



Planning Committee A

Report title:

1A MARLER ROAD, LONDON, SE23 2AE.

Date: 11 June 2024

Key decision: No.

See "[Legal Requirements](#)" in the guidance for more information.

Class: Part 1

See "[Legal Requirements](#)" in the guidance for more information.

Ward affected: Perry Vale

Contributors: John Rapson, Planning Officer

Outline and recommendations

This report sets out the officer recommendation of approval for this application for Full Planning Permission.

The case has been brought before members for a decision as the application was called in by Cllr John Paschoud.

Application details

Application reference number(s): DC/23/133981

Application Date: 24/11/2023

Applicant: Mr Li

Proposal: The construction of a first-floor rear extension.

Background Papers: Submission drawings

Designation: PTAL 3
Local Open Space Deficiency
Small HMO Article 4 Direction

Screening: N/A

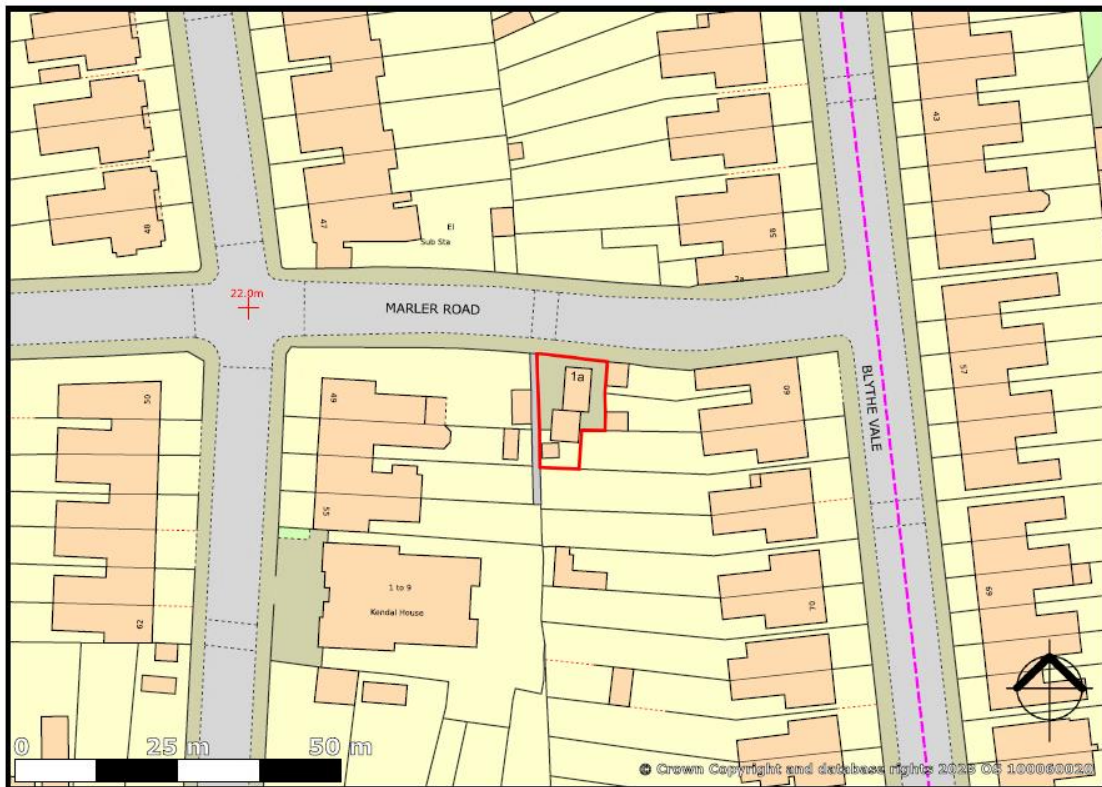
1 SITE AND CONTEXT

- 1 This application relates to a modern two-storey detached single-family dwelling house on the southern side of Marler Road. The site is the only property that fronts this stretch of Marler Road and is surrounded on all sides by rear gardens of properties fronting Carholme Road and Blythe Vale.
- 2 The surrounding area is predominately residential in character with semi-detached and terraced properties. St George's Church, Waterlink Way and Rathfern Primary School are close to the application site.
- 3 The property is not located within a conservation area, nor is it, or close to, a listed building or non-designated heritage asset.
- 4 The site is located within a Local Open Space Deficiency Area.
- 5 The site has a Public Transport Accessibility Level (PTAL) score of 2 on a scale of 1-6b, 1 being lowest and 6b the highest. Catford Station is the closest station to the site, located 0.6 miles away.

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Site Location Plan

2 RELEVANT PLANNING AND ENFORCEMENT HISTORY

6 **PRE/23/133682:** Pre-application advice was sought in a meeting on 13th of November 2023 on a revised scheme based on previous refusal feedback. The officer supported the revised scale, roof form, and materials but made recommendation to lower the shorter roof slope to ensure the roof ridge is appropriately set down from the principal roof ridge.

7 **DC/23/130642:** Retrospective application for the construction of a first-floor extension to the rear at 1A Marler Road, SE23. **Refused 8 June 2023.**

The unauthorised development, by reason of its scale, design, siting and materiality, represents a highly visible and visually awkward and incongruous addition which results in unacceptable harm to the appearance of the host building and surrounding area, contrary to paragraphs 126 and 130 of the National Planning Policy Framework (July 2021), Policy D4 'Delivering good design' of the London Plan (March 2021), Core Strategy Policy 15 'High quality design for Lewisham' of the Core Strategy (June 2011) and DM Policy 30 'Urban design and local character' and 31 'Alterations and extensions to existing buildings including residential extensions' of the Development Management Local Plan (November 2014), and the provisions of the Alterations and Extensions SPD (April 2019).

Following this refusal an enforcement notice was issued the first-floor extension has since been removed.

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- 8 **DC/21/124289:** Retrospective application for the construction of an additional storey on top of the single-storey rear projection at 1A Marler Road, SE23. **Refused 6 January 2022.**

The unauthorised development, due to its excessive height, depth to the rear of the property and poor quality materials, is a highly visible, bulky, incongruous and intrusive addition, which damages the architectural integrity of the host building and results in significant harm and surrounding area, contrary to paragraphs 126 and 130 of the National Planning Policy Framework (July 2021), Policy D4 'Delivering good design' of the London Plan (March 2021), Core Strategy Policy 15 'High quality design for Lewisham' of the Core Strategy (June 2011) and DM Policy 30 'Urban design and local character' and 31 'Alterations and extensions to existing buildings including residential extensions' of the Development Management Local Plan (November 2014), and the provisions of the Alterations and Extensions SPD (2019).

- 9 **ENF/21/00234:** An enforcement notice was issued on 13 December 2022 relating to the refusal DC/21/122671 and subsequent appeal dismissal APP/C5690/X/21/3288348) by the Planning Inspectorate relating to the unauthorised first-floor rear extension.

- 10 **DC/21/122671:** Lawful Development Certificate (Existing) with respect to the construction of an additional storey on top of the single-storey rear projection at 1A Marler Road, SE23. **Refused 22 September 2021.**

The proposed extension to the single-storey, flat roof projection to the rear of the dwellinghouse fails to meet the parameters of permitted development as set out under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 by virtue of A.1(d), the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse; A.1(h)(i) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse by more than 3 metres, and (h)(ii) it would be within 7 metres of the boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse; and A.1(i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres.

Appeal Ref APP/C5690/X/21/3288348: The appellant suggests that the development is an addition to the roof and the description of the development suggests they consider it constitutes development that has been permitted by Class B, Part 1, Schedule 2 of the GPDO. However, the Council suggest it is an enlargement of the dwellinghouse that should be considered under Class A, Part 1, Schedule 2 of the GPDO. The Planning Inspector concluded the development does not comply with Class A, Part 1, Schedule 2 of the GPDO or condition B.2(b)(ii), Class B, Part 1, Schedule 2 of the GPDO. The Council's refusal to grant a certificate of lawful use or development was well-founded and that the appeal should fail. **Dismissed 17 November 2022.**

- 11 **ENF/21/00234:** An active enforcement case is currently relevant to the application property following the dismissal of the planning appeal (APP/C5690/X/21/3288348) by the Planning Inspectorate relating to the unauthorised first-floor rear extension.

- 12 **DC/21/124289:** Retrospective application for the construction of an additional storey on top of the single-storey rear projection at 1A Marler Road, SE23. **Refused 6 January 2022.**

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The unauthorised development, due to its excessive height, depth to the rear of the property and poor quality materials, is a highly visible, bulky, incongruous and intrusive addition, which damages the architectural integrity of the host building and results in significant harm and surrounding area, contrary to paragraphs 126 and 130 of the National Planning Policy Framework (July 2021), Policy D4 'Delivering good design' of the London Plan (March 2021), Core Strategy Policy 15 'High quality design for Lewisham' of the Core Strategy (June 2011) and DM Policy 30 'Urban design and local character' and 31 'Alterations and extensions to existing buildings including residential extensions' of the Development Management Local Plan (November 2014), and the provisions of the Alterations and Extensions SPD (2019).

- 13 **DC/19/111568:** Construction of a 2-storey one-bedroom dwellinghouse on land to the rear of 60 Blythe Vale SE6, together with associated car parking and landscaping. The approved drawings show a two-storey building with the rear part being single-storey with a flat roof. **Granted 14 June 2019.** This has been implemented.
- 14 **DC/17/100218:** The construction of a single-storey building plus basement on land to the rear of 60 Blythe Vale SE6, to provide a one x two-bedroom detached dwelling together with the provision of cycle parking, bin store and associated landscaping. **Refused 10 May 2017.**

- a. *The proposed dwelling by reason of its design and scale would appear as an incongruous form of development that would result in detrimental harm upon the character of the streetscene contrary to Policy 15 'High Quality Design for Lewisham' of the Core Strategy (2011), DM Policy 30 'Urban design and local character' and DM Policy 33 'Development on Infill sites, backland sites, back gardens and amenity areas' of the Development Management Local Plan (2014). The proposed development, by reason of its poor level of outlook and natural light in respect of the habitable rooms at basement floor level would fail to provide an acceptable standard of accommodation for future occupiers and would therefore be contrary to Policy 3.5 Quality and Design of Housing Development of the London Plan (adopted March 2015, incorporating March 2016 Minor Alterations), DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014) and Lewisham Residential Standards SPD (Updated 2012).*

Appeal Ref APP/C5690/W/17/3183988: The proposal would harm the character and appearance of the area; and the layout and design of the proposal would result in inadequate provision of natural light and an oppressive outlook from the lower ground floor of the dwelling, with resultant harm to the living conditions of future residents. **Dismissed 26 March 2018.**

- 15 **DC/16/097623:** Construction of part one/part two-storey 3-bedroom detached dwelling together with associated landscaping and access arrangements to the rear of 60 Blythe Vale, SE6. **Refused 20 September 2016.**
- a. *The proposed dwelling by reason of its design, bulk and scale would appear as an incongruous form of development that would result in detrimental harm to the character of the streetscene.*

The proposed development, by reason of its undersized internal area and poor outlook from some habitable rooms at ground floor level, would fail to provide an acceptable standard of accommodation for future occupiers

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Appeal Ref APP/C5690/W/16/3160824: The design of the proposed dwelling would result in significant harm to the character and appearance of the local street scene; and the proposed dwelling house does not provide suitable living conditions for its future occupiers by reasons of its poor outlook from the ground floor bedrooms. **Dismissed 22 February 2017.**

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

Background

16 The site has been subject to an extensive planning history. Planning permission under ref. DC/19/111568 was granted for the construction of a two-storey detached dwelling house in June 2019. Subsequent to this a first-floor extension was constructed on top of the consented single-storey rear projection of the building, which did not benefit from planning permission. This was removed following an enforcement investigation and the refusal of several applications that sought its retention as set out in the planning history above.

Scope of application

17 The proposal is to construct a first-floor extension to the rear elevation of the host property that responds to advice provided by Officers in the previous refusal scheme ref. DC/23/130642 and pre-application advice ref. PRE/23/133682.

18 The extension will have a width of 4.42m and a depth of 4.65m. It will have a maximum ridge height of 6.21m and an eaves height which is higher on the left side at 5.07m than the right side which is 3.32m. The extension has a dual pitched catslide roof set down slightly from the ridge of the existing roof.

19 It will have two rooflights on the western rear roof slope which will not extend more than 150mm from the roof slope. It will include a 1.2m high window on the rear elevation and a 1.8m high window on the left side elevation. The new development will be built using matching materials.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

20 Pre-application advice was sought in a meeting on 13th of November 2023 on a revised scheme based on previous refusal feedback. Officers supported the revised scale, roof form, and materials but made recommendation to lower the shorter roof slope to ensure the roof ridge is appropriately set down from the principal roof ridge so as to read as a subordinate extension.

4.2 APPLICATION PUBLICITY

21 A site notice was displayed outside the premises on 04 December 2023.

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22 Letters were sent to residents and business in the surrounding area and the relevant Ward Councillors on 28th November 2023.

23 Three responses received, comprising two objections and one supporter.

4.2.1 Comments in objection

Comment	Para where addressed
Privacy impact on neighbouring properties	Para 46 and 47
Inappropriate scale of development	Para 37 and 38

4.2.2 Comments in Support

Comment	Para where addressed
Lack of privacy impact on neighbouring properties	Para 46 and 47

5 POLICY CONTEXT

5.1 LEGISLATION

24 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).

5.2 MATERIAL CONSIDERATIONS

25 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.

26 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.

27 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

28 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

29 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

6 PLANNING CONSIDERATIONS

30 The main issues are:

- Principle of Development
- Urban Design
- Impact on Adjoining Properties

6.1 PRINCIPLE OF DEVELOPMENT

General policy

31 The Development Plan is generally supportive of people extending or altering their homes. The principle of development is supported, subject to details.

6.2 URBAN DESIGN

Policy

32 The NPPF at para 131 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

33 CS Policy 15, DMLP Policies 30 and 31 and the provisions of the Alterations and Extensions SPD reflect this and are relevant.

Discussion

34 DM Policy 31 states that extensions to existing dwellings are required to be of a high quality, site specific, and sensitive design quality, and to respect and/or complement the setting, period, architectural characteristics and detailing of the original Building.

35 In the case of a single-storey extension proposed on top of a ground floor extension the onus is on the applicant to demonstrate that the architectural characteristics and integrity

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of the host property is maintained/enhanced per guidance from the Alterations and Extensions SPD.

- 36 The dual pitched roof form of the proposed extension, subtly set down from the ridge of the primary roof slope sensitively relates to the architectural design of the host building and the wider architectural character of the area which displays a range of modified pitched and hipped roof forms in accordance with DM Policy 31. The extension would appear as a continuation of the existing catslide roof slope therefore not appear incongruous or out of place.
- 37 The design, scale and form are an improvement from previous applications in addressing those concerns given the height reduction to the main ridge below the height of the primary roof making the extension clearly subservient to the primary structure as per the guidance from the Alterations and Extensions SPD.
- 38 While the extension will be visible from the Marler Road, it will not be significantly altering the host building's visual impact upon the public realm due to the roof set down, continuation of the catslide roof profile and its relatively modest scale. The integrity of the host building is therefore maintained in the view of Officers and subsequently the proposals are in accordance with the Alterations and Extensions SPD.
- 39 All materials are proposed to match the existing host dwelling which is constructed of London stock brick with dark slate roof tiles, and white uPVC windows and doors. This is acceptable and complies with DM Policy 31.
- 40 In terms of articulation the first-floor side window proposed is aligned with the existing opening below and the rooflight placements have been designed to co-ordinate with each other, and overall, the architectural composition of the elevations is acceptable to Officers to result in a harmonious development.

Summary

- 41 The proposed extension would successfully address the harm identified within the previous applications. The proposal is of an acceptable design, scale, form, and building fabric, and is clearly subservient to the host building in meeting the design intent of the above policy framework.
- 42 The proposal is considered acceptable to officers in urban design terms.

6.3 LIVING CONDITIONS OF NEIGHBOURS

Policy

- 43 CS Policy 15, DMLP Policy31(c) and the provisions of the Alterations and Extensions SPD are relevant.

Discussion

- 44 The main impacts on amenity arise from: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas; and (iv) noise and disturbance.
- 45 The scale of the development is in proportion to the host building with relatively modest height of 6.52m (set down from the host ridgeline) with a reasonable minimum setback of approx. 0.9m from the western boundary which comprises 1b, 1c Marler Road and 51, 53 Carholme Road. This boundary runs along the relatively large rear yards of these

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adjacent sites. Due to this the proposal is not anticipated to cause any substantial degree of loss of daylight/sunlight or overbearing sense of enclosure impacts upon adjoining rear gardens and surrounding windows more than existing living conditions. As such it is anticipated that there would no significant impacts on adjoining buildings due to distances of approximately 17-20m between them and new development on the applicant site.

46 The newly proposed left elevation side window is acceptable given it will be obscured and only openable above 1.7m above the finished floor level which would be secured by the imposition of a planning condition. Two rooflights are also proposed on the rear right roof slope which will be obscured for privacy from/to neighbours, in keeping with the requirements of the Council's Alterations and Extensions SPD. Again, the obscure glazed rooflights would be secured by condition.

47 Considering the substantial depths of the adjoining rear gardens and the proposal's setback from rear-facing windows, neighbouring amenity impacts from loss of outlook and privacy, and daylight and sunlight are not expected. Additionally, a large tree located on the western property boundary assists in screening the development from adjoining properties.

Summary

48 Officers support the proposal regarding impacts on the living conditions of neighbours due to non-substantial impacts on neighbouring properties.

7 LOCAL FINANCE CONSIDERATIONS.

49 Under Section70(4) 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).

50 The weight to be attached to a local finance consideration remains a matter for the Decision maker.

51 The CIL is therefore a material consideration.

52 This application does not attract CIL.

8 EQUALITIES CONSIDERATIONS

53 The equality Act 2010 (the Act) introduced a new 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.

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

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- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic and person who do not share it.

- 55 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.
- 56 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 in drawn in 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>
- 57 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
- 58 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 details 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>
- 59 The planning issues set out above do not include any factors that relates specifically to any of the equalities categories set out in the Act, therefore it has been concluded that there is no impact on equality.

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9 HUMAN RIGHTS IMPLICATIONS

60 In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1989. Section 6 of the Human Rights Act 1998 prohibits authorises (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights ACT 1998. Various convention rights are likely to be relevant including:

- Article 3: United Nations Convention on the Rights of the Child (“NCRC”)
- Article 8: Respect for your private and family life, home, and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

61 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.

62 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.

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

9 CONCLUSION

64 The site has been subject to an extensive planning and enforcement history for an illegally constructed first-floor rear extension following the approval of new dwelling in 2019. The unlawful extension was subsequently removed following the issue of an enforcement notice. The current application has been subject to pre-application advice prior to its formal lodgement. The proposed scheme, through feedback in the pre-application stage, has adequately adjusted the design, scale and materiality to alleviate the harm to the host building and streetscene, and is considered a substantial improvement over the previous unauthorised development.

65 The proposed development is considered acceptable in urban design terms and no harm has been identified to the living conditions of neighbours.

66 Therefore, the application is recommended for approval subject to conditions.

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10 RECOMMENDATION

67 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

10.1 CONDITIONS

1) **FULL PLANNING PERMISSION TIME LIMIT**

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

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

2) **DEVELOP IN ACCORDANCE WITH APPROVED PLANS**

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

- B194077-1000 Rev A
- B194077-1100 Rev A
- B194077-3100 Rev A
- Location Plan

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) **OBSCURED GLAZED WINDOWS**

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the new first-floor side window to be installed and rooflights as shown on plan ref. B194077-3100 Rev A shall be fitted as obscure glazed prior to its first occupation of the extension hereby approved and retained in perpetuity.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, DM Policy 32 Housing design, layout and space standards, and Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

4) **MATERIALS**

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

Reason: To ensure that the high design quality demonstrated in the plans and submission is delivered so that local planning authority may be satisfied as to the

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external appearance of the building(s) and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

10.2 INFORMATIVES

- 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 and proactive discussions took place with the applicant prior to the application being submitted through a pre-application discussion. As the proposal was in accordance with these discussions and was in accordance with the Development Plan, no contact was made with the applicant prior to determination.

11 BACKGROUND PAPERS

- B194077-1000 Rev A
- B194077-1100 Rev A
- B194077-3100 Rev A
- Location Plan
- Design and Access Statement
- Fire Safety Strategy Statement

12 REPORT AUTHOR AND CONTACT

68 John Rapson

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