

Committee	PLANNING COMMITTEE A	
Report Title	49 Mount Ash Road, SE26 6LY	
Ward	Forest Hill	
Contributors	Amanda Ghani	
Class	PART 1	10 June 2021

<u>Reg. Nos.</u>	DC/20/119666
<u>Application dated</u>	18/12/20
<u>Applicant</u>	Summit Architecture
<u>Proposal</u>	Demolition of existing rear extensions and the construction of a single storey extension to the rear of 49 Mount Ash Road, SE26.
<u>Background Papers</u>	(1) Conservation Officer comments
<u>Designation</u>	Sydenham Hill/Kirkdale Conservation Area Mount Ash Road Article 4 Direction PTAL 2
<u>Screening</u>	N/A

1 SUMMARY

- 1 This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to the submission of an objection by The Sydenham Society and three objections from neighbouring properties and by having been called in by Cllr Alan Hall.
- 2 Due to the Covid-19 pandemic, officers were unable to undertake an site visit to the property, however, the proposed development has been assessed using Google Maps Pro and the submitted drawings

2 SITE AND CONTEXT

Site description and current use

- 3 The application site is a three-storey end of terrace single family dwelling, located on the western side of Mount Ash Road. The property is constructed from yellow stock brick and has a slate roof. The property has a brick built single storey ground floor extension to the rear, with a glazed, mono-pitched roof. There is also an original single storey projection that extends beyond the shared boundary and is an original water closet feature of this terrace.

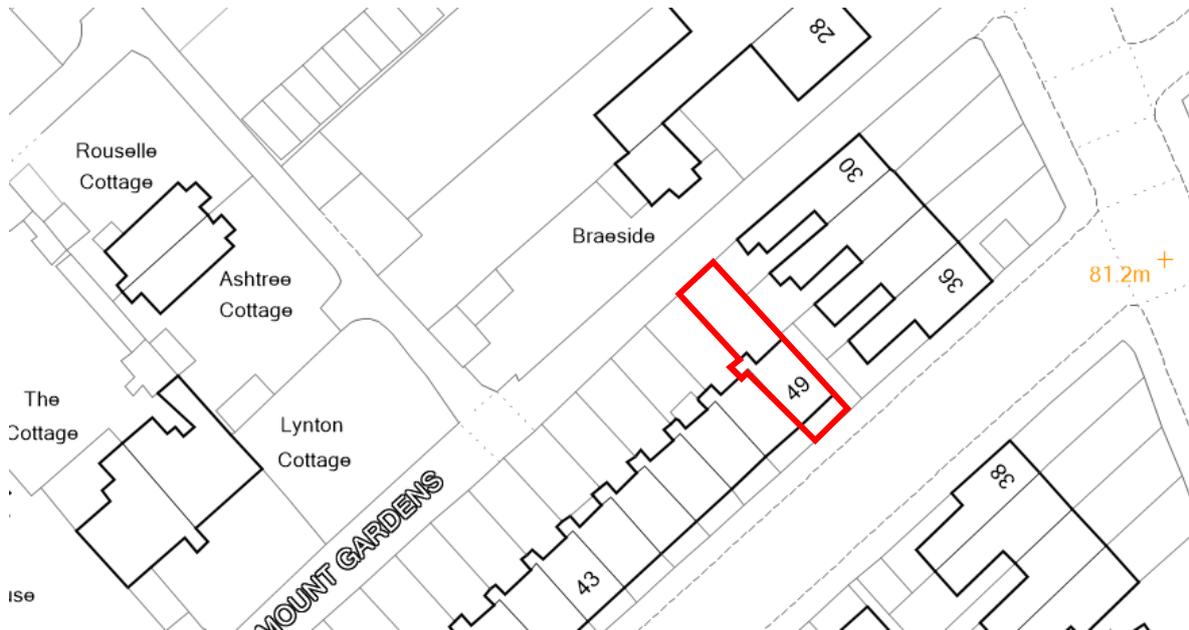


Figure 1. Site Location Plan

Character of area

- 4 The surrounding area is predominantly residential and is comprised of a mix of 19th Century buildings and 20th Century housing estate, all of a distinctive style and form. The rear gardens of the host terrace are short and steeply sloping to the north-east. The rear of the houses are visible at first and second floor levels from Mount Gardens, an adopted public highway to the rear. There are long views of the rear of the terrace from the rear of Nos.30-34 Kirkdale.

Heritage/archaeology

- 5 The property is within the Sydenham Hill/Kirkdale Conservation Area and subject to the Mount Ash Road Article 4 Direction, which restricts permitted development rights on elevations that front a public space. The Sydenham Hill/Kirkdale Conservation Area is made up of three different character areas. Mount Ash Road forms one of these areas and is a unique example of Victorian 'byelaw' housing designed as a set piece of identical three-storey terraces enclosing the road to both sides.
- 6 The property is not listed nor is it in the vicinity of a listed building.

Transport

- 7 The application site has a Public Transport Accessibility Level (PTAL) rating of 2, where on a scale of 1 to 6, 1 is the lowest and 6 is the highest.

3 RELEVANT PLANNING HISTORY

- 8 DC/09/71731 – The retention of two single storey extensions at the rear of 49 Mount Ash Road, SE26. Granted 21/09/09
- 9 DC/16/098571 – The construction of a single storey extension to the rear of 49 Mount Ash Road SE26, together with the construction of a raised platform and hard surfaced steps in the rear garden and the partial excavation of the back garden to provide a lowered garden area and the installation of a replacement window in the rear elevation. Granted approval at committee on 12/04/17.

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSAL

10 The proposed development would see the demolition of the existing rear extensions and the construction of a new single storey extension. The extension would extend 2m from the rear elevation of the subject property and would be 3.9m wide. It would have a flat roof with a maximum height of 3.2m stepping down to 2.75m. The extension would have floor to ceiling glazed panels and a door in the rear elevation, with access to the narrow courtyard. A glazed door would be installed in the side elevation giving access to the renovated staircase up to the rear garden area.

4.2 COMPARISON WITH PREVIOUS SCHEME

11 The proposed extension would be smaller than the one granted permission in 2017. Figures 2 and 3 below, shows a comparison of the proposed rear elevations and floor plans for both applications.

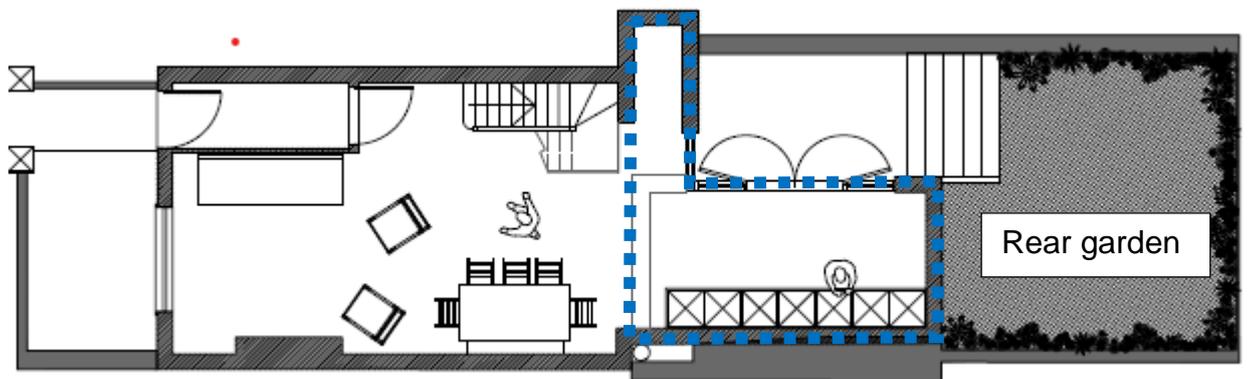


Figure 2: Approved 2017 ground floor plan

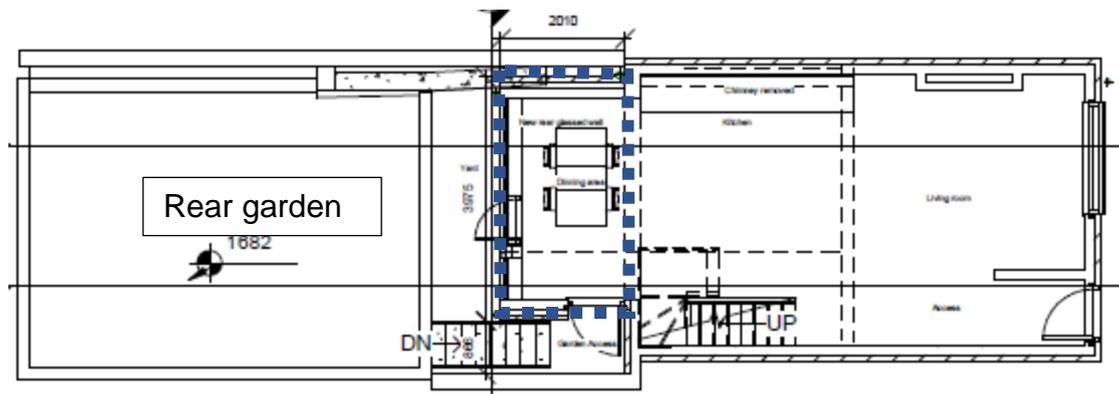


Figure 3: Proposed ground floor plan



Figure 4: approved 2017 rear elevation (left) and proposed rear elevation (right)

5 CONSULTATION

5.1 PRE-APPLICATION ENGAGEMENT

12 None

5.2 APPLICATION PUBLICITY

13 Site notices were displayed on 30/12/20 and a press notice was published on 30/12/20.

14 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 22/12/20

15 27 number responses received, comprising 4 objections and 22 in support including one from the applicant and 1 comment.

5.2.1 Comments in objection

Comment	Para where addressed
Being north facing the extension will not receive much daylight.	Para. 55
Removal of a chimney stack will affect the look of the property and that doing such work to the end wall could affect the stability of the foundations	Para. 54
No detail as to whether the historic water closet will be preserved.	Para. 48

Flat roof should be conditioned so that it cannot be used as a roof terrace	Para. 62
Extensive use of glass could cause light and noise pollution.	Para. 60 and 63
Should the application be approved, demolition, construction and site management plans should be submitted.	Para. 63 and 64

- 16 A number of other comments that are considered non-material to this case were also raised as follows:
- 17 A 300mm service gap should be accommodated and maintained to allow access to drainage between the party wall and the proposed side wall of the extension. Lack of information regarding how drainage and sewerage issues are to be addressed.
- 18 There is a history of land slippage from Mount Gardens to the rear. Water draining from Sydenham Hill and the mix of terrain does not help stability. Further digging into the side of Sydenham Hill will make No.49 vulnerable to collapse.
- 19 The Sydenham Society: Raised objections to the lack of a service gap between the extension and boundary wall and the intention to build over foul and surface water pipework and access points.
- 20 Drainage and land slippage issues are matters for Building Control and are not material planning concerns and as such have not been assessed within this report.
- 21 One objector points out that the previous application DC/16/098571 was brought to committee twice. The application was deferred at the first committee due to members seeking clarification on building control requirements, including land stability and drainage arrangements. Only material planning concerns can be assessed at a planning committee. Building control requirements are not material planning concerns.
- 22 Cllr Alan Hall formally objects to the proposal and has called the application in to be heard at committee. Cllr Hall has not made the details of his objection public.

5.2.2 Comments in support

Comment	Para where addressed
Proposal is sympathetic to its surroundings and discrete	Para. 48-51
Proposal does not affect anyone	Chapter 7.3
The change is minimal and would have no impact on adjoining amenity	Chapter 7.3
Proposal would preserve and enhance conservation area and is more in keeping.	Para. 48-51

5.2.3 Neutral comments

- 23 One comment was raised regarding the deterioration of Mount Gardens which is used by various vehicles during building works that are undertaken on Mount Ash Road properties.

5.3 INTERNAL CONSULTATION

24 The following internal consultees were notified on 21/12/20

25 Conservation: raised no objection. See para 51 for further details.

5.4 EXTERNAL CONSULTATION

26 The following External Consultees were notified on 21/12/20:

27 Forest Hill Society: No comment.

6 POLICY CONTEXT

6.1 LEGISLATION

28 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).

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

6.2 MATERIAL CONSIDERATIONS

30 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.

31 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.

32 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 the test of reasonableness.

6.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

6.4 DEVELOPMENT PLAN

33 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)

- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

34 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

7 PLANNING CONSIDERATIONS

35 The main issues are:

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

7.1 PRINCIPLE OF DEVELOPMENT

General policy

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

37 The development plan is generally supportive of people extending or altering their homes. As such, the principle of development is supported subject to an assessment of the details.

7.2 URBAN DESIGN & HERITAGE IMPACT

38 URBAN DESIGN & HERITAGE IMPACT

General Policy

39 The NPPF at para 124 states the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

40 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

41 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

42 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal

- 43 LPP HC1 states that development should among other things conserve and incorporate heritage assets where appropriate. Where it would affect heritage assets, development should be sympathetic to their form, scale, materials and architectural details.
- 44 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.
- 45 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.
- 46 DMP 31 states that extensions will not be permitted where they would adversely affect the architectural integrity of a group of buildings as a whole or cause an incongruous element in terms of the important features of a character area.
- 47 The Alterations and Extensions SPD provides guidance for single storey rear extensions within conservation areas. Extensions should be of the highest design quality using high quality materials and remain clearly secondary to the host building in terms of form scale and detailing; respecting the design and architectural features of the original building.

Discussion

- 48 The Conservation Officer acknowledges the original water closet outbuilding is of historic significance as an element that was required by the Public Health Act in 1875 when the terrace was built. While the loss of the original water closet element erodes the historic significance of the group somewhat, the impact on the overall significance of the group is low and on the Conservation Area is negligible. Furthermore, many of the original water closets in the host terrace have been demolished and viewed within this context the terrace can no longer be considered to retain a unified rear elevation.



Figure 4. Rear Elevation of terrace

- 49 The extension would extend 2m from the rear elevation of the host property at a height of 3.2m. The extension would be built against the side retaining wall with the top 1.2m being built between 12cm and 19cm across part of the top of the retaining wall; all of which would be within the curtilage of the subject site.
- 50 The proposed rear extension is of a modest scale and is sensitively designed not to obscure the windows at first floor and ground/first floor landing levels. Its low height would mean it would be minimally visible in views across neighbouring rear gardens and would have no significant impact on the existing character of the rear of the terrace, particularly when viewed from the public domain. It is comparable to other rear extensions in the street.

- 51 The extension would be built with reclaimed London stock brick to match existing. The roof and fascia would be clad in zinc and the windows and doors would be black, steel framed. The materials are considered high quality and would complement the existing character of the building.
- 52 Eleven single and part one- part two-storey extensions have been granted approval in this terrace. Three planning permissions have been granted at Planning Committee within the last six years. The two most recent proposals, for Nos.24 and 29, were approved under delegated powers after being assessed at a Chairs Review Meeting, which formed part of the Covid-19 emergency planning measures.
- 53 The Alterations and Extensions SPD provides detailed guidance for the design of single storey rear extensions in a Conservation Area. The proposed extension would clearly remain secondary to the host building in terms of location, form, scale and detailing. It respects the original design and architectural features of the existing building and has a roof height visibly lower than the sill of the first floor windows. The extension would be sited 2m below the raised rear garden level and the top of the proposed extension would sit below the top of the side boundary treatment.
- 54 The original proposed drawings did not show the existing chimney stacks; revised drawings A105C and A106C were received on 29th January 2021 which show that the existing chimney stacks on the building are to be retained.
- 55 The proposed extension would comply with the relevant guidance in terms of scale, siting and the use of high quality materials. Officers have no concerns over the level of light into the extension and adjoining room. Due to the modest depth of the extension and the extensive use of glazing, the level of daylight entering the rear of the property is likely to improve.
- 56 In summary, the extension due to its scale and design and use of high quality materials, would preserve the character and appearance of the host dwelling. It is compatible with the character and setting of the wider terrace and would lead to no harm to the Sydenham Hill/Kirkdale Conservation Area.

Summary

- 57 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment are satisfied the proposal would preserve the character and appearance of Sydenham Hill/Kirkdale Conservation Area.

7.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 58 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At para 180 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions
- 59 This is reflected in relevant policies of the London Plan (D3), the Core Strategy (CP15), the Local Plan (DMP 31) and associated guidance (Alterations and Extensions SPD 2019).

Discussion

- 60 The top of the extension would be sited below the top of the existing side boundary treatment and would be set largely below the level of the raised rear garden. Due to the appropriate scale, mass and set down within the sunken patio area, the proposed development is not considered to result in any material impacts to the levels of light or outlook at the adjacent neighbouring properties.
- 61 The difference in land levels between the lower patio area of the subject site and the neighbours at 30-34 Kirkdale, which are on higher ground; combined with the height of the existing boundary treatment above the side retaining wall on this shared boundary would ensure that no overlooking would occur from the new extension. Number 48 Mount Ash Road shares the south-western boundary with the subject property. This neighbouring property has an existing part one- part two-storey rear extension that is built up to this shared boundary. There would be no impact on this neighbour's amenity. As such, the proposed development is considered acceptable in terms of the impact on the privacy of the neighbouring properties.
- 62 It is noted that no access is proposed to the roof of the extension. As such, no overlooking is likely to occur from people using the rooftop as an amenity area. In order to secure this, a condition restricting access to the roof is proposed.
- 63 The use of the proposed extension, being part of a single family dwelling, is unlikely to result in levels of noise significantly above or beyond normal residential use. The construction phase of the development is likely to cause some temporary disturbances to neighbouring properties; however, this is likely to be short term due to the scale of the development proposed and is covered by other legislation. An informative can be attached, directing the Applicant to Lewisham's Good Practice Guide: Control of Pollution and Noise.
- 64 A construction logistics plan condition is proposed to minimise disruption from construction delivery vehicles.

7.3.1 Impact on neighbours conclusion

- 65 The proposed development would not introduce any significant adverse impacts to the privacy and amenity of any of the neighbouring properties and therefore would be compliant with LPP D3, CSP 15 and DMPs 31.

8 LOCAL FINANCE CONSIDERATIONS

- 66 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:
- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
 - sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).
- 67 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 68 The CIL is therefore a material consideration and the relevant form has been submitted.

9 EQUALITIES CONSIDERATIONS

69 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.

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

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

71 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.

72 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>

73 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

74 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>

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

10 HUMAN RIGHTS IMPLICATIONS

76 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:

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

77 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.

78 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.

79 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 by this proposal.

11 CONCLUSION

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

81 The proposed development is considered to preserve the character and appearance of the Sydenham Hill/Kirkdale Conservation Area and the living conditions of the neighbouring properties. Therefore, the application is recommended for approval subject to the conditions set out below.

12 RECOMMENDATION

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

12.1 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) APPROVED PLANS

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

A01; A02; A104; A03B (Received 18th December 2020)

A105C; A106C; A107B (Received 29th January 2021)

A109 (Received 9th February 2021)

A110 (Received 11 February 2021)

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) USE OF FLAT ROOF

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roof of the existing building, 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 Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 31 Alterations and extensions to existing buildings including residential extensions of the Development Management Local Plan (November 2014).

4) MATERIALS

The development shall be constructed in those materials as submitted namely: brickwork, fascia, guttering and pipework to match existing, zinc roof and black painted steel windows in full accordance with drawing A106C, A107B and the Heritage Statement Rev 01- February 2021

The scheme shall be carried out in full accordance with those details, as approved.

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

5) CONSTRUCTION LOGISTICS MANAGEMENT PLAN

No development shall commence on site until a Construction Logistics Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall demonstrate the following:-

- (a) Rationalise travel and traffic routes to and from the site.
- (b) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction vehicle activity.
- (c) Measures to deal with safe pedestrian movement.

The measures specified in the approved details shall be implemented prior to commencement of development and shall be adhered to during the period of construction.

Reason: In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

12.2 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, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.
- 2) You are advised that all construction work should be undertaken in accordance with the "London Borough of Lewisham Code of Practice for Control of Pollution and Noise from Demolition and Construction Sites" available on the Lewisham web page.