

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

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	M1830/001 Rev F2:M1830/100 Rev F2:M1830/101 Rev F2:M1830/105 Rev F2:M1830/110 Rev F2:M1830/115 Rev F2 (superseded by M1830/115 Rev F4):M1830/111 Rev F2 (superseded by M1830/111 Rev F3).

## 1 **SUMMARY**

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

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

## 2 **SITE AND CONTEXT**

### 2.1 **SITE DESCRIPTION AND CURRENT USE**

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

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

### **3 RELEVANT PLANNING HISTORY**

- 6 There is no relevant site history for this application.

### **4 CURRENT PLANNING APPLICATION**

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

### **5 CONSULTATION**

#### **5.1 PRE-APPLICATION ENGAGEMENT**

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

#### **5.2 APPLICATION PUBLICITY**

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

#### *Objections*

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

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

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

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

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

## **6 POLICY CONTEXT**

### **6.1 LEGISLATION**

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

### **17 MATERIAL CONSIDERATIONS**

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

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

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

## **6.2 NATIONAL POLICY & GUIDANCE**

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

## **6.3 DEVELOPMENT PLAN**

21 The Development Plan comprises:

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

## **6.4 SUPPLEMENTARY PLANNING GUIDANCE**

22 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

## **7 PLANNING CONSIDERATIONS**

23 The main issues are:

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

## **7.1 DESIGN**

*Policy*

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

#### *Discussion*

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

#### *Summary*

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

## **7.2 LIVING CONDITIONS OF NEIGHBOURS**

### *Policy*

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

#### *Discussion*

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

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

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

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

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

#### *Summary*

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

## **8 LOCAL FINANCE CONSIDERATIONS**

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

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

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

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

## **9 EQUALITIES CONSIDERATIONS**

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

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

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

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

47 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>

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

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

- Equality information and the equality duty

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

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

## 10 **HUMAN RIGHTS IMPLICATIONS**

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

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

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

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

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

## 11 **CONCLUSION**

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

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

## 12.0 **RECOMMENDATION**

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

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

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

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

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

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

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

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