

## PLANNING COMMITTEE C

Date of Meeting: **THURSDAY 24 MAY 2012 TIME 7.30 PM**

PLACE: **ROOM 1 & 2, CIVIC SUITE, LEWISHAM TOWN HALL, CATFORD, SE6 4RU**

Members of the Committee are summoned to attend this meeting:

**Membership  
Councillors:**

**Paul Bell (Chair)  
Helen Gibson (Vice Chair)  
Pauline Beck  
Liam Curran  
Alexander Feakes  
Peggy Fitzsimmons  
Joseph Folorunso  
Alan Hall  
Madeliene Long  
John Paschoud**

The public are welcome to attend our committee meetings, however, occasionally committees may have to consider some business in private. Copies of reports can be made available in additional formats on request.

**Barry Quirk  
Chief Executive  
Lewisham Town Hall  
London SE6 4RU  
Date: Tuesday, 15 May 2012**

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Committee	PLANNING COMMITTEE C	
Report Title	MINUTES OF THE ANNUAL GENERAL MEETING 28 MARCH 2012	
Ward		
Contributors		
Class	PART 1	Date 24 MAY 2012

Approval of the minutes of the Annual General Meeting held on 28 March 2012

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Committee	PLANNING COMMITTEE C	
Report Title	ELECTION OF CHAIR AND VICE-CHAIR	
Ward		
Contributors		
Class	PART 1	24 MAY 2012

To elect a Chair and Vice-Chair for the municipal year.

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Committee	PLANNING COMMITTEE	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	24 MAY 2012

### **Declaration of interests**

Members are asked to declare any personal interest they have in any item on the agenda.

### **Personal interests**

There are two types of personal interest :-

- (a) an interest which you must enter in the Register of Members' Interests\*
- (b) an interest where the wellbeing or financial position of you, (or a "relevant person") is likely to be affected by a matter more than it would affect the majority of inhabitants of the ward or electoral division affected by the decision.

\*Full details of registerable interests appear on the Council's website.

("Relevant" person includes you, a member of your family, a close associate, and their employer, a firm in which they are a partner, a company where they are a director, any body in which they have securities with a nominal value of £25,000 and (i) any body of which they are a member, or in a position of general control or management to which they were appointed or nominated by the Council, and (ii) any body exercising functions of a public nature, or directed to charitable purposes or one of whose principal purpose includes the influence of public opinion or policy, including any trade union or political party) where they hold a position of general management or control

If you have a personal interest you must declare the nature and extent of it before the matter is discussed or as soon as it becomes apparent, except in limited circumstances. Even if the interest is in the Register of Interests, you must declare it in meetings where matters relating to it are under discussion, unless an exemption applies.

### **Exemptions to the need to declare personal interest to the meeting**

You do not need to declare a personal interest where it arises solely from membership of, or position of control or management on:

- (a) any other body to which you were appointed or nominated by the Council
- (b) any other body exercising functions of a public nature.

In these exceptional cases, unless your interest is also prejudicial, you only need to declare your interest if and when you speak on the matter .

### **Sensitive information**

If the entry of a personal interest in the Register of Interests would lead to the disclosure of information whose availability for inspection creates or is likely to create a serious risk of violence to you or a person living with you, the interest need not be

entered in the Register of Interests, provided the Monitoring Officer accepts that the information is sensitive. Where this is the case, if such an interest arises at a meeting, it must be declared but you need not disclose the sensitive information.

### **Prejudicial interests**

Your personal interest will also be prejudicial if all of the following conditions are met:

- (a) it does not fall into an exempt category (see below)
- (b) the matter affects either your financial interests or relates to regulatory matters  
- the determining of any consent, approval, licence, permission or registration
- (c) a member of the public who knows the relevant facts would reasonably think your personal interest so significant that it is likely to prejudice your judgement of the public interest.

### **Categories exempt from being prejudicial interest**

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

### **Effect of having a prejudicial interest**

If your personal interest is also prejudicial, you must not speak on the matter. Subject to the exception below, you must leave the room when it is being discussed and not seek to influence the decision improperly in any way.

### **Exception**

The exception to this general rule applies to allow a member to act as a community advocate notwithstanding the existence of a prejudicial interest. It only applies where members of the public also have a right to attend to make representation, give evidence or answer questions about the matter. Where this is the case, the member with a prejudicial interest may also attend the meeting for that purpose. However the member must still declare the prejudicial interest, and must leave the room once they have finished making representations, or when the meeting decides they have finished, if that is earlier. The member cannot vote on the matter, nor remain in the public gallery to observe the vote.

### **Prejudicial interests and overview and scrutiny**

In addition, members also have a prejudicial interest in any matter before an Overview and Scrutiny body where the business relates to a decision by the Executive or by a committee or sub committee of the Council if at the time the decision was made the member was on the Executive/Council committee or sub-committee and was present when the decision was taken. In short, members are not allowed to scrutinise decisions to which they were party.



Committee	PLANNING COMMITTEE C	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	24 MAY 2012

### MINUTES

To approve the minutes of the meeting of Planning Committee C held on the 1 MARCH 2012

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Committee	PLANNING COMMITTEE C	
Report Title	1-5 MERCY TERRACE, SE13 7UX	
Ward	Ladywell	
Contributors	Jan Mondrzejewski	
Class	PART 1	24 MAY 2012

<u>Reg. No.</u>	DC/11/77223
<u>Application dated</u>	28.04.2011, completed 31.05.2011, revised 29.11.2011, 02.03.2012 and 06.03.2012.
<u>Applicant</u>	Mr P Hutchinson Peter Hutchinson Architect
<u>Proposal</u>	The construction of a part two/part three storey building on the site, comprising ground floor commercial floorspace to be used as a farmers market/multi purpose hall for hire (sui generis), 2 one bedroom and 1 two bedroom self-contained flats, together with the provision of refuse and bicycle stores.
<u>Applicant's Plan Nos.</u>	09.06-E-1, 09.06-P-1B, 2B, 3B, 4B, 5B, 6A Design & Access Statement and Site Location Plan (revised 1 Dec 2011).
<u>Background Papers</u>	(1) Case File DE/873/1/TP (2) Adopted Unitary Development Plan (July 2004) (3) The London Plan (July 2011) (4) Lewisham Core Strategy (June 2011)
<u>Zoning</u>	UDP – Existing Use Ladywell Conservation Area PTAL 4

## **1.0 Property Site Description**

- 1.1 The application site comprises a vacant area of land at the south end of Mercy Terrace. The site is approximately 190 sq.m. in area and is irregularly shaped. Mercy Terrace is a cul-de-sac terminating in the road bridge over the Hayes to London Bridge railway line to the east of the site. The site is accessed from a mews at the rear of a terrace of late Victorian shops at the junction of Algernon Road and Ladywell Road. The mews is fronted on the east side by garages which may have originally been stables, as the roof areas feature a door way above the ground level entrance doors and a louvered roof vent at ridge level. The garage unit adjoining the open area of the application site is included in the application site area and is claimed to have established use for residential purposes.
- 1.2 The site is overgrown with vegetation including nettles, brambles and buddleia. There is a multi-stemmed sycamore tree in the rear yard of No 259 Algernon Road adjoining the boundary of the site. The canopy of the tree, when in leaf, is

prominent in views from the railway bridge to the south of the site. The tree is not protected by a TPO and it is unlikely that it could be retained if a building was constructed on the application site close to this boundary. The application site also shows some signs of dumping but this is currently not such as to warrant service of a Section 215 Notice. The southern boundary of the site is close to workshops occupying arches under the bridge which are in use for engineering purposes. On the east side of Mercy Terrace is a modern industrial estate adjacent to the London Bridge/Hayes railway line. There are also stairs to the level of Ladywell Road in the south east corner of Mercy Terrace.

- 1.3 The parade of shops at Nos 251-259 Algernon Road date from c1890 and are 3 storeys in height fronting Algernon Road. However, they are four storeys at the rear with basements opening on to rear yards fronting the mews. The shops, mews garages and application site are in the Ladywell Conservation Area (designated in 2010). Ladywell railway station is located close to the site on the south side of Ladywell Road.

## **2.0 Planning History**

- 2.1 It is understood the site was formerly used for the storage of scaffolding. Planning records refer to the arches under the bridge as 1-5 Mercy Terrace. The application site appears to have no previous planning history.

## **3.0 Present Application**

- 3.1 The application is for planning permission for the construction of a part two/part three storey building on the site of 1-5 Mercy Terrace SE13 comprising a ground floor commercial area/multi purpose hall for hire, 2 one bedroom and 1 two bedroom, self-contained flats, together with the provision of rear roof terraces, refuse and bicycle stores. The application has been amended to include the external refurbishment of the adjoining stable/garage unit which is claimed to be an established residential use. This property is now included in the application site area. The ground floor of the proposed new building is intended as a space which could be hired out for community uses and craft markets.
- 3.2 The proposed building would be L-shaped, with the three storey element in the southern part of the site, stepping down to two storeys adjoining the adjacent garages.
- 3.3 The three storey element of the building is located close to the existing railway viaduct and includes a curved stairwell at the corner of the building surmounted by a water tower with monopitch roof, incorporating photovoltaic cells. The water tower forms part of a grey water recycling scheme which will collect roof water run-off in an underground tank. This will be pumped up to the roof top tank using solar powered pumps. The design of the proposed building has undergone several revisions which have featured adjustments to the design of the roof and elevations to Mercy Terrace and the bridge over the railway line.
- 3.4 Facing materials are proposed to be brick for the walls and zinc cladding to the roof and the water tower, although the roof will also feature photovoltaic panels. The first floor rear balconies at the rear of the building will be constructed in timber.

3.5 The plans show most of the ground floor as an L-shaped hall; the remainder of the ground floor would provide an entrance lobby for the flats above, together with refuse and cycle storage. The remainder of the site is shown as a yard, accessed from the private drive to the west of the site.

#### **4.0 Consultations and Replies**

##### Environment Agency

4.1 No reply

##### Network Rail

4.2 No reply

#### **Neighbours & Local Amenity Societies etc.**

##### Ladywell Village Improvement Group

4.3 No reply

##### Ladywell Society

4.4 The Society objects to the application on the following grounds:-

- (1) The ordnance survey red line site plan is inaccurate.
- (2) The development will result in the loss of trees visible from the public realm.
- (3) The development will result in the loss of biodiversity in the form of an open site which provides a habitat for wildlife.
- (4) The proposed development is out of scale with the adjoining coach houses
- (5) The use of zinc cladding and the tall water tower feature are incongruous features within the context of the local area

Further comments following consultation on revised plans.

4.5 The Society wishes to maintain its objections to the proposed development though it did not consider it necessary to have a local meeting. On the proposed coach house restoration, Plan 4B has contradictory references to the window materials. The applicant should make clear whether this will be UPVC or timber. Plans showing the proposed development in the context of the Algernon Road shops should be provided.

(Letters are available to Members).

##### Highways & Transportation

4.6 There is a lack of information re ground floor uses, attendances, travel options, times of operation of uses etc. In addition, as far as the Department is aware, there is currently no domestic refuse collection service provided in this section of Mercy

Terrace and there are no suitable access arrangements for domestic refuse collection vehicle access.

#### Amenities Societies Panel

- 4.7 Objection. No description of trees on site. Relationship to context not clear. Access unsuitable for large vehicles/refuse collection vehicles. The location would not provide pleasant living accommodation for the proposed residential development.

### **5.0 Policy Context**

#### National Planning Policy Framework

- 5.1 Paragraph 131 states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation and the desirability of new development making a positive contribution to local character and distinctiveness.

#### The London Plan

- 5.2 The London Plan policies relevant to this application are:

Policy 3.1 Ensuring Equal Life Chances for All  
Policy 3.3 Increasing housing supply  
Policy 3.4 Optimising housing potential  
Policy 3.5 Quality and design of housing developments  
Policy 3.9 Mixed and balanced communities  
Policy 3.16 Protection and Enhancement of Social Infrastructure  
Policy 5.2 Minimising carbon dioxide emissions  
Policy 5.3 Sustainable design and construction  
Policy 5.7 Renewable energy  
Policy 5.13 Sustainable drainage  
Policy 5.14 Water quality and wastewater Infrastructure  
Policy 5.15 Water use and supplies  
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 7.6 Architecture  
Policy 7.8 Heritage Assets and Archaeology

#### Lewisham Core Strategy

- 5.3 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan.
- 5.4 Relevant Policies in the Core Strategy are Policy 1, Housing provision, mix and affordability, Policy 8, Sustainable design and construction and energy efficiency, Policy 14 Sustainable transport and movement, Policy 15 High quality design for Lewisham, Policy 16 Conservation areas, heritage assets and the historic

environment, Policy 19 provision and maintenance of community and recreational facilities.

Adopted Unitary Development Plan (Adopted July 2004)

- 5.5 The saved policies of the Adopted Unitary Development Plan Policies relevant to this application are:-
- 5.6 URB 3 Urban Design, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development, HSG 7 Gardens, LCE 1 Location of New and Improved Leisure, Community and Education Facilities.

Supplementary Planning Documents

- 5.7 Residential Design Standards  
Ladywell Conservation Area Character Appraisal

**6.0 Planning Considerations**

- 6.1 The main planning considerations relate to urban design/impact on the Conservation area, the principle of the proposed community hall use at ground floor level, impact on neighbouring properties, the quality of the proposed residential accommodation and transport/servicing.

Urban Design and Impact on the character and appearance of the Conservation Area

- 6.2 It is likely that the present open site was originally occupied by the same type of garage/stable units which survive to the north of the application site. The site is considered to be of limited value for wildlife conservation purposes due to its restricted size and the fact that it is isolated by roads and buildings from the narrow wildlife corridor adjoining the railway. The site also shows evidence of dumping and is not considered to be an attractive feature of the Conservation Area. As noted earlier, the only significant tree likely to be affected by the development is a multi-stemmed sycamore on an adjoining site which would not be considered suitable for TPO status. There is therefore no objection in principle to the development of the site with a building of suitable scale and attractive design.
- 6.3 The proposed building in terms of scale is considered to be at the upper end of acceptability and the applicant's agent, in consultation with officers, has reworked the form and detailed elevations of the building to produce a scheme of an acceptable quality for a site in a conservation area. The building will be visible from the road bridge, although not as prominent as Lister House on the south side of the bridge abutment. The most striking feature of the proposed building when viewed from the bridge, will be the water tower on top of the stairwell with its curved side. As an obviously contemporary design the applicant has chosen a modern material as a roof covering. This will be pre-patinated zinc which will have a dull rather than shiny metallic appearance. The use of a living roof was suggested by officers but rejected by the applicant's agent on grounds of cost, maintenance issues and incompatibility with the proposed grey water recycling system.
- 6.4 The decision to include the external refurbishment of the end coach house/garage in the scheme is a positive feature of the development and will enhance the

character and appearance of the Conservation Area as well as the quality of the accommodation. The proposal will therefore enhance the significance and setting of a heritage asset.

#### Proposed Use

- 6.5 The scheme is a mixed use development with ground floor commercial floorspace; this is described on the application form as a multi-purpose hall for hire. The submitted Planning, Design and Access Statement sets out that it is proposed to run a farmers market on a regular basis and in addition the space would be available for a range of additional uses. The applicant has given examples including crafts exhibitions, yoga or pilates classes and social events of a local nature of the type that might take place in a village hall. A mix of uses of this type on the ground floor is considered to be a sui generis use including retail (A1) and non-residential institutions (D1 uses). D1 could also include non-residential educational use and religious worship. Given the restricted size of the ground floor area, which is a little over 100 sq metres, it is unlikely that these uses would generate a large amount of service traffic or on-street parking on a daily basis. Parking restrictions also apply in the local area and accessibility to public transport is reasonably good (PTAL 4).
- 6.6 While the range of uses suggested would be unlikely to give rise to significant disturbance to nearby residents, including the occupants of the flats above and those occupying flats above 251-259 Algernon Road, it is considered that unfettered commercial and D1 use would have the potential to cause disturbance, either from the uses themselves or from patrons coming and going. In order to protect the amenities of residents it is considered necessary to impose conditions to limit the range of uses and the hours of use. In addition conditions to prevent noise nuisance are recommended.
- 6.7 Officers do not consider that a B1 use would be unacceptable on the ground floor of the proposed building, however this specific use has not been requested at this stage.

#### Impact on neighbouring properties

- 6.8 It is likely that the ground floor and basement accommodation at Nos. 251-259 Algernon Road are currently in commercial use and the rear gardens/yards of these properties do not appear to be in use as residential gardens. Nos. 255 and 257 are owned by the applicant. However, should this change and the gardens become used as amenity space, privacy screening to the first floor roof terrace closest to the rear yard of No 259 would be a sensible precaution. Details of this is recommended to be required by condition.

#### Quality of the residential accommodation

- 6.9 The accommodation complies with the Council's housing design standards SPD. The applicant has been advised of the need for new residential development to comply with Code for Sustainable Homes Level 4 and the fact that this will be a condition of planning permission. The applicant considers that this standard can be met and that the grey water recycling scheme, of which the water tower is a feature, will assist in this process.



## Transport and Servicing

- 6.10 In view of the small number of flats proposed it is considered that a car-free scheme would be appropriate in this location. Cycle storage can be accommodated within the development. It is not considered that the possible lack of a current refuse collection service in Mercy Terrace would prevent the grant of planning permission. The scheme makes provision for refuse storage within the site area for the residential component and commercial refuse can be dealt with via a private contract. The yard area would be able to provide for storage of commercial refuse.

## **7.0 Consultations**

- 7.1 The objection of the Ladywell Society has been addressed in the above report. One of the former stables in the applicant's ownership is to be refurbished as part of this proposal. The applicant has confirmed that the proposed window frames for the coach house will be in timber rather than UPVC. The site plan has also been amended to show the stable as being within the application site. Adjoining properties fronting Algernon Road are within the ownership of the applicant.
- 7.2 In terms of the Highways and Transportation comments, the small size of the ground floor hall means that traffic generation is unlikely to be large.

## **8.0 Conclusion**

- 8.1 In view of the above considerations, the application is recommended for approval.

## **9.0 Summary of Reasons for Grant of Planning Permission**

- 9.1 On balance, it is considered that the proposal satisfies the Council's Land Use and environmental criteria, and is in accordance with Policy 1, Housing provision, mix and affordability, Policy 8, Sustainable design and construction and energy efficiency, Policy 14 Sustainable transport and movement, Policy 15 High quality design for Lewisham, Policy 16 Conservation areas, heritage assets and the historic environment, Policy 19 provision and maintenance of community and recreational facilities of the Council's adopted Core Strategy (June 2011) and Policies URB 3 Urban Design, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development, HSG 7 Gardens, LCE 1 Location of New and Improved Leisure, Community and Education Facilities in the adopted Unitary Development Plan (July 2004).
- 9.2 It is considered that the proposal is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area, or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Policies Policy 1, Housing provision, mix and affordability, Policy 8, Sustainable design and construction and energy efficiency, Policy 14 Sustainable transport and movement, Policy 15 High quality design for Lewisham, Policy 16 Conservation areas, heritage assets and the historic environment, Policy 19 provision and maintenance of community and recreational facilities of the Council's adopted Core Strategy (June 2011) and Policies URB 3 Urban Design, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development, HSG 7 Gardens, LCE 1 Location of New and Improved Leisure, Community and Education Facilities in the adopted Unitary Development Plan (July 2004).

**10.0 RECOMMENDATION: GRANT PERMISSION subject to the following conditions:-**

- (1). B01 Facing Materials - New Buildings
- (2). B04 Sample Brick Panels
- (3). B09 Plumbing or Pipes
- (4). C11 Construction Hours
- (5). L01 Planting, Paving, Walls etc
- (6). The development hereby approved shall not be occupied until restoration of the external envelope of the existing stable/coach house building adjoining the new structure has been implemented in accordance with plans hereby approved and Condition 1, 2 and 3 of this permission.
- (7). No music, amplified sound system or other form of loud noise (such as singing or chanting) shall be used or generated on the ground floor of the building which is audible outside the premises or within adjoining residential properties.
- (8).
  - (i) The development hereby approved shall achieve a Code for Sustainable Homes rating of minimum Code Level 4.
  - (ii) Prior to commencement of development, a Design Stage Assessment undertaken by a suitably qualified Assessor shall be submitted to and approved in writing by the local planning authority to demonstrate compliance with (i).
  - (iii) Within 3 months of the building being occupied, evidence shall be submitted to demonstrate full compliance with the requirements of this condition, which shall include a Post Construction Certificate issued by a suitably qualified Assessor.
- (9). No development shall commence on site until details of screening to the first floor roof terrace adjoining the rear yard of no 259 Algernon Road has been submitted to and approved in writing by the local planning authority and the approved screening shall be provided before any of the flats are occupied and shall be retained in perpetuity.
- (10). No work on site shall commence until details of the proposed grey water recycling system have been submitted to and approved in writing by the Council and the approved works shall be implemented in full before the occupation of the premises and retained in perpetuity thereafter unless the Council gives its consent in writing to any variation.
- (11). The ground floor premises shall not be used between the hours of 10.30 pm and 8 am on any day of the week.
- (12). The ground floor premises shall not be used for religious worship.

- (13). No works shall commence on site until details, including relevant drawings and specifications, of the construction of the ground floor ceilings and walls of the building hereby approved, and the proposed works of soundproofing against airborne and impact sound have been submitted to and approved in writing by the local planning authority. The use of the premises shall not commence until the soundproofing works have been implemented in accordance with the approved details. The soundproofing shall be retained permanently in accordance with the approved details.
- (14). The dwellings hereby approved shall be constructed to Lifetime Homes standards. No dwelling shall be occupied until an independently verified statement confirming compliance with Lifetime Homes standards has been submitted to and approved in writing by the local planning authority.

### Reasons

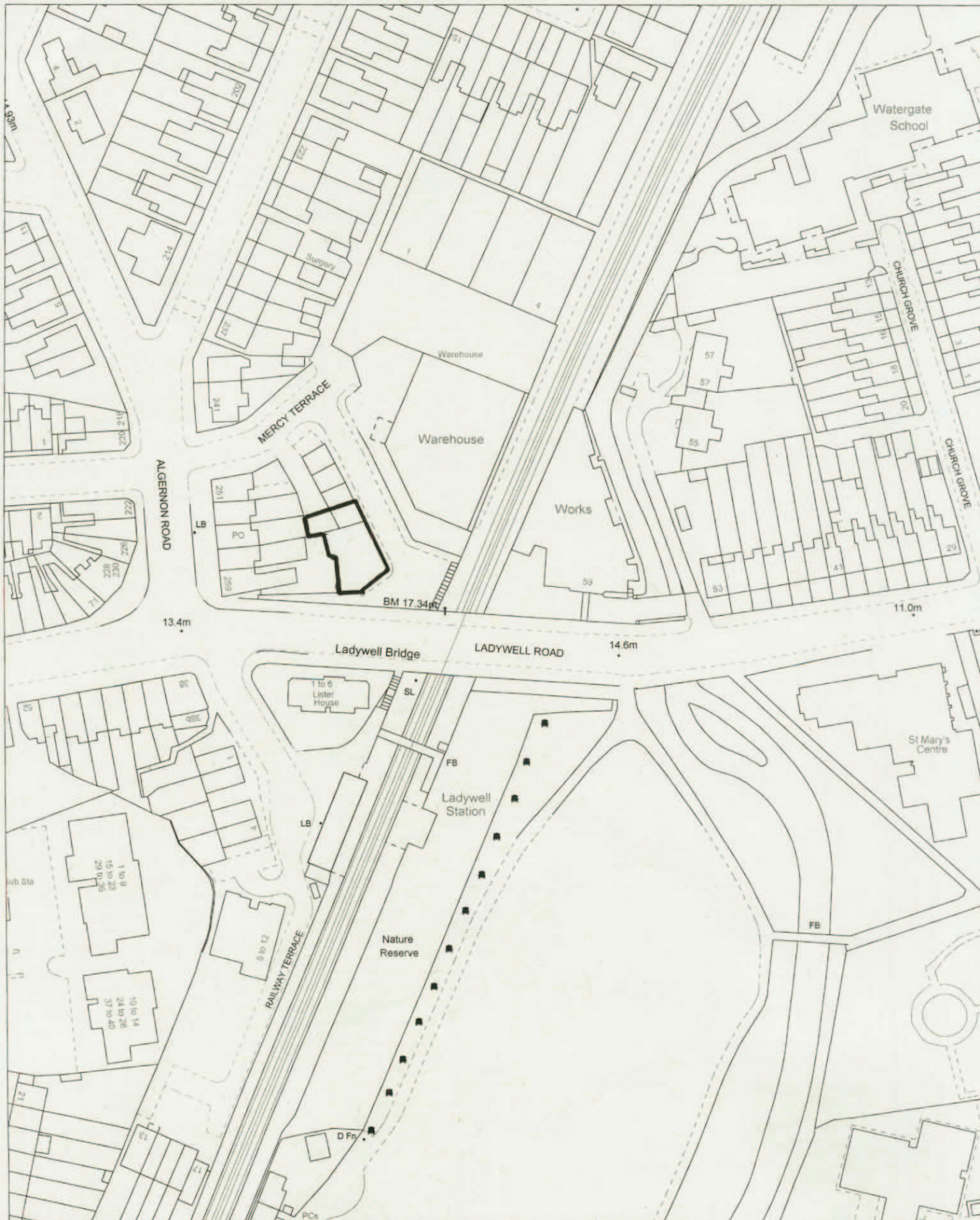
- (6). To ensure that the proposed development safeguards the special architectural or historic character of the Ladywell Conservation Area and to comply with Policy 16 Conservation areas, heritage assets and the historic environment of the adopted Core Strategy (June 2011) and Policy URB 16 New Development, changes of use and Alterations to Buildings in Conservation areas in the adopted Unitary Development Plan (July 2004).
- (7). Standard Reason N03R
- (8)&(10) To ensure the development achieves the maximum possible in respect of energy and carbon emissions and to comply with Policy 8 Sustainable design and construction and energy efficiency of the adopted Core Strategy (June 2011).
- (10). To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with Policies URB 3 Urban Design and HSG 5 Layout and Design of New Residential Development in the adopted Unitary Development Plan (July 2004).
- (11)&(12) To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to comply with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity and STC 9 Restaurants, A3 Uses and Take Away Hot Food Shops in the adopted Unitary Development Plan (July 2004).
- (13). N01R
- (14). To ensure inclusive design in accordance with Policy 1 Housing provision, mix and affordability of the adopted Core Strategy (June 2011).

### Informative

Construction Sites Code of Practice

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# 1-5 MERCY TERRACE, LONDON, SE13 7UX



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Committee	PLANNING COMMITTEE C	
Report Title	OLD BANK BUILDING, SHARDELOES ROAD SE4 1EZ	
Ward	Brockley	
Contributors	Russell Penn	
Class	PART 1	24 MAY 2012

<u>Reg. Nos.</u>	DC/12/79206
<u>Application dated</u>	12/01/12
<u>Applicant</u>	Mrs L Stoute – Crime Reduction Initiatives.(CRI)
<u>Proposal</u>	The change of use of the Old Bank Building, Shardeloes Road, Brockley Cross SE4, to Use Class D1 (Non-residential institutions).
<u>Applicant's Plan Nos.</u>	Shardeloes Rd Grnd FI-proposed, Shardeloes Rd Grnd FI-existing, Location Plan, Supporting letter dated 9/1/12, Access Statement received 12/1/2012. Local Management Agreement for the Recovery Service received 29/2/2012. Drug and Alcohol Recovery Service – Consultation Report, Qualitative Responses from Online Survey, North Hub Consultation – Public Response received 13/4/2012.
<u>Background Papers</u>	(1) Case File DE/63/E/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	Core Strategy or Adopted UDP - Existing Use

## **1.0 Property/Site Description**

- 1.1 The site is located on the west side of Shardeloes Road within Brockley Cross Local Neighbourhood Centre. Immediately adjacent to the north of the site is a car repair business (sui generis) and a place of worship (Use Class D1). To the south is a large timber yard. Opposite the site are the rear yard areas of various retail shop units fronting onto Brockley Cross. Further to the south are a mixture of retail units and B1 office units. Further west is a day nursery and office premises located near to the railway line. The nearest facing residential properties are located on the south side of Brockley Cross. To the east and north are the rear curtilage areas of a number of other residential properties fronting Malpas Road and Millmark Grove respectively. To the rear of the site is the railway line.
- 1.2 The building on site is currently unoccupied and consists of a single storey 'L' shaped building set back from the footway by approximately 3m with a small tarmaced open front curtilage.

## **2.0 Planning History**

2.1 In 1997 planning permission was granted for the change of use of the National Westminster Bank (Class A2) to offices (Class B1).

## **3.0 Current Planning Applications**

### **3.1 The Proposals**

3.2 Planning permission is sought for the change of use of the Old Bank Building, Shardeloes Road, Brockley Cross SE4, to Use Class D1 (Non-residential institutions).

3.3 The premises will be used by the Crime Reduction Initiative (CRI) Community Substance Misuse and Recovery Team primarily as a counselling centre with some clinical prescribing, a needle exchange programme, aftercare and life skills training. This will provide fully integrated services to support the rehabilitation and recovery of service users in the process of making lifestyle changes.

3.4 No extensions or external changes are proposed to the building. Internally the layout will be rearranged to provide group meeting spaces, one to one counselling spaces, waiting areas, toilet facilities and a staff office.

3.5 The service is intended to be open to clients between 10am to 6pm Monday to Saturday by appointment only with staff at the premises between 8am and 8pm.

### **3.6 Supporting Documents**

- Access Statement
- Covering letter outlining the role of the Crime Reduction Initiative (CRI) as a charity and the suitability and operation of the site as an adult clinical, drug counselling and recovery service facility.
- Local Management Agreement for the Recovery Service to be provided by CRI at Old Bank Building, Shardeloes Road.
- Drug and Alcohol Recovery Service – Consultation Report.
- Qualitative Responses from Online Survey
- North Hub Consultation – Public Response

## **4.0 Consultation**

4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

4.2 Site notices were displayed and letters were sent to residents and business in the surrounding area and the relevant ward Councillors. Following the submission of further supporting information a further site notice was displayed and letters resent



to residents and businesses in the surrounding area to advise them of the additional information.

#### Pre-submission consultation.

- 4.3 For clarification purposes, the Council is aware that a pre submission-consultation exercise has been carried out with local residents by the applicant, prior to the submission of the application. Details of this and the results have been supplied as part of the planning application in the following reports Drug and Alcohol Recovery Service Consultation Report, Qualitative Responses from Online Survey and North Hub Consultation Public Response.

#### Written Responses received from Local Residents and Organisations

- 4.4 One letter of support and eight letters of objection have been received stating many of the same points. These have been summarised as follows:

- The fear of increased crime, anti social behaviour and disorder associated with the use is highlighted in varying degrees of severity in a number of letters.
- The use will cause an increase in beer cans, bottles, uneaten food and needles.
- The use will cause an increase in parking.
- Such a use is not appropriate in the immediate area.
- Concern that the management guarantees for the running of the centre will not be adhered to.
- Users of the centre will not be from Brockley.
- The presence of a treatment centre is contrary to the Core Strategy vision for Brockley.
- Adjoining uses are incompatible with a treatment centre.
- The location is unsuitable due to being on a dangerous junction; it has poor pedestrian access and will add to the unsafe feeling on Shardeloes Road.
- A strict management plan is needed to control the functioning of the centre.
- One objection received includes details of a petition signed by 103 signatures between October 31 2011 and November 23 2011 in response to the pre-consultation exercise carried out by the applicant prior to the submission of the current planning application. The petition states "We the undersigned, call on Lewisham Council to withdraw their proposal to open a Drug & Alcohol Treatment Service Centre in Brockley Cross – the Old Bank on Shardeloes Road"

- In support the need for such centres is acknowledged and it is highlighted that the tight management of the site is reassuring in that any client anti social behaviour will not be tolerated.

(Letters are available to Members)

## Written Responses received from Statutory Agencies

### Highways and Transportation

- 4.5 The proposal is unobjectionable in principle subject to details of refuse/recycling storage and collection points and dry and secure cycle storage points.

## **5.0 Policy Context**

### Introduction

- 5.1 In considering and determining applications for planning permission the local planning authority must "have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations" (Section 70 (2) of the Town and Country Planning Act 1990). Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. This approach is reflected in PPS 1, where, at paragraph 8 (and again at paragraphs 28 and 31), it is confirmed that, where the development plan contains relevant policies, applications for planning permission should be determined in line 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), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011).

### National Planning Policy Framework (NPPF)

- 5.2 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. In summary, this states, that for a period of 12 months from publication of the NPPF decision takers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.
- 5.3 Officers have reviewed the Core Strategy and saved UDP policies 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, 214 and 215 of the NPPF.

#### Ministerial Statement: Planning for Growth (23 March 2011)

- 5.4 The statement sets out that the planning system has a key role to play in rebuilding Britain's economy by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Government's expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

#### London Plan (July 2011)

- 5.5 The London Plan policies relevant to this application are:

Policy 2.6 Outer London: vision and strategy  
Policy 3.1 Ensuring equal life chances for all  
Policy 3.2 Improving health and addressing health inequalities  
Policy 3.16 Protection and enhancement of social infrastructure  
Policy 3.17 Health and social care facilities  
Policy 4.7 Retail and town centre development  
Policy 5.3 Sustainable design and construction  
Policy 5.4 Retrofitting  
Policy 5.7 Renewable energy  
Policy 6.1 Strategic approach  
Policy 6.3 Assessing effects of development on transport capacity  
Policy 6.13 Parking  
Policy 7.1 Building London's neighbourhoods and communities  
Policy 7.2 An inclusive environment

#### Core Strategy

- 5.6 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development 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:

Core Strategy Objective 11: Community well-being

Spatial Policy 4: Local hubs

Core Strategy Policy 6: Retail hierarchy and locations of retail development

Core Strategy Policy 15 High quality design for Lewisham

Core Strategy Policy 19: Provision and maintenance of community and recreational facilities

Core Strategy Policy 20: Delivering educational achievements, healthcare provision and promoting healthy lifestyles

#### Unitary Development Plan (2004)

- 5.7 The saved policies of the UDP relevant to this application are:

URB 3 Urban Design

HSG 4 Residential Amenity

## **6.0 Planning Considerations**

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

- a) Principle of Development
- b) Vitality and Viability of the Local centre
- c) Design
- d) Highways and Traffic Issues
- e) Impact on Adjoining Properties

### Principle of Development

- 6.2 London Plan Policy 3.1 Ensuring equal life chances for all, states that the Mayor is committed to ensuring equal life chances for all Londoners to enable them to realise their potential and aspirations and to make a full contribution to the economic success of the city. Policy 3.2 Improving health and addressing health inequalities also states that the Mayor will work in partnership with the NHS in London boroughs and the voluntary and community sector as appropriate to reduce health inequalities and improve the health of all Londoners.
- 6.3 Core Strategy Objective 11: Community well-being states that the Council with its partners will provide and support measures and initiatives that promote social inclusion and strengthen the quality of life and well-being for new and existing residents of the borough by addressing deprivation and health inequalities and providing high quality health and education facilities that are accessible and suitable to all of Lewisham's residents to foster independent community living.
- 6.4 Core Strategy Policy 19: Provision and maintenance of community and recreational facilities states that the Council will work with its partners to ensure a range of health, education, policing, community, leisure, arts, cultural, entertainment, sports and recreational facilities and services are provided, protected and enhanced across the borough.
- 6.5 Core Strategy Policy 20: Delivering educational achievements, healthcare provision and promoting healthy lifestyles states that the Council will improve health and promote healthy lifestyles across the borough by exploring new ways to improve opportunities for healthy and active lifestyles and reducing health inequalities across the borough.
- 6.6 Retained Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities of the adopted UDP states that facilities serving local neighbourhoods or special needs groups should be located preferably in a District Centre, but a Local Centre may be acceptable.
- 6.7 Therefore the principle of the change of use of the building is considered acceptable at this location in Brockley Cross given its status as a Neighbourhood local centre. However this is subject to the scheme's compliance with all other relevant development plan documents and policies most notably in terms of its

impact on the vitality and viability of the local centre and amenity to neighbouring property as discussed below.

#### Vitality and Viability

- 6.8 Core Strategy Policy 6: Retail hierarchy and location of retail development states that in the Neighbourhood local centres, change of use and contraction of the shopping facilities will be considered if evidence is established that there is no economic prospect of such uses continuing. In this case the current use of the building is vacant and although located in the local centre its position is relatively isolated in respect of other 'A' category Use Classes in the centre. Consequently it does not benefit from a high degree of footfall or potential passing trade.
- 6.9 Therefore given the vacancy of the unit and it not having a prominent centre location and given the thrust of policy to allow greater flexibility for such peripheral locations, the proposed change of use of this unit is considered acceptable in this particular instance without harming the vitality and viability of the centre. However, given the scope of the D1 use class that covers a multitude of uses, restriction to the proposed use applied for is considered to be necessary to allow the Council to control the use on site.

#### Design

- 6.10 There are no external alterations proposed to facilitate the change of use, only the refurbishment and internal layout alterations. Any other such external alterations that may be required will be subject to obtaining further planning permission as appropriate to assess the impact in visual terms of the character or appearance of the building.

#### Highways and Traffic Issues

- 6.11 In terms of highway implications, the site is well located within 150m distance of Brockley railway station and within close proximity of a number of bus routes. Within the submitted Access Statement, the applicant has stated that they do not anticipate clients to drive to the premises and that staff will also use public transport systems. The Councils Highway officer has not raised any objection to the proposal regarding these issues and therefore it is not anticipated that there will be any negative effects in terms of any extra traffic generation or servicing requirements over and above those associated with a similar use in a Local neighbourhood centre location.
- 6.12 Any necessary deliveries which would be minimal given the use, will be carried out from Shardeloes Road during permitted hours. Details of refuse arrangements have not been given. A refuse management plan can ensure that this is carried out appropriately which can be secured by condition. Similarly no details have been supplied regarding any provision for cycle parking for staff and visitors. This can also be secured by a suitable planning condition.

#### Impact on Adjoining Properties

- 6.13 HSG 4 Residential Amenity states that the Council will seek to improve and safeguard the character and amenities of residential areas throughout the Borough. Policy STC7 states that a change of use in local centres will take account of any harm to the amenity of adjoining properties, including that created

by noise and disturbance, smell, litter and incompatible opening hours. In its justification it is pointed out that allowing non-retail uses can help prevent vacancies and the detrimental effect that this can have on the appearance, function and economic health of a centre.

- 6.14 The nearest residential properties are located approximately 40 to 50m north, east and south of the site.
- 6.15 It is acknowledged that objection has been raised from local residents regarding potential noise, disturbance and anti social behaviour that may be associated with the proposed use of the centre. However, the applicant has submitted a Local Management Agreement for the Recovery Service as an additional document that is to be adhered to regarding the operational function of the centre. This document advocates a zero tolerance policy for anti social behaviour for any of its clients.
- 6.16 Therefore the level of activity that is to be generated from this proposal is considered to be modest, and in officers views it would not have a significant impact on the neighbouring residential properties given the tight management scheme that is to be operated on site. Furthermore, the stated hours of operation are considered acceptable in this location.
- 6.17 However, given the concern raised by occupiers of neighbouring property in the locality it is considered by Officers that a temporary permission should be issued to allow the use of the centre to be monitored to ensure compliance with the submitted Local Management Agreement on going.

## **7.0 Conclusion**

- 7.1 This application has been considered in the light of policies set out in the development plan and other material considerations including policies in the Core Strategy.
- 7.2 On balance, Officers consider that the proposed use of the building is acceptable in this location and is not considered to have a detrimental impact on the neighbouring residential properties or the local centre as a whole.

## **8.0 Summary of Reasons for Grant of Planning Permission**

- 8.1 The local planning authority has considered the particular circumstances of the application against relevant planning policy set out in the London Plan (July 2011), saved policies in the adopted Unitary Development Plan (July 2004) and the adopted Local Development Framework – Core Strategy (June 2011). The local planning authority has further had regard to Government Planning Policy Guidance and Statements, and all other material considerations. The local planning authority considers that:
- 8.2 The proposal satisfies the Council's Land Use and environmental criteria and is acceptable in principle, being in accordance with Objective 11, Spatial Policy 4 'Local hubs', Policy 6 'Retail hierarchy and location of retail development, Policy 20 'Delivering educational achievements, healthcare provision and promoting healthy lifestyles' of the Core Strategy (June 2011) and retained policies STC 7 Local Shopping Centres, LCE 1 Location of New and Improved Leisure,

Community and Education Facilities, HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

- 8.3 The proposal is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area, or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Objective 11, Spatial Policy 4 'Local hubs', Policy 6 'Retail hierarchy and location of retail development, Policy 20 'Delivering educational achievements, healthcare provision and promoting healthy lifestyles' of the Core Strategy (June 2011) and retained policies STC 7 Local Shopping Centres, LCE 1 Location of New and Improved Leisure, Community and Education Facilities, HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

## 9.0 **RECOMMENDATION**

**GRANT PERMISSION** subject to the following conditions:-

- (1) The use hereby permitted shall be discontinued and the land restored to its former condition on or before the 30 June 2015.
- (2) The premises shall be used for an adult clinical, drug counselling and recovery service and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 2010, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).
- (3) The premises shall not be open for customer business on any Sunday or Bank Holiday, and after the hours of 18.00 and before 09.30 on any weekday or any Saturday.
- (4) Notwithstanding the information submitted, details of the design of refuse and recycling storage facilities and/or a refuse management plan for all general waste and for separate clinical waste disposal shall be submitted to the local planning authority and approved in writing. The works shall be carried out in accordance with the approved details and the provision for refuse and recycling storage and/or a refuse management plan shall be provided prior to the first occupation of the development permitted and retained permanently.
- (5) Details of the design and appearance of dry and secure cycle storage facilities shall be submitted to the local planning authority and approved in writing. Such provision shall be erected and available for cycle storage prior to the first occupation of the development permitted and retained permanently.

### **Reasons**

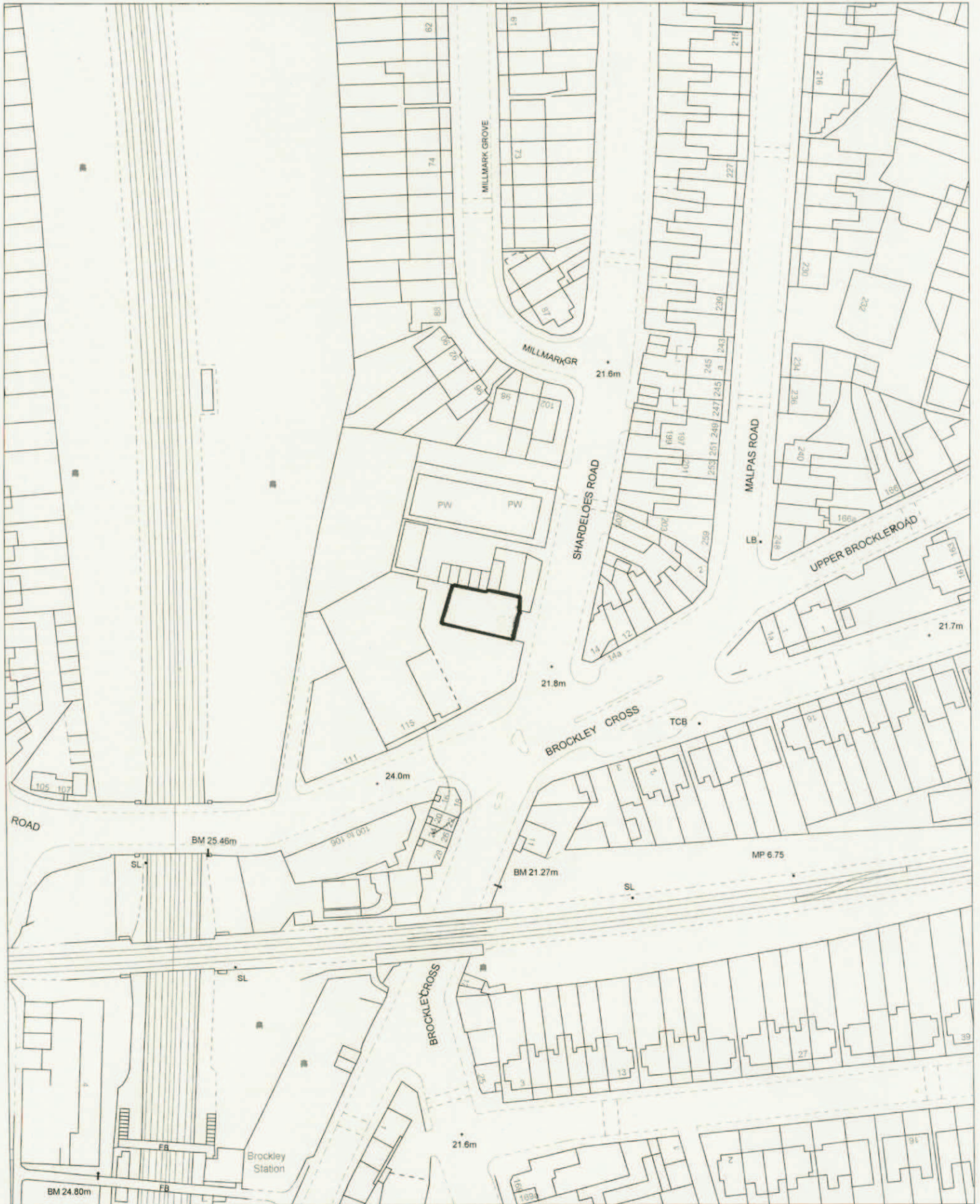
- (1) In order that the local planning authority may assess the impact of the use at the end of the limited period hereby permitted, in the light of any complaints received and any other material considerations existing at the time.
- (2) To ensure that any other use of the building would be suitable in this predominantly residential area and to protect the amenities of the

occupiers of adjoining premises and the area generally and to comply with Policies, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

- (3) To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to comply with Policies ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (4) In order that the local planning authority may be satisfied with the provisions for refuse and recyclables storage and collection in the scheme and to comply with Policy 15 High quality design for Lewisham of the adopted Core Strategy (June 2011) and Policy URB 3 Urban Design in the adopted Unitary Development Plan (July 2004).
- (5) In order that the local planning authority may be satisfied with the provisions cycle storage in the scheme and to comply with Policy 14 Sustainable movement and transport of the adopted Core Strategy (June 2011).



# OLD BANK BUILDING, SHARDELOES ROAD SE4 1EZ



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Committee	PLANNING COMMITTEE C	
Report Title	14 WALDRAM PARK ROAD, SE23 2PN	
Ward	Perry Vale	
Contributors	Geoff Whittington	
Class	PART 1	24 MAY 2012

<u>Reg. Nos.</u>	DC/11/76835
<u>Application dated</u>	11 March 2011, completed 30 April 2012
<u>Applicant</u>	H&R Properties on behalf of Mr H Patani
<u>Proposal</u>	The demolition of 14 Waldram Park Road, SE23, and the construction of a part three/ part four-storey building including balconies to provide 2, three bedroom self-contained maisonettes, and 6, one bedroom self-contained flats, together with the provision of 1 car parking space and 10 bicycle spaces.
<u>Applicant's Plan Nos.</u>	L2850.P001(P.00), P002(P.02), P003(P.00), P004(P.00), P005(P.02), P006(P.02), P007(P.00), P008(P.01) P011(P.00), Design and Access Statement, Method of Construction and Demolition Specification Report, Assumed Construction Sequence, Technical Note Ref: LHIC/2011/1306, Privacy Screen at Rear, Sustainable Urban Drainage, Photographs.
<u>Background Papers</u>	<ul style="list-style-type: none"> <li>(1) Case File LE/458/14/TP</li> <li>(2) Lewisham Development Framework: Residential Standards SPD (August 2006)</li> <li>(3) Lewisham Development Framework: Core Strategy (2011)</li> <li>(4) Unitary Development Plan (July 2004)</li> <li>(5) The London Plan (February 2011)</li> </ul>
<u>Zoning</u>	Adopted UDP - Existing Use PTAL 4

## **1.0 Property/Site Description**

- 1.1 The application site comprises a 3-storey detached residential property located on the south side of Waldram Park Road, close to the junction with Church Rise. The dwelling has been in a derelict state since 2010 when during basement excavation works, the building suffered a partial collapse, resulting in the subsequent removal of the entire front elevation. A Dangerous Structure Notice was issued by Building Control officers at the time of the collapse, which to date, remains applicable.

- 1.2 There is an existing hardstand driveway at the front, whilst at the rear is a medium sized private garden.
- 1.3 The surrounding area is predominantly residential in character, with a mix of single dwellings and flatted accommodation. This section of Waldram Park is characterised by distinctive villa style properties, dating back to the late 1800s.
- 1.4 Waldram Park Road (A205) is a particularly busy highway that leads to Forest Hill in the west. The area is well served by public transport, with Forest Hill Train Station within a short walking distance, whilst a number of bus routes operate within the immediate area. The site has a Public Transport Accessibility Level (PTAL) of 4.
- 1.5 The site is not within a conservation area, nor is the application building listed or any listed buildings located within the immediate vicinity. The site is designated as being within an area of Local Open Space Deficiency.

## **2.0 Planning History**

- 2.1 In 1986, permission was granted for the conversion of the property to provide 2, one bedroom and 1, two bedroom self-contained flats.
- 2.2 In 1990, permission was granted for the use of the property as a bed and breakfast hotel, and a separate permission as a residential care home.
- 2.3 In 2008, permission was granted for the construction of a 3-storey extension to the side of the existing building and the formation of a basement area with light-wells at the front and rear. The building would be divided into self-contained flats, including 4, one bedroom, 2, two bedroom and 1, three bedroom flats, and one studio on the upper floor. Two off-street parking spaces would be provided at the front, together with 10 cycle spaces at the rear.
- 2.4 A Prior Notification Notice for the demolition of the building was submitted on 16 May 2012, which sets out the proposed method of demolition works (DC/12/80003). This notice had not been determined at the time of the committee agenda going to print.

## **3.0 Current Planning Application**

- 3.1 The current application proposes the redevelopment of the site for residential purposes, involving the demolition of the existing building.
- 3.2 The development would take the form of a part three/ part four storey building fronting Waldram Park Road. A total of 8 residential dwellings would be provided, including 6, one bedroom self-contained flats, and 2, three bedroom self-contained maisonettes.
- 3.3 Renewable energy measures would include the provision of photovoltaic panels to the flat roof.
- 3.4 All units would be built to Lifetime Homes standards, and would meet Code Level 4 for Sustainable Homes.

- 3.5 The application also includes associated landscaping to the front and rear of the site, and internal refuse/ recycling stores, secure cycle parking for 10 bicycles, 1 off-street car-parking space and 1 motorcycle space.

#### **4.0 Consultations and Replies**

##### Neighbours & Local Amenity Societies etc

- 4.1 Consultation letters were sent to the occupants of 156 neighbouring properties, and the Forest Hill Society. A notice was displayed on site and Ward Councillors were consulted.
- 4.2 Two letters received from the occupiers of 11B Church Rise and an unknown address in Waldram Park Road, together with the Quo Vadis Trust, objecting to the proposal on the following grounds;
- (1) new building is out of character – modern ugly block;
  - (2) inadequate off-street parking provision;
  - (3) demolition works will be disruptive;
  - (4) subsidence concerns.

##### Forest Hill Society

- 4.3 The Society has objected to the proposed development, stating ‘the new block does not fit with or compliment the adjacent properties and the style is completely different. A development should seek to restore the existing frontage so that the building is in keeping with neighbouring properties.’
- 4.4 The Society also raises concerns with the number of parking spaces provided on-site.

(Letters are available to Members)

##### Environmental Health

- 4.5 No objections raised to the proposal.

##### Highways and Transportation

- 4.6 Unobjectionable in principle.

##### Design and Conservation

- 4.7 The Council’s design officers have raised no objections to the appearance or massing of the proposed development.
- 4.8 The heritage significance of the existing building has been assessed by officers, however in light of Building Control comments regarding the structural condition of the property, no objections are raised to the proposed demolition.

## Building Control

- 4.9 Building Control officers have visited the site on a number of occasions during the last two years since the partial collapse, and served a Dangerous Structure Notice in 2010. The building has been temporarily secured, however in their opinion, renovation works to the existing building would be extensive and difficult to undertake due to the level of damage incurred.

## **5.0 Policy Context**

### Introduction

- 5.1 In considering and determining applications for planning permission the local planning authority must "have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations" (Section 70 (2) of the Town and Country Planning Act 1990). Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The National Planning Policy Framework does not change the legal status of the development plan.

### National Planning Policy Framework (NPPF)

- 5.2 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. In summary, this states, that for a period of 12 months from publication of the NPPF decision takers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.
- 5.3 Officers have reviewed the Core Strategy and saved UDP policies 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, 214 and 215 of the NPPF.

### Ministerial Statement: Planning for Growth (23 March 2011)

- 5.4 The statement sets out that the planning system has a key role to play in rebuilding Britain's economy by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Government's expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

## Other National Guidance

- 5.5 The other relevant national guidance is:

By Design: Urban Design in the Planning System - Towards Better Practice (CABE/DETR 2000); Planning and Access for Disabled People: A Good Practice Guide (ODPM, March 2003); Safer Places: The Planning System and Crime Prevention (ODPM, April 2004) & Code for Sustainable Homes Technical Guide (DCLG/BRE, November 2010).

## London Plan

- 5.6 A new London Plan document was adopted on 22 July 2011. The policies considered relevant to this application include:

Policies 3.3 Increasing housing supply; 3.4 Optimising housing potential; 3.5 Quality and design of housing developments; 3.6 Children and young people's play and informal recreation facilities; 3.8 Housing choice; 3.16 Protection and enhancement of social infrastructure; 5.2 Minimising carbon dioxide emissions; 5.3 Sustainable design and construction; 5.7 Renewable energy; 5.11 Green roofs and development site environs; 5.12 Flood risk management; 5.13 Sustainable drainage; 6.9 Cycling; 6.13 Parking; 7.3 Designing out crime; 7.4 Local character; 7.5 Public realm, 7.6 Architecture & 7.19 Biodiversity and access to nature, in the London Plan (June 2011).

- 5.7 The Mayor of London has also published a number of strategies, Supplementary Planning Guidance (SPG) and Best Practice Guidance (BPG) notes in order to help implement London Plan policies. The following strategies, SPGs and BPGs are particularly relevant to this application:

Transport Strategy (2001) and draft Transport Strategy (2009); Biodiversity Strategy (2002); Energy Strategy (2004); Housing SPG (2005); Sustainable Design and Construction SPG (2006); Accessible London SPG (2004); Planning for Equality and Diversity in London SPG (2007); The Control of Dust and Emissions from Construction and Demolition BPG (2006); Tomorrow's Suburbs: Tools for making London more sustainable (June 2006); and Development Plan Policies for Biodiversity (November 2005).

## Wheelchair guidance

- 5.8 The South East London Housing Partnership's Wheelchair Homes Design Guidelines (2008, updated 2009) are not published by the Mayor of London and do not set out planning policy, but are nonetheless considered relevant to this application.

## Local Development Framework – Core Strategy

- 5.9 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development 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:

Objective 1: Physical and socio-economic benefits, Objective 2: Housing provision and distribution; Objective 3: Local housing needs; Objective 5: Climate change; Objective 6: Flood risk reduction and water management; Objective 7: Open spaces and environmental assets; Objective 8: Waste management; Objective 9: Transport and accessibility; Objective 10: Protect and enhance Lewisham's character; Objective 11: Community well-being; Policy 1: Housing provision, mix and affordability; Policy 7: Climate change and adapting to the effects; Policy 8: Sustainable design and construction and energy efficiency; Policy 10: Managing and reducing the risk of flooding; Policy 12: Open space and environmental assets; Policy 14: Sustainable movement and transport & Policy 15: High quality design for Lewisham.

#### Unitary Development Plan

- 5.10 The relevant saved policies of the UDP (adopted July 2004) are set out below.

URB 3 Urban Design; URB 12 Landscape and Development; URB 13 Trees; ENV PRO 15 Sustainable Surface Water Drainage in New Development; HSG 2 Housing on Previously Developed Land; HSG 4 Residential Amenity; HSG 5 Layout and Design of New Residential Development & HSG 7 Gardens.

- 5.11 Referring to the Council's UDP Proposals Map adopted with the UDP in July 2004, the application site is not designated land.

#### Residential Development Standards SPD (August 2006)

- 5.12 In August 2006, the Council adopted the Residential Standards Supplementary Planning Document. 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, backland development, 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.

### **6.0 Planning Considerations**

- 6.1 The main issues to consider in regard to this application include the principle of demolishing the existing building and redeveloping the site for residential purposes, the scale, height, massing and appearance of the proposed building, density, the level of impact upon the amenities of neighbouring occupiers and the streetscene generally, the standard of residential accommodation, sustainable measures, landscaping, access and parking issues.

#### Principle of Development

- 6.2 The application site is located on the south side of Waldram Park Road, and is occupied by a 3-storey residential building, which forms part of a row of similar villa style dwellings.
- 6.3 In 2008, permission was granted to convert the building into self-contained flats, however in 2010, building works ceased subsequent to a partial collapse during excavation works. This related to the 2008 planning permission granted for the



conversion of the property, which included the formation of habitable rooms within a new basement. The current applicants did not own the property at the time of the incident.

- 6.4 The applicant states the site was closed following the issuing of a Dangerous Structure Notice by the Council. 'Although the structure has now been made 'safe', the remaining structure will no longer meet the current Building Regulation standards and is unviable for further renovation work.'
- 6.5 Officers have assessed the merits of retaining the building, however in light of discussions with Building Control, it is clear that its structural integrity has been compromised significantly by the 2010 incident, demonstrated by the Dangerous Structure Notice. The measures undertaken to secure the building are only temporary, whilst renovating works would involve extensive rebuilding due to the loss of the front elevation, and the displacement of the remaining walls, floors and roof.
- 6.6 The Development Plan seeks to retain buildings that are termed as 'heritage assets', i.e. Listed or Locally Listed Buildings. Buildings that are not heritage assets cannot be protected from demolition in their own right. PPS 5 Planning for the Historic Environment states "Those parts of the historic environment that have significance because of their historic, archaeological, architectural or artistic interest are called heritage assets. Some heritage assets possess a level of interest that justifies designation and particular procedures apply to decisions that involve them. This statement also covers heritage assets that are not designated but which are of heritage interest and are thus a material planning consideration."
- 6.7 Design and Conservation officers have assessed the character of the building, and have confirmed that whilst the existing building is of some heritage interest when seen in context with neighbouring properties of a similar appearance, it is not of sufficient quality to justify being acknowledged as a heritage asset, therefore Core Strategy Policy 15 (f), which seeks to ensure any development conserves and enhances the borough's heritage assets, is not applicable in this case.
- 6.8 The proposed redevelopment would see the clearance of the entire site, and the construction of a replacement residential building ranging in height between three to four stories, accommodating 8 self-contained residential units.
- 6.9 The applicant has submitted a statement that addresses the intended method of demolishing the existing building, in light of the close proximity to neighbouring dwellings. The statement has been discussed with Building Control officers, who have confirmed their satisfaction to the method details.
- 6.10 At the time of writing this report, the applicant had submitted a Prior Notification application (DC/12/80003), formally advising the Council of their intention to demolish the building, for the reasons stated in Paragraph 6.5. Whilst the current application fully addresses the method of demolition, the applicant was keen to submit a Prior Notification to enable the commencement of works.
- 6.11 The applicant has stated that external features of the existing building will be salvaged where possible, including the London Stock bricks, which will be used in the new building.

- 6.12 For the reasons stated, officers raise no objections to the demolition of the existing building, subject to the acceptability of the proposed development.

#### Design, Scale, Siting – Impact upon the character of the local area

- 6.13 The applicants have engaged in pre-application discussions with officers to seek advice on what would constitute an acceptable form of development upon the site. Officers provided advice on planning policies, the constraints of the site, design, layout and relationship with surrounding development.
- 6.14 Paragraph 15 of the National Planning Policy Framework (p15) states: “local planning authorities should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.
- 6.15 The proposed building would not seek to replicate the design and appearance of the existing or neighbouring buildings, preferring a modern approach that would attempt to respect the height, width and depth proportions of the group of dwellings, together with the existing front and rear building lines.
- 6.16 The proposal is considered to represent good, modern design, whilst being respectful of the character of the surrounding area. In comparison with the existing building, the new block would measure 8 metres in height, as opposed to the existing 11 metres, incorporating a flat roof rather than replicating the existing pitch.
- 6.17 The external face of the building would be mostly of London stock bricks, using reclaimed bricks from the existing building. All window frames would be of aluminium, whilst the upper floor would be a combination of grey slate and glazing.
- 6.18 The proposed materials are considered to be appropriate, contributing positively to the appearance of the development, whilst relating well with existing properties. The provision of balconies contributes to the overall outdoor feel and modern design of the development.
- 6.19 Officers consider the proposed flat roof to be acceptable in appearance, resulting in minimal overall bulk. The provision of a pitch would be likely to compromise the modern appearance of the building, therefore no objections are raised to this aspect.
- 6.20 In summary, the development is considered to be appropriate in scale, height and massing, respecting the general form of development within the immediate area, and befitting of this location. The applicants will be requested by way of a planning condition to provide external material samples for further assessment and detailed plans that show the living roof, windows, entrances and brick detailing.

#### Density

- 6.21 The Council’s former density policy (HSG 16) was not among those saved by the Secretary of State, therefore the London Plan now contains the detailed density policies for Development Plan purposes.

- 6.22 The Council's assessment of the nature of the area is that the site falls within an urban setting, surrounded by suburban residential streets. Whilst any development upon this site must respect the suburban character, the position of the site within an urban corridor allows for a greater density in the scale of the development.
- 6.23 The London Plan refers to 'urban' as being areas with predominantly dense development such as, for example terraced houses, a mix of different uses, medium building footprints and typically buildings two to four storeys, located within 800 metres walking distance of a District centre or, along main arterial routes.
- 6.24 Guidance states that the Council should make the best use of previously developed land, however such aspirations should not negate the requirement for developments to blend with the surrounding character. Waldram Park Road experiences high vehicular movement, providing part of the main route between Catford and Forest Hill town centres, whilst the Public Transport Accessibility Level (PTAL) for the area is 4. The London Plan Matrix table 3.2 advises that densities in urban areas should be between 200-700 habitable rooms per hectare.
- 6.25 The density of the proposed scheme is 333 habitable rooms per hectare, thereby comfortably falling within the specified range. It is considered that the density would not result in demonstrable harm to the character of the local area or the amenities of neighbouring residential occupiers, and together with the overall quality of the proposal, officers consider the scheme to be compliant with density policies and therefore acceptable.

#### Impact Upon Neighbouring Occupiers

- 6.26 Officers are satisfied that the siting of the proposed development would not significantly harm the visual amenities of neighbouring occupiers. The building would be arranged to follow the existing front and rear building lines at upper floor levels, whilst the ground and lower ground floors would project a further 4.2 metres at the rear. The actual projection beyond the rear elevations of the properties on either side would be 3.4 metres, which is considered to be appropriate, avoiding a detrimental visual impact.
- 6.27 The position of the new building would be similar to the existing, therefore the visual impact upon the flank openings of nos 12 and 16 would be no greater than the existing.
- 6.28 The building would incorporate a flat roof rather than pitched, with the upper floor set-back from the front and sides. In terms of height, the building would be 8 metres high compared to the current building which measures 11. In this regard, the impact of the proposed building is considered to be smaller than the existing building.
- 6.29 Because of the above, no Daylight/ Sunlight report has been submitted as part of the planning application. Officers are satisfied that the proposed development would not result in unacceptable overshadowing or loss of natural light to the neighbouring properties.
- 6.30 At first floor level to the rear, the occupiers would have use of private external terraces, measuring a maximum depth of 3.8 metres. 0.8 metre high laminated

glass screens would be erected to both ends, whilst a 0.6 metre deep 'buffer' would span the full width of the terrace, which would prevent users of the terrace from standing along the rear facing edge and compromising the privacy of the neighbouring occupiers and the garden area of the 3 bedroom ground floor maisonette. The buffer would comprise a 1 metre high trench that would accommodate planting. At second floor level, two juliet balconies would be provided.

- 6.31 Overall, officers are satisfied the level of visual impact, including overlooking, to existing occupiers would be minimal. Notwithstanding this, a condition is included in the recommendation which ensures the proposed screening is erected prior to first occupation of all units.

#### Standard of Residential Accommodation/ Amenity Space

- 6.32 The Council requires all new residential development to be built to Lifetime Home standards, in accordance with London Plan policies. The applicants have confirmed the development is fully compliant with these standards.
- 6.33 The layout and circulation of the proposed units is considered to be acceptable, and would provide a good standard of accommodation for future occupiers, in accordance with London Plan (2011) standards. Each habitable room would be assured of sufficient natural light intake and outlook.
- 6.34 The application originally proposed the provision of only 1 and 2 bedroom units, however the plans have since been amended to include two, 3 bedroom family sized dwellings, in accordance with the adopted Core Strategy which requires a mix of residential units to be provided in schemes to meet housing needs. The development would include 6, one bedroom units, however 4 would provide studios, which could be used as additional bedrooms.
- 6.35 The family units would be maisonettes arranged on the ground and lower ground floors, with direct access to a rear 'sunken' garden. Plan P002(P.02) suggests the space would be shared between the two units, however any fencing or partitions can be assessed in a landscaping condition.
- 6.36 All units would have access to the communal garden at the rear, whilst the two first floor units would have use of private terraces.
- 6.37 The formation of lightwells to the front and rear of the new building would ensure sufficient outlook and light intake to the habitable rooms located within the lower ground floor. In line with officer advice, the lightwells would measure a depth of at least 4 metres, thereby avoiding the provision of darkened rooms with poor outlook.
- 6.38 One lift would be provided, operating between the ground and third floors only.
- 6.39 Officers raise no concerns to the proposed standard of accommodation within the development.

#### Highways and Parking

- 6.40 The development proposes one off-street parking space for a disabled user, and one motorcycle bay. This is attributed to the lack of available space to the front

driveway and the need for sufficient room for a car to manoeuvre when entering and exiting the site, together with the siting of the two lightwells. The provision of additional parking spaces is therefore not possible.

- 6.41 Subsequently, objectors have raised concern toward the lack of parking allocation for future residential occupiers and visitors, with a resulting adverse impact upon on-street parking pressures in neighbouring streets.
- 6.42 Policy 6.13 of The London Plan states; 'The Mayor wishes to see an appropriate balance being struck between promoting new development and preventing excessive car-parking provision that can undermine cycling, walking and public transport use.' 'In locations with high PTAL, car-free developments should be promoted.'
- 6.43 The PTAL rating for this area is 4, with very good bus and train links locally. As a result, the applicants consider this represents an opportunity to seek a development that does not generate a significant increase in private car use in the area, and instead promotes sustainable modes of travel.
- 6.44 The development seeks to encourage cycling as an everyday means of transport for future occupiers, with the provision of a secure cycle store adjacent to the communal garden, accommodating 10 bicycles.
- 6.45 There is unrestricted on-street parking to neighbouring streets, although existing parking pressures are acknowledged.
- 6.46 The Transport Statement submitted confirms the impact of the proposed development upon the public transport network would be negligible, whilst the 'levels of displaced parking, which may occur due to the development, can be easily accommodated locally, and would not result in a negative impact upon the local highway network.'
- 6.47 It also states the development will promote sustainable travel, whilst a car sharing scheme operates within the area, which future occupiers may decide to join.
- 6.48 Having assessed the application, the Highways officer has subsequently raised no objections to the development, attributed to the high PTAL of the area.

#### Landscaping

- 6.49 A 14 metre deep communal garden would be located at the rear of the property, accessed via the side passageway. Existing trees and planting would be retained and protected during demolition and construction works, however the Design and Access Statement states the shared garden 'will be extensively landscaped to encourage residential usage with seating and hedging for privacy.'
- 6.50 At the front of the site, the existing front boundary wall and planting would be removed, however the existing driveway coverage would be replaced by permeable paving to alleviate rain water run-off, together with the formation of a perimeter drainage channel. Some soft landscaping would be provided to the edges of the two lightwells.
- 6.51 Officers are satisfied with the principle of proposed landscaping works, subject to the submission of further details confirming the nature of proposed planting.

## Sustainability

- 6.52 The London Plan requires that all new residential developments meet Code Level 4 for Sustainable Homes, together with a reduction in carbon emissions. In this case, the applicant has advised that the development would meet Code Level 4.
- 6.53 Photovoltaic panels are proposed to the main roof of the building, of which visual details will be requested by way of condition.
- 6.54 Other measures include the use of double glazing, water efficient devices to reduce water consumption, rainwater harvesting and energy efficient lighting.
- 6.55 Officers are satisfied with the sustainability methods proposed, and is considered compliant with London Plan policies.

## Refuse

- 6.56 An external refuse and recycling store would be located to the front of the building. Elevation details of the store will be requested by way of a condition.
- 6.57 Refuse and Highways officers have raised no objections to the proposal.

## Community Infrastructure Levy

- 6.58 The Community Infrastructure Levy (CIL) is a levy which was implemented by the London Mayor on 1 April 2012.
- 6.59 This development is considered to be CIL liable. The chargeable development is £35 per m<sup>2</sup>, which must be paid to the Council prior to the commencement of building works.

## **7.0 Consultations**

- 7.1 With regard to procedural matters, neighbour notifications have been carried out in accordance with the Council's usual procedure. Officers are satisfied that all statutory Council procedures have been followed and all neighbour concerns have been addressed.

## **8.0 Conclusion**

- 8.1 Officers consider the design and massing of the proposed development to be acceptable, and despite its modern approach rather than attempting to replicate the existing, it would respect the general character of the area sufficiently.
- 8.2 The proposal accords with Policy 15 of the adopted Core Strategy and saved policies URB 3 Urban Design, which expects a high standard of design that seeks to complement the scale and character of existing development and its setting, and HSG 5 Layout and Design of New Residential Development, which expects all new residential development to be attractive, to be neighbourly and to meet the functional requirements of all future habitants.
- 8.3 It is therefore recommended that planning permission be granted.

## **9.0 Summary of Reasons for Grant of Planning Permission**

- 9.1 The decision to grant planning permission has been taken having regard to the policies and proposals in the London Plan (July 2011), the adopted Core Strategy and saved policies in the Unitary Development Plan (July 2004), as set out below and all relevant material considerations, including comments received in response to third party consultation.
- 9.2 The local planning authority has considered the particular circumstances of the application against relevant planning policy set out in the London Plan (2011), the adopted Core Strategy (June 2011) and saved policies in the Council's Unitary Development Plan (July 2004). The local planning authority has further had regard to the Mayor of London's Supplementary Planning Guidance and Best Practice Guidance; as well as Government Planning Policy Guidance and Statements, and other material considerations including the conditions to be imposed on the permission.
- 9.3 On balance, it is considered that the proposal satisfies the Council's landscaping, ecology and biodiversity criteria and will not result in any material harm being in accordance with Table 3.2 Density Matrix and Policies 3.3 Increasing housing supply; 3.4 Optimising housing potential; 3.5 Quality and design of housing developments; 3.8 Housing choice; 3.16 Protection and enhancement of social infrastructure; 5.2 Minimising carbon dioxide emissions; 5.3 Sustainable design and construction; 5.7 Renewable energy; 5.12 Flood risk management; 5.13 Sustainable drainage; 6.9 Cycling; 6.13 Parking; 7.4 Local character; 7.5 Public realm, 7.6 Architecture & 7.19 Biodiversity and access to nature in the London Plan (July 2011), Objective 1 Physical and socio-economic benefits, Objective 2 Housing provision and distribution, Objective 3 Local housing needs, Objective 5 Climate change, Objective 6 Flood risk reduction and water management, Objective 7 Open spaces and environmental assets, Objective 8 Waste management, Objective 9 Transport and accessibility, Objective 10 Protect and enhance Lewisham's character, Objective 11 Community well-being, Policy 1 Housing provision, mix and affordability, Policy 7 Climate change and adapting to the effects, Policy 8 Sustainable design and construction and energy efficiency, Policy 10 Managing and reducing the risk of flooding, Policy 12 Open space and environmental assets, Policy 14 Sustainable movement and transport, Policy 15 High quality design for Lewisham, and Policy 21 Planning obligations of the adopted Core Strategy (June 2011), and saved policies URB 3 Urban Design, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development and HSG 7 Gardens, in the Council's Unitary Development Plan (July 2004) and the Residential Development Standards SPD (August 2006).

## **10.0 RECOMMENDATION**

- 10.1 **GRANT PERMISSION** subject to the conditions, as set out below and such amendments as considered appropriate to ensure the acceptable implementation of the development;
- (1) No development, (excluding demolition) shall commence on site until sample details of all facing materials (including their colour and texture) to be used on the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, unless the local planning authority

agrees in writing to any variation.

- (2) Notwithstanding information shown on the approved drawings, details of windows, balconies, terraces, screening, entrances and brick detailing at a scale of not less than 1:5 shall be submitted to and approved in writing by the local planning authority. No development shall commence beyond piling until the full details have been approved. The development shall be carried out in full accordance with the approved details unless otherwise approved in writing by the local planning authority.
- (3) All window and door openings shall be constructed with minimum 90mm deep external reveals.
- (4) No development, excluding demolition, shall commence on site until a scheme to minimise the threat of dust pollution during site clearance and construction works (including any works of demolition of existing buildings, or breaking out or crushing of concrete) has been submitted to and approved in writing by the local planning authority. The approved scheme shall include a watering regime in the event of dry weather and shall be implemented in its entirety once development has commenced.
- (5) No development, excluding demolition, shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The proposals for the plan shall include details of a display at the site entrance of a contact number for complaints, site access arrangements and details of how security will be maintained to neighbouring properties, in particular during and immediately after the demolition phase. The approved plan shall be rigidly adhered to throughout the construction process.
- (6) Details of lighting to external areas within the site shall be submitted to and approved in writing by the local planning authority prior to first occupation of the residential units. Any such lighting shall be installed in accordance with the approved drawings. The applicant should demonstrate that the proposed lighting is the minimum needed and that the proposals minimise pollution from glare and spillage.
- (7)
  - (i) The buildings shall be constructed so as to provide sound insulation against external noise to achieve levels not exceeding 30dB LAeq and 45dB LMax (night) for bedrooms, 35dB LAeq (day) for other habitable rooms, with windows shut and other means of ventilation provided.
  - (ii) Development (excluding demolition) shall not commence until details of a sound insulation scheme complying with paragraph (i) of this condition have been submitted to and approved in writing by the local planning authority.
  - (iii) The development shall not be occupied until the sound insulation scheme approved pursuant to paragraph (ii) of this condition has been implemented in its entirety. Thereafter, the sound insulation scheme shall be maintained in perpetuity.



- (8) No extensions or alterations to the proposed development whether or not permitted under Article 3 and Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactment thereof, shall be carried out without the prior written permission of the local planning authority.
- (9) No development, excluding demolition, shall commence on site until drawings showing the use of any part of the site not occupied by buildings and the treatment thereof (including planting, trees, paving, walls and fences), have been submitted to and approved in writing by the local planning authority and all works which form part of the scheme shall be completed in the first planting season following the completion of the development, unless the local planning authority has given written consent to any variation. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority has given written approval to any variation.
- (10) Details of the appearance of the proposed photovoltaic panels hereby permitted shall be submitted to and approved in writing by the local planning authority prior to installation.
- (11) Elevation details of the proposed refuse stores shall be submitted to and approved in writing by the local planning authority. The store shall then be provided in accordance with the approved details prior to first occupation and shall thereafter be retained for refuse storage purposes.
- (12) Details of cycle stands within the approved cycle store shall be submitted to and approved in writing by the local planning authority and shall be provided prior to first occupation of the residential units hereby approved and shall thereafter be maintained.
- (13) The external communal area and private amenity gardens shall be provided prior to first occupation of the dwellings to which they relate and shall thereafter be retained for such use.
- (14) The proposed front and rear lightwells shall be constructed in full compliance with the plans hereby permitted prior to first occupation of the residential units.
- (15) The proposed balcony screening shall be implemented in full prior to first occupation of the residential units.
- (16) The proposed rainwater run-off measures, including the laying of permeable paving and the formation of a perimeter drainage channel and French drain shall be implemented in full prior to first occupation of the residential units.

### Reasons

(1),(2) BO1R  
& (3)

- (4) N10R
- (5) In order that the local planning authority may be satisfied that the demolition and construction processes are carried out in a manner which will minimise possible dust and mud pollution of local roads and to comply with Policies ENV.PRO 9 Potentially Polluting Uses and saved policy HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).
- (6) N13R
- (7) NO1R
- (8) PD1R
- (9) LO1R
- (10) To ensure the development is in compliance with Policy 8 'Sustainable design and construction and energy efficiency' of the adopted Core Strategy (June 2011).
- (11) RF2R
- (12) H12R
- (13) L10R
- (14) To ensure the development is carried out to the satisfaction of the local planning authority.
- (15) To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with Policy 15 High quality design for Lewisham of the adopted Core Strategy (June 2011) Policies URB 3 Urban Design and HSG 5 Layout and Design of New Residential Development in the adopted Unitary Development Plan (July 2004).
- (16) To ensure the development is in compliance with Policies 8 Sustainable Design and Construction and Energy Efficiency and 10 Managing and Reducing the Risk of Flooding of the adopted Core Strategy (June 2011).

#### Informatives

- (1) Construction Sites Code of Practice or any other such codes applicable at the time of construction.
- (2) Thames Water

With regard to surface water drainage, it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water, it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network, through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the

developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.

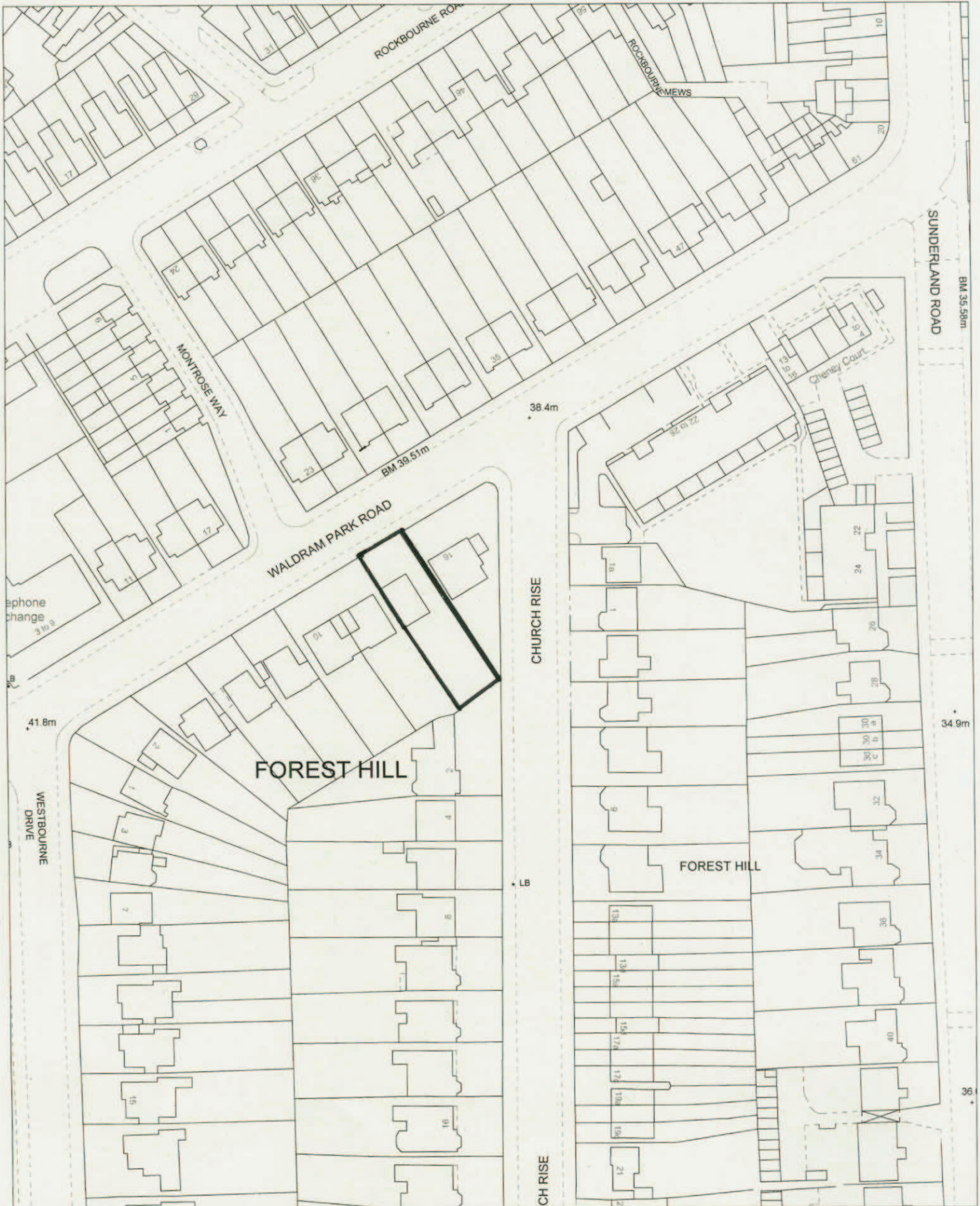
Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

#### Street Numbering

- (3) The proposal will require approval by the Council of a Street Naming and Numbering application. Application forms are available on the Council's web site.
- (4) An application must be formally submitted to the Highways Group for the provision of a pavement crossover.

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# 14 WALDRAM PARK ROAD, SE23 2PN



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Committee	PLANNING COMMITTEE C	
Report Title	153 PEPYS ROAD SE14 5SG	
Ward	Telegraph Hill	
Contributors	David Knight	
Class	PART 1	24 MAY 2012

<u>Reg. Nos.</u>	DC/12/79472
<u>Application dated</u>	19/01/2011, completed 09/03/2012
<u>Applicant</u>	Mr C Garrecht
<u>Proposal</u>	The installation of rooflights to the front, side and rear roof slopes of 153 Pepys Road SE14 in connection with the conversion of the loft space.
<u>Applicant's Plan Nos.</u>	DWG 01, DWG 02, and Design and Access Statement, Heritage Statement, and OS Map.
<u>Background Papers</u>	(1) Case File DE/60/153/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	Telegraph Hill Conservation Area; Telegraph Hill Article 4 direction
<u>Screening</u>	N/A

## **1.0 Property/Site Description**

- 1.1 The property is a late 19th century large three-storey semi detached house within the Telegraph Hill Conservation Area. The property has been converted to three self-contained flats; one each on the basement, ground and first floor levels.
- 1.2 The property features a hipped roof which currently has no rooflights or extensions.
- 1.3 The property is located within Telegraph Hill Conservation Area, which is subject to an Article 4 direction. The property is not a listed building.

## **2.0 Planning History**

- 2.1 No relevant history.

## **3.0 Current Planning Applications**

### **3.1 The Proposals**

- 3.2 The applicant proposes to install three rooflights, one on the front, one on the side and one on the rear roof slope.

3.3 The rooflights are to be recessed into the roof slope to minimise protrusion from the roofline.

#### **4.0 Consultation**

4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

4.2 Site notices were displayed and letters were sent to eleven residents in the surrounding area, to the relevant ward Councillors and to the Telegraph Hill Society.

##### Written Responses received from Local Residents and Organisations

4.3 One letter of objection received from a neighbour stating that it was their belief that the building was grade II listed, and that front roof lights were not allowed on these properties.

4.4 The Telegraph Hill Society objected to the rooflight on the front roof slope. Their objections are as follows:

- The information submitted by the applicant is insufficient;
- front roof lights severely adversely affect the symmetry and uniformity of the properties across the conservation area;
- the front roof light is not compatible with the design of the original property nor the materials originally used;
- the property is in a prominent position facing Telegraph Hill Park.

#### **5.0 Policy Context**

##### 5.1 Introduction

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The NPPF does not change the legal status of the development plan.

##### 5.2 National Planning Policy Framework

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. In summary, this states, that for a period of 12 months from publication of the NPPF decision takers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.

- 5.3 Officers have reviewed the Core Strategy and saved UDP policies 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, 214 and 215 of the NPPF.

#### Regional Policy

- 5.4 London Plan (Consolidated July 2011)

The London Plan policies relevant to this application are

Policy 7.4: Local Character

Policy 7.8: Heritage Assets and Archaeology

#### Local Policy

- 5.5 Core Strategy (June 2011)

The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development 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:

Objective 10: Protect and Enhance Lewisham's Character

Policy 15: High Quality Design for Lewisham

Policy 16: Conservation areas, Heritage Assets and the Historic Environment

- 5.6 Unitary Development Plan (2004)

The saved policies of the UDP relevant to this application are:

URB 3: Urban Design

URB 6: Alterations and Extensions

URB 16: New Development, Changes of Use and Alterations to Buildings in Conservation Areas

- 5.7 Residential Standards Supplementary Planning Document (August 2006)

This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities

and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

#### 5.8 Telegraph Hill Conservation Area Character Appraisal (March 2008)

This document analyses the special character of the conservation area.

### **6.0 Planning Considerations**

6.1 The pertinent planning consideration is the impact of the rooflights on the appearance of the dwelling, and on the character of the conservation area.

6.2 The Council's 2008 Telegraph Hill Character Appraisal refers to the uniform and cohesive design of the main house types in the area. The Character Appraisal refers to the issue of negative alterations including obtrusive rooflights that cumulatively erode the special character of the area.

6.3 The Telegraph Hill Society have objected to this application on the basis that the proposed front rooflight will severely adversely affect the symmetry and uniformity of the property, and that the front roof light is not compatible with the design of the original property nor the materials originally used.

6.4 It is acknowledged that the proposed rooflights would introduce a non-original feature to the property. However, it is considered that the proposed rooflights will not cause material damage to the character of the conservation area nor to the architectural characteristics of the original building.

6.5 The rooflights are relatively small. Only one is proposed for each roof slope. The front rooflight is aligned with the existing front fenestration, and visual impact will be minimised by it being recessed into the roof slope as stated in the applicant's Design and Access Statement and Heritage Statement. The visual impact of the front rooflight when viewed from the street will be further reduced due to the existence of a hipped bay window roof and a party wall parapet which partly obscures the view of the roof slope.

6.6 The Telegraph Hill Society have also objected on the grounds that insufficient information has been submitted, however this was due to a technical error that meant the relevant information could not be viewed on the Council's website. The applicant has provided full elevations, and has indicated that the rooflights will be fitted flush with the roof slope. A condition should be placed on the application requiring the rooflights to be of conservation style, and to be fitted flush.

6.7 The placing and design of the rooflights are therefore considered to preserve the architectural characteristics of the property in line with UDP Policy URB 6, and are considered to preserve the special character of the area in line with UDP Policy URB 16.

6.8 It is of note that three other properties possess front rooflights within this part of Pepys Road, including 125 Pepys Road which was granted permission for front rooflights subsequent to the introduction of the relevant Article 4 direction.

## **7.0 Conclusion**

7.1 It is considered that the proposal will preserve the architectural characteristics of the dwelling, and will preserve the character of this part of the Telegraph Hill Conservation Area.

## **8.0 Summary of Reasons for Grant of Planning Permission**

8.1 It is considered that the proposal is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Policies 7.6 Architecture and 7.8 Heritage Assets and Archaeology in the London Plan (July 2011); Policies 15 High Quality Design for Lewisham, and 16 Conservation Areas, Heritage Assets and the Historic Environment in the Core Strategy (June 2011); and Policies URB 3 Urban Design, URB 6 Extensions and Alterations, and URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the Unitary Development Plan (July 2004).

**9.0 RECOMMENDATION GRANT PERMISSION** subject to the following condition:-

Notwithstanding the information submitted, the proposed roof lights shall be of a conservation type, fitted flush with the plane of the existing roof slope.

### Reason

To ensure that the proposed development is in keeping with the existing building and does not prejudice the appearance of the locality and to comply with Policy URB 3 Urban Design in the adopted Unitary Development Plan (July 2004).

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# 153 PEPYS ROAD SE14 5SG



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Committee	PLANNING COMMITTEE C	
Report Title	113 DACRE PARK, SE13 5BZ	
Ward	Blackheath	
Contributors	David Knight	
Class	PART 1	24 MAY 2012

Reg. Nos. (A) DC/12/79639 (Listed Building Consent)  
(B) DC/12/79540

Application dated 23/02/2012, revised 18/04/2012

Applicant Mr Frank Linden on behalf of Mr Luke Wygas

Proposal The construction of a conservatory to the rear of 113 Dacre Park SE13 together with internal alterations and the installation of replacement windows to the front and rear elevations.

Applicant's Plan Nos. DP01, DP02 (Plans as Existing), DPWD05, and revised plans DP04RA, DPWD05RA, DPWD06RA, DPWD08RA, DP02 (Front Elevations), DP03RB, DPWD07RB, Photographs, Design and Access Statement and Heritage Statement.

Background Papers (1) Case File LE/474/113/TP  
(2) Adopted Unitary Development Plan (July 2004)  
(3) Local Development Framework Documents  
(4) The London Plan

Designation Blackheath Conservation Area

Screening N/A

**1.0 Property/Site Description**

- 1.1 113 Dacre Park is a Grade II Listed early to mid 19th century semi detached dwelling house. The building is of two stories with semi-basement and attic. To the rear the semi-basement floor is at garden level.
- 1.2 The building features an existing modern rear glazed extension which houses a staircase between the ground and lower ground floors.
- 1.3 Large single-pane windows have replaced the original windows at ground floor level to the front and rear elevations. The property features a hipped roof which currently has three rooflights.
- 1.4 The property is located within the Blackheath Conservation Area.

## **2.0 Planning History**

- 2.1 The applicant previously applied for permission to construct a conservatory to the rear in December 2011 (DC/11/78985), however this application was withdrawn on the advice of the planning officer due to insufficient information.
- 2.2 Listed building consent was granted on 08/07/1974 for the construction of a detached building at the far end of the rear garden to be used as a studio/garden room.

## **3.0 Current Planning Applications**

- 3.1 There are two concurrent applications. DC/12/79639 is a listed building consent application, and DC/12/79540 is a planning application.
- 3.2 The application is an amended scheme that involves several external and internal alterations.
- 3.3 Rear conservatory
- 3.4 The applicant proposes to demolish the existing rear glazed extension, and replace it with a larger conservatory.
- 3.5 The conservatory will be 3.16m deep, and will measure 6m wide. The side wall of the conservatory will be set in approximately 0.2m from the boundary with number 111.
- 3.6 The conservatory will feature a mono pitched roof sloping down from the rear elevation. The roof of the conservatory will be at two different heights. The northern section of the conservatory will have an eaves height of 4m rising to 4.6m where it abuts the rear elevation of the original building, whereas the larger main section will have an eaves height of 2.57m rising to 3.03m. These measurements are taken from the excavated external lower ground floor level adjoining the rear elevation of the main dwelling. The remainder of the garden is 1.03m higher than this, i.e. at the external natural ground level.
- 3.7 The northern section of the conservatory has a higher roof height in order to accommodate a new spiral staircase that will connect the ground floor and lower ground floor.
- 3.8 The side walls of the conservatory will be constructed of brick. The northern side wall will be the retained wall of the existing extension. The new southern side wall will follow the slope of the conservatory roof and will have an eaves height of 2.63m rising to 3.3m when measured from lower ground floor level. This wall will be constructed of yellow London stock brick.
- 3.9 Lead flashings will be used on the joins between the conservatory roof and masonry.
- 3.10 The glazed walls, roof and doors of the conservatory will be set within a frameless system.
- 3.11 Access to the conservatory from the main dwelling at ground floor level will be through the existing opening. Access to the conservatory from the main dwelling



at lower ground level will be through a new opening in the rear elevation that will replace the existing rear window. This opening is to be 1.85m wide and 2.02m tall.

### 3.12 Alterations to fenestration

3.13 Three windows are to be replaced.

3.14 The existing casement attic window on the front elevation is to be replaced by a timber sash window to match the attached property.

3.15 The existing rear louvered attic window is to be replaced with a timber sash window to match the attached property.

3.16 The existing large single paned lower ground floor front window is to be replaced with a timber sliding sash window.

3.17 The windows are to be painted white. Further details of these windows are to be provided at a later stage.

### 3.18 Internal alterations

3.19 An internal wall is to be demolished between the existing kitchen and dining room at ground floor level. This wall is not an original wall.

3.20 Three new sections of internal partition wall are to be constructed at ground floor level in order to provide a new laundry room.

3.21 A new floor is to be installed in the dining room, with underfloor heating.

3.22 At attic level (second floor), the existing internal wall separating the attic from the toilet room is to be removed. A new internal wall is to be constructed at attic level to partition a new toilet room towards the centre of the building.

## 4.0 Consultation

4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

4.2 Site notices were displayed and letters were sent to two residents in the surrounding area, to the relevant ward Councillors and to the Blackheath Society.

### Written Responses received from Local Residents and Organisations

4.3 The occupant of the adjoining property, 111 Dacre Park has objected on the following grounds:

- Concerns raised regarding the proposed conservatory being out of keeping with the character of the Listed building, and regarding the visibility of the proposal from 111 Dacre Park;
- Potential damage to a hedge on the boundary, and potential structural damage to their property.

(Letters are available to Members).

#### 4.4 Blackheath Society

The Blackheath Society has objected to the conservatory. They object to the proposal for an all glass conservatory here. It is out of keeping with the character of the house and over-dominant. It would make an irreversible structural change to a listed building.

#### 4.5 Amenities Societies' Panel

The Panel stated they would defer to the views of Planning and Conservation officers.

### 5.0 **Policy Context**

#### 5.1 Introduction

5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The NPPF does not change the legal status of the development plan.

#### 5.3 National Planning Policy Framework

5.4 The NPPF was published on 27th March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary this states that (paragraph 211), policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. In summary, this states, that for a period of 12 months from publication of the NPPF decision makers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.

5.5 Officers have reviewed the Core Strategy and saved UDP policies 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, 214 and 215 of the NPPF.

#### Regional Policy

#### 5.6 London Plan (Consolidated July 2011)

The London Plan policies relevant to this application are

Policy 7.4: Local Character

Policy 7.8: Heritage Assets and Archaeology

## Local Policy

### 5.7 Core Strategy (June 2011)

5.8 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development 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:

Objective 10: Protect and Enhance Lewisham's Character

Policy 15: High Quality Design for Lewisham

Policy 16: Conservation areas, Heritage Assets and the Historic Environment

### 5.9 Unitary Development Plan (2004)

5.10 The saved policies of the UDP relevant to this application are:

URB 3: Urban Design

URB 6: Alterations and Extensions

URB 16: New Development, Changes of Use and Alterations to Buildings in Conservation Areas

### 5.11 Residential Standards Supplementary Planning Document (August 2006)

5.12 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

### 5.13 Blackheath Conservation Area Character Appraisal (March 2007)

5.14 This document analyses the special character of the conservation area.

## **6.0 Planning Considerations**

6.1 The relevant planning considerations are the protection of the heritage asset and the impact of the proposal on the amenities of neighbouring property.

### 6.2 Internal alterations

6.3 The internal alterations to the property are not considered contentious. The demolition of two modern internal walls, and the construction of four new internal walls (3 at lower ground level and 1 at attic level) is not considered damaging to the architectural or historic interest of the listed building.

### 6.4 Rear conservatory

6.5 The proposed extension is the most significant alteration. The plans involve the demolition of the existing extension to the rear. The existing extension is

considered to be of a poor design, and is considered to detract from the character of the building and its removal is therefore welcomed.

- 6.6 The proposed glazed extension involves the extensive use of frameless glazing, with the side walls constructed of yellow stock brick. The use of simple materials combined with the transparency of glass is intended to ensure that the proposal does not detract from the qualities of the original building. Although the proposed extension is larger than the existing, much of the extension is at semi-basement level and would be visually separate from the historic fabric. The higher element, containing the proposed spiral staircase would be significantly less bulky than the existing extension and would reveal a greater area of the original rear external wall. The Council's Conservation Officer considers the design of the conservatory extension acceptable. It is not considered to be an irreversible alteration and is preferable to a conservatory in a traditional style. Though contemporary in design the proposed extension is considered to respect the character and architecture of the heritage asset.
- 6.7 The new opening in the rear wall is considered acceptable, the majority of the rear wall at lower ground floor level will remain. The applicant originally proposed a much larger opening, however this was amended on the advice of the conservation officer.
- 6.8 The impact on the amenity of neighbouring properties is also considered acceptable. The extension is to be constructed at lower ground floor level, which is 1m lower than the ground level of the garden, thus lessening the impact of the development on neighbours.
- 6.9 The side wall of the conservatory adjacent to the attached property (number 111) is to have an eaves height of 2.63m rising to 3.3m when measured from lower ground floor level, and will be set in 0.2m from the boundary wall. The impact of this on the amount of light reaching the neighbouring lower ground floor is considered acceptable. Additionally, there will be no impact on the neighbouring ground floor. The occupant of 111 Dacre Park has objected on the grounds that the conservatory will be visible from their property, however this is not a reason for refusal.
- 6.10 The conservatory will be lower than the existing extension, and no deeper. there is therefore no detrimental impact to the amenity of the property to the north, 115 Dacre Park.
- 6.11 The issues raised by the neighbouring resident in relation to potential damage to a hedge and structural damage are not planning considerations.

#### Alterations to fenestration

- 6.12 The three proposed replacement windows are considered to improve the character of the dwelling. They will reinstate the original pattern of glazing. Further details of the proposed windows are required, therefore a condition is recommended requiring profiles and elevation of the proposed windows at a scale of 1:5 to ensure the new windows are appropriately detailed.

## **7.0 Conclusion**

7.1 It is considered the proposal would retain the character and historic interest of the original building. The heritage interest of the listed building will not be compromised. The impact on neighbouring amenity is considered acceptable.

## **8.0 Summary of Reasons for Grant of Planning Permission & Listed Building Consent**

8.1 It is considered that the proposal satisfies the Council's Land Use and environmental criteria and is acceptable in principle, being in accordance with Policies HSG 4 Residential Amenity and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).

8.2 It is considered that the proposal is appropriate in terms of its form and design and would not result in material harm to the architectural and historic interest of the heritage asset, the character of the property and the surrounding area, or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Section 12 Conserving and enhancing the historic environment in the National Planning Policy Framework (March 2012); Policies 7.6 Architecture and 7.8 Heritage assets and archaeology in the London Plan (July 2011); Policies 15 High quality design for Lewisham and 16 Conservation areas, heritage assets and the historic environment in the adopted Core Strategy (June 2011); and URB 3 Urban Design, URB 6 Alterations and Extensions, URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas, HSG 4 Residential Amenity, and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).

## **9.0 RECOMMENDATION (A) GRANT LISTED BUILDING CONSENT subject to the following conditions:-**

- (1) No development shall commence on site until detailed profiles and elevations of the proposed windows at a scale of 1:5 have been submitted to and approved in writing by the local planning authority. The profiles and elevations shall identify those elements of the original frames and sills that are to be retained. The development shall be carried out in accordance with the approved details, unless the local planning authority agrees in writing to any variation.
- (2) No development shall commence on site until details of the proposed bricks and glazing system for the conservatory, and of the proposed spiral staircase, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, unless the local planning authority agrees in writing to any variation.

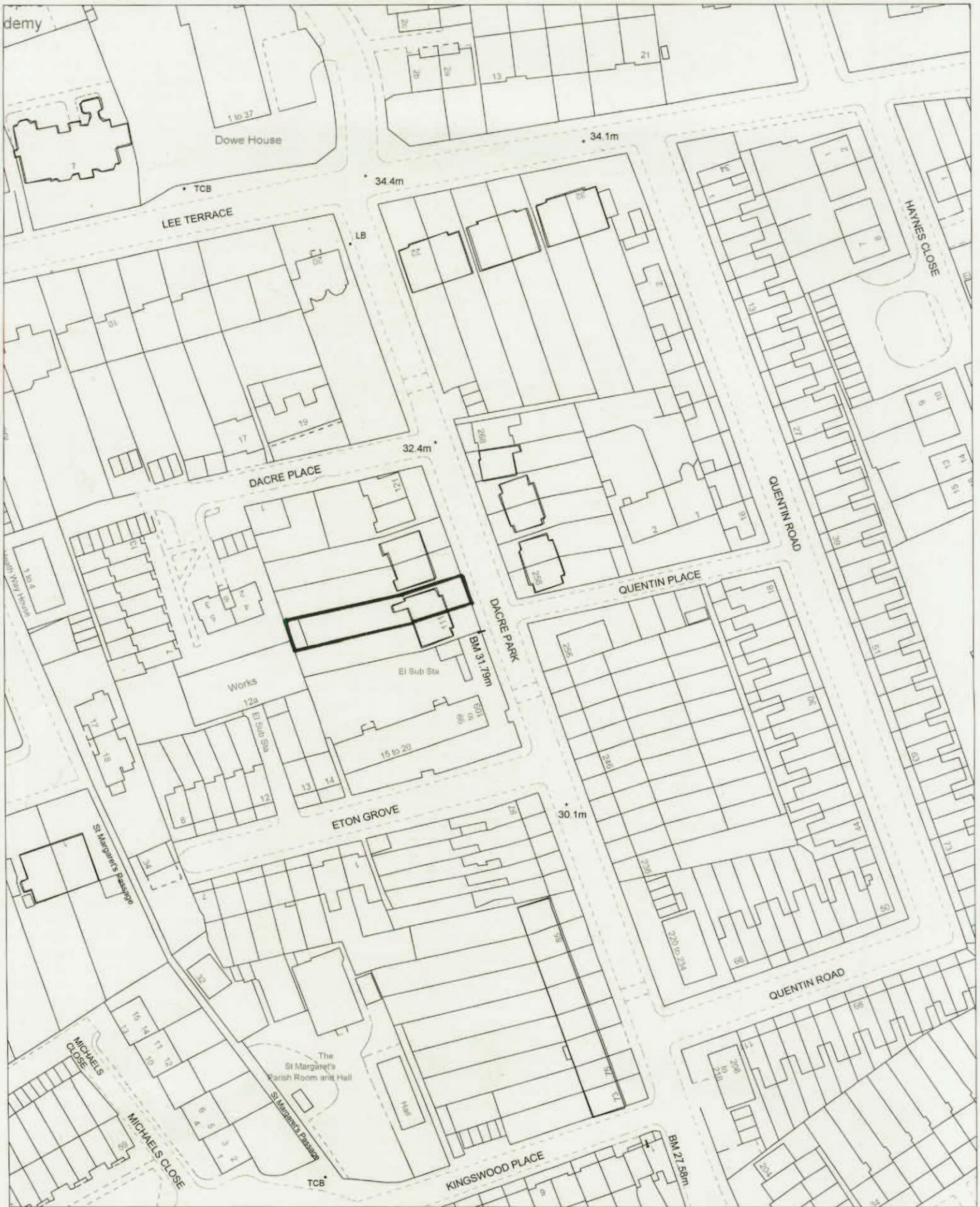
### Reasons

- (1) & (2) To ensure that the proposed development is in keeping with the existing building, to safeguard its special architectural or historic character and to comply with Policy 16 Conservation areas, heritage assets and the historic environment of the adopted Core Strategy (June 2011).

## **10.0 RECOMMENDATION (B) GRANT PLANNING PERMISSION**

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# 113 DACRE PARK, SE13 5BZ



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Committee	PLANNING COMMITTEE C	
Report Title	96 ERLANGER ROAD, SE14 5TH	
Ward	Telegraph Hill	
Contributors	Louise Holland	
Class	PART 1	24 MAY 2012

Reg. No. DC/11/78042

Application dated 03/08/11 revised 06/02/12

Mr J Hallett

Proposal The installation of roof lights in the front and rear roof slopes at 96 Erlanger Road SE14, together with alterations to the rear at lower ground level.

Applicant's Plan Nos. 121(PP)001 Rev B, Site Location Plan, Rooflight Specification and Design & Access Statement

Background Papers

- (1) Case File DE/47/96/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Local Development Framework Documents
- (4) The London Plan (July 2011)

Designation Telegraph Hill Conservation Area  
Telegraph Hill Article 4(2) Direction

## **1.0 Property/Site Description**

1.1 The subject property is a two storey mid-terrace Victorian dwelling house, situated on the west side of Erlanger Road within the Telegraph Hill Conservation Area, which is subject to an Article 4 Direction. The property has a three storey original rear addition.

1.2 Erlanger Road is largely made up of two storey, and two storey and semi-basement houses of similar design with canted bays to first floor level to the front.

## **2.0 Planning History**

2.1 No relevant planning history.

## **3.0 Current Planning Application**

3.1 The application is an amended proposal for a number of alterations to the property. The applicant proposes to install two rooflights, one on the front and one on the rear roof slope. The rooflight to the front would be 850mm x 700mm and the larger rooflight to the rear would be 2000mm x 1800mm; both rooflights would be fitted flush with the plane of the roof. As originally submitted the proposals included a larger roof light to the front.

3.2 The alterations at lower ground level to the rear involve the demolition of an original outside wc and the insertion of a new bay window. An existing period external back door would be relocated to the flank of the rear addition.

#### **4.0 Consultation**

4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received.

4.2 Site notices were displayed and letters were sent to neighbouring residents, to the relevant ward Councillors and to the Telegraph Hill Society.

##### Written Responses received from Local Residents and Organisations

4.3 No responses received from local residents.

4.4 The Telegraph Hill Society has objected to the rooflight on the front roof slope. The Society considers roof lights to front roof slopes contribute to the statement in the Conservation Area Character Appraisal that “small changes to the external appearance of individual houses are beginning to erode the special interest of the area” and that they should be banned if the Council is to halt that erosion.

##### Amenity Societies Panel

The Panel objects to the proposed front rooflight. There are no objections to the proposed alterations to the rear elevation and insertion of rooflights to the rear.

#### **5.0 Policy Context**

##### 5.1 Introduction

5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The NPPF does not change the legal status of the development plan.

##### 5.3 National Planning Policy Framework

5.4 The NPPF was published on 27th March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a ‘presumption in favour of sustainable development’. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary this states that (paragraph 211), policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. In summary, this states, that for a period of 12 months from publication of the NPPF decision takers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.

- 5.5 Officers have reviewed the Core Strategy and saved UDP policies 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, 214 and 215 of the NPPF.

#### Regional Policy

5.6 London Plan (Consolidated July 2011)

- 5.7 The London Plan policies relevant to this application are

Policy 7.4: Local character

Policy 7.8: Heritage assets and archaeology

#### Local Policy

5.8 Core Strategy (June 2011)

- 5.9 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development 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:

Objective 10: Protect and Enhance Lewisham's Character

Policy 15: High quality design for Lewisham

Policy 16: Conservation areas, heritage assets and the historic environment

5.10 Unitary Development Plan (2004)

- 5.11 The saved policies of the UDP relevant to this application are:

URB 3: Urban Design

URB 6: Alterations and Extensions

URB 16: New Development, Changes of Use and Alterations to Buildings in Conservation Areas.

5.12 Residential Standards Supplementary Planning Document (August 2006)

- 5.13 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

5.14 Telegraph Hill Conservation Area Character Appraisal (March 2008)

- 5.15 This document analyses the special character of the conservation area.

## **6.0 Planning Considerations**

- 6.1 The main planning consideration is the impact of the proposed front rooflight on the appearance of the property, and on the appearance and character of the conservation area. It should be noted that since the property is a single family dwelling, the alterations to the rear, including the large rooflight in the rear roof slope, that have been included in the application may be carried out as 'permitted development'.
- 6.2 The Council's 2008 Telegraph Hill Character Appraisal refers to the uniform and cohesive design of the main house types in the area. The Character Appraisal refers to the issue of negative alterations to individual properties, including obtrusive rooflights to front roof slopes, that cumulatively erode the special character of the area.
- 6.3 The Telegraph Hill Society has objected to the application on the basis that the proposed front rooflight will contribute to the erosion of the character of the area.
- 6.4 The rooflight would be a Conservation Rooflight by the Rooflight Company. It would have a slim metal frame with a slim vertical glazing bar. It is acknowledged that the proposed rooflight would introduce a non-original feature to the property. However, it is considered that the proposed rooflight, being of a high quality conservation type, would not be overly large or obtrusive and in officers' view would not result in significant material damage to the character of the conservation area nor to the architectural characteristics of the original building.
- 6.5 The front rooflight has been reduced in size and is considered to be suitably located within the front roof slope. Its visual impact would be minimised by it being set into the roof slope, so that it would not protrude from the plane of the roof. The visual impact of the front rooflight when viewed from the street will be somewhat reduced by the presence of the hipped bay window roof and party wall parapets. Several properties in the vicinity have been fitted with roof lights to the front; there are existing rooflights at Nos. 78, 80, 84, 98, 100, 101, 102, and 106. These may have been installed prior to the introduction of the Article 4 Direction.
- 6.6 The proposed rooflight is considered to preserve the architectural characteristics of the property in line with UDP Policy URB 6, and the impact on the character of the conservation area is considered to be neutral. It is considered that the special character of the area would be preserved, consistent with UDP Policy URB 16.

### Consultations

- 6.7 Matters arising from the representations received in response to consultations have been addressed in the report above.

## **7.0 Conclusion**

- 7.1 The proposed rooflight is considered to preserve the character and appearance of the property, street scene and conservation area. The proposal is considered acceptable and permission is recommended.

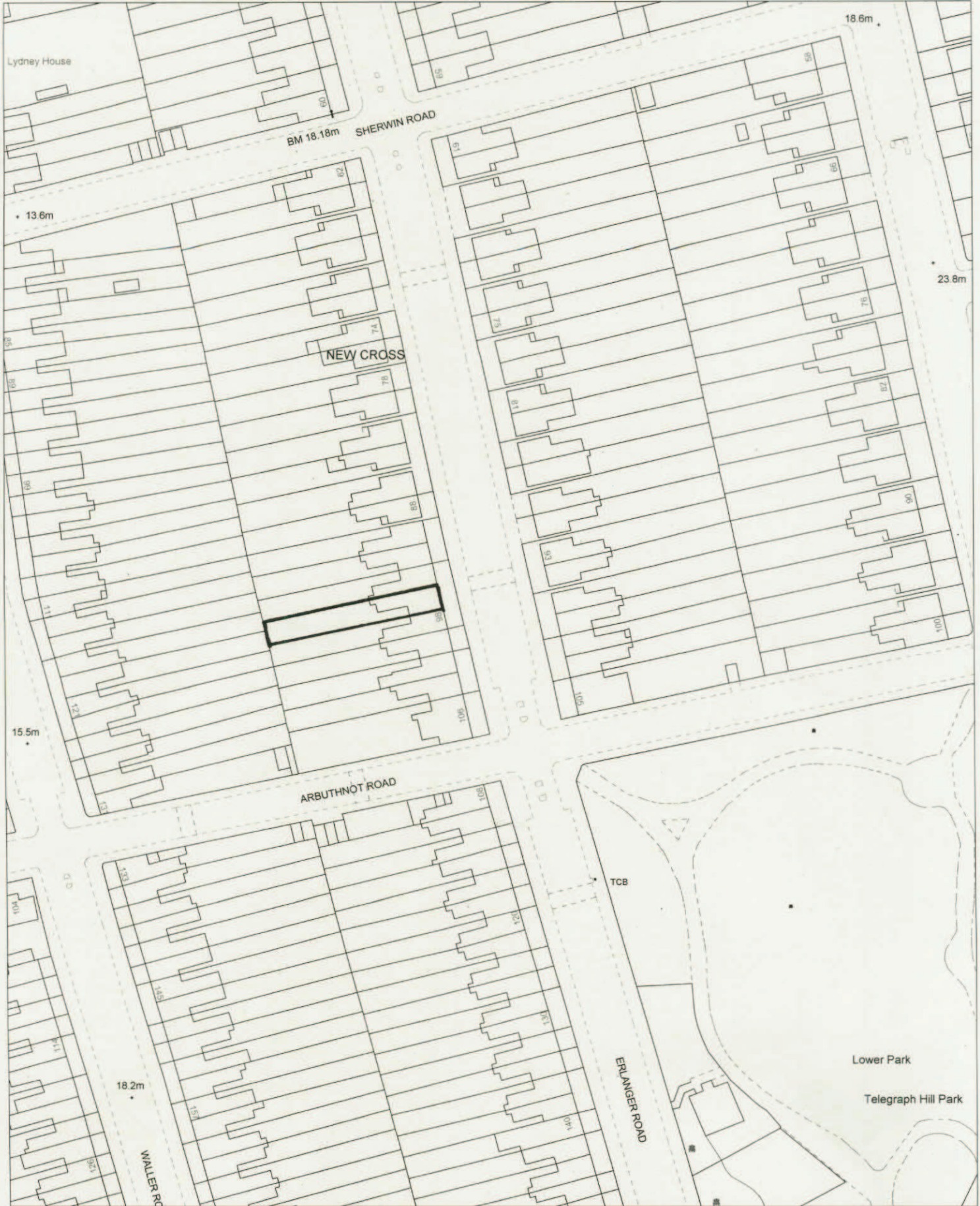
## **8.0 Summary of Reasons for Grant of Planning Permission**

- 8.1 It is considered that proposal is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area, or the amenities of neighbouring occupiers. The proposal is considered to be in accordance with Policies 7.6 Architecture and 7.8 Heritage assets and archaeology in the London Plan (July 2011); Policies 15 High quality design in Lewisham and 16 Conservation areas, heritage assets and the historic environment in the Core Strategy (June 2011); and Policies URB 3 Urban Design, URB 6 Alterations and Extensions and URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the Unitary Development Plan (July 2004).

## **9.0 RECOMMENDATION GRANT PERMISSION**

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# 96 ERLANGER ROAD SE14 5TH



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Committee	PLANNING COMMITTEE C	
Report Title	6 MARSALA ROAD SE13 7AF	
Ward	Ladywell	
Contributors	Richard Lockett	
Class	PART 1	24 MAY 2012

## **REQUEST FOR ENFORCEMENT ACTION**

### **Background Papers**

- (1) Case File LE/809/6/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Adopted Core Strategy (June 2011)
- (4) The London Plan
- (5) Circular 10/97: Enforcing planning control: legislative provisions and procedural requirements (2006)
- (6) National Planning Policy Framework (March 2012) Paragraph 207: Enforcement

### **Zoning**

Adopted UDP - Existing Use

## **1.0 Introduction**

- 1.1 This report deals with a breach of planning control at 6 Marsala Road regarding the construction of a timber framed conservatory to the rear of the site and whether it is expedient for the Council to instigate formal enforcement action in order to rectify the breach.

## **2.0 Property/Site Description**

- 2.1 The application property is an extended two storey terraced dwelling house on the western side of Marsala Road, close to the junction with Ellerdale Street. The terrace was constructed as part of the Viney Road Estate in 1952.
- 2.2 The property does not form part of a conservation area and is not a listed building.

## **3.0 Planning History**

- 3.1 In June 2011, planning consent was refused for the retention of a conservatory (with an altered roof) to the rear of 6 Marsala Road for the following reason:

By virtue of its extent, scale, appearance and relationship to adjoining properties, the extension is considered to be unduly obtrusive, dominant, out of keeping with its surroundings and has an overbearing impact on adjoining properties to the detriment of the amenities of their occupants and is incompatible with the scale and character of the existing property, contrary to Policies URB 3 Urban Design, URB 6 Alterations and Extensions, HSG 4 Residential Amenity and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).

- 3.2 In September 2011 planning consent was refused for the retention of a conservatory to the rear of 6 Marsala Road SE13.

By virtue of its depth, appearance, extensive use of glazing to the flank walls and relationship to adjacent properties, the extension is considered to be out of keeping with its location, out of scale with its surroundings and of poor design and would result in loss of privacy and amenity to the adjoining properties, contrary to Policy 15: High quality design for Lewisham in the adopted Core Strategy (June 2011) and Policies URB 3 Urban Design, URB 6 Alterations and Extensions, HSG 4 Residential Amenity and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).

#### **4.0 Planning Enforcement History**

- 4.1 In March 2011 the Council received complaints regarding the construction of a timber framed conservatory to the rear of 6 Marsala Road. Following an investigation, two applications were made for its retention (with altered designs), both of which were subsequently refused.

#### **5.0 Breach of Planning Control**

- 5.1 Without the benefit of planning consent, the construction of a timber framed conservatory to the rear of 6 Marsala Road.

#### **6.0 Policy Context**

##### **6.1 National Policy**

Circular 10/97: Enforcing planning control: legislative provisions and procedural requirements (2006)

National Planning Policy Framework (March 2012)

Paragraph 207: Enforcement

##### **Lewisham Core Strategy**

- 6.2 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan. The following strategic objectives, spatial policies and cross cutting policies of the Strategy are relevant to this case.

Objective 10: Protect and enhance Lewisham's character  
Policy 15: High quality design for Lewisham

##### **Unitary Development Plan (July 2004)**

- 6.3 Retained UDP policies that are relevant to the case are:

Policy URB 3: Urban Design  
Policy URB 6: Alterations and Extensions  
Policy HSG 4: Residential Amenity

## **7.0 Consideration of Enforcement Action**

- 7.1 Retrospective planning permission has already been sought in regards to this rear conservatory. Having considered Council Policy, the structure was refused planning consent.
- 7.2 The main planning considerations in this case are the impact of the extension on the character of the existing building, the surrounding area and any impact upon the amenities of neighbours.
- 7.3 The timber extension, which is constructed to the rear of an existing brick built extension, is considered to be excessively large and out of scale with the existing building and surroundings. The combined depth of 8.2m from the rear wall results in extensions to the rear covering the same footprint as the original house. This is considered excessive, particularly in the context of the modest scale of the original terraced property which has a narrow rear garden.
- 7.4 The materials used for the construction of the extension are out of character with the existing property, which is built in brickwork. As stated above the ground floor elevation originally had a rendered finish. Whilst a timber finish may be acceptable for a shed or a garden building, the use of timber in the construction of this extension adds to the incongruous appearance of the structure.
- 7.5 Alterations to the existing flat roof of the timber base would add to the dominance and draw further attention to this incongruous extension and applications proposing such have already been refused.
- 7.6 The timber extension is completely out of character with the existing property and those in the surrounding area and has a detrimental impact upon both neighbouring properties due to its excessive depth.

## **8.0 Proportionality**

- 8.1 The Council has tried informally to resolve the breach of planning control through informal negotiations however, this course of action has failed, therefore based on the information in this report it has been concluded that no action short of the proposed enforcement described above can uphold Council policies and remove the harm caused by this breach of planning control. In these circumstances the service of an enforcement notice is considered both necessary and expedient and is considered to be a proportionate response to the breach of planning control in this case.
- 8.2 The works that have been undertaken do not constitute a criminal offence and therefore the owner cannot be prosecuted. The service of an enforcement notice is considered to be a more appropriate and swifter enforcement tool than applying for an injunction under Section 187B of the 1990 Act. It is also more cost effective for both the local planning authority and the recipient of the notice to appeal and otherwise deal with.
- 8.3 All other forms of action to secure compliance with planning control, uphold council policies and protect the amenities of local residents have been considered and cannot effectively be achieved by any lesser means than the action recommended. The Council consistently takes enforcement action against similar

breaches of planning control and successfully defends the Council's decision in subsequent appeals.

## **9.0 Legal Implications**

9.1 Government Policy advice to Local Planning Authorities on the use of their enforcement powers is set out in Planning Policy Guidance Note No 18. PPG 18 sets out the issues which local planning authorities should bear in mind when taking enforcement action as follows:-

- (1) They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.
- (2) The Local Government Ombudsman can make a finding of "maladministration" if a Council fails to take enforcement action when it is plainly necessary to do so.
- (3) The decisive issue in every case is whether the breach of planning control would unacceptably affect public amenity or the existing use of land or buildings meriting protection in the public interest.
- (4) Enforcement action should always be commensurate with the breach of planning control involved.
- (5) Where attempts to persuade the site owner or occupier to voluntarily remedy the breach are unsuccessful, negotiation on that issue should not be allowed to hamper the taking of whatever formal enforcement action, which may be required.

## **10.0 Equal Opportunities and Human Rights Implications**

10.1 Implications in relation to the Human Rights Act 1998 (HRA) have been identified in regard to the unauthorised construction of this conservatory. Action will therefore be relevant to the occupiers' Article 8 rights and potentially their Article 1 rights under the first protocol of the HRA, as set out below:

Schedule 1, Part I – The Convention:

Article 8 Right to Respect for Private and Family Life

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of his right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Schedule 1, Part II – The First Protocol

Article 1 Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public

interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties. Although enforcement action may impact upon these rights, action taken will be "in accordance with the law" and in pursuit of the aims set out in the HRA itself, namely:

For Article 8, in the interest of the economic well-being of the country, for the prevention of disorder or crime and for the protection of the rights and freedoms of others and;

For Article 1, to control the use of property in accordance with the general interest.

The HRA does not impair the right of the state to enforce such laws as it deems necessary in the public interest and it is therefore considered that the proposed action and its objectives of securing compliance with planning control, upholding its adopted and emerging policies and protecting the amenities of local residents, cannot be achieved by any lesser measures. The action to be taken is proportionate to the harm arising and outweighs the impact on Article 8 and Article 1.

## **11.0 Conclusion**

11.1 By virtue of its extent, scale, appearance and relationship to adjoining properties, the extension is considered to be unduly obtrusive, dominant, out of keeping with its surroundings and has an overbearing impact on adjoining properties to the detriment of the amenities of their occupants and is incompatible with the scale and character of the existing property, contrary to Policies URB 3 Urban Design, URB 6 Alterations and Extensions, HSG 4 Residential Amenity and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).

## **12.0 Requirements of Enforcement Notice**

12.1 To secure the removal of the timber framed conservatory to the rear of the property.

## **13.0 RECOMMENDATION**

13.1 Authorise the Head of Law to take all necessary action to secure the removal of the conservatory to the rear of 6 Marsala Road for the following reason:-

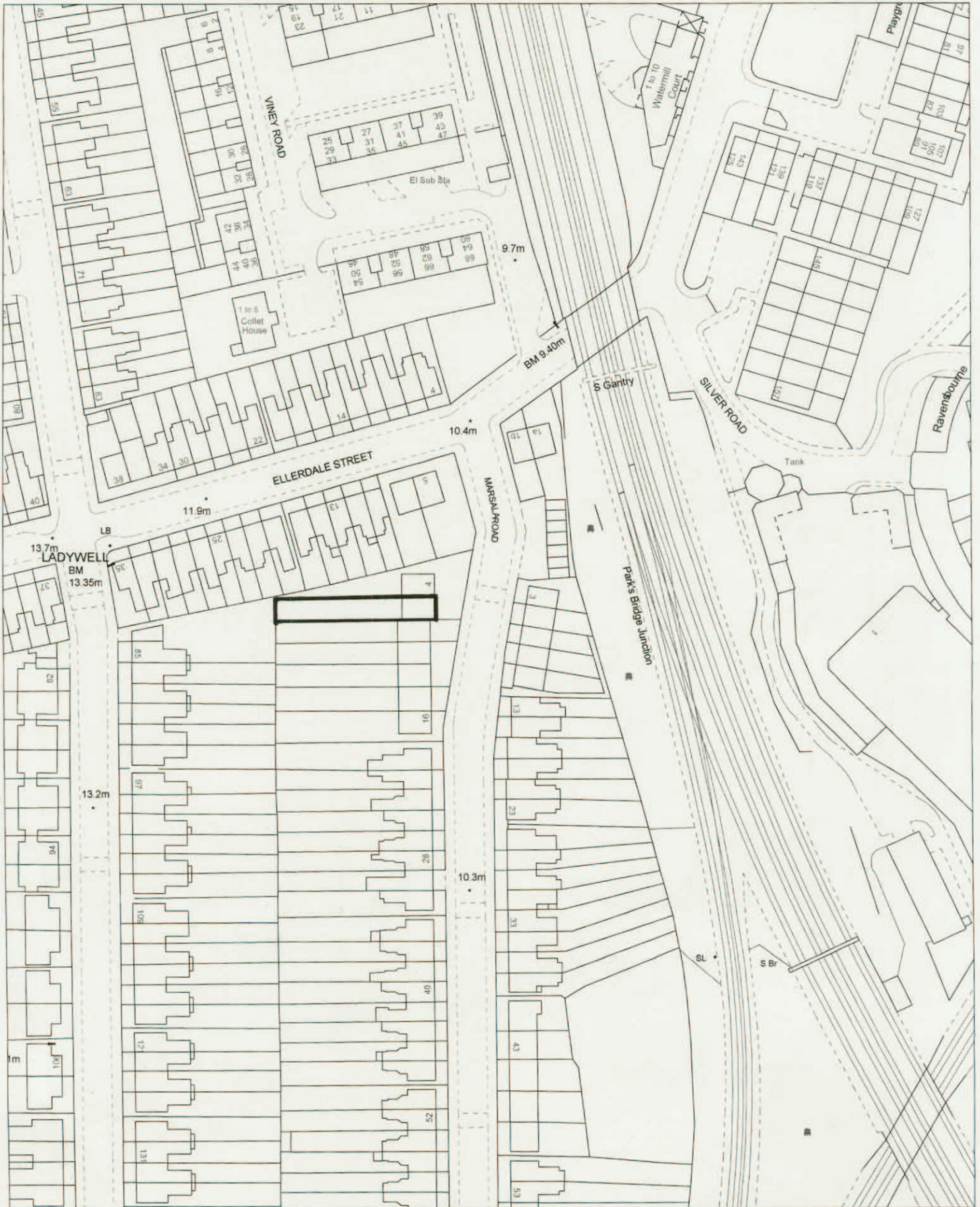
13.2 By virtue of its extent, scale, appearance and relationship to adjoining properties, the extension is considered to be unduly obtrusive, dominant, out of keeping with its surroundings and has an overbearing impact on adjoining properties to the detriment of the amenities of their occupants and is incompatible with the scale and character of the existing property, contrary to Policies URB 3 Urban Design, URB 6 Alterations and Extensions, HSG 4 Residential Amenity and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).

### Period of Compliance:

6 months.

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# 6 MARSALA ROAD SE13 7AF



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Committee	PLANNING COMMITTEE C	
Report Title	2 SYDENHAM PARK ROAD, SE26 4ED	
Ward	Forest Hill	
Contributors	Richard Lockett/Sean Farnan	
Class	PART 1	24 MAY 2012

## **REQUEST FOR ENFORCEMENT ACTION**

### **Background Papers**

- (1) Case Files - LE/499/2/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Adopted Core Strategy (June 2011)
- (4) The London Plan (July 2011)
- (5) National Planning Policy Framework

### **Zoning**

Adopted UDP - Existing Use

## **1.0 Introduction**

- 1.1 This report deals with a breach of planning control at 2 Sydenham Park Road regarding an unauthorised change of use from use as a single dwellinghouse to use as seven self-contained flats and whether it is expedient for the Council to instigate formal enforcement action in order to rectify the breach.

## **2.0 Property/Site Description**

- 2.1 The property is situated on the corner of Sydenham Park Road and Dartmouth Road and is a substantial Victorian detached property which was used for a number of years as a group home by Phoenix House and subsequently as a children's day nursery. Following planning permission in 2008, the property returned to its original use, as a single dwellinghouse. The site lies within the Sydenham Park Conservation Area.

## **3.0 Planning History**

- 3.1 Planning permission was granted in May 1981 for alterations and the use of 2 Sydenham Park Road as a group home for 10 persons plus a self-contained staff flat. (Registered No. 19065). This permission was limited until 30 April 1984 and was personal to London and Quadrant Trust in partnership with Phoenix House.
- 3.2 In June 1984, permanent planning permission was granted for the use of 2 Sydenham Park Road as a group home for 13 persons. Condition (1) attached to this permission stated that the permission shall be implemented only by a registered housing association and shall not ensure for the benefit of the land.
- 3.3 In August 2002, temporary planning permission was granted for the change of use of the property as a day nursery (Use Class D1) for a maximum of 39 children (Registered No. DC/01/49878) until 31 August 2004.
- 3.4 In May 2005, planning permission was granted for the continued use of the property as a permanent day nursery (Use Class D1) for a maximum of 39 children (Registered No. DC/04/57399)

3.5 In August 2008, planning permission was granted for the change of use of 2 Sydenham Park Road, from a day nursery to residential use (Registered No. DC/08/69505). The approved plans showed that the property would be reverted back to its original use as a single family dwelling, with four bedrooms. This permission was implemented and the property was rated as such for Council Tax purposes.

#### **4.0 Planning Enforcement History**

4.1 In June 2010 it was brought to the Council's attention that this property may have commenced use as 9 self contained flats. Planning consent had not been granted for the use of the property as nine self-contained units.

4.2 On 7 December 2011, the property was inspected by Council Officers. It was found that the property is currently being used to provide residential accommodation in the form of 7 self contained flats. Only one flat was visited but individual locked doors were found and no shared facilities, showing that the units were self-contained.

4.3 The following response was received from the Council Tax section: "2 Sydenham Park Road was Banded as a House as at 10 August 2007". Their records clearly show that the property was used as a single dwelling house, following the closure of the day nursery, in line with planning consent granted in 2008.

4.4 Further evidence obtained from Council Tax records confirm that the property was registered as 7 self-contained flats from 1 February 2009 and the separate units were added to the Electoral Register as Flats A – G on 1 December 2009.

#### **5.0 Breach of Planning Control**

5.1 Without the benefit of planning consent, the change of use from use as a single dwelling house to use as 7 self-contained flats.

#### **6.0 Policy Context**

##### National Planning Policy Framework

6.1 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. In summary, this states, that for a period of 12 months from publication of the NPPF decision takers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.

6.2 Officers have reviewed the Core Strategy and saved UDP policies 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, 214 and 215 of the NPPF

- 6.3 Paragraph 207 of the NPPF states that Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to breaches.

#### London Plan

- 6.4 The London Plan was published in July 2011. Together with the Core Strategy and saved policies in the adopted Lewisham UDP (July 2004), the London Plan comprises the development plan for Lewisham. The policies that are relevant to the case are:-

Policy 3.3 Increasing housing supply  
Policy 3.5 Quality and design of housing developments  
Policy 3.9 Mixed and balanced communities

#### Lewisham Core Strategy

- 6.5 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan. The following strategic objectives, spatial policies and cross cutting policies of the Strategy are relevant to this case:-

Objective 10: Protect and enhance Lewisham's character  
Spatial Policy 5: Areas of Stability and Managed Change  
Policy 1: Housing provision, mix and affordability  
Lewisham Housing Market Assessment 2007 – 2008 published December 2009.

#### Unitary Development Plan (July 2004)

- 6.6 Policy IRM 5 states that in circumstances where it is considered necessary in the public interest, the Council will take enforcement action against those who undertake development or carry out works without planning permission. Other retained UDP policies that are relevant to the case include HSG 9: Conversion of Residential Property and URB 16: New Development, Changes of Use and Alterations to Buildings in Conservation Areas, plus the Residential Standards (Supplementary Planning Document) (2006).

### **7.0 Consideration of Enforcement Action**

- 7.1 The main planning consideration in this case is the loss of family accommodation, suitability of the premises for conversion and the standard of residential accommodation provided, taking into account the impact upon the amenity of current and future occupiers as well as neighbours.
- 7.2 Spatial Policy 5: Areas of Stability and Managed Change of the Lewisham Core Strategy, 1C. Conversions and the need to provide family houses states that to achieve mixed and balanced communities and preserve choice of accommodation size, it is necessary to protect a supply of family homes from conversions into smaller flats. The Council will therefore look critically at applications for conversions of family sized homes in these locations.

The size of newly converted dwellings will need to address housing need and the character of the area and take account of amenity issues, including traffic and parking impacts. The sub-division, as carried out, is therefore clearly in breach of Core Strategy Policy.

- 7.3 The Core Strategy gives more up to date guidance for Councils on how to deal with conversions of properties. The explanation of Spatial Policy 5 (Paragraph 6.146) of the Core Strategy relates to Areas of Stability and Managed Change states that:-
- “The vast majority of the borough's supply of three bed plus family housing is located in this strategy area. The Lewisham SHMA shows that 25% of the residential stock is in converted property, the highest percentage in southeast London. To achieve mixed and balanced communities and preserve choice of accommodation size it is necessary to protect a supply of family homes from conversions into smaller flats. The Council will therefore look critically at applications for conversions of family sized homes in these locations.”*
- 7.4 This policy is partly based on the Council’s Strategic Housing Market Assessment (SHMA). This document identifies housing need within the Borough and states that the need for market housing is focussed on market dwellings with at least 2 bedrooms. When collecting the evidence base for the SHMA a large surplus of smaller market housing was identified. The SHMA states *“given the significant growth in the private rented sector coupled with the identified surplus of 1-bed rented housing it may not be appropriate to encourage the continued conversion of large properties into smaller units for the rental market - unless the quality of such conversions can be clearly demonstrated”*.
- 7.5 One of the key findings of the SHMA is that the growth in the buy-to-let market in Lewisham has created a very large one bedroom private rented sector. This has mostly been created from conversion of family homes into flats. Lewisham requires additional market housing with at least 2-bedrooms.
- 7.6 The SHMA concludes that *“buy-to-let landlords have significantly re-shaped the local market by buying family sized properties and converting them into smaller self-contained units. This has, of course, always happened but it is the recent rate and scale of activity which is noticeable, as it has removed a volume of family-sized stock from the overall existing supply. This in turn, has effectively led to a scarcity premium being applied to the remaining family-sized private rented stock...the Council may wish to consider whether it is necessary to more tightly manage the rate at which the market converts family sized stock into smaller units”*.
- 7.7 ‘Areas of Stability and Managed Change’ provide quality living environments supported by a network of local services and facilities such as schools, medical facilities and parks/areas of open space. Such locations are entirely appropriate for the provision of family housing. Taking into account the clear and demonstrative need at the present time for family dwellings and having regard to the significant weight which should be attached to the objectives of the recently adopted Core Strategy, the LPA should be cautious about approving applications which result in the loss of family sized dwellings, unless it can be demonstrated that the property is not suitable for family occupation. For the same reason, it is considered expedient to take enforcement action in respect of this unauthorised conversion.

- 7.8 As explained above, it is not considered that there is any demonstrable reason why this property is no longer suitable for retention as a family sized dwelling. The property is located in a predominantly suburban area which benefits from local facilities, the property has off-street parking and a good sized rear garden thus rendering it entirely suitable for family occupation.
- 7.9 Core Strategy Policy 1: Housing provision, mix and affordability, requires an appropriate mix of dwellings to be provided within a development. When considering an appropriate mix regard should be given to the physical character of the site and its setting, previous use of the building, access to private gardens or communal areas for family dwellings, the effect on car parking, the surrounding housing mix and density and location of schools, shops, open space and other infrastructure requirements.
- 7.10 In this instance the existing building is capable of providing a high quality family sized dwelling which would benefit from private amenity space and the facilities required for truly sustainable family living. Consequently it is considered that the unauthorised conversion of 2 Sydenham Park Road into small units of accommodation is unacceptable in principle as it has resulted in the loss of a much needed family sized dwelling contrary to saved Policy HSG 9 of the UDP, Core Strategy Policy 1 and Spatial Policy 5 of the Core Strategy and Policy 3.5 Quality and Design of Housing Developments of The London Plan.
- 7.11 The saved Policy HSG 9 of the UDP states that:
- "The permanent conversion of larger dwelling houses into two or more self-contained units will be permitted provided that the scheme results in the provision of an increase in suitable accommodation.*
- The Council will normally require at least one family unit to be provided in every conversion scheme unless it is satisfied that the dwelling is unsuited for family occupation because of its location or character.*
- However, not all dwellings will be suitable for conversion. The conversion of dwellings will not be permitted where:*
- (a) the net floor space is less than 130 sq. m as originally constructed, and the dwelling is still suitable for family accommodation; and*
  - (b) the character of the buildings or neighbourhood or the amenities of neighbouring properties would be adversely affected..."*
- 7.12 Policy HSG 9 also states that the Council will normally require at least one family unit, of three bedrooms or more, with access to a garden, to be provided in every conversion scheme, unless it is satisfied that the dwelling is unsuitable for family occupation because of its location or character.
- 7.13 The premises is large and does have an original floor area well in excess of 130 square metres, so in theory, it could be considered to be of suitable size to accommodate a conversion into two or more flats.
- 7.14 In terms of its location, the property consists of a large detached building within a spacious corner plot, on the junction of Sydenham Park Road and Dartmouth Road. There is ample outdoor amenity space available on site to provide for the needs of a family unit.

7.15 At present, the property comprises seven one bedroom / studio self-contained units, with no provision of a family size unit and, for this reason, which is clearly contrary to Council Policy.

7.16 There are many examples of applications for planning permission for similar conversions being refused, which have been subsequently dismissed on appeal, such as the following:-

- (i) An appeal made against the refusal to grant planning permission dated 20 July 2009 in respect of the alteration and conversion of 64 St Asaph Road SE4 to provide 2 two bedroom self-contained flats was dismissed on 22 September 2010.

In his reasons for dismissal, the Inspector stated that Policy HSG 9 of the London Borough of Lewisham Unitary Development Plan 2004 (UDP) includes: *“there is a shortage of large family housing in the Borough”* and that it also requires that *“at least one family unit is provided in conversion schemes unless the property is unsuited for family occupation because of its location or character. A family unit is usually defined in the Council’s Supplementary Planning Document: Residential Development Standards as a dwelling with 3 or more bedrooms.”*

He also stated that the appeal property has a garden and is situated in a residential street. He therefore considered that, in terms of its character and location, the property was suitable for family occupation. As a family unit was not provided, he concluded that the appeal scheme had an unacceptable effect on the Council’s ability to determine and manage the mix and sizes of dwellings in the borough and therefore failed to comply with UDP Policy HSG 9.

- (ii) An appeal made against the refusal to grant planning permission dated 25 January 2011 in respect of the retention of 3 self-contained studio flats and 1 one bedroom self-contained flat at 42 Hafton Road SE6, was dismissed on 3 November 2011.

In dismissing the appeal, the Inspector stated that the unauthorised conversion did not comply with Policy HSG 9 of the London Borough of Lewisham Unitary Development Plan 2004, which *“also requires that conversions to provide at least one three bed family unit.”* The conversion had resulted in the reduction of the supply of family units of accommodation and in turn this had a harmful impact in terms of the mix of dwellings within the area and the balance of the community, which he found conflicts with UDP Policy HSG 9 and spatial strategy of the Core Strategy.

He also stated that the existing flats within the building were mainly ‘studio’ units with 1, one bedroom unit and he found that none of these met the minimum standards of the Lifetime Home requirements, which Policy 1 of the Core Strategy also requires to be met. He therefore found that the development conflicted with Policy 3.5 of the London Plan and Core Strategy Policy 1, as well as the Council’s Supplementary Planning Document: *Residential Development Standards* (2006), which seeks good design through the application of minimum room sizes for flat conversions and guidance relating to outlook and amenity.

- 7.17 It is felt that, as these examples are similar in many respects to the unauthorised conversion at 2 Sydenham Park Road and the Inspectors' decisions above strongly support the case for enforcement action to be taken as the unauthorised conversion has resulted in the loss of a single family dwelling house.
- 7.18 Policy URB16 states that the Council, having paid special attention to the desirability of preserving or enhancing the special architectural or historic character or appearance of its Conservation Areas, will not grant planning permission where the proposed changes of use are incompatible with the preservation of the character of the area, except where they are essential for the preservation of a building of value to that area.

#### Standard of Accommodation

- 7.19 Policy 3.5 Quality & Design of Housing Developments Core Strategy in The London Plan (July 2011), sets out minimum floor spaces standards for dwellings of different sizes. These are based on the minimum gross internal floor space required for new homes relative to the number of occupants and taking into account commonly required furniture and spaces needed for different activities and moving around, in line with Lifetime Home Standards.
- 7.20 Lewisham's Residential Development Standards (RDS) SPD also provides guidelines on the minimum room sizes for flat conversions, although this document is partly superseded by the Core Strategy and London Plan. The Residential Development Standards SPD states that studio flats in conversions are not encouraged.
- 7.21 The plans submitted with the conversion to residential scheme demonstrate the internal floor layout and the provision of 6 flats within the current unauthorised conversion has resulted in small and substandard units. The ground floor has been divided into one studio unit at the rear (measuring approx. 46 m<sup>2</sup>), 1 one-bedroom flat (20 m<sup>2</sup>) and one smaller studio (21 m<sup>2</sup>).
- 7.22 The upper floor mezzanine level has a further two studios (23 m<sup>2</sup> and 20 m<sup>2</sup>), with the other 2 studios on the main top floor (21 m<sup>2</sup> and 13 m<sup>2</sup>). These floor sizes are, with one exception, substantially below the London Plan target for one person dwellings.
- 7.23 Overall, officers consider that the standard of residential accommodation for future residents is poor and contrary to London Plan Policy 3.5 Quality & Design of Housing Developments of The London Plan and the Council's Residential Development Standards SPD.

#### Impact on Neighbours

- 7.24 As the property would still be in residential use, officers consider that the development would not cause undue noise or disturbance to the neighbouring properties.

## Transport & Highways

- 7.25 Transport policies in the Core Strategy seek to encourage sustainable transport modes and maximum car parking standards. This application includes the provision of a car parking space at the front of the site which is considered to be appropriate given the location of the site in relation to bus services. Adequate cycle storage could be accommodated within the rear garden and this could be controlled by condition if the application were acceptable in all other respects. Notwithstanding the objections to this application in respect of the loss of the family dwellinghouse it is not considered that it would be reasonable to raise an objection on the grounds of issues associated with traffic or transport.

### **8.0 Proportionality**

- 8.1 The Council has tried to resolve the breach of planning control through informal negotiations, including several visits to the site by officers, a number of letters sent to the owner/occupiers of the flats and the issue of a Planning Contravention Notice, however this course of action has failed. Therefore, it has been concluded that no action short of the proposed enforcement action described above can uphold Council policies and remove the harm caused by this breach of planning control. In these circumstances the service of an Enforcement Notice is considered both necessary and expedient and is considered to be a proportionate response to the breach of planning control.
- 8.2 The works that have been undertaken do not constitute a criminal offence and therefore the owner cannot be prosecuted. The service of an Enforcement Notice is considered to be a more appropriate and swifter enforcement tool than applying for an injunction under Section 187B of the 1990 Act. It is also more cost effective for both the local planning authority and the recipient of the notice.
- 8.3 All other forms of action to secure compliance with planning control, uphold Council policies and protect the amenities of local residents have been considered and cannot effectively be achieved by any lesser means than the action recommended. The Council consistently takes enforcement action against similar breaches of planning control and successfully defends the Council's decisions in subsequent appeals

### **9.0 Legal Implications**

- 9.1 Government Policy advice to Local Planning Authorities on the use of their enforcement powers is set out in Planning Policy Guidance Note No 18. PPG 18 sets out the issues which local planning authorities should bear in mind when taking enforcement action as follows:-
- (1) They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.
  - (2) The Local Government Ombudsman can make a finding of "maladministration" if a Council fails to take enforcement action when it is plainly necessary to do so.
  - (3) The decisive issue in every case is whether the breach of planning control would unacceptably affect public amenity or the existing use of land or buildings meriting protection in the public interest.



- (4) Enforcement action should always be commensurate with the breach of planning control involved.
- (5) Where attempts to persuade the site owner or occupier to voluntarily remedy the breach are unsuccessful, negotiation on that issue should not be allowed to hamper the taking of whatever formal enforcement action, which may be required.

## **10.0 Equal Opportunities and Human Rights Implications**

10.1 Implications in relation to the Human Rights Act 1998 (HRA) have been identified in regard to this change of use. Action will therefore be relevant to the occupiers' Article 8 rights and potentially their Article 1 rights under the first protocol of the HRA, as set out below:-

Schedule 1, Part I – The Convention:

Article 8 Right to Respect for Private and Family Life

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of his right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Schedule 1, Part II – The First Protocol

Article 1 Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Although enforcement action may impact upon these rights, action taken will be “in accordance with the law” and in pursuit of the aims set out in the HRA itself, namely:

For Article 8, in the interest of the economic well-being of the country, for the prevention of disorder or crime and for the protection of the rights and freedoms of others and;

For Article 1, to control the use of property in accordance with the general interest.

The HRA does not impair the right of the State to enforce such laws as it deems necessary in the public interest and it is therefore considered that the proposed

action and its objectives of securing compliance with planning control, upholding its adopted and emerging policies and protecting the amenities of local residents, cannot be achieved by any lesser measures. The action to be taken is proportionate to the harm arising and outweighs the impact on Article 8 and Article 1.

## **11.0 Conclusion**

11.1 The unauthorised conversion of the property from a single family dwelling to use as seven self contained flats is unacceptable as it has resulted in the loss of a family dwelling and the converted units are cramped, of an unacceptable mix, with none considered to provide family accommodation. Accordingly, it is considered expedient to serve an Enforcement Notice to remedy this breach of planning control.

11.2 The unauthorised conversion is contrary to Policy 3.5 Quality & Design of Housing Developments Core Strategy in The London Plan (July 2011), Policy 1: Housing Provision, Mix and Affordability and Spatial Policy 5: Areas of Stability and Managed Change in the Local Development Framework - Core Strategy (June 2011), saved policies URB 16: New Development, Changes of Use and Alterations to Buildings in Conservation Areas and HSG 9: Conversion of Residential Property in the Council's adopted Unitary Development Plan (July 2004) and the Council's Residential Development Standards: SPD (August 2006).

## **12.0 Requirements of Enforcement Notice**

12.1 To secure the cessation of the use of this property as 7 self-contained flats and reversion to use as a single family dwelling house.

## **13.0 RECOMMENDATION**

13.1 Authorise the Head of Law to take all necessary action to secure the cessation of the use of this property as 7 self contained flats and reversion to use as a single family dwelling house, for the following reason:-

The use of the property as 7 self-contained flats, by reason of the loss of a satisfactory family unit, provision of sub-standard units of accommodation to the detriment of their present and future occupiers and an over-intensive use of the property, is contrary to Policy 3.5 Quality & Design of Housing Developments Core Strategy in The London Plan (July 2011), Core Strategy Policy 1: Housing provision, mix and affordability and Spatial Policy 5: Areas of Stability and Managed Change, saved policies URB 16: New Development, Changes of Use and Alterations to Buildings in Conservation Areas and HSG 9: Conversion of Residential Property in the Council's adopted Unitary Development Plan (July 2004) and the Council's Residential Development Standards: SPD (August 2006).

### Period of Compliance:

Six Months.

# 2 SYDENHAM PARK ROAD, SE26 4ED



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Committee	PLANNING COMMITTEE C	
Report Title	84-86 WICKHAM ROAD SE4 1NF	
Ward	Brockley	
Contributor	Richard Lockett	
Class	PART 1	24 MAY 2012

### **REQUEST FOR ENFORCEMENT ACTION**

#### **Background Papers**

- (1) Case File DE/85/86/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Lewisham Core Strategy (June 2011)
- (4) London Plan
- (5) Circular 10/97: Enforcing planning control: legislative provisions and procedural requirements (2006)
- (6) National Planning Policy Framework (March 2012) Paragraph 207: Enforcement

#### **Zoning**

Adopted UDP - Existing Use

### **1.0 Introduction**

- 1.1 This report seeks a resolution to take no further action in relation to the alleged breach of Condition (5) of the planning permission dated 3.12. 2002 for *the alteration and conversion of 86 Wickham Road SE4 to provide 4 two bedroom self contained flats, together with the conversion of the attics of 84 & 86 Wickham Road to provide a one bedroom self contained flat*, Ref. DC/02/51706.

### **2.0 Property/Site Description**

- 2.1 The site consists of a pair of 1860 four-storey semi-detached properties situated on the western side of Wickham Road, which is located within the Brockley Conservation Area. The surrounding area is predominantly residential in character.
- 2.2 The building at 86 Wickham Road contains four two bedroom self contained flats as well as a one bedroom self contained flat within the shared roof space of 84 and 86, neither building is listed. No. 84 is occupied as four flats.
- 2.3 To the rear of the properties are garden areas, the subject matter of this report, and which back on to a pedestrian path connecting Wickham Gardens to Harefield Road. The rear boundary of No. 86 is a timber fence with a pedestrian gate while that to No. 84 is a mix of brick wall, fence and double gates.
- 2.4 The rear garden of No. 86 is sub-divided with timber fencing into 3 parts; the rear part occupies approximately 50% of the total rear garden area. The rear garden of No. 84 is similarly sub-divided. There is an original brick boundary garden wall dividing the rear gardens of Nos. 84 and 86.

### **3.0 Planning History**

- 3.1 Between 1979 and 2000 No. 86 Wickham Road was used, on the basis of limited period permissions as the Council's Deptford District Housing Office.

- 3.2 In February 1995 planning permission was granted for the continued use of the building as a neighbourhood office and the construction of a single storey building at the rear to provide additional facilities for the District Housing Office.
- 3.3 The temporary office building in the rear part of the garden area was demolished in April 2000 and details of the garden restoration were approved in June 2000.
- 3.4 In 2002 a planning application - DC/02/51706 was submitted for: *'The alteration and conversion of 86 Wickham Road SE4, to provide 4 two bedroom self contained flats, together with the conversion of the attics at 84 & 86 Wickham Road to provide a one bedroom self contained flat'*. This application was granted consent on 3/12/2002. The permission was subject to a number of conditions.
- 3.5 Condition (5) states:
- The whole of the existing amenity space, as shown on the permitted plans, shall be retained permanently for the benefit of the occupiers of the residential units hereby approved.
- 3.6 Condition (6) states:
- Full details of the treatment to the rear garden shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details prior to the occupation of any of the flats hereby approved.
- No details were submitted for approval pursuant to Condition (6).
- 3.7 In January 2007 a planning application - DC/06/64266 was submitted for *'The construction of 3 single storey two bedroom mews houses at the rear of 84-86 Wickham Road SE4, together with the provision of 6 bicycle spaces and a bin store.'* Permission was refused on 25/1/2007 for the following reasons:
- (1) *The loss of these garden areas, with their planting and general greenery, would fail to preserve or enhance the character and appearance of the Conservation Area and would therefore be contrary to Policies URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas and HSG 8 Backland and In-fill Development in the adopted Unitary Development Plan (July 2004) and the Brockley Conservation Area Supplementary Planning Document (Adopted February 2006).*
  - (2) *The loss of these garden areas and the habitat that they provide would have a detrimental impact on biodiversity within the local area and would therefore be contrary to Policies HSG 8 Backland and In-fill Development and OS 13 Nature Conservation, in the adopted Unitary Development Plan (July 2004).*
  - (3) *The proposed development and the loss of the opportunity for parking/garaging at this site is likely to have a detrimental effect on the appearance of the Conservation Area by giving rise to additional kerbside parking and creating pressure for use of front gardens for parking, contrary to Policy URB 16 New Development, Changes of Use and*

*Alterations to Buildings in Conservation Areas in the adopted Unitary Development Plan (July 2004) and the Brockley Conservation Area Supplementary Planning Document (Adopted February 2006).*

3.8 The owner of the property exercised his right of appeal to the Planning Inspectorate against the council's decision not to grant planning consent however the Inspector agreed with the council's reasons for refusing planning permission and dismissed the appeal.

3.9 In 1982 an established use certificate was issued for the use of No.84 as four flats. In 2001 a Certificate of Lawfulness was issued in respect of the use of No. 84 as four flats.

#### **4.0 Enforcement History**

4.1 In 2008, the Council received a complaint regarding an alleged breach of Condition (5) of the 2002 planning permission - DC/02/51706. The complainant stated that an existing fence enclosing the rear part of the garden area had not been removed and as a result the occupiers of the residential units contained within 86 Wickham Road (along with the flat within the attic of 84-86) were unable to use this garden area.

4.2 A site visit established that an existing fence was in situ separating the rearmost parcel of garden land from the remaining parts of the garden. However, an access gate within the fence was not secured and therefore residents were able to access the separated area of garden land should they choose to do so.

4.3 It was established that following completion of the development, leases for each of the individual flats were sold as follows:

- Flat A - sold in February 2006
- Flat B - sold in June 2004
- Flat C and D - sold in May 2006
- Flat E - sold in September 2006.

All five leases were verified by individual solicitors and signed by the purchasers.

4.4 The lease for Flats A and B included the use of outdoor rear garden space. The leases for Flats C, D and E did not include the use of outdoor rear garden space.

4.5 The use of the parcel of land to the rear of the gardens for Flats A and B was not included in any of the above leases.

4.6 Residents were advised that the issue surrounding the legality of the leases of the Flat C, D and E in relation to the use of the rear garden area is a civil matter and not one that the planning department can get involved with.

4.7 The issue surrounding the alleged breach of a planning condition can be addressed by the planning department. It is the responsibility of the free holder to ensure that all relevant conditions of the approved permission are adhered to.

4.8 Following investigation where it was established that despite the fence being in place the area of land in question was accessible, a report was submitted to

Planning Committee (C) on 9 December 2010 recommending that no further action be taken in respect of the alleged breach of Condition (5). However, the Planning Committee decided to overturn the officer's recommendation not to take enforcement action and resolved to authorise the Head of Legal Services to take all necessary legal action to serve a Breach of Condition Notice to secure compliance with Condition (5) of the planning permission issued under reference DC/02/51706. A copy of the 9 December 2010 report is attached as an appendix.

- 4.9 Although details in respect to Condition (6) have not been submitted for approval, the Committee resolved that it was not expedient to take enforcement action against the breach of Condition (6) as eight years had elapsed since the grant of permission for the conversion of the property to flats and four years had elapsed since the occupation of the development.

## **5.0 Alleged Breach of Planning Control**

- 5.1 Condition (5) of the 2002 planning permission for the conversion of No. 86 - DC/02/51706 stated that: *'The whole of the existing amenity space, as shown on the permitted plans, shall be retained permanently for the benefit of the occupiers of the residential units hereby permitted'*.

- 5.2 It is the opinion of some of the residents of 86 Wickham Road that, as there is a fence and gate erected to the rear of the garden plots used by Flats A and B, there is a portion of land which is not *'retained permanently for the benefit of the occupiers'*. The residents suggest that the fence and gate preclude them from using this piece of land as amenity space and therefore that condition (5) has been breached.

## **6.0 Policy Context**

### **6.1 National Policy**

Circular 10/97: Enforcing planning control: legislative provisions and procedural requirements (2006)

National Planning Policy Framework (March 2012). Paragraph 207: Enforcement states:

Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning decisions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

### **6.2 Lewisham Core Strategy**

The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan.

### **6.3 Unitary Development Plan (July 2004)**



Retained UDP policies that are relevant to the case are:  
Policy URB 3: Urban Design  
Policy HSG 4: Residential Amenity

## **7.0 Consideration of Enforcement Action**

- 7.1 The main issue for consideration in this case is whether it is possible and appropriate for the Council to serve a Breach of Condition Notice, under Section 187A of the Town and Country Planning Act 1990 (as amended) on those who have a legal interest in the land which is the subject of this report.
- 7.2 The Council has sought to investigate whether a breach of planning control has actually taken place by virtue of non compliance with Condition (5). As part of the investigation Officers have visited the site (on more than one occasion) to check whether the garden is freely accessible to all occupiers of the property.
- 7.3 The original planning application file, which included the approved plans as well as the location plan is only partially available to the planning department. During the scanning of files, only the application form and other correspondence appear to have been saved in this case.
- 7.4 Without the approved plans and the location plan it is impossible for officers to be certain in establishing whether or not a breach of Condition (5) has actually occurred. With this in mind, attempting to secure compliance with the Condition by the issue of a Breach of Condition Notice and potentially subsequent prosecution when officers are not certain that in fact there has been a breach of planning control, would be inappropriate.
- 7.5 The wording of Condition (5) is somewhat vague and it raises further questions as to the extent of the land intended to be used as amenity space for the benefit of future occupiers. In particular it is uncertain whether the garden land at the rear of No. 84 was intended to be covered by the condition.
- 7.6 The amenity space to the rear of 86 Wickham Road is currently divided by fencing into three areas, two of which appear to provide private garden areas for occupiers of individual flats. The portion of land to the rearmost part of the site, is untended and overgrown, however, due to the presence of an unlocked gate, the area is not in fact inaccessible to the occupiers of the flats and could be used for their amenity. An original brick boundary wall divides the rear garden areas of Nos. 84 and 86.
- 7.7 The Council has been unable to establish the exact extent of a breach of Condition (5) of the 2002 planning permission - DC/02/51706 and therefore at this present moment in time it is not considered appropriate or reasonable to issue a Breach of Condition Notice or take further enforcement action.
- 7.8 The Council may only issue a Breach of Condition Notice when a breach of a valid planning condition has been established. There is no right of appeal against a Breach of Condition Notice. On prosecution, a statutory defence to prosecution is that the person in control; namely that the "freeholder" is no longer in control of the land or that every effort has been made to comply with the condition.

## **8.0 Legal Implications**

8.1 Government Policy advice to Local Planning Authorities on the use of their enforcement powers is set out in The National Planning Policy Framework (2012),

They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.

The Local Government Ombudsman can make a finding of "maladministration" if a Council fails to take enforcement action when it is plainly necessary to do so.

For the planning system to be robust and to fully achieve its objectives, local planning authorities should take a proportionate approach to enforcement. Where developers or individuals have proceeded without due regard to the planning process, resulting in unacceptable impacts on the local community, local planning authorities should take appropriate action.

Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

## **9.0 Equal Opportunities and Human Rights Implications**

9.1 Implications in relation to the Human Rights Act 1998 (HRA) have been identified in regards to the alleged breach of a condition 5 of planning consent - DC/02/51706. Action will therefore be relevant to the occupiers' Article 8 rights and potentially their Article 1 rights under the first protocol of the HRA, as set out below:

Schedule 1, Part I – The Convention:

Article 8 Right to Respect for Private and Family Life

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of his right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Schedule 1, Part II – The First Protocol

Article 1 Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general

principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

## **10.0 Conclusion**

10.1 The investigating officer has referred the matter to the Planning Committee for a formal decision with a recommendation not to take further action for the following reason:

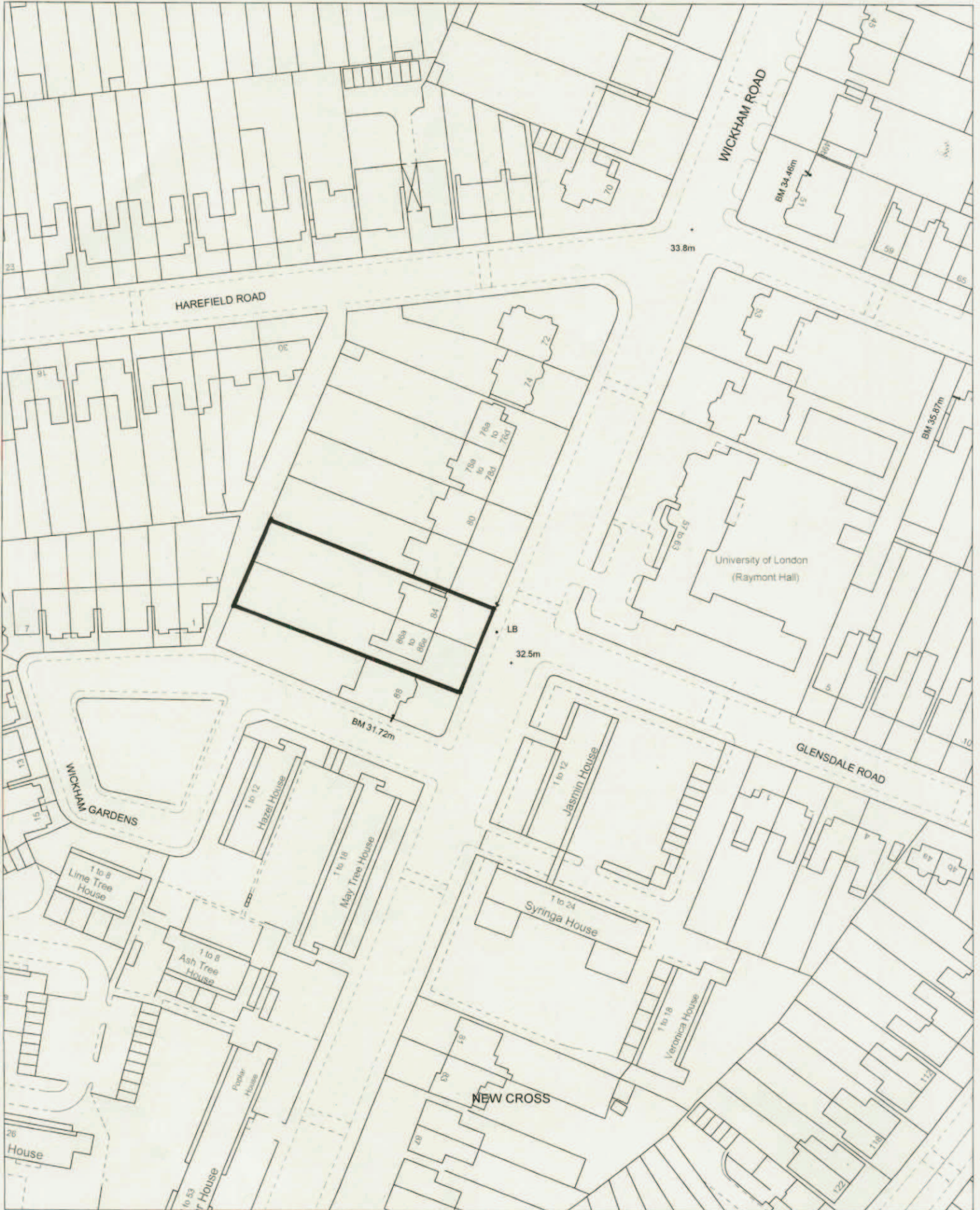
The Council has been unable to establish that a breach of Condition (5) of planning consent - DC/02/51706 at the above address in fact has occurred and therefore it is inappropriate to issue a Breach of Condition Notice or take further enforcement action.

## **11.0 RECOMMENDATION**

Authorise officers to **take no further action** in respect of Condition (5) of planning permission - DC/02/51706.

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84-86 WICKHAM ROAD SE4 1NF



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Committee	PLANNING COMMITTEE (C)	Item No. 10
Report Title	84-86 WICKHAM ROAD SE4 1NF	
Ward	Brockley	
Contributors	Richard Lockett	
Class	PART 1	09 DECEMBER 2010

## **REQUEST FOR ENFORCEMENT ACTION**

### **Background Papers**

- (1) Case File
- (2) Adopted Unitary Development Plan (July 2004)
- (3) PPS 1: Delivering Sustainable Development
- (4) PPG18: Enforcing Planning Control

### **1.0 Introduction**

- 1.1 This report deals with a breach of planning control at the site 84-86 Wickham Road and whether it would be expedient for the Council to instigate planning enforcement action to rectify the breach.

### **2.0 Property/Site Description**

- 2.1 The application site is a three storey building located on the north side of Wickham Road and comprises a pair of semi detached properties containing four two bedroom self contained flats as well as a one bedroom self contained flat in the roof space.
- 2.2 The property falls within the Brockley Conservation Area, but it is not a listed building.

### **3.0 Planning History**

- 3.1 In December 2002, Planning Permission (regd. no. DC/02/51706) was granted for the alteration and conversion of 86 Wickham Road, SE4 to provide 4 two bedroom self contained flats, together with the conversion of the attics of 84 & 86 Wickham Road to provide a one bedroom self contained flat.
- 3.2 Condition 5 of the planning permission required: The whole of the existing amenity space, as shown on the permitted plans, shall be retained permanently for the benefit of the occupiers of the residential units hereby permitted.

Condition 6 of the planning permission required: Full details of the treatment to the rear garden shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details prior to the occupation of any of the flats hereby approved.

- 3.3 Condition 6 was never discharged as no details were received in this regard.

Condition 5 requires the amenity space be retained permanently for the benefit of the occupiers of the residential units. Currently, the amenity space to the rear is divided up between the two lower floor flats with a parcel of fenced land, with an access gate, to the rear of that land divided up which is currently unused.

- 3.4 The parcel of fenced land to the rear of the garden has been the subject of separate planning applications for the construction of 3 single storey two bedroom mews houses, together with the provision of 6 bicycle spaces and a bin store, which was **refused**. No planning consent has been granted for the development of this parcel of land.

#### **4.0 Breach of Planning Control**

- 4.1 Planning consent was granted for the conversion of this property subject to the condition:
- that prior to occupation details of works to the rear space be submitted to the Council for approval and then undertaken, which has not occurred; and
  - that the whole of the amenity space would be retained for the benefit of the occupiers of the residential units.

#### **5.0 Policy Context**

##### Planning Policy Statement 1: Delivering Sustainable Development

- 5.1 Paragraph 18 under the heading of the Protection and Enhancement of the Environment states that 'the condition of our surroundings has a direct impact on the quality of life.... Planning should seek to maintain and improve the local environment and help to mitigate the effects of declining environmental quality...' The policy goes further to say that '...decisions should be based on: – up-to-date information on the environmental characteristics of the area; the potential impacts, positive as well as negative, on the environment of development proposals (whether direct, indirect, cumulative, long-term or short-term) and recognition of the limits of the environment to accept further development without irreversible damage.'
- 5.2 PPG 18 Enforcing Planning Control provides guidance to local authorities on the use of enforcement powers.

##### Adopted Unitary Development Plan (July 2004)

- 5.3 Policy IRM 5 states that in circumstances where it is considered necessary in the public interest, the Council will take enforcement action against those who undertake development or carry out works without planning permission.

#### **6.0 Planning Considerations**

- 6.1 In 2008 a complaint was received claiming that the whole of the existing amenity space, as shown on the permitted plans, had not been retained permanently for the benefit of the occupiers of the residential units. This complaint was made by one of the residents of the development.

The considerations in this case are whether there has in fact been a breach of planning control and whether in the circumstances of the case the Council considers that it would be expedient to take enforcement action to rectify the breach.



- 6.2 As stated earlier, Condition 5 required the whole of the existing amenity space, as shown on the permitted plans, to be retained permanently for the benefit of the occupiers of the residential units. As explained earlier in the report the amenity space, currently, is divided up between the two lower floor flats with a parcel of fenced land, with an access gate, to the rear of the garden which is unused - as officers understand matters none of the occupiers of the residential units have a legal right to access this land.
- 6.3 The leases in the individual flats, the residential units, have now been sold – with the last being sold in September 2006.
- 6.4 Of the five leases two included the use of outdoor amenity space - those for ground floor Flats A and B. Flats C, D and E were all sold without the allocation of amenity space. None of the leases included the use of the parcel of land to the rear of the garden. Due to the fact that contractual rights of access to the amenity space has not been secured for the benefit of all the occupiers of the residential units the allegation is that the owner is in breach of the condition. Officers consider that enforcement action could not remedy the breach and that to do so would not be expedient. It is now not possible for the owner to remedy the breach as contractual rights govern access to and use of the land to the occupiers of the separate two residential units (Flat A and B) – none of the occupiers of the Flats C, D and E can access the land to the rear without trespassing on the land allocated to Flats A and B. It is now, due to the contractual arrangements, not possible to secure compliance with the condition accordingly officers consider that to take enforcement action to remedy the breach would, in the circumstances, not be expedient.
- 6.5 Condition 6 of the planning permission required that full details of the treatment to the rear garden shall be submitted to and approved in writing by the local planning authority. Following approval of the details works shall be carried out in accordance with the approved details prior to the occupation of any of the flats hereby approved. The non compliance with the condition is a breach planning control. It is for members to consider whether in the circumstances it is expedient to take enforcement action. Of consideration will be that eight years have passed since the grant of permission and the residential units have been sold and been occupied for at least four years. In the circumstances officers do not consider that it is expedient to take enforcement action to remedy the breach of planning control due to the contractual arrangements making it practically impossible for the owner to comply.

## **7.0 Legal Implications**

- 7.1 Government Policy advice to Local Planning Authorities on the use of their enforcement powers is set out in Planning Policy Guidance Note No 18. PPG 18 sets out the issues which local planning authorities should bear in mind when taking enforcement action as follows:-
- (1) They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.
  - (2) The Local Government Ombudsman can make a finding of "maladministration" if a Council fails to take enforcement action when it is plainly necessary to do so.

- (3) The decisive issue in every case is whether the breach of planning control would unacceptably affect public amenity or the existing use of land or buildings meriting protection in the public interest.
- (4) Enforcement action should always be commensurate with the breach of planning control involved.
- (5) Where attempts to persuade the site owner or occupier to voluntarily remedy the breach are unsuccessful, negotiation on that issue should not be allowed to hamper the taking of whatever formal enforcement action, which may be required.

## **8.0 Conclusion**

- 8.1 It is therefore recommended that no further action be taken on the alleged breach of condition 5 and 6.

## **9.0 RECOMMENDATION**

- 9.1 Authorise officers to take no further action in respect of the failure to adhere to condition 5 and 6 of planning permission ref: DC/02/51706.

## **MINUTES**

The Planning Officer outlined the history of the property and the breach of planning control.

The Committee received verbal representations from Mr S Jahanji objecting to the officers recommendation.

Councillor Paschoud moved a Motion to overturn the officer's recommendation and authorise enforcement action, which was seconded by Councillor Muldoon. Members voted on the Motion as follows:-

FOR: Councillors Padmore (Chair), Clarke, Muldoon and Paschoud.

### **RESOLVED** that

- (i) Officers be authorised to issue a breach of condition notice to secure compliance with Condition (5) of the planning permission issued under reference DC/02/51706 namely: "The whole of the amenity space, as shown on the permitted plans, shall be retained permanently for the benefit of the occupiers of the residential units hereby permitted"; by securing the removal of all fences dividing and subdividing the amenity space, to enable access to the whole of the amenity space.
- (ii) No enforcement action to be taken in relation to Condition (6) of the planning permission issued under reference DC/02/51706.

-115A-



Wickham Rd

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