

## LONDON BOROUGH OF LEWISHAM

MINUTES of the PLANNING COMMITTEE (B) meeting held in Council Chambers, Civic Suite, CATFORD SE6 on Thursday 18 July 2019 7:30pm.

PRESENT: Councillors: Gallagher (Chair); Ingleby; Mallory; Muldoon; Sheikh

Apologies: (Councillors) Clarke; Smith; Gibbons; Wise

Standing Orders; Councillor Bourne

Officers: Christopher Dale – Planning Service Presenting Officer, Paula Young - Legal Services, Samuel James - Planning Committee Co-ordinator.

Councillor Kelleher arrived at 7:50pm, and sat for the second item.

### 1. **Declaration of interests**

There were no declarations of interest.

### 2. **16-18 Sunderland Road, SE23 DC/19/111003**

The presenting officer outlined the details of the application to members as a Section 73 application to amend a previously approved application, in order to allow minor amendments to the exterior of the building. The key considerations were whether the amendments can be considered 'minor', the impact of those on the design and appearance of the building, and the impact of the amendments of the residential amenity of neighbors. Officers recommended approval of the application.

The presenting officer was asked to confirm that the proposed amendments would fall within the scope allowed by the guidance set out for Section 73 applications, to which he answered that they would be.

The Chair asked whether the applicant or any representative was present. No one was present. The representative of the objectors was then invited to the table to speak.

The objector expressed concerns regarding fire safety, citing a fire at the application site that happened in 2018, whereby the landlord had not provided fire alarms, and children were rescued by the fire brigade.

It was argued that the application does not consider the risk of fire, due to removal of hallways and fire lobbies, and this would not be compliant with building regulations. This indicated the landlord cannot be trusted to operate within the law.

The objectors claimed that the original application was full of inaccuracies and should never have been approved. The works for that application started before conditions or building control applications had been discharged. Councillors were urged to refuse permission and ensure there are fire lobbies in the new layout to ensure future residents are safe.

A Councillor asked the Legal Officer how much of the objectors comments

could be considered materially.

The Legal Officer explained that the nature of a section 73 application is more restricted than a normal full planning application, as only the amendments compared to the originally approved plans can be assessed. The Legal Officer went on to explain that the current application seems to be related to a different planning unit than the one which involved the fire, and that issues of fire safety fall outside of the remit of the planning service. Other statutory bodies such as Building Control are responsible for ensuring fire safety.

The objector stated that the internal layout was being amended in this application, and therefore that should be considered materially.

The Legal Officer stated that the fire lobbies and fire safety aspect would be considered separately in a Building Control application.

A Councillor acknowledged that many of the objector's issues may fall outside the scope of material considerations for this particular application, but that councillors had a duty to consider these serious health and safety concerns nonetheless.

The Legal Officer warned that a refusal based upon non-material considerations could be considered unreasonable behavior, and the presenting officer reiterated that fire safety regulation could not be considered by this committee.

The objector reiterated that, as the internal layout would be amended by this application, that it is a material consideration.

The Chair stated that the amendments being considered were those in the description of development. Mr Dale outlined the differences in the internal layouts for this application, and explained that they are not materially different to those approved. He stressed that fire safety is an important consideration, but that it is addressed by different legislation outside of the planning system.

The Legal Officer explained that if the amendments proposed are acceptable in planning terms, which officers recommend they are, then it must be approved. Planning decisions cannot consider possible future situations or outcomes.

The objector claimed that all internal walls have been demolished already, and the internal layout shown on the proposed plans would be entirely new compared to the approved drawings.

A Councillor asked whether it would be reasonable to defer the application, in order to allow any possible breaches to be investigated by planning enforcement, and for building control to review the plans.

Mr Dale reiterated that the decision must be based on assessment of the material planning considerations, and that issues being raised were not material to this proposal. The Legal Officer advised that the application should only be deferred where additional information, which would be material to the assessment of the proposal, is requested.

The Chair asked whether the applicant's non-attendance could be materially considered, and was advised by The Legal Officer that it could not. However, another Councillor stated that they needed to consider that the applicant hadn't turned up, and reiterated concerns over health and safety. He stated that applicants should reasonably be expected to show up and explain themselves. The presenting officer advised that the behavior of an applicant is not a material consideration.

Councillor Mallory asked whether a request of a report from Building Control would be a material consideration, which could warrant deferral. The presenting officer reiterated that Building Control and Planning are separate pieces of legislation, and that fire regulations are a consideration for Building Control and therefore not material to this application. If planning permission is approved, but Building Control refused, then the scheme cannot be lawfully implemented – and that is where the control lies.

A Councillor reiterated that Councillors were clearly uncomfortable with the proposal, following the concerns raised by the objector, and whether or not it is a material consideration, fire safety is incredibly important. She requested officers give them a working reason to defer the application.

Another Councillor asked whether the fact that all internal walls had been removed could be used to defer the application, as it appears to be a breach of planning. The presenting officer advised that internal works do not require planning permission, however material changes of use do require planning permission – demolition of all internal walls may result in a breach of planning if it results in a change of use but at this stage it is unclear as the use has not commenced.

Councillor Mallory moved to defer the proposal, in order to request a report from Building Control on whether or not the internal layout would be compliant with Building Regulations. This was seconded by Councillor Sheikh.

Members voted as follows:

FOR OFFICER'S RECOMMENDATION (to grant): (Councillors) Gallagher  
(chair); Muldoon

AGAINST OFFICER'S RECOMMENDATION (to defer): (Councillors)  
Mallory; Ingleby; Sheikh

ABSTAINED: None

RESOLVED: That the decision be deferred to a later date, to allow consultation with Building Control regarding the proposed internal layouts.

Councillor Kelleher arrived at 19:50, and sat with the public. Following a 5 minute adjournment she took a seat at the table.

### **3. 18 Hillbrow Road, BR1 DC/19/111003**

Mr Dale outlined the facts of the case as an application to construct a first floor extension to the existing bungalow, in connection with its conversion into two, three bedroom, self-contained flats. The key considerations were the design of the proposal, its impact on the residential amenity of neighbors and highways issues. Officers recommended the application is granted.

A Councillor noted that the report states that all flats would comply with the minimum space standards, but the report does not give the values and asked Mr Dale to clarify. He stated that the values were not to hand, but noted that councillors would like to see these in future.

Councillor Mallory asked what materials would be acceptable, when the materials condition is applied to be discharged. Mr Dale replied that it would likely be brick, however the condition allows for some flexibility.

The applicant's architect, Mr Dara, was invited to speak by the Chair, and took a seat at the table. He explained that all flats would exceed the minimum space standards, and stated that materials would be to match the existing building as closely as possible. He invited any additional questions that councillors may have had.

Councillor Ingleby asked to see the proposed street elevation again, as he was still unclear how the exterior would appear.

The architect stated that they were trying to replicate what is already there as closely as possible and explained again the materials that would be used.

A Councillor asked about the distances between the host property and the adjoining properties, and the architect replied that the values were not in front of him, but that the distances between the properties was staying as existing – the footprint of the building is not proposed to be altered.

The Chair stated that the report outlines distances to neighboring properties, and noted that the new side elevation window would be obscure glazed to avoid overlooking and asked if councillors had any other questions for the applicant. It was confirmed there were no further questions.

Councillor Bourne was invited to the table to speak under standing orders at 20:34. He stated that he did not object to the proposal in principle, but did support some of the concerns raised by objectors. The design quality needed to be high, and he raised concern that the details submitted at this stage do not necessarily demonstrate that they would uphold the character of the area, as they were not detailed enough. He reiterated that he is not objecting in principle, rather reiterating and ensuring residents' concerns had been fully heard and considered.

The Chair reminded members of the condition requiring details of materials to be submitted prior to commencement of development if approved.

A Councillor sought clarification from Councillor Bourne as to whether it was materials, or scale and massing that was of concern. It was clarified to be both.

Councillor Sheikh sought further clarification on that point, and asked which issues he was particularly concerned with. Councillor Bourne clarified that it was the impact on privacy due to overlooking from the new first floor windows, and the character of the area, as this has remained unchanged for many years and the previous owner of the property built it themselves. The additional storey creates additional overlooking, particularly to Calmont Road at the rear – some residents were expecting additional tree planting to alleviate this, and some were concerned existing boundary trees will be lost.

It was noted that the application site does not fall within a conservation area, and that other areas of the borough are experiencing a greater rate of change, and development which is 'more harmful' than this proposal. It was further noted that due to existing vegetation at the front of the site, the host property is barely visible from the front, so the 2.5m increase in height is unlikely to have a harmful impact to the character of the street. The Chair questioned whether the loss of trees at the rear could be controlled. The presenting officer advised that they are not proposed to be removed as part of this application, however as they are not protected planning permission would not be required to remove them.

A Councillor asked whether a condition could be added to reinforce the privacy the trees would provide and was advised by the planning officer that the height of trees could not be protected by condition, however a tree protection plan must be submitted as a condition of development.

Councillor Kelleher moved to accept the officer's recommendation and grant planning permission, with the suggested conditions. This was seconded by Councillor Muldoon.

Members voted as follows:

ACCEPT OFFICERS' RECOMMENDATION: (Councillors) Gallagher (Chair), Ingleby, Mallory, Kelleher, Muldoon, Sheikh

AGAINST OFFICERS' RECOMMENDATION: none

Abstained: None

RESOLVED: That planning permission be granted in respect of application DC/19/111003.

The meeting ended at 20:50