



Planning Committee B

Report title:

**MERCHANT TAYLORS ALMSHOUSES, BRANDRAM ROAD, LONDON,
SE13 5RX**

Date: 07 July 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Blackheath

Contributors: Max Curson

Outline and recommendations

This report sets out the Officer's recommendation of approval for the above proposal. The application has been brought before Committee for a decision as it has received three objections from neighbouring residents.

Application details

Application reference number(s): DC/22/126213 (Planning Permission) and DC/22/126214 (Listed Building Consent)

Application Date: 01 April 2022

Applicant: Maddox and Associated Ltd on behalf of Chigwell Real Estate Ltd.

Proposal: DC/22/126213: Construction of a new vehicular access into the site on Brandram Road and alterations to the boundary walls and the provision of new sliding gate and brick piers, the reconfiguration and resurfacing of the existing car parking area providing a total of nine car parking spaces and two blue-badge spaces, the relocation of the bin store, and the reconfiguration of the pedestrian pathway through the site with installation of low-level lighting to the Merchant Taylors' Almshouses, Brandram Road SE13.

DC/22/126214: Listed Building Consent for the construction of a new vehicular access into the site on Brandram Road and alterations to the boundary wall with the provision of new sliding gate and brick piers, the reconfiguration and resurfacing of the existing car parking area providing a total of nine car parking spaces and two blue-badge spaces, the relocation of the bin store, and the reconfiguration of the pedestrian pathway through the site with installation of low-level lighting to the Merchant Taylors' Almshouses, Brandram Road SE13.

Background Papers: (1) Submission drawings
(2) Submission technical reports and documents
(3) Statutory consultee responses

Designation: PTAL 3
PTAL 2
Air Quality
Lee Neighbourhood Forum
Area of Archaeological Priority - Lee
Blackheath Conservation Area
Listed Building: Grade II

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site comprises a Grade II listed complex of houses that is known as the Merchant Taylor's Almshouses. The site is arranged in a palatial composition of three

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terraces, grouped to the west, north and east sides of the site in an upside down U-shape. The houses are built of pale stock brick in two storeys and all with iron casement windows, slate roofs and tall chimneys. The northern terrace faces the garden and has a pedimented three bay treatment to the centre (with cupola) and end of the block. The buildings enclose a large lawned area with a generous woodland garden to the south that slopes towards Lee High Road. A fourth detached block of four houses, south of the eastern range, was added between 1876 and 1882. The application site is bounded by a Grade II listed wall and gate.

- 2 The application site is located on the northern side of Lee High Road, between the junctions with Boone Street to the east and Brandram Road to the west. There is an existing entrance gate which provides access from Brandram Road.

Character of area

- 3 The surrounding area is predominantly residential in nature. The properties located to the west of the site are three storey Victorian villas with lower ground floor levels. To the south, north and east there are more modern developments. The Grade I listed Boone's Chapel is located to the south-east of the property.

Heritage/archaeology

- 4 The application site comprises the Grade II listed Merchant Taylor's Almshouses. The listing description is as follows:

- 5 *"TQ 3975 15/L14 II GV 2. 1826 with additions. Symmetrical south-facing group of shallow U-shape. 2 storeys. Main block of 7 3-bay double houses and side blocks of 4. Pedimented 3-bay centre and ends. Cresting with arms of Guild over pediment; and clock face in tympanum. Wood cupola on ridge above. Moderately low pitched slated roof. Greyish yellow brick. Parapet front with stone cornice. Pilasters support entablature at centre and ends. Stone first floor band. Moulded architraves to casement windows with glazing bars and to 6-panel double doors. Blank windows over doors. Inscription over main door. "The Merchant Taylor's Almshouses, built AD 1826. Master, Tho. Bulcock Burbidge Esq," with names of 4 wardens. Round arched link between North and West blocks has stone impost blocks, keystone and coping with central ball finial. Another block of 2 similar double houses to south-east. Merchant Taylor's Almshouses and Gate and Walls form a group."*

- 6 The Grade I listed Boone's Chapel adjoins the application site to the south-east.

- 7 The application site is also located within the Blackheath Conservation Area. The Blackheath Conservation Area Character Appraisal (2007) notes that the exceptionally high architectural and historic quality of this group is reflected in the complex being listed grade II and Boone's Chapel being listed Grade I. As such the setting of these buildings as well as their conservation area status will form an important part of considering any proposals for change.

- 8 In addition the site is located within an Area of Archaeological Priority.

Surrounding area

- 9 Manor House Gardens is the nearest public open space located approximately 250m to the south of the site. The Major District Centres of Blackheath and Lewisham are located approximately 825m and 875m to the north-east and west respectively.

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Local environment

10 The site is located within an Air Quality Monitoring Area.

Transport

11 The site has a Public Transport Accessibility Level (PTAL) score of 2 and 3 on a scale of 1-6b, 1 being lowest and 6b the highest.

12 Blackheath Railway Station is located approximately 840m to the north-east of the site.

2 RELEVANT PLANNING HISTORY

13 The planning history records for the site are available through the Council records. Below is the summary of the most relevant planning history for the site including description of development as publicised, application reference numbers and important dates in the determination of the application.

Table 1: Planning history

| REFERENCE | DESCRIPTION | DECISIONS |
|------------------|---|--|
| DC/10/074140 | The construction of a two-storey pair of 3 bedroom houses adjoining the north elevation of the southernmost terrace of Almshouses and the construction of a two storey pair of 2 bedroom semi-detached houses on land to the south of the southernmost terrace of Almshouses at Merchant Taylors' Almshouses, Brandram Road SE13, together with the construction of 11 car parking spaces, accessed from the existing entrance gates in Brandram Road, the installation of rising bollards to control access to the car park, the erection of a bin storage/collection area adjoining the site entrance and associated landscaping. | Granted subject to planning conditions that needed to be discharged (11.11.2010). This planning permission has been implemented. |
| DC/10/076348 | The construction of a part single/part two storey, two bedroom house in the north east corner at Merchant Taylors Almshouses site, Brandram Road SE13. | Granted subject to planning conditions that needed to be discharged (22.07.2011). This planning permission has been implemented. |
| DC/13/085062 | Details submitted in compliance with Condition (3) Dust Minimisation Scheme and Condition (7) Facing Brickwork Samples as well as part compliance with Condition (8) Hard and Soft Landscaping of the planning permission DC/10/74140 dated 7 December 2010 for the construction of a two-storey pair of 3 bedroom houses | Part Grant/Part Refuse (06.12.2013) |

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| | | |
|--------------|--|----------------------|
| | adjoining the north elevation of the southernmost terrace of almshouses and the construction of a two storey pair of 2 bedroom semi-detached houses on land to the south of the southernmost terrace of almshouses at Merchant Taylors' Almshouses, Brandram Road SE13, together with the construction of 11 car parking spaces, accessed from the existing entrance gates in Brandram Road, the installation of rising bollards to control access to the car park, the erection of a bin storage/collection area adjoining the site entrance and associated landscaping. | |
| DC/14/087346 | Details of Landscaping submitted in compliance with Condition (8) of the planning permission DC/10/74140 dated 7 December 2010 for the construction of a two-storey pair of 3 bedroom houses adjoining the north elevation of the southernmost terrace of almshouses and the construction of a two storey pair of 2 bedroom semi-detached houses on land to the south of the southernmost terrace of almshouses at Merchant Taylors' Almshouses, Brandram Road SE13, together with the construction of 11 car parking spaces, accessed from the existing entrance gates in Brandram Road, the installation of rising bollards to control access to the car park, the erection of a bin storage/collection area adjoining the site entrance and associated landscaping. | Granted (20.06.2014) |
| DC/21/121216 | Construction of garden wall adjacent to unit 39; Installation of a window and a French door to the ground floor side (south) elevation of Unit 39; Comprehensive hard and soft re-landscaping; External lighting strategy; Installation of rear courtyard lights; Re-tiling of the rear courtyard to Unit 32, 33, 38 and 39; at Merchant Taylors Almshouses, Brandram Road, SE13. Please note Listed Building Consent Ref:- DC/21/121217. | Granted (29.07.2021) |
| DC/21/121217 | Listed Building Consent for the construction of garden wall adjacent to unit 39; Installation of a window and a French door to the ground floor side (south) elevation of Unit 39; Comprehensive hard and soft re-landscaping; External lighting strategy; Installation of rear courtyard lights; Re-tiling of the rear courtyard to Unit 32, 33, 38 and | Granted (29.07.2021) |

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| | | |
|--------------|---|----------------------|
| | 39; at Merchant Taylors Almshouses, Brandram Road, SE13. | |
| DC/21/120409 | Planning Permission for the demolition of part of the boundary wall and part of the wall raised in height at Merchant Taylors' Almshouses, Brandram Road SE13 and the construction of a new vehicular gated entrance and vehicular crossover to the site from Brandram Road, together with the reconfiguration and resurfacing of the existing car parking area providing a total of nine car parking spaces and two blue-badge spaces, the relocation of the bin store, and the reconfiguration of the pedestrian pathway through the site with installation of low-level lighting | Refused (02.09.2021) |
| DC/21/120410 | Listed Building Consent for the construction of a new vehicular access into the site on Brandram Road, the reconfiguration and resurfacing of the existing car parking area providing a total of nine car parking spaces and two blue-badge spaces, the relocation of the bin store, and the reconfiguration of the pedestrian pathway through the site with installation of low-level lighting Merchant Taylors' Almshouses, Brandram Road SE13 | Refused (02.09.2021) |

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 14 DC/22/126213: Construction of a new vehicular access into the site on Brandram Road and alterations to the boundary walls and the provision of new sliding gate and brick piers, the reconfiguration and resurfacing of the existing car parking area providing a total of nine car parking spaces and two blue-badge spaces, the relocation of the bin store, and the reconfiguration of the pedestrian pathway through the site with installation of low-level lighting to the Merchant Taylor's' Almshouses, Brandram Road SE13.
- 15 DC/22/126214: Listed Building Consent for the construction of a new vehicular access into the site on Brandram Road and alterations to the boundary wall with the provision of new sliding gate and brick piers, the reconfiguration and resurfacing of the existing car parking area providing a total of nine car parking spaces and two blue-badge spaces, the relocation of the bin store, and the reconfiguration of the pedestrian pathway through the site with installation of low-level lighting to the Merchant Taylors' Almshouses, Brandram Road SE13.

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3.2 COMPARISON WITH PREVIOUS SCHEME

16 A previous application for planning permission and an associated application for Listed Building Consent were refused on 02 September 2021. The reasons for refusal are set out below:

- “The proposed new vehicular gates by reason of the extent of demolition of the existing wall, their position, design and size would result in substantial harm to the significance of Grade II listed Almshouses complex and Grade II listed wall/gates, detracting from the existing entrance in terms of significance and hierarchy. Furthermore, the applicant has failed to sufficiently demonstrate that all other alternative options have been considered and that the harm is necessary to achieve substantial public benefits that would outweigh the identified harm. The proposal is contrary to paragraphs 200-202 of the NPPF (July 2021); Policy HC1 'Heritage conservation and growth' of the London Plan (March 2021); Policy 15 'High quality design for Lewisham' and Policy 16 'Conservation areas, heritage assets and the historic environment' of the Core Strategy (June 2011), DM Policies 30 'Urban design and local character' and 36 'New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens' of the Development Management Local Plan (November 2014)”
- “The proposed car parking layout and soft landscaping by reason of design would fail to preserve and enhance the setting, character and appearance of the Grade II listed Almshouses. The proposal would be contrary to paragraph 202 of the NPPF (July 2021), Policy HC1 'Heritage conservation and growth' of the London Plan (March 2021); Policy 15 'High quality design for Lewisham' and Policy 16 'Conservation areas, heritage assets and the historic environment' of the Core Strategy (June 2011), DM Policies 30 'Urban design and local character' and 36 'New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens' of the Development Management Local Plan (November 2014).”

17 Compared to previously refused proposal for a new vehicular gate, the current proposal is designed to minimise the visual impact on the existing boundary wall. In order to achieve this, the application proposes the new entrance gate be located within the rebuilt section, and would be constructed of timber cladding within a metal frame, will re-use salvaged brickwork for the works to the brick walls. This is discussed in more detail in the urban design and heritage section, specifically paragraphs 49-51.

3.3 AMENDMENT TO THE PROPOSAL

18 The proposal was amended during the lifetime of the application to remove several drawings relating to landscaping works which were previously approved under DC/21/121216 and DC/21/121217 (the relevant listed building consent). Officers are satisfied the removal of works which already have planning permission and listed building consent is an acceptable amendment to the proposal.

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4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

19 No pre-application advice was sought from the council regarding the proposal.

4.2 APPLICATION PUBLICITY

20 Site notices were displayed on 13 April 2022 and a press notice was published on 13 April 2022.

21 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 07 May 2022 and 11 May 2022.

22 The Blackheath Society provided comment of support for this application, noting that it is an improvement on the previously refused proposal.

23 The Lee Neighbourhood Forum provided neutral detailed comments on the proposal regarding the position, size and materials of the proposed new gate.

24 Three objections were received regarding the proposal. The comments in objection are summarised in the table below.

4.2.1 Comments in objection

| Comment | Para where addressed |
|---|---|
| Objecting to the location of the bins, citing odour and visual amenity. | 66 |
| Increase in noise and disturbance from the operation of the new gates. | 66 |
| Increase in road congestion and parking stress. | 58 |
| Lack of boundary treatment adjoining Boone's Chapel | This objection relates to the wider landscaping works which are no longer part of this application, see para 18 for more details. |

25 Comments also raised amenity issues relating to construction works currently being undertaken at the application site. In general, amenity issues arising from noise and disturbance are civil matters not material planning considerations. Building hours are covered by separate legislation.

26 One letter was received from local resident neither objecting nor supporting the application. The comment raised questions over whether the already limited parking on the site and Brandram Road would be sufficient to accommodate new residents' parking demand and lack of communication from developer of the site with existing properties affected by construction. The parking on site has previously been granted permission. Officers were satisfied when granting permission that the parking met the relevant policies regarding parking. The application has satisfied the consultation requirements as set out in Article 15 of the Development Management Procedure Order (England).

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4.3 INTERNAL CONSULTATION

27 The following internal consultees were notified.

28 Highways: raised no objections regarding the proposed gate and vehicular access. Further clarification on the distance of bin storage from the dwellings was requested, see para 59.

29 Conservation: raised no objections subject to clarifications. Clarification was subsequently received.

4.4 EXTERNAL CONSULTATION

30 A consultation email was sent to Historic England who confirmed that it is not necessary for this application to be notified to Historic England under the relevant statutory provisions. No further comment was provided on the proposal itself.

5 POLICY CONTEXT

5.1 LEGISLATION

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

32 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

5.2 MATERIAL CONSIDERATIONS

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

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

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

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)

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- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

36 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

37 Lewisham SPG/SPD:

- Blackheath Conservation Area Character Appraisal and Supplementary Planning Document (2007)

6 PLANNING CONSIDERATIONS

38 The main issues are:

- Principle of Development
- Urban Design and Heritage Impact
- Impact on Adjoining Properties
- Transport

6.1 PRINCIPLE OF DEVELOPMENT

General policy

39 The National Planning Policy Framework (NPPF) at paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

40 The London Plan (LP) sets out a sequential spatial approach to making the best use of land set out in LPP GG2 (Parts A to C) that should be followed.

Discussion

41 The Development Plan is generally supportive of improvement works to existing residential buildings. The principle of development is supported, subject to details.

6.1.1 Principle of development conclusions

42 The principle of development is supported.

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6.2 URBAN DESIGN AND IMPACT ON HERITAGE ASSETS

General Policy

- 43 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 44 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.
- 45 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 46 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 47 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.
- 48 LPP HC1, CSP 15 and 16, DMLP 30 and 36 and the provisions of Blackheath Conservation Area Character Appraisal and SPD reflect this and are relevant.

Discussion

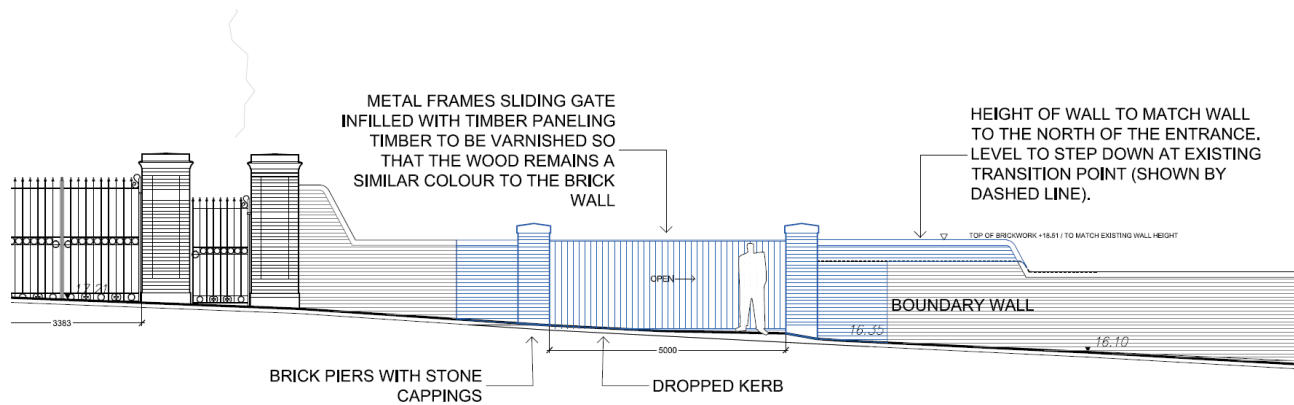
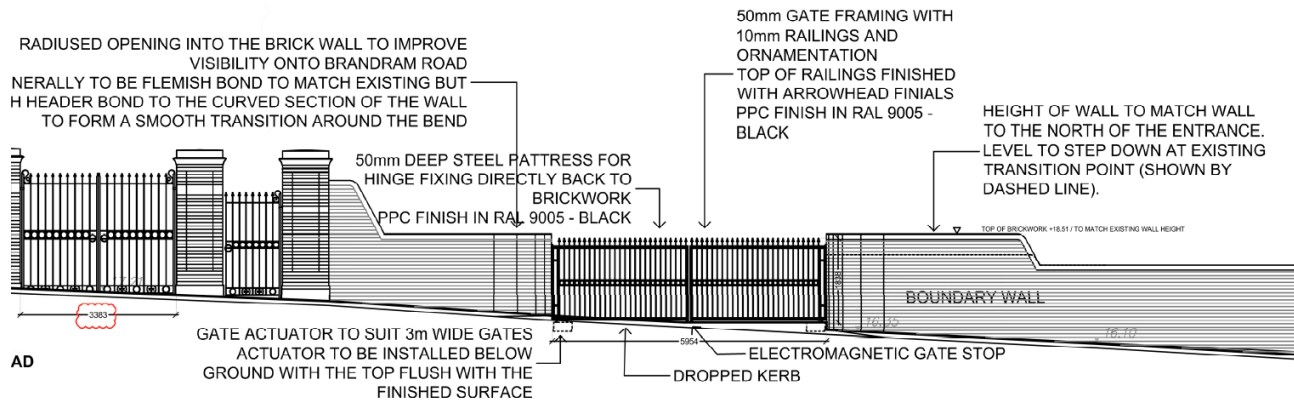
- 49 The proposed development seeks to remove a small area of the wall that encloses the Almshouses and build a new vehicular entrance with a secure flush timber sliding gate leading through to a newly reconfigured car parking area at the west of the site, accommodating nine car parking spaces and two disabled blue-badge spaces. The entrance would be flanked by newly constructed brick piers with stone copings. The application also seeks to reconfigure the pedestrian pathway through the site and install low-level lighting to enhance security for the residents and improve the appearance of the communal courtyard area.
- 50 The gate would be 5m in width and 2m in height. The height of the gate would match the height of the northern section of the boundary wall. It would be located approximately 5m from the existing gate and pillars. The gate would be a sliding opening style and have a metal frame infilled with timber panelling. The timber panelling would be varnished so that the wood would become a similar colour to that of the brick wall. Elevations from Brandram Road of the previously refused and current proposal are shown on the figure below.

Figure 1: Elevation comparison between previously refused (top image) and current application (lower image)

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- 51 Compared to the previously refused proposal, the current proposal is designed to minimise the visual impact on the boundary wall. The section of wall that would be removed to make way for the gate was rebuilt between 2014 and 2019. The gate itself would be constructed of timber panelling with metal frames.
- 52 The change of material and size of the proposed gate and surrounding brick wall, plus its location within the rebuilt area of wall, help to minimise the heritage impact of the proposal. The present proposal would cause a low degree of harm to the boundary wall as a result of loss of historic fabric and change in its continuity. Paragraph 199 of the NPPF requires great weight to be given to the asset's conservation while para 202 requires harm to be weighed against any public benefits of the proposal. In this instance, the proposal is fully justified and the public benefits, including enabling emergency service access to the residential development at the site, and the avoidance of future harm as a result of vehicular collisions to the listed gate piers, outweigh the low level of harm caused.
- 53 No concerns are raised to the revised position of the two lighting fixtures on the piers either side of (and on the street side) of the entrance gate.

Summary

- 54 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would lead to a low level of less than substantial harm to the Grade II listed host building and the Blackheath Conservation Area. This harm is outweighed by the

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public benefits of the proposal. As such, the proposal is acceptable in heritage and urban design terms.

6.3 TRANSPORT IMPACT

General policy

- 55 NPPF requires the planning system to actively manage growth to support the objectives of paragraph 104. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and a choice of transport modes.
- 56 Para 111 states “Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.
- 57 The Core Strategy, at Objective 9 and CS Policy 14, reflects the national and regional priorities.

Discussion

- 58 The application is supported by a Highways Technical Note prepared by Paul Mew Associates, dated April 2022, which assesses the level of parking proposed, the proposed new permanent site access and associated vehicle manoeuvring. Emergency and refuse vehicle access are also assessed. The proposal for nine standard spaces and two blue badge spaces in this PTAL 3 location is in line with the previously approved scheme (DC/20/117359) and therefore acceptable. Swept path analysis has been undertaken demonstrating that family saloon cars, refuse vehicles and emergency service vehicles are able to enter and egress the site safely. The new parking layout is in accordance with previously approved on this site, and with the relevant local and strategic transport policies, and is therefore considered to be acceptable.
- 59 Highways Officers queried the distance between bin storage and buildings. Officers note that the previous report (application ref no DC/21/120409) raised no objection to the proposed location of the bin storage. The maintenance team will be collect the bin bags from the store as per the approved arrangement. The bin store would match the height of the boundary wall, and does not adjoin the boundary wall. The store would meet policy requirements and is non-objectionable.

6.3.1 Transport impact conclusion

- 60 The proposal is acceptable in terms of transport impact.

6.4 LIVING CONDITIONS OF NEIGHBOURS

Policy

- 61 NPPF para 130 sets an expectation that new development will be designed to create places that amongst other things have a ‘high standard’ of amenity for existing and

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future users. At para 185 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions

- 62 This is reflected in relevant policies of the London Plan (D3), the Core Strategy (CP15), the Local Plan (DMP 31) and associated guidance (Alterations and Extensions SPD 2019).
- 63 The Council has published the Alterations and Extensions SPD (2019) which establishes generally acceptable standards relating to these matters (see below), although site context will mean these standards could be tightened or relaxed accordingly.
- 64 Daylight and sunlight are generally measured against the Building Research Establishment (BRE) standards however this is not formal planning guidance and should be applied flexibly according to context

Discussion

- 65 The proposal concerns the installation of a new gate and the creation of a new vehicular cross over on Brandram Road, in addition to reconfiguration and resurfacing of the existing car parking area, and reconfiguration of the existing pedestrian pathway through the site with installation of low-level lighting. As such, the proposed development would not have any detrimental impact on the amenity of any neighbouring residential properties in terms of daylight, sunlight, overbearing impact and privacy.
- 66 Officer's note that an objection received commented on the impact of increased noise and disturbance as a result of the gate. The introduction and operation of the gate would not lead to a material increase in noise or disturbance over that caused by the operation of the road at present. Furthermore, the proposed refuse storage would have no impact on the amenity of the neighbours through increased odour or reduced visual amenity.

6.4.1 Impact on neighbours conclusion

- 67 The proposal is considered to have an acceptable impact in terms of the living conditions of neighbours.

6.5 IMPACT ON TREES

Policy

- 68 S.197 of the Town and Country Planning Act gives LPAs specific duties in respect of trees. Paragraph 131 of the NPPF seeks to retain trees wherever possible, while para 174) requires that decisions should contribute to and enhance the natural and local environment.
- 69 LPP G7 protects trees of value and replacements. New development should include additional trees wherever appropriate, particularly large-canopied species.
- 70 CSP 12 seeks to protect trees and prevent the loss of trees of amenity value, with replacements where loss does occur. DM Policy 25 seeks to ensure that applicants consider landscaping and trees as an integral part of the application and development process.

Discussion

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71 The application is accompanied by Tree Survey and Arboricultural Impact Assessment prepared by Greengage, dated March 2022. It is noted that with the previously refused application, the Council's tree officer requested further information regarding the potential impact on trees on the application site. A comprehensive assessment was undertaken to address potential impact on existing trees in close proximity to the location of proposed hardstanding and car parking.

72 One tree (Category U) is shown to be removed as a result of its poor condition and the ground level change in that location. An additional 24 trees are to be planted on site. The net increase of 23 tree is welcomed, and sufficient to compensate for the loss of a single poor quality tree. All works required to be undertaken in and around existing trees to be retained are described, and technical tree protection measures are presented. Given the assessment and justification submitted, Officer's consider the level of tree impact is acceptable, subject to a condition for the submission of a Tree Protection Plan to ensure works are carried out in line with proposed measures.

6.5.1 Tree Impact Conclusion

73 Subject to a condition for the submission of a Tree Protection Plan, the proposal is considered to have an acceptable impact on trees.

7 LOCAL FINANCE CONSIDERATIONS

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

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

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

76 The CIL is therefore a material consideration.

77 This application does not attract CIL.

8 EQUALITIES CONSIDERATIONS

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

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

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

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- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

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

81 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

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

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

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

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

9 HUMAN RIGHTS IMPLICATIONS

85 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were

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incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

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

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

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

88 This application has the legitimate aim of providing a new access gate, and associated car parking spaces, landscaping and lighting, to a previously approved planning permission. The rights potentially engaged by this application, including Article 8 and Protocol 1 are not considered to be unlawfully interfered with by this proposal.

10 CONCLUSION

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

90 In reaching this recommendation, Officers have given weight to the comments and objections that were received regarding this application. The proposal is considered to have a low level of impact to the Grade II listed host building and Blackheath Conservation Area which is outweighed by the public benefits of the proposal. The proposal is considered acceptable in terms of transport, neighbouring impact and trees, therefore Officers recommend that planning permission should be granted subject to the imposition of suitable planning conditions

11 RECOMMENDATION

91 That the Committee resolve to **GRANT** planning permission and listed building consent subject to the following conditions and informatives:

11.1 CONDITIONS

APPLICATION DC/22/126123 – PLANNING PERMISSION

1) FULL PLANNING PERMISSION TIME LIMIT

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

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

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

9239 0002 LBC08; 9239 0010 LBC06; 9239 0030-4 LBC02; 9239 1001 LBC03; 9239 0000 LBC01; C001 rev A. Received 4 April 2022.

JKD011P04 rev 04. Received 21 April 2022.

JKD011P08 Rev 04. Received 25 May 2022.

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

- 3) (a) The development shall be constructed in those materials as submitted namely: metal framed sliding gate, infilled with varnished timber panelling, brick piers with stone cappings and larch cladding to bin store and in full accordance with 9239-0002 LBC08 and 9239-1001 LBC03.
- (b) The scheme shall be carried out in full accordance with those details, as approved.

Reason: To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

- 4) No development shall commence on site until a Tree Protection Plan (TPP) has been submitted to and approved by the Council. The TPP should follow the recommendations set out in BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations). The TPP should clearly indicate on a dimensioned plan superimposed on the building layout plan and in a written schedule details of the location and form of protective barriers to form a construction exclusion zone, the extent and type of ground protection measures, and any additional measures needed to protect vulnerable sections of trees and their root protection areas where construction activity cannot be fully or permanently excluded.

Reason: To safeguard the health and safety of trees during building operations and the visual amenities of the area generally and to comply with Policy 12 Open space and environmental assets of the Core Strategy (June 2011), and DM Policy 25 Landscaping and trees and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

APPLICATION DC/22/126124 – LISTED BUILDING CONSENT

- 1) FULL PLANNING PERMISSION TIME LIMIT

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

Reason: As required by Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

9239 0002 LBC08; 9239 0010 LBC06; 9239 0030-4 LBC02; 9239 1001 LBC03; 9239 0000 LBC01; C001 rev A. Received 4 April 2022.

JKD011P04 rev 04. Received 21 April 2022.

JKD011P08 Rev 04. Received 25 May 2022.

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

11.2 INFORMATIVES

APPLICATION DC/22/126123 – PLANNING PERMISSION

- 1) Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.
- 2) The applicant will need to liaise with Lewisham Highways in relation to the works to the highway which will form a part of a section 278 agreement. The applicant will also need to apply for a Traffic Regulation Order remove the kerb and single yellow line where the new access will be located.

APPLICATION DC/22/126124 – LISTED BUILDING CONSENT

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

BACKGROUND PAPERS

- 92
- (1) Submission drawings
 - (2) Submission technical reports and documents

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(3) Statutory consultee responses

12 REPORT AUTHOR AND CONTACT

93 Report author: Max Curson (Planning Officer)

Email: max.curson@lewisham.gov.uk

Telephone: 020 8314 7219

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