

Committee	PLANNING COMMITTEE C	
Report Title	40-42 MONTEM ROAD SE23	
Ward	Crofton Park	
Contributors	S Isaacson	
Class	PART 1	Date: 10 OCT 2013

Reg. Nos. DC/13/83504

Application dated 13.5.13 as revised on 4.9.13

Applicant Robinson Escott Planning on behalf of Grangewalk Developments Ltd

Proposal An application submitted under Section 73 of the Town & Country Planning Act 1990 for a minor material amendment to allow the installation of balconies on the northern and eastern elevations, in connection with the planning permission dated 18 January 2008 (DC/07/65998) for the demolition of the existing pair of semi-detached properties and the construction of part two-storey / part three-storey block on the site of 40-42 Montem Road SE23, comprising 8 two bedroom and 4 one bedroom self-contained flats, together with associated landscaping and provision of bin stores, 12 cycle spaces and 7 car parking spaces with access onto Montem Road (previously amended by non-material amendment DC/12/81814).

Applicant's Plan Nos. 4003-PD-001 Rev-C, 002 Rev-C, 003 Rev-C, 004 Rev-C, 005 Revision A, Coloured Montage Photograph, 4003-PD-010 Rev A, GWD-09/100 Rev.A, Materials of External Surfaces Schedule (Rev-C), Energy Strategy Options Appraisal, site location plan & letter dated 20 December 2010, 908-E-001, 908-P-100, 908-P-101A, 908-P-102, 908-P-103, 908-P-105, 908-P-106 & 908-P-107 and New Planning Design & Access Statement - June 2007 approved under DC/07/65998 & 65998A; GWD-09/100 Rev A approved under DC/10/75561);

Background Papers

- (1) Case File LE/650/40/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Local Development Framework Documents
- (4) The London Plan

Designation Existing Use

## **1.0 Property/Site Description**

- 1.1 The site formerly consisted of a pair of semi-detached residential properties on a corner plot, with Montem Road to the front and Brockley Park running along the northern edge of the site, whilst to the rear is Osborn Lane.
- 1.2 The site is being developed by the construction of an L-shaped housing block containing 12 flats. The site is approximately 0.144 hectares in area, has a width of 20m and a depth of 49m.

- 1.3 Montem Road has a steep gradient, sloping from south to north. Brockley Park, to the north, also slopes, rising in a westerly direction.
- 1.4 The properties facing Montem Road are predominantly semi-detached properties of a similar style to those formerly on the application site, with capped double gable features to the front and tiled hipped roofs, though there are a smaller number of terraced properties throughout the area.
- 1.5 The properties sited on Brockley Park are different in character to those on Montem Road, being modern, flat-roofed buildings with wooden cladding to the front/rear elevations. The properties on the northern side of Brockley Park are rear facing, being part of Owens Way. These properties have small rear gardens and wooden boundary fences.

## **2.0 Planning History**

- 2.1 Planning permission was granted in January 2008 for the demolition of the existing pair of semi-detached properties and the construction of part two-storey / part three-storey block on the site of 40-42 Montem Road SE23, comprising 8 two-bedroom and 4 one-bedroom self-contained flats, together with associated landscaping and provision of bin stores, 12 cycle spaces and 7 car parking spaces with access onto Montem Road (DC/07/65998).
- 2.2 The permission has been implemented and a number of minor variations have been allowed during construction. Conditions attached to the main permission were approved in May 2011 (DC/10/75561) and March 2012 (DC/11/78989). Non-material amendments were approved under DC/11/77617, DC/12/79148 and DC/12/81814, and minor material amendment under DC/12/81948 in order to change the 12 air source heat pumps to 46 photovoltaic panels in line with the 20% requirement for reduction on site of CO2 emissions from renewable energy.

## **3.0 Current Planning Application**

### The Proposal

- 3.1 The current application is for a minor material amendment to allow the variation of the original planning permission to add balconies to flats 4, 6, 9, 10, 11 & 12 on the northern and eastern elevations.
- 3.2 The application originally submitted and consulted on included the addition of balconies to flats 3 and 5 on the west-facing elevation of the building. These have now been omitted from the scheme.

### Supporting Documents

- 3.3 In the letter supporting the application, the agent has stated that the balconies will provide useful external amenity space for the occupants of the flats, improving their access to fresh air, sunlight and daylight. With regard to the (now-removed) balconies for flats 3 and 5, they confirmed that: *"To safeguard the privacy of the occupants of the dwellings to the south, privacy screens are shown on the southern side of balconies to flats 3 and 5, the outlook from which would otherwise face directly southwards causing potential overlooking."*
- 3.4 The applicant has also submitted montage photographs showing the anticipated appearance of the block of flats including the proposed balconies.

## **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.

4.3 Three letters have been received, from the occupiers of 38 Montem Road, Flat 1 in 59 Brockley Park and 31 Owens Way, raising the following objections:-

- Significant overlooking and loss of privacy;
- The occupier of Flat 1, 59 Brockley Park lives opposite the building and considers it is bad enough having 12 flats opposite, overlooking his home, but is really concerned if the flats are allowed to have balconies, and their residents are even more able to see into other peoples homes and gardens from them.
- The occupier of 38 Montem Road is most concerned about overlooking from proposed balconies 3 and 5, and also mentions problems experienced during earlier phases of the development, when the developers failed to adequately secure the site, thereby allowing violent and abusive squatters into the neighbourhood, illegal flytipping of potentially hazardous materials, plus working outside authorised hours,

(Letters are available to Members)

## **5.0 Policy Context**

### Introduction

5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts 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.

## National Planning Policy Framework

- 5.3 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. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'..
- 5.4 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, and 215 of the NPPF.

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

- 5.5 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

- 5.6 The other relevant national guidance is:-

By Design: Urban Design in the Planning System - Towards Better Practice (CABE/DETR 2000)

## London Plan (July 2011)

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

Policy 3.5 Quality and design of housing developments  
Policy 7.4 Local character  
Policy 7.6 Architecture

## Core Strategy

- 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:-

Spatial Policy 5 Areas of Stability and Managed Change  
Core Strategy Policy 15 High Quality Design for Lewisham

## Unitary Development Plan (2004)

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

STR URB 1 The Built Environment  
URB 3 Urban Design  
URB 6 Alterations and Extensions  
ENV.PRO 11 Noise Generating Development  
HSG 4 Residential Amenity  
HSG 5 Layout and Design of New Residential Development

## Residential Standards Supplementary Planning Document (August 2006)

5.10 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.

## Emerging Plans

5.11 According to paragraph 216 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

5.12 The following emerging plans are relevant to this application:-

## Development Management Plan

5.13 The Development Management Local Plan – Proposed Submission Version, is a material planning consideration and is growing in weight. Following the close of public consultation on 4 October 2013 the Proposed Submission Version will be submitted to the Planning Inspectorate for an Examination in Public. Therefore, in accordance with the NPPF, the weight decision makers should accord the Proposed Submission Version should reflect the advice in the NPPF paragraph 216.

5.14 The following policies are considered to be relevant to this application:-

DM Policy 30 Urban design and local character  
DM Policy 31 Alterations and extensions to existing buildings including residential extension

## **6.0 Planning Considerations**

- 6.1 The main issues to be considered are the impact of the proposed balconies on the overall design of the block and whether they cause any overlooking or loss of privacy to neighbouring residential properties.

### Design

- 6.2 The proposed balconies would be supported on steel frames, and be coloured to match the main fenestration of the building. In overall design terms, they are considered to be satisfactory in principle and well-detailed. The applicant has confirmed that they would be powder-coated and colour matched to the grey of the windows. He has also confirmed that the underside of the balconies would also be timber boarded, so that their appearance when viewed from underneath, i.e. from street level, would also be satisfactory.
- 6.3 The applicant has opined that: *"The balconies will improve the appearance of the building by creating more texture and depth."* and officers agree with this view.

### Impact on Adjoining Properties

- 6.4 Following a site visit, the applicant was advised that the balconies that were originally proposed for flats 3 and 5 were unacceptable on the grounds that, although the proposed privacy screens would prevent direct overlooking into windows in the neighbouring property at 38 Montem Road, they would only have a limited effect in preventing significant overlooking of the garden of this property. As stated above, the applicant was advised that these two balconies were unacceptable and that the application was likely to be refused unless they were removed.
- 6.5 The applicant has agreed to the removal of these balconies and has submitted revised plan and elevation drawings to reflect the changes.
- 6.6 With regard to the impact of the proposed balconies on the amenities of residents across the width of Montem Road and Brockley Park, the following facts are pertinent. 59 Brockley Park lies directly opposite the new block, on the north side of Brockley Park. It is a two-storey property, set in spacious grounds, with a substantial front garden, measuring over 10 metres deep by 20 metres wide. The front garden contains several parking spaces and there are three mature trees along the front boundary.
- 6.7 The measurement from the front boundary of 59 Brockley Park to the northern boundary of the application site exceeds 22 metres, such that the facing buildings are some 26 metres apart. This distance is sufficient to ensure that undue mutual overlooking does not occur.
- 6.8 The occupier of 31 Owens Way also objects on similar grounds of overlooking and loss of privacy. This property is part of a block of modern houses built in the late 70's on the north side of Brockley Park, and this group step in pairs slightly upwards up the hill towards the west. They have fairly small upper floor windows in the timber front elevation.

- 6.9 Their front gardens measure about 7 metres deep, and the distance from 31 Brockley Park to the corner of the application site is some 22 metres. No. 31 has a somewhat oblique view across to the site, whereas other properties in this terrace e.g. Nos. 33-35, directly face the site. The distance between the front elevations of 35-35 Owens Way and the new block is 24.5 metres. Again, this is considered to be sufficient to prevent undue overlooking / loss of privacy.
- 6.10 The balconies originally proposed for flats 3 and 5 would have resulted in significant overlooking and loss of privacy to the occupiers of 38 Montem Road, and these have now been removed from the scheme. Overall, the proposed balconies on the northern and eastern elevations of the building do not cause a significant loss of amenity to adjoining occupiers.

## **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.
- 7.2 On balance, officers consider that the proposal constitutes a satisfactory alteration to the appearance of the block and does not cause demonstrable harm to neighbouring occupiers through overlooking or loss of privacy and the scheme is therefore considered acceptable.

## **8.0 RECOMMENDATION: APPROVE the minor material amendments, subject to the following conditions:-**

- 1 The development shall be constructed in those materials as submitted and approved on 27/5/11 (DC/10/75561), as revised by the approval dated 2/3/12 (DC/11/78989) and in full accordance with the approved plans as set out above.

**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 Saved Policy URB 3 Urban Design in the Unitary Development Plan (July 2004).

- 2 Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order), no plumbing or pipes, other than rainwater pipes, shall be fixed on the external faces of the buildings.

**Reason:** It is considered that such plumbing or pipes would seriously detract from the appearance of the buildings and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Saved Policy URB 3 Urban Design in the Unitary Development Plan (July 2004).

- 3 No goods, merchandise, materials or thing of any description shall be stacked or stored on the roof of the building hereby approved.

**Reason:** To safeguard the amenities of the adjoining premises and the area generally and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Saved Policies URB3 Urban Design and HSG4 Residential Amenity in the Unitary Development Plan (July 2004).

- 4 The whole of the car parking accommodation shown on drawing no..4003-PD-01 approved on 19/7/11 (DC/11/77617) shall be provided prior to the occupation of any of the residential units and retained permanently thereafter.

**Reason:** To ensure the permanent retention of the spaces for parking purposes, to ensure that the use of the building does not increase on-street parking in the vicinity and to comply with Policies 1 Housing provision, mix and affordability and 14 Sustainable movement and transport of the Core Strategy (June 2011) and Table 6.1 of the London Plan (July 2011).

- 5 The landscaping of the development shall be implemented in accordance with the details approved on 27/5/11 (DC/10/75561) and all landscaping works which form part of the approved scheme shall be carried out in the first planting and seeding seasons following the completion of the development. Any trees or plants which within a period of five 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.

**Reason:** In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies 5.12 Flood risk management and 5.13 Sustainable Drainage in the London Plan (2011), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Saved Policies URB 3 Urban Design and URB 12 Landscape and Development of the Unitary Development Plan (July 2004).

- 6 The trees to be retained and their root areas shall be protected during construction in accordance with the details as approved under application DC/10/75561 as granted on 27 May 2011.

**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 Saved Policies URB 3 Urban Design, URB 12 Landscape and Development and URB 13 Trees in the Unitary Development Plan (July 2004).

- 7 Construction works shall be carried out in accordance with the Dust Mitigation information as approved under DC/10/75561 as granted 27 May 2011.

**Reason:** In order that the local planning authority may be satisfied that the demolition and construction process is carried out in a manner which will minimise possible noise, disturbance and pollution to neighbouring properties and to comply with Saved Policies ENV.PRO 9 Potentially Polluting Uses and HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).

- 8 Wheel cleaning, dust laying and road sweeping shall be carried out in accordance with the details agreed in application DC/10/75561 as granted 27 May 2011.

**Reason:** In order that the local planning authority may be satisfied that the demolition and construction process is carried out in a manner which will minimise possible noise, disturbance and pollution to neighbouring properties and to comply with Saved Policies ENV.PRO 9 Potentially Polluting Uses and HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).

- 9 Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roof on the buildings hereby approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

**Reason:** In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Saved Policy HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).



- 10 (a) A minimum of 12 secure and dry cycle parking spaces shall be provided within the development as indicated on plan 4003-PD-001 Rev B hereby approved.
- (b) All cycle parking spaces shall be provided and made available for use prior to occupation of the development and maintained thereafter.

**Reason:** In order to ensure adequate provision for cycle parking and to comply with Policy 14: Sustainable movement and transport of the Core Strategy (2011).

- 11 None of the trees on site shall be lopped or felled. without prior consent of the local planning authority.

**Reason:** In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Core Strategy Policy 12 Open space and environmental assets, Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Saved Policies URB 3 Urban Design, URB 12 Landscape and Development and URB 13 Trees in the Unitary Development Plan (July 2004).

- 12 (a) The development shall be constructed with a biodiversity living roof laid out in accordance with plan no. 4003-PD-101 Rev A as approved on 27/3/12 (DC/11/78989) and maintained thereafter.
- (b) The living roofs shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.
- (c) Evidence that the roof has been installed in accordance with (a) shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved.

**Reason:** To comply with Policies 5.10 Urban greening, 5.11 Green roofs and development site environs, 5.12 Flood risk management, 5.13 Sustainable Drainage and 7.19 Biodiversity and access to nature conservation in the London Plan (2011) and Core Strategy Policy 10 managing and reducing flood risk and Core Strategy Policy 12 Open space and environmental assets.

- 13 The 46 photovoltaic panels to provide the on-site renewable energy provision shall be installed on site in accordance with the details on 16/1/13 (DC/12/81948) prior to the occupation of any of the residential units, and maintained permanently thereafter.

**Reason:-** In the interests of general sustainability of the development in compliance with STR.OBJ 2 To support and Promote Sustainable Patterns of Development in the adopted Unitary Development Plan (July 2004).

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

4003-PD-001 Rev-C, 002 Rev-C, 003 Rev-C, 004 Rev-C, 005 Revision A, Coloured Montage Photograph.

**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.

## **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 discussions took place which resulted in further information being submitted.