

Committee	PLANNING COMMITTEE A	
Report Title	57A Micheldever Road, SE12	
Ward	Lee Green	
Contributors	Erin Glancy	
Class	PART 1	15 August 2019

<u>Reg. Nos.</u>	DC/19/112172
<u>Application dated</u>	17/04/2019
<u>Applicant</u>	Breyer Group Plc. on behalf of Lewisham Homes Limited
<u>Proposal</u>	Replacement of the existing windows with double glazed timber to the front elevation and double-glazed uPVC to the rear at 57 Micheldever Road, SE12, together with renewal of roof covering with natural slate.
<u>Background Papers</u>	(1) Core Strategy (adopted June 2011) (2) Development Management Local Plan (adopted November 2014)
<u>Designation</u>	Lee Manor Conservation Area PTAL 3 Flood Risk Zone 2 Flood Risk Zone 3

1 SUMMARY

- 1 This report sets out Officer's recommendations for the above proposal. The report has been brought before members for a decision as the recommendation is to approve and there are more than three valid planning objections.

2 SITE AND CONTEXT

- 2 This application relates to a two storey double fronted Victorian residential terrace, converted into two self-contained flats on the southern side of Micheldever Road.
- 3 The rear elevation has a combination of timber sash and casement windows, with doors at ground and first floor levels providing access to the garden. The rear elevation is not visible from the public realm
- 4 Micheldever Road is within the Lee Manor Conservation Area and is subject to an Article 4(2) direction.

3 RELEVANT PLANNING HISTORY

- 5 **DC/16/097907:** The installation of replacement double glazed timber windows on the front elevation of 57 A&B Micheldever Road, SE12, together with the installation of a replacement double glazed uPVC window on the rear elevation. *Granted 17 October 2016, unimplemented.*

4 CURRENT PLANNING APPLICATION

6 The application seeks the installation of replacement double glazed, timber framed windows to the front elevation which would replace the existing timber framed windows: this would be the four windows at ground floor, two either side of the entrance. The first floor windows would be unaffected. To the rear the application proposes the installation of one replacement uPVC window at ground floor level, to the left of the rear door. The application also seeks the renewal of the roof covering with natural slate.

5 CONSULTATION

5.1 APPLICATION PUBLICITY

7 Site notices were displayed on 07/06/2019 and a press notice was published on 29/05/2019.

8 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 22/05/2019.

9 3 responses were received, comprising 3 objections.

5.1.1 Objections

Material planning consideration	Para where addressed
The windows are not suitable in a conservation area and do not look original	Paragraph 25

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

- The roof has already been replaced in natural slate: the agent has confirmed this is not a retrospective application
- Upgrade of the windows is not needed: this is not a material consideration
- Lewisham Homes did not consult: Certificate B has been signed, indicating notice was served in January 2019 and consultation was carried out as outlined above.
- Works that have been completed are substandard: this is not a material consideration

5.2 INTERNAL CONSULTATION

11 The following internal consultees were notified on 22/05/2019.

12 Conservation Officer: Raised no objections.

6 POLICY CONTEXT

6.1 LEGISLATION

13 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).

14 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66 and S.72 gives the LPA special duties in respect of heritage assets, as set out below.

6.2 MATERIAL CONSIDERATIONS

15 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.

16 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.

17 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.

6.3 NATIONAL POLICY & GUIDANCE

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

6.4 DEVELOPMENT PLAN

18 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Draft London Plan: 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. The relevant draft policies are discussed within the report (DLPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

19 Lewisham SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

7 PLANNING CONSIDERATIONS

20 The main issues are:

- Urban Design

21 The proposal would not result in material impact on living conditions of neighbours, thus this is not a material consideration.

7.1 URBAN DESIGN AND IMPACT ON HERITAGE ASSETS

General Policy

22 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas. National (NPPF, Chap 16), regional (LPP 7.8) and local policies (CSP15, 16 and DM36) reflect this duty.

23 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.

Discussion

24 The features of the proposed replacement windows to the front and rear elevation, would match the existing in terms of design and opening style. No additional openings would be created. There is no change from the existing materials proposed.

25 The proposed roof repair works are considered acceptable, in this instance, given that the materials used would be sympathetic and would help to preserve the character and appearance of the application property and the conservation area.

Summary

26 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment are satisfied the proposal would preserve or enhance the character or appearance of Lee Manor Conservation Area.

8 EQUALITIES CONSIDERATIONS

27 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.

28 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.

29 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.

30 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>

31 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

32 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>

33 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.

9 HUMAN RIGHTS IMPLICATIONS

34 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

35 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.

36 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.

10 CONCLUSION

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

38 Officer's consider the scheme is appropriate in terms of design and materials and would not result in any harm to the property or the wider Lee Manor Conservation Area.

39 Further, it is not considered that the proposed replacement windows would have any impact on the amenity of neighbouring occupiers.

40 Therefore, the proposed works are recommended for approval, subject to the conditions below.

11 RECOMMENDATION

41 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informative:

11.1 CONDITIONS

1) FULL PLANNING PERMISSION TIME LIMIT

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) DEVELOP IN ACCORDANCE WITH APPROVED PLAN

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

1904-PA-MR2-OS; 1904-PA-MR2-E-01; Received 8 May 2019.
DR-001_MIC_REVA; Slate Brochure; Received 17 July 2019

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) MATERIALS AND DESIGN QUALITY

No new external finishes to the boundary brickwork and timber, including works of making good, shall be carried out other than in materials to match the existing.

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 of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

11.2 **INFORMATIVES**

- A. **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.