

Committee	PLANNING COMMITTEE A	
Report Title	46 Ringmore Rise, SE23	
Ward	Forest Hill	
Contributors	Samuel James	
Class	PART 1	01 November 2018

Reg. Nos. DC/18/106932

Application dated 28 April 2018

Applicant HP Architects on Behalf of Mr Cummings

Proposal The demolition of the existing garage and the construction of a single-storey front and side infill extension, an additional storey at first floor level, plus new roof incorporating 8 roof lights, to provide a four-bedroom house at 46 Ringmore Rise SE23, together with the provision of 1 car parking space.

Background Papers

1. Case File DC/18/106932
2. Core Strategy (2011)
3. Development Management Local Plan (2014)
4. The London Plan (2016)
5. The NPPF (2018)

Designation

1. Not allocated to any particular use in the London and Local Plan.
2. PTAL 4

## **1.0 Summary**

- 1.1 This report sets out officer's recommendation in regard to the above proposal. The report has been brought before members for a decision as:
- Permission is recommended to be approved and there are 3 or more valid planning objections.

## **2.0 Property/Site Description**

- 2.1 The application property is located on the southern side of Ringmore Rise, near the junction with Horniman Drive. The existing property is a bungalow. The floor level of the bungalow is set below street level by about 2 metres. The plot measures 34.5 metres deep, by 13.5 metres wide at the front boundary, increasing to 16m wide at the rear boundary. One flank of the roofslope is hipped and the other has a gable end.
- 2.2 To the east are the rear gardens of houses at 30, 32 and 34 Horniman Drive. 30 Horniman Drive has a garage at the foot of its rear garden, which is accessed from Ringmore Rise, immediately adjoining the front forecourt of the application site. The rear garden of 46 Ringmore Rise falls away steeply towards the grounds of Horniman School to the south. To the west sits No. 44 Ringmore Rise.
- 2.3 The site lies high on the Forest Hill ridge within the Tewkesbury Lodge Estate, in a residential area which comprises dwellings dating mainly from the inter-war period. The majority of properties in this part of Ringmore Rise are detached houses. Most are two-storey, but there are several bungalows, such as that on the application site. The site is in

an elevated location and the surrounding ground level slopes downwards towards the north and west, so that most houses have views toward central London. The topography is such that houses on the east side of Ringmore Rise are elevated by several metres above road level, whereas the properties on the west of the road, such as the application property have their ground levels set a metre or even several metres below the road.

- 2.4 The area is characterised by an inconsistent mix of architectural styles and scale of properties. The far end of Ringmore Rise has a consistent roofscape of hipped roofs however closer to the site there is greater variation in roof form including pitched roofs, hip to gable extensions and other individually designed properties such as No.30 Horniman Drive, located on the corner of Horniman Drive and Ringmore Rise.
- 2.5 The property is not within a conservation area nor is it subject to an Article 4 Direction. The property is not nor is it adjacent to a listed building. The PTAL rating is 3.

### **3.0 Relevant Planning History**

3.1 The most relevant planning history is an allowed appeal from 2015:

3.2 **DC/14/87162** – 11 June 2014 – Planning permission was refused for the construction of a single-storey front and side infill extension and an additional storey at first floor level, plus new roof, to provide a four-bedroom house at 46 Ringmore Rise, together with the provision of 1 car parking space, for the following reasons:-

"The proposed development, by virtue of its inappropriate scale and mass is considered to constitute an overdevelopment of the site, and would cause a significant and unacceptable impact on the occupiers of 30-34 Horniman Drive and 44 Ringmore Rise and result in an over-dominant feature in the street scene in this part of Ringmore Rise, contrary to Objective 10: Protect and Enhance Lewisham's Character and Policy 15: High Quality Design for Lewisham of the Local Development Framework - Core Strategy (June 2011) and emerging policies DM Policy 30 Urban design and local character and Policy 32 Infill, Backland, Back Garden and Garden Amenity Area Development of the Development Management Local Plan (Submission Version - August 2013) and saved policies URB 3 Urban Design, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development & HSG 8 Backland and Infill Development of the adopted Unitary Development Plan (July 2004)."

The applicant lodged a successful appeal against the decision and the scheme was allowed on the 30th of April 2015 under appeal decision APP/C5690/D/14/2225090 for the following reasons:

- The development would not cause material harm to the character and appearance of the surrounding area.
- The development would not cause material harm to the living conditions of neighbouring occupiers.

It is noted that the current proposal is very similar to this application in terms of detailed design, scale and massing. The only addition is that of some rooflights and a window to the rear gable end.

This permission was never implemented and lapsed on 30<sup>th</sup> April 2018.

3.3 Other relevant history (in date order, most recent last) is as follows:

3.4 **DC/13/85703** – Planning permission was refused for the demolition of existing bungalow at 46 Ringmore Rise and the construction of 2 part one/part three-storey, 4 bedroom semi-

detached houses, together with the provision of 2 car parking spaces and associated landscaping, for the reason that:-

"The proposed development, by virtue of its inappropriate scale and mass was considered to constitute an overdevelopment of the site, and would cause a significant and unacceptable impact on the occupiers of 30-34 Horniman Drive and 44 Ringmore Rise."

The proposal was dismissed at appeal in September 2014.

- 3.5 **DC/14/86815** – May 2014 – A Certificate of Lawful Development (Proposed) was issued in respect of the construction of a single storey rear extension at 46 Ringmore Rise, together with the conversion of the existing garage to provide additional residential accommodation.
- 3.6 **DC/14/88500** – 8 September 2014 – The Council confirmed that prior approval was required for the construction of a single-storey rear extension at 46 Ringmore Rise - The extension will extend 8 metres beyond the rear wall of the original dwelling house, the maximum height will be 3 metres and the height at the eaves of the proposed extension will be 3 metres.
- 3.7 **DC/14/88701** – 31 October 2014 – Planning permission was granted for the demolition of the existing garage and construction of a single-storey extension to the side of 46 Ringmore Rise, together with the excavation of a new lower ground floor to provide additional accommodation, with light wells to the front and projecting glazed roof light to the rear, alterations to the front garden, including new vehicular crossover, driveway and landscaped areas.
- 3.8 **DC/14/89609** – 1 December 2014 – The Council confirmed that prior approval was not required for the proposed single storey extension that would extend 8m beyond the rear wall of existing dwelling. At the rear wall of the existing dwelling, the extension would be 3m in height sloping to 2m in height 1.7m from the existing rear wall. Then the extension submerges into the existing surface with a flat roof that is 2.05m high at natural ground level at the rear of the extension.
- 3.9 **DC/14/89595** – 12 December 2014 – A certificate of Lawful Development was issued in respect of the demolition of the existing garage and the construction of a single storey extension to the side of 46 Ringmore Rise.
- 3.10 **DC/14/90131** – 4th February 2014 – A Certificate of Lawful Development was issued for the construction of two hip to gable roof extensions and a dormer in the rear roof slope at 46 Ringmore Rise SE23, together with obscure glazed windows in the gable end.
- 3.11 **DC/15/91023** – Planning permission was granted for the demolition of the existing green house and garage to the side of 46 Ringmore Rise SE23 and the construction of a single storey side extension incorporating living space.
- 3.12 **DC/15/91580** – A Lawful Development Certificate (proposed) was refused in respect of a single storey rear extension at 46 Ringmore Rise SE23. The decision was subsequently appealed and dismissed.
- 3.13 **DC/15/90901** – Planning permission was refused for the construction of two hip to gable roof extensions and a dormer in the rear roof slope at 46 Ringmore Rise SE23, together with obscure glazed windows in the gable end. The refusal was appealed and allowed.
- 3.14 **DC/15/92466** – Planning permission was granted the construction of a single storey extension with crown roof to the rear 46 Ringmore Rise

3.15 **DC/16/97710** – Planning permission was granted for The construction of a single storey extension to the rear of 46 Ringmore Rise SE23.

#### **4.0 Current Planning Application**

4.1 Planning permission is sought for the demolition of the existing garage and the construction of a single-storey front and side infill extension, an additional storey at first floor level, plus new roof incorporating 8 roof lights, to provide a four-bedroom house at 46 Ringmore Rise SE23, together with the provision of 1 car parking space.

4.2 The current proposal is identical to the successful appeal application (APP/C5690/D/14/2225090) in terms of scale and massing. The only addition is that of some rooflights and a window to the rear gable end.

4.3 The proposed footprint is wider than the existing bungalow, as a result of the demolition of the garage and its replacement with a two-storey extension, albeit of slightly narrower width than the existing garage.

4.4 The bulk of the building would increase by the addition of a first floor containing four bedrooms, plus the roof design would change from the existing low pyramid roof to a taller pitched roof with a hipped form at its western end, adjoining 44 Ringmore Rise, and a gable end roof at its eastern end (to the rear of 30 and 32 Horniman Drive). Two additional hipped roof projections are included in the front elevation, one of which is above a small gable feature, whilst the rear elevation includes a gable element on the western part of the elevation.

4.5 The overall height of the building would increase from 51.7 metres (above the datum of mean sea level) to 54.04 metres. For comparison, the height of the highest part of the roof of the adjoining two-storey house at 44 Ringmore Rise is shown as 54.04m. The drawings indicate that the ridge of the new roof would be at the same height as the top of the chimneys to the adjoining property at No. 44.

4.6 46 Ringmore Rise is located slightly in advance of the front wall of the adjoining house to the west at 44 Ringmore Rise, however, the forward-most part of the enlarged house would be in line with the existing frontage of No. 46.

#### **5.0 Consultation**

5.1 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.

5.2 The council's highways officer was also consulted and their comments have been considered in the main body of this report.

5.3 A total of 10 neighbouring publicity letters were sent on 1<sup>st</sup> June 2018, including the Horniman Primary school adjoining to the rear, and a site notice was displayed at the site.

5.4 Three letters of objections were received. The grounds of objections are summarised below:

<b>Objection</b>	<b>Response</b>
<i>Ridge height of proposal reaches top of neighbouring chimney, and would be very prominent and out of keeping</i>	The ridge and eaves height are lower than the adjoining property No.44, furthermore, the scale and massing of the proposal was found to be acceptable by the Planning Inspectorate (See para. 6.6).
<i>Large dormer windows at front and rear would greatly increase the mass of the roof.</i>	No large dormers are proposed. Furthermore, the design was found to be acceptable by the Planning inspectorate (See para. 6.6).
<i>Oddly tall building will disrupt views and rupture the charm of the original planned form.</i>	The design was found to be acceptable by the Planning Inspectorate (See para. 6.6).
<i>Concern that proposal would significantly damage unique and attractive art deco house at 30 Horniman Drive.</i>	The property is a considerable distance from this property so would have no impact. Furthermore, the property is not a designated heritage asset, so there is no policy requirement to consider the setting of the building as part of this planning application.
<i>Bulk of building would dominate aspects of neighbouring houses and gardens and intrude on privacy.</i>	Impact on neighbours and design of proposal was found to be acceptable by the Planning Inspectorate (see para. 6.18).
<i>House would be closer to boundary than existing garage, causing enclosed feeling in neighbouring gardens.</i>	The impact on neighbours was assessed by the Planning Inspectorate and found to be acceptable. This proposal is for the same mass and scale as that scheme (see para. 6.18).
<i>First floor extension would deprive neighbouring conservatory and patio of sunlight.</i>	The impact on neighbours was assessed by the Planning Inspectorate and found to be acceptable. This proposal is for the same mass and scale as that scheme (see para. 6.18).
<i>Recent modifications to house not shown on plans.</i>	The existing plans and elevations appear to show the property as existing, based upon the officer's site inspection.

## **5 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 A local finance consideration means:-
- (a) a grant or other financial assistance that has been, or would or could be, provided to a relevant authority by a Minister of the Crown, or
  - (b) sums that a relevant authority has received, or would or could receive, in payment of Community Infrastructure Levy (CIL).
- 5.3 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

- 5.4 It is important to note that when considering whether development proposals accord with the development plan, it is necessary to consider the question with regard to the development plan as a whole.

#### National Planning Policy Framework (NPPF) 2018

- 5.5 The NPPF, originally published in 2012, was revised on 24th July 2018 and is a material consideration in the determination of planning and related applications. It contains a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on its implementation. In summary, this states in paragraph 213, that policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF and in regard to existing local policies, that '...due weight should be given to them, 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)'.
- 5.6 Officers have reviewed the Core Strategy and Development Management Local Plan 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 213 of the NPPF.

#### National Planning Practice Guidance 'NPPF' (2014 onwards)

- 5.7 On 6th March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents, and is subject to continuous periodical updates in difference subject areas.

#### The Development Plan

- 5.8 The London Plan, Lewisham's Core Strategy, together with the Site Allocations DPD, the Lewisham Town Centre Local Plan and the Development Management Local Plan and together constitute the borough's Development Plan.

#### The London Plan (March 2016)

- 5.9 In March 2016, the London Plan (consolidated with alterations since 2011) was adopted. The new, draft London Plan was published by the Mayor of London for public consultation on 29 November 2017 (until 2 March 2018). The draft London Plan was published by the Mayor of London for public consultation on 29 November 2017 and minor modifications before the EIP were published on 13 August. As such, this document now has some limited weight as a material consideration when determining planning applications. The policies in the current adopted London Plan (2016) relevant to this application therefore are:-

Policy 6.13 Parking  
Policy 7.3 Designing out crime  
Policy 7.4 Local character  
Policy 7.6 Architecture

- 5.10 The relevant draft policies are listed below and discussed within the report:

Policy GG2 Making the best use of land  
Policy D1 London's form and characteristics  
Policy D2 Delivering good design  
Policy D4 Housing quality and standards  
Policy T6 Car parking

## Policy T6.1 Residential parking

### Core Strategy (CS)

- 5.11 The Core Strategy was adopted on 29 June 2011. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Core Strategy as they relate to this application:-

CS Policy 15            High quality design for Lewisham

### Development Management Local Plan (DMLP)

- 5.12 The Lewisham Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The following lists the relevant policies from the DMLP as they relate to this application:-

DM Policy 1            Presumption in favour of sustainable development  
DM Policy 29           Car parking  
DM Policy 30           Urban design and local character  
DM Policy 31           Alterations/extensions to existing buildings  
DM Policy 32           Housing design, layout and space standards

### Residential Standards Supplementary Planning Document (2006, updated 2012)

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

## **6        Planning Considerations**

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

- a) Principle of Development
- b) Design
- c) Standard of accommodation
- d) Impact on Neighbouring amenity
- e) As there is a relatively recent appeal decision (APP/C5690/D/14/2225090) for an almost identical scheme, which was assessed against the current development plan, the Inspector's findings must also be considered as a material consideration.

### **Principal of Development**

- 6.1 The principle of extending a residential property to enlarge the residential floorspace is acceptable, subject to its impact on the design and appearance of the host property and surrounding area, and its impact on the amenity of neighbouring occupiers.

### **Design**

- 6.2 The NPPF makes it clear at paragraph 130 of the revised National Planning Policy Framework states that "Permission should be refused for development of poor design that

fails to take the opportunities available for improving the character and quality of an area and the way it functions”

- 6.3 Urban design is a key consideration in the planning process. Chapter 12 of the NPPF makes it clear that national government places great importance on the design of the built environment. Good design is a key aspect of sustainable development and should contribute positively to making places better for people.
- 6.4 London Plan Policy 7.6 Architecture requires development to positively contribute to its immediate environs in a coherent manner, using the highest quality materials and design. Core Strategy Policy 15 High quality design for Lewisham repeats the necessity to achieve high quality design. DM Policy 30, Urban design and local character states that all new developments should provide a high standard of design and should respect the existing forms of development in the vicinity. The London Plan, Core Strategy and DM policies further reinforce the principles of the revised NPPF setting out a clear rationale for high quality urban design.
- 6.5 The existing design (barring some rooflights and windows) was assessed during the previous application (DC/14/87162), and was found by Lewisham officers to be too bulky, and resulting in an unacceptable impact on neighbours.
- 6.6 The inspector on appeal (APP/C5690/D/14/2225090) found that due to the variation of property styles and roof forms in the vicinity of the site, the proposal would not be incongruous within the street scene. They also found that the separation distances to neighbouring buildings would be acceptable. It was concluded that the development would not cause material harm to the character and appearance of the surrounding area, and would be in accordance with Core Strategy Policy 15, and DM Policies 30 and 32, which were consistent with the NPPF at that time. Since the appeal decision the revised NPPF (2018) has been published however the relevant policies in the former NPPF (2012) have been carried across to the revised NPPF. Further, the draft London Plan has been published however no policies have been introduced which would materially alter the strategic planning framework for this type of development. In conclusion, there have been no material changes to relevant planning policy; as such the Inspector’s decision remains a material consideration to which significant weight should be given.
- 6.7 The proposed additional rooflights and gable end windows are minor additions and would be acceptable in design terms and be in accordance with DM Policy 30.
- 6.8 In light of the above, the design of the proposal is considered to be acceptable, and would have an acceptable impact on the character of the surrounding area and street scene.

#### *Materials*

- 6.9 The proposal would be constructed in block and render, and the roof in tiles, which is in keeping with the adjoining and other properties on the street. The applicant has agreed for the final details of materials to be secured by way of condition, which is acceptable.

#### **Standard of accommodation**

- 6.10 London Plan Policy 3.5 seeks quality in new housing provision, this is supported by DM Policy 32 ‘Housing design, layout and space standards’ which requires housing development to be of the highest quality internally, externally and in relation to their context. These policies set out the requirements with regards to housing design, seeking to ensure the long-term sustainability of the new housing provision. Informed by the revised NPPF,



the Mayors Housing SPG provides guidance on how to implement the housing policies in the London Plan.

- 6.11 The national housing standards are broadly in compliance with the space standards of the London Plan. However, there are differences in the spacing of individual rooms as well as floor to ceiling heights. In the instance of conflict, the national housing standards take precedent.
- 6.12 All the proposed bedrooms meet or exceed the London Plan minimum internal space standards and the minimum national floor space standards. The property would have an overall internal floor area of approximately 192m<sup>2</sup> and the requirement for a 4 bedroom, 8 person dwelling is 124m<sup>2</sup>.
- 6.13 Overall, the proposed house is considered to provide good internal and external floor area and a good standard of living environment would be achieved.
- 6.14 The proposed dwelling would be dual aspect with opening windows on at least two sides. And the internal layout of the house will provide good daylight. As such, it is considered that the layout of the proposal would be of high quality with adequate outlook.
- 6.15 In light of the above, the proposal would deliver a good standard of accommodation for future occupiers, in line with the nationally prescribed housing standards, and DM Policy 32.

### **Neighbour Amenity**

- 6.16 The revised NPPF requires that planning decisions should ensure a high standard of amenity for existing residents (para 127). Core Strategy Policy 15 states that new development should be designed in a way that is sensitive to the local context. More specific to this, DM Policy 31 seeks to ensure that residential alterations should result in no significant loss of privacy and amenity to adjoining houses and their back gardens. It must therefore be demonstrated that proposed alterations are neighbourly and that significant harm will not arise with respect to overbearing impact, overshadowing, and loss of light, loss of outlook or general noise and disturbance.
- 6.17 Policy 32 (Housing design, layout and space standards) requires new schemes to “provide a satisfactory level of privacy, outlook and natural lighting both for its future residents and its neighbours.” The Council’s Residential Standards (updated 2012) also require developments to be neighbourly and sets out relevant guidance.
- 6.18 The inspector for the successful appeal (APP/C5690/D/14/2225090) which proposed a building with the same dimensions, concluded that the development would not cause material harm to the living conditions of neighbouring occupiers, and would be in accordance with Core Strategy Policy 15. This remains a material consideration to which significant weight is given by Officers.
- 6.19 It is noted that objections have been received with regard to impact on neighbouring amenity, but there were similar objections to the allowed appeal proposal, which the Inspector had considered at the time.
- 6.20 In light of this, the impact on neighbours must be considered acceptable, as there are no material considerations which weigh against the Inspector’s previous finding.

### **Transportation and Highway**

- 6.21 Chapter 9 of the revised NPPF and Policy 6.1 of the London Plan seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car.

Policy 6.3 also requires transport demand generated by new development to be within the relative capacity of the existing network.

- 6.22 Core Strategy Policy 14 (Sustainable Movement and Transport) states that there will be a managed and restrained approach to car parking provision to contribute to the objectives of traffic reduction while protecting the operational needs of major public facilities, essential economic development and the needs of people with disabilities.
- 6.23 DM Policy 29 (Car parking) states that car limited residential development will only be considered where there is a PTAL level 4 or higher and no detrimental impact on the parking in the vicinity, no negative impact on the safety and suitability of access and servicing and on-site accessible priority parking for disabled drivers.
- 6.24 The existing driveway has a crossover and there is a large area of hardstanding which could comfortably accommodate at least 2 cars, however space for just 1 car has been shown on the proposed site plan, presumably because the existing crossover is only wide enough for 1 vehicle, and it could only be used if no other vehicles were on the drive. However, as this is the existing situation for the house, 1 parking space is considered to be sufficient for a 4 bedroom single family dwellinghouse, even when considering the loss of the garage.

#### *Cycle storage standards*

- 6.25 London Plan Policy 6.9 sets out to bring a significant increase in cycling to at least 5% of modal share by 2026, supported by the implementation of Cycle Superhighways and the central London cycle hire scheme and provision of facilities for cyclists including secure cycle parking and on-site changing and shower facilities for cyclists. London Plan Policy 6.10 seeks to enhance the quality of the pedestrian and street environment through de-cluttering and access for all, to make walking an increasingly viable alternative to the private car.
- 6.26 2 cycle parking spaces would be required in line with Table 6.3 of the London Plan. The Site plan shows a covered bike store which would fit 2 bikes. This is considered to be acceptable and it will be required by condition.

#### *Waste management*

- 6.27 Space is shown for the storage of refuse to the front of the property. This is acceptable for a single family dwellinghouse.

#### *Construction*

- 6.28 Following a request from the highways officer a Construction Management Plan has been submitted, due to the site being located adjacent to a school. The construction management plan states that the contractor will ensure that no deliveries are made between 8.30am-9.15am, and 2.30pm and 4pm, to ensure no conflict with parents and children when being picked up or dropped off at school. This is considered to be acceptable for a project of this size.

## **7 Local Finance Considerations**

- 7.1 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:
- (a) a grant or other financial assistance that has been, or would or could be, provided to a relevant authority by a Minister of the Crown; or

(b) sums that a relevant authority has received, or would or could receive, in payment of Community Infrastructure Levy (CIL).

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

7.3 CIL is therefore a material consideration though is not payable in regard to this application as the increased floorspace is below the 100sqm threshold. The applicant is advised that this would not be the case if the property was demolished, rather than extended.

## **8 Equalities Considerations**

8.1 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.

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

(a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

(b) advance equality of opportunity between people who share a protected characteristic and those who do not;

(c) foster good relations between people who share a protected characteristic and persons who do not share it.

8.3 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.

8.4 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>

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

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

8.6 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>

8.7 The planning application has been considered in relation to the above equalities considerations. It is noted that the development will not provide wheelchair accessible accommodation. However this is mitigated by the s106 contribution of £25,000 that will be provided to the Council in lieu of this payment. This contribution will be used for the future delivery of wheelchair accessible housing in the borough. It is considered that the application will not have any other equality implications in light of the above policies.

## **10.0 Human Rights Implications**

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

- Respect for your private and family life, home and correspondence
- Peaceful enjoyment of one's property
- Right to a fair trial

10.2 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.

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

10.4 This application has the legitimate aim of providing a new residential floorspace to an existing building. The rights potentially engaged by this application, including a right to respect for your private and family life, home and are not considered to be unlawfully interfered with by this proposal.

## **9 Conclusion**

9.1 This Report sets out officers comprehensive consideration of the planning application and its supporting documentation, including the further/additional information submitted and representations received.

9.2 It is considered that the scale of the development is acceptable, that the proposal has been designed to positively respond to the surrounding context and will have no materially harmful impact on surrounding occupiers' amenity. Significant weight is given to an earlier Inspector's decision, and there are no material changes to planning policy which would alter that decision.

9.3 The revised NPPF is underpinned by a presumption in favour of sustainable development. Officers consider that with the recommended mitigation and planning conditions in place,

the scheme is consistent with national policy. For the reasons addressed in this report, there are no other material considerations which Officers consider outweigh the grant of planning permission. In light of the above, on balance, the application is therefore recommended for approval.

**10 RECOMMENDATION: Grant Planning Permission, Subject to the following conditions:**

**Conditions**

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

1115/EX-01 Rev.A; 1115/EX-02 Rev.A; 1115/EX-03; Site Location Plan; Design and Access Statement (HP Architects) Received 23 May 2018;  
1115/TR-01; SP-01; Construction Logistics Management Plan (HP Architects) Received 23 August 2018;  
1115/Pr-10 Rev.E; 1115/PR-11 Rev.C; 1115/PR-12 Rev.B Received 5 October 2018

**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. No above ground works shall commence on site until a detailed schedule and specification of all external materials and finishes, windows and external doors and roof coverings to be used on the building have been submitted to and approved in writing by the local planning authority. In the event that physical samples are required, these shall be made available for inspection onsite. The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the local planning authority may be satisfied as to the external appearance of the building(s) and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

4. 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 front elevation of the building.

**Reason:** In order that the local planning authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

5. No extensions or alterations to the building hereby approved, whether or not permitted under Class B and C, Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) of that Order, shall be carried out without the prior written permission of the local planning authority.

**Reason:** In order that, in view of the nature of the development hereby permitted, the local planning authority may have the opportunity of assessing the impact of any further development and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011).

6. No deliveries in connection with construction works shall be taken at or despatched from the site other than between the hours of 8 am and 6 pm (excluding between the hours of 8.30 am and 9.15 am, and 2.30 pm and 4 pm) on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

No work shall take place on the site other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

**Reason:** In order to safeguard the amenities of adjoining occupants at unsociable periods and to avoid school drop off and pick up times and to comply with Paragraph 180 of the revised National Planning Policy Framework and DM Policy 26 Noise and Vibration, and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

7. (a) A minimum of 2 secure and dry cycle parking spaces shall be provided within the development as indicated on the plans hereby approved under Condition 2.  
  
(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).

## **Informatives**

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