that whilst the garage site may originally have formed part of the garden and subsequently ancillary space for the amenity of no. 60 Breakspears Road, over time this site has lost its relationship with no. 60 and no longer can be considered as back garden.
- 6.4 It is considered that, by virtue of the existence of being built form on the current application site for over 40 years, which has over time lost its relationship to the dwelling, the application site has in planning terms become separated from the original back garden use. Officers are therefore satisfied that in this situation the site can be classed as an infill site for the purposes of consideration against DM 33 and the principle of development.
- 6.5 DM Policy 33 sets out that infill sites are defined as sites within street frontages such as former builders' yards, small workshops and garages, gaps in terraces and gardens to the side of houses. Infill sites may present urban design problems in harmonising the development with the existing built form. The subject property would replace three one-storey lock-up garages which have a street frontage (Cranfield Road). Therefore Officers consider the site to form an infill site and consideration to this against the policy criteria within DM 33 is outlined below.
- 6.6 As an infill site, any scheme is required to be of the highest design quality and relate successfully to the existing streetscape and provide living accommodation of an acceptable standard without leading to an unacceptable loss of amenity on the neighbouring occupiers.
- 6.7 National and local planning policies place considerable emphasis on the importance of achieving high quality design that complements existing development, and establishes townscape and character. The Residential Standards Supplementary Planning Document sets out guidance for all residential properties. All new dwellings should be sensitively designed to retain the architectural integrity of the neighbouring buildings and the area.
- 6.8 Members are advised that although the Brockley Society have no objection in principle to the proposed development, the majority of Brockley residents who responded to the consultation are clearly opposed to the principle of development, which they consider damaging to the character and appearance of the Conservation Area. However, officers consider that the site in question has ceased to be part of the rear garden of 60 Breakspears Road and therefore should be considered under this policy as an infill site, albeit one which was originally part of the back garden of a Victorian House located on a corner site in the Brockley Conservation Area. On this basis the principle of development of the site is considered acceptable, provided that the development satisfies the criteria for in-fill development as set out in Policy DM 33, as well as other relevant policies of the planning documents listed in the previous Policy section of this report. Crucial to this will be the impact of the proposed development on the Brockley Conservation Area and the requirement set out in planning legislation that

the development must preserve or enhance the character and appearance of the Conservation Area. The Council, in exercising its planning functions, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Case law has confirmed that the term 'preserving' means doing no harm.

- 6.9 In light of the above, officers support development of the application site for residential use in principle, however this is subject to any development being sensitively designed to ensure no significant harm to the streetscape and amenity of the surrounding area. This matter is discussed in further detail below.

Design and impact on the character and appearance of the Conservation Area

- 6.10 The proposed building at two storeys with a footprint covering much of the site, would be highly prominent in views from both the Breakspears and Wickham Road ends of Cranfield Road. It lacks the degree of setback from the street enjoyed by the former St Peter's Church Hall (now St Gregorius Orthodox Church) and the more recently built Oaklands House, which occupies the site of former tennis courts, both of which are located on the south side of the street. Coupled with this, is the height of the proposed building. Even though a full storey of the building is concealed below ground level, two storeys covering almost the whole site area of the plot, plus a parapet concealing a green roof and roof terrace add considerably to the bulk of the building, which almost extends to the eaves height of the adjoining Oaklands House, which is a three storey building.
- 6.11 The proposed building also considerably reduces the separation between Oaklands House and the rear of the semi-detached pair of Victorian houses at Nos 60 and 62 Breakspears Road. This currently comprises the remaining rear garden of No 60 and the group of wholly single storey buildings comprising the electricity sub-station (also constructed on former garden land), at the rear of No 60 Breakspears Road and the three single storey garages which make up the current application site. Although the applicant argues that the proposed building is of superior design to these clearly utilitarian structures, officers respectfully submit that this does not equate with protecting and enhancing the character and appearance of the Brockley Conservation Area. This is because the current buildings are considerably lower than the proposed structure, allowing views of tree cover in adjoining gardens, which is an important characteristic of the Conservation Area, to be clearly seen from the street. Indeed, views to the north of Cranfield Road over the rear garden of No 58 Breakspears Road are similarly available from the public realm and remain protected by Policy DM 33 as a result of being garden land.
- 6.12 The officer response to the pre-application enquiry submitted in 2016 in respect of the demolition of the three garages and the construction of a three storey, plus basement dwelling at the land to the rear of 60 Breakspears Road, including a roof terrace, states that a building of no more than 2 storeys may be appropriate, subject to a high quality design coming forward. The reply goes on to say that if a 2 storey option was to come forward, looking at ways to introduce a roof terrace should still be explored, although it would need to be demonstrated that there would be no overlooking of adjoining gardens or unacceptable impact on the street scene as a consequence of the additional height.
- 6.13 While the use of the basement courtyard as external amenity space in addition to the terrace, could be acceptable, the reply makes clear that the use of the basement area on its own as amenity space would not be supported as the high sided retaining walls would give rise to an enclosed and claustrophobic environment which would result in a poor standard of accommodation for future occupiers.
- 6.14 Under the heading 'Moving Forward' the pre-application response states that any revised scheme would require *"a significant reduction in scale and mass in order to address the first reason for refusal"*.

- 6.15 The advice was given with the usual caveat that the views expressed are those of officers only and do not prejudice any formal decision by the Council. It will be noted that no follow up pre-application meeting was undertaken by the applicant prior to submission of the application. Officers did not consider that the current scheme, which was very much the pre-application scheme with the second floor removed, could be made acceptable by minor changes at application stage. It should also be noted that officer advice was very much against basement accommodation containing habitable rooms and this continues to be a feature of the scheme.
- 6.16 Had officers had the the opportunity to view the revised design prior to submission, the applicant would have been recommended to considerably scale down the development from what is currently a potential three bedroom family house to one for single or two person occupancy.

Impact on the amenities of adjoining properties

- 6.17 Due to the greater size of the proposed building, compared to the existing lock-up garages, it will be much more prominent in views from neighbouring properties, chiefly Nos 60-66 Breakspears Road and Oaklands House in Cranfield Road. It would also dominate the garden areas of Nos 60 and 62 Breakspears Road both during the day and at night in terms of light spillage from the proposed building. The proximity to the proposed building with its deep basement may also jeopardize the retention of existing mature trees in adjoining gardens and prevent the future growth of trees of similar size in such close proximity to the existing boundary.
- 6.18 The 21m separation between buildings, mentioned by several objectors is a design standard applied to low rise public housing schemes in the inter-war and post war periods. It relates to the minimum distance between rear facing habitable rooms and the current equivalent would actually be 18m, as set out in the London Housing SPG (2016). With regard to appropriate separation distance between habitable windows and flank elevations, the Council's Residential Design Standard SPD (updated in 2012) seeks a minimum distance of 9m.
- 6.19 In the proposed development the minimum distance between the rear elevation of No 60 Breakspears Road and the flank wall of the new dwelling would be 13m. For a Conservation area characterised by long rear gardens, typically of 25m in this part of the Conservation Area, this degree of proximity between the rear of No 60 Breakspears Road and the new dwelling is considered unacceptable and detrimental to both the outlook of adjoining occupiers and the visual amenities of the Conservation Area in general.
- 6.20 In terms of the issue of safety, arising from the use of a deep basement in an unexpected position adjoining rear garden walls protected by only standard sized garden walls, officers consider that this is an issue which may require the adjoining walls to be increased in height. Were the application otherwise acceptable it is considered that this could possibly be addressed by the use of a planning condition requiring the submission and approval by the Council of boundary wall details.

Proposed standard of accommodation

- 6.21 In terms of the standard of accommodation with respect to the Government's Technical housing standards – nationally described space standard, the size of the proposed dwelling in terms of gross internal floorspace is 115sqm. This includes an allowance for the upper ground floor mezzanine which has the effect of reducing the overall gross internal floor area at this level. The gross internal floor area of the proposed building therefore considerably exceeds the minimum floorspace requirement for a two bedroom, 4 person dwelling on two floors (79sqm) as set out in the Technical housing standard. There is no minimum size quoted in the standard for two bedroom dwellings on three floors. Were the 'cinema room' at

basement level to be used as a double bedroom, the proposed dwelling would also comfortably exceed the minimum size for a three bedroom 6 person dwelling on three floors (108sqm). Members are advised that it is not possible to control how the occupiers of the proposed dwelling, if built, would make use of the space available to them.

- 6.22 While there is no objection to new dwellings exceeding what are intended to be minimum standards, it will be seen from previous sections of this report that the scale of the building is considered excessive in relation to the size of the plot. This has a detrimental impact on the amenities of neighbouring occupiers, the streetscene and the character and appearance of the Brockley Conservation Area.
- 6.23 In order to prevent overlooking of adjoining residential properties, the proposed living room and one of the second floor bedrooms are lit by windows with fixed external privacy screens of 1.8m in height to protect the privacy of adjoining occupiers. This would mean that these rooms, while likely to receive sufficient daylight, would have no outlook. This is considered unacceptable in terms of Policy DM 32 Housing design, layout and space standards states, under the heading 'Siting and layout of development' that the Council expects all new residential development to:
- a. be attractive and neighbourly
 - b. provide a satisfactory level of privacy, outlook and natural lighting both for its future residents and its neighbours and*
 - c. meet the functional requirements of future residents.*
- 6.24 Officers consider that all habitable rooms should have outlook and that obscured glazed and high level windows are not acceptable as the only means of providing natural light to such accommodation. Although the basement of the building does have non-obscured glazed windows to a kitchen and 'cinema room' looking out onto a lighwell, outlook is in this case compromised by the presence of a 3m high retaining wall (with the rear garden boundary wall of No 60 adding a further 1.5m in height to this) located at a distance of only 1.5m from these windows.
- 6.25 Given the proximity of windows in the proposed development to neighbouring gardens, particularly in the case of the high level obscured glazed window to the proposed kitchen, which is located at ground level on a boundary adjoining the garden of No 62, there is the possibility of disputes emerging over the planting and maintenance of vegetation adjoining the windows.

Traffic and Parking

- 6.26 London Plan Policy 6.3 Assessing effects on development on transport capacity states that development proposals should ensure that impacts on transport capacity and the transport network are fully assessed. Development should not adversely affect safety on the transport network. Furthermore, transport assessments will be required in accordance with TfL's Transport Assessment Best Practice Guidance.
- 6.27 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). London Plan Policy 6.13 Parking states that the maximum standards set out in Table 6.2 in the Parking Addendum should be the basis for considering planning applications.
- 6.28 Core Strategy Policy 14 Sustainable movement and transport states that car free status for new development can only be assured where on-street parking is managed so as to prevent parking demand being displaced from the development onto the street, and cycle parking will

be required for new development and TfL guidelines will be used to assess provision. Design will need to incorporate safe and secure cycle storage and parking.

- 6.29 As this particular part of the Brockley Conservation Area does not have a particularly high PTAL, namely 3, and involves the loss of 3 lock-up garages likely to be available for rent by local residents, a car free scheme would normally require a parking survey to be carried out in accordance with the advice given by the Council's Highways Officers. This would be expected to demonstrate that there is sufficient capacity in Cranfield Road and surrounding roads to ensure that the loss of off-street parking is acceptable.
- 6.30 This site is currently used as 3 lock-up garages. There are no regional or local planning policies that protect garages, although any subsequent impact on the local area, particularly on the availability of parking spaces, through the loss of parking spaces, whether in garages or not, must be acceptably mitigated.
- 6.31 Although the applicant was requested by Highways to carry out an overnight parking survey of local road frontages within 200m of the application site, it was decided by the applicant that this would be both costly and unnecessary. A major part of the argument against this is the statement in the 2016 planning officers delegated report in respect of 2 units that this would have an 'acceptable impact' on the parking stress levels. However, there is no record of the highways officer being consulted on this application, which was subsequently refused under delegated powers. As an alternative to a parking survey, the applicant has for the purposes of the current application submitted photographs of Cranfield Road taken on the evening of 8th January 2018, which show the availability of off-street parking. These photographs have been forwarded to highways officer who considers that they are insufficient to demonstrate the acceptability of car free development and the objection to the development by Highways is therefore maintained.
- 6.32 Although the applicant was recommended to undertake a parking survey of the local area, this has not to date been carried out. A communication with the applicant's agent dated 19th December 2017 stated that the applicant who lives locally will be supplying photographs showing the parking situation in the vicinity of the site during the evening. This information was received in early January of this year but does not demonstrate to the satisfaction of the Highways Department that the development would not give rise to an unacceptable level of increased on-street parking in the vicinity of the site.
- 6.33 As noted above (see Consultation), the Highways Officer considered that the proposed cycle parking, which was based on the use of vertical stands was unacceptable. A Sheffield stand or shed (large enough to accommodate two bicycles comfortably) was suggested. However, the area proposed for cycle storage would be dry and secure, being located inside the proposed building. Moreover, the area allocated for bike storage appears to be large enough to accommodate two bicycles stored horizontally if required.

Contamination

- 6.34 The site comprised agricultural land prior to the development of the area for residential purposes in the late 1800s and was garden land prior to the construction of the existing garges in the 1970s. Since then the site appears to have been sealed by a concrete base and the risk of contamination being present is therefore likely to be low. However, if the proposed development were to be considered acceptable, a planning condition requiring this to be verified before the commencement of above ground works, could be considered.

Sustainability and energy

- 6.35 The application has been submitted with an energy statement. The report concludes that the development will have CO2 baseline emissions which are Part L compliant via passive Energy Efficiency Measures alone as highlighted in Section 4 of the report.

- 6.36 The baseline CO2 emissions drop from 2.33 tonnes CO2/year to 2.12 tonnes CO2/year, which equates to a 8.71% decrease at the 'Be Lean' stage, when taking into account the following:
- High levels of insulation to achieve low U-Values;
 - Highly efficient individual gas boilers with modern controls and smart meters to minimise energy use;
 - Low air tightness requirements;
 - A natural ventilation strategy that will avoid additional electrical demand for mechanical systems;
 - 100% low energy lighting with a minimum luminous efficacy of 45l/c/w.
- 6.37 The energy efficiency measures are complemented by 0.54 kWp of PV, which further reduce carbon emissions by 11.38% over the 'Be Lean' stage and this will support the delivery of renewable energy and associated infrastructure in the borough.

Community Infrastructure Levy (CIL)

- 6.38 On 1st April 2015 the Council introduced its Local CIL to be implemented along with the existing Mayoral CIL. The charge replaced a number of financial contributions currently required through Section 106 Agreements.
- 6.39 CIL is chargeable on the net additional floorspace (gross internal area) of all new development. Under the CIL charging schedule, the amount of CIL payable for the SE14 postcode for new residential development is £70 per sqm. The Mayor CIL is charged at £35 per sqm of new development.
- 6.40 It is the Local Planning Authority's responsibility to collect CIL payments from new development.

7.0 Equalities Considerations

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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/>

- 7.5 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

- 7.6 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/>

- 7.7 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 The Local Planning Authority has considered the particular circumstances of the application against relevant planning policy set out in the Development Management Local Plan (2014), the Core Strategy (2011), London Plan (March 2016) and the National Planning Policy Framework (2012).
- 8.2 In summary, the proposal is considered unacceptable in terms of impact on the streetscene and failure to preserve or enhance the character and appearance of the Brockley Conservation Area. By reason of its close proximity to existing gardens, the development would also detract from the outlook of the occupiers of adjoining properties and its dependence on obscure glazed privacy screens on windows of habitable rooms, would not provide acceptable living accommodation for future residential occupiers of the new dwelling.

9.0 RECOMMENDATION: REFUSE PLANNING PERMISSION for the following reasons:-

1. The proposed development would, by reason of its height, scale, bulk and visually prominent location on Cranfield Road, have a detrimental impact on the local streetscape and would fail to preserve or enhance the character and appearance of the Brockley Conservation Area, contrary to Policy 15 High Quality Design for Lewisham of the adopted Core Strategy (June 2011) and 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 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 (November 2014).

2. The proposed development by reason of its height, bulk, scale and detailed design would have a detrimental impact on the amenity of the occupiers of adjoining residential properties by reason of the overbearing visual impact of the proposed building and loss of outlook, contrary to Policy 15 High quality design for Lewisham of the adopted Core Strategy (June 2011) and Policy DM 32 Housing design, layout and space standards of the adopted Development Management Local Plan (November 2014).
- 3 The proposed development would fail to provide satisfactory outlook for future occupiers due to the use of obscured glazed screens fixed to the exterior of windows to habitable rooms at ground and first floor level and the limited access to natural light and outlook for the proposed basement accommodation, contrary to Policy 15 High Quality Design for Lewisham of the adopted Core Strategy (June 2011) and 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).

Informative

- 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, pre-application advice was sought and advice was given regarding the proposal submitted at pre-application stage being unacceptable. The submitted scheme did not fully address officer concerns. Discussion took place to find a solution, but no solution was possible. These discussions involved carrying out a parking survey for submission as part of the current application. However, the design and conservation objections to the proposal were such that they could not be resolved by amending the current scheme and the applicant was advised that re-submission following a further pre-application enquiry was therefore likely to be necessary.