

Committee	PLANNING COMMITTEE A	
Report Title	83 Erlanger Road, SE14 5TQ	
Ward	TELEGRAPH HILL	
Contributors	Vincent Murphy	
Class	PART 1	28 th March 2019

<u>Reg. Nos.</u>	DC/18/109847
<u>Application dated</u>	23.11.2018
<u>Applicant</u>	Mr/Ms Reid and Smith
<u>Proposal</u>	Demolition of the ground floor side return wall and conservatory, and the construction of a single storey side return infill extension at 83 Erlanger Road, SE14.
<u>Background Papers</u>	(1) Case File DE/47/83/TP (2) Core Strategy (June 2011) (3) Development Management Local Plan (November 2014) (4) London Plan (March 2016)
<u>Designation</u>	Telegraph Hill Conservation Area

1.0 PROPERTY/SITE DESCRIPTION

- 1.1 The application site is 83 Erlanger Road, located on the eastern side of Erlanger Road, between the intersections of Erlanger Road with Sherwin Road and Arbuthnot Road.
- 1.2 The property contains a semi-detached three-storey dwelling, constructed of London stock brickwork, and has bay windows at ground and first floor levels facing the street. To the rear the property has a typical three-storey rear outrigger and a private garden.
- 1.3 Surrounding land-use is residential. The character is of similar semi-detached dwellings, with architectural and fenestration detailing the same as that of the subject dwelling.
- 1.4 The topography of the site and its environs is sloping downwards from west to east and from south to north.
- 1.5 The site is within Telegraph Conservation Area, subject to an Article 4 direction, but is not a listed building nor in the vicinity of one.
- 1.6 It has a PTAL rating of 6a. The site is not within a Flood Zone as mapped by the Environment Agency. No other planning designation applies to the subject site.

2.0 RELEVANT PLANNING HISTORY

- 2.1 There is no relevant planning history at the subject site.
- 2.2 Relatively recent planning history at other sites on the same street and within the Telegraph Hill Conservation Area is considered relevant to the subject proposal.

- 2.3 Planning permissions granted under reference nos. DC/13/84319, DC/14/90279, DC/15/90028 and DC/16/98361 approved similar rear extensions elsewhere within the Telegraph Hill Conservation Area.
- 2.4 Applications with reference nos. DC/14/89277 and DC/14/87791 are for rear extensions that were refused planning permission. The implications of these decisions in terms of precedent are discussed later in this report.
- 2.5 Planning permissions granted under reference nos. DC/16/95948, DC/16/97414 and DC/17/102060 approved similar rear extensions along Erlanger Road within the Telegraph Hill Conservation Area.

3.0 CURRENT PLANNING APPLICATION

- 3.1 Planning permission is sought for the demolition of the ground floor side return wall and conservatory, and the construction of a single storey side return infill extension at the subject site. This is a common type of extension for Victorian properties with rear outriggers.
- 3.2 The proposed side-infill extension would be located at lower-ground floor level, and measure 7.4m deep inclusive of the area currently occupied by the existing conservatory. The extension would not extend past the depth of the existing outrigger at the property.
- 3.3 The extension would have a height of 2.8m above finished ground level at the eaves and 3.3m at its highest point where the mono-pitch roof connects to the existing side wall of the outrigger.
- 3.4 The extension would be finished in London stock brickwork to match existing brickwork at the property, and glazing (including doors) to the rear elevation and mono-pitch roof.

4.0 CONSULTATION

- 4.1 The Council's consultation met the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 Site and public notices were displayed, a press notice published in the local newspaper and letters or electronic communications were sent to six adjoining residents, Telegraph Hill Ward Councillors and the Telegraph Hill Society.
- 4.3 No objections have been received from neighbours or from Ward Cllrs.
- 4.4 The Telegraph Hill Society have submitted an objection on the following grounds.

Substantive material consideration	Response
Harm to the character and appearance of the Conservation Area and the property	See paragraphs 6.7-6.9.
Harm to living conditions of neighbours from light spill	See paragraph 6.16

- 4.5 The Council's Conservation Officer has reviewed the case and raised no objection.

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 In this case there are no local finance considerations.

5.3 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 2016). The NPPF does not change the legal status of the development plan.

5.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding the duty in relation to conservation areas, being the desirability to preserve or enhance the character and appearance of conservation areas, is a material consideration in this instance.

National Planning Policy Framework

5.5 The revised NPPF was published on 19th February 2019 and is a material consideration in the determination of planning applications. It contains at paragraph 11, a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on its implementation. In summary, this states in paragraph 213, 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 and in regard to existing local policies, that '...due weight should be given to them, 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)'.

5.6 Officers have reviewed the Core Strategy and Development Management Local Plan for consistency with the NPPF and consider there are no issues of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraph 213 of the NPPF.

5.7 Chapter 16 sets out the approach to take when assessing the impact of development on heritage assets including how merits should be balanced against harms and the weight given to the desirability of preserving heritage assets.

London Plan (March 2016)

5.8 The current London Plan was updated in March 2016. A draft New London Plan was published by the Mayor of London for public consultation on 29 November 2017 (until 2 March 2018). Minor changes have been released following a consultation period. Given the stage that this plan change process is at, this document has some limited weight as a material consideration when determining planning applications. However, the draft New London Plan is not considered to amend the substance of relevant planning policy applying to the site and proposal and therefore does not warrant a departure from the existing policies of the development plan (in this instance) and is consequently not referred to further in this report.

5.9 The current London Plan policies relevant to this application are:-

Policy 7.4: Local character

Policy 7.6: Architecture

Policy 7.8: Heritage assets and archaeology

Core Strategy

5.10 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 15 High quality design for Lewisham

Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

Development Management Plan

5.11 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 30 Urban design and local character

DM Policy 31 Alterations/extensions to existing buildings

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)

5.12 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.

5.13 Paragraph 6.4 (bulk and size) advises that extensions should be smaller and less bulky than the original building and reflect its form and shape. Traditionally, extensions to buildings are subsidiary to the main structure. Over-dominant extensions may destroy the architectural integrity of existing buildings and may be out of character with adjacent buildings.

5.14 A draft Residential Standards SPD has been consulted upon (in 2018) however the weight given to this document is very limited since no response to the consultation has been published.

Telegraph Hill Conservation Area Character Appraisal (March 2008)

5.15 The Telegraph Hill Conservation Area is a well-preserved planned development of late 19th century terraces and pairs of houses built under the control of the Worshipful Company of Haberdashers. The buildings are good examples of late 19th century middle

class houses and villas with many surviving design features. There is a strong sense of group identity to the houses in the Conservation Area due to a limited palette of materials and common design elements.

- 5.16 The application site is located in Character Area 1(a) as detailed in the Telegraph Hill Conservation Area Character Appraisal. Erlanger Road is noted as a one of the historically prestigious streets within the conservation area, and residential properties along this street have especially long back yards reflective of the historic high status of the street.

6.0 PLANNING CONSIDERATIONS

- 6.1 The principle of development (residential extension) is acceptable considering the subject site and surrounding context is an established residential area.

- 6.2 The substantive relevant planning considerations are therefore:

- the impact of the proposal on the character and appearance of the existing building, heritage impacts upon the Telegraph Hill Conservation Area, and
- impacts upon the residential amenities of neighbouring occupiers.

Design, character and heritage impacts

- 6.3 NPPF Chapter 12, London Plan Policies 7.4, 7.6 and 7.8, Core Strategy Policies 15 and 16, and Development Management Policies 30 and 36 are particularly relevant policies to the matters of quality of design, and character and heritage impacts.

- 6.4 There is a strong sense of character derived from the consistency of design, principally fenestration patterns and architectural detailing, facing Erlanger Road (public realm). Plot widths, outrigger extensions, stepped heights to follow topography, and the provision of long rear gardens provide the rest of the setting of residential properties which collectively informs the character of the area. The same collective design features generate heritage value due to the age, consistency and relatively unspoilt nature of many properties in the area.

- 6.5 The scale of the proposal is set out in paras 3.2 and 3.3 above. The extension would be subservient in scale and is acceptable in terms of massing.

- 6.6 Considering the design of the proposed extension, it would be finished predominantly in brick to match the existing along the long side elevation with contemporary glazing to the shorter rear elevation, with dark grey metal framing to roof. The appearance of the extension is overall considered visually lightweight, reading as a clearly contemporary, modern addition to the original dwelling. No objection is raised to the design approach, which is considered high quality and would preserve the character and appearance of the property and the Conservation Area.

- 6.7 The key issue is the loss of the side-bay window. This is a characteristic of outrigger extensions in this area. The objection from the Telegraph Hill Society gives considerable attention to this component of the proposal, arguing (in summary) that such a design materially harms the character and appearance of the property and the Telegraph Hill Conservation Area.

- 6.8 Officers agree that the side-bay windows are of value in this part of the Conservation Area; however, they are not universally visible from the public realm. Therefore the significance of the side bay window to the Telegraph Hill Conservation Area varies from house to house depending on the degree of visibility from the public realm. Even from private space in adjoining properties, visibility is limited and often restricted further due to boundary fencing and planting. In instances where the bay window is not visible from the

public realm, officers conclude that it is of low significance and its loss would not harm the heritage asset.

- 6.9 In reaching this conclusion, Officers have had regard to an appeal decision relating to No. 65 Erlanger Road, cited by the Telegraph Hill Society: the Inspector (in part) dismissed this due to the loss of this side bay window. The Inspector gave weight to the fact the upper structure of the bay and some of the upper glazing was visible. He stated: *“due to the close proximity to the public realm and extent of visibility of the window from the public realm, I consider the ground floor side bay window makes an important contribution to the character and appearance of the Conservation Area”*. The bay in question was visible due the property’s location close to the junction of Erlanger Road and Sherwin Road and it can be viewed over the garden of No. 63. This is a highly significant difference to the subject site, where no part of the bay window is visible from the public realm.
- 6.10 As such, the removal of the lower-ground floor side bay window and the side wall of the outrigger would not result in harm to the significance of the heritage, and discernible character, of the neighbourhood and the Telegraph Hill Conservation Area.
- 6.11 Council’s Senior Conservation Officer has reviewed the proposed scheme, and has confirmed there is no objection on heritage grounds. The advice of this officer has informed the conclusions reached regarding heritage and character.
- 6.12 Turning to the measures required by the NPPF, as no harm is identified it is unnecessary to consider any public benefits of the proposal. Nevertheless, for the sake of clarity, officers are clear there are no wider public benefits. This notwithstanding, the scheme would preserve the character and appearance of the Telegraph Hill Conservation. As such, paragraphs 194 and 196 of the NPPF and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are considered appropriately satisfied by the proposal.
- 6.13 Therefore, in conclusion, the proposal is considered acceptable with respect to design quality considerations, and character and heritage impacts, and consistent with DM Policies 30, 31 and 36.

Impact on the amenity of neighbouring occupiers

- 6.14 NPPF Chapter 12, London Plan Policies 7.4 and 7.6, Core Strategy Policy 15, and Development Management Policy 31 are particularly relevant planning policies to the matter of neighboring amenity impacts.
- 6.15 The proposal is not considered to have any potential to materially harm the residential amenity of the occupiers of the neighbouring properties to the north (81 Erlanger Road) or east (78 and 80 Pepys Road). This is due to the scale of the extension, screening by existing built development and separation distances to the properties.
- 6.16 The proposal would not materially harm the living conditions of the occupants of the only property that has the potential to be affected: No. 85 Erlanger Road. This is due to the small scale of the development, its relationship with No. 85 and the fact No. 83 is at a lower ground level.
- 6.17 Concern has been raised by the Telegraph Hill Society regarding light spill from the proposed rooflights and the associated disturbance to residential amenity. A nearby case was referenced which was refused (in part) on this issue however that was a materially different situation relating to a property divided into flats. In this case any light spill to result from the proposal is not considered significantly worse than light spillage from the existing bay window and conservatory in the location of the proposed extension, and existing light spill from use of upper side-outrigger windows. Ceiling lights typically face

down to illuminate the space they serve, rather than in other directions which would cause lighting glare in a horizontal or upper direction towards neighbouring windows. It is also noted that the context of this application is urban terraces, and a degree of light spill from evening use of habitable spaces is to be expected. As such, any adverse light spill impacts upon residential amenity are considered reasonable in this context.

- 6.18 Therefore, the proposal is considered to have an acceptable impact on neighbouring amenity. The proposal is also considered consistent with the neighbouring amenity provisions of DM Policy 31.

Standard of accommodation provided

- 6.19 The proposed development will extend an internal kitchen/living room space. This is considered to improve the internal design quality and on-site amenity available to current and future occupiers of the dwelling.

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: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>
- 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: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>
- 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 to any person.

8.0 HUMAN RIGHTS IMPLICATIONS

- 8.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:
- Peaceful enjoyment of property
 - Right to a fair trial
 - Right to respect for private and family life
- 8.2 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.
- 8.3 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with convention rights would be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the local planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest. This application has the legitimate aim of providing a new building for educational use. The rights potentially engaged by this application, are not considered to be unlawfully interfered with by this proposal.

9.0 CONCLUSION

- 9.1 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).
- 9.2 It is considered that the proposal is appropriate in terms of its scale, form, design and materials and therefore would not result in harm to the appearance or character of the dwellinghouse, the Conservation Area or the amenities of neighbouring occupiers, whilst providing the positive impact of improved on-site amenity to current and future occupiers.

10.0 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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:

142/01/01
142/01/02
142/01/03
142/01/04
142/01/05
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142/01/08
142/01/09
142/01/10
142/01/11
142/01/12
142/01/13
142/01/14
142/01/15

Heritage Statement.

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

- 3 No new brickwork, including works of making good, shall be carried out other than in materials to match the existing brickwork, including bond type, mortar colour and pointing method.

Reason: To ensure that the high design quality demonstrated in the plans and submission is delivered so that local planning authority may be satisfied as to the external appearance of the building(s) and to comply with Policy 15 High quality design for Lewisham and Policy 16 Conservation areas, heritage assets and the historic environment of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character and 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.

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, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.