



Planning Committee B

Report title: 14A Elderton Road, SE26 4EZ

Date: 11th November 2021

Key decision: No.

Class: Part 1

Ward(s) affected: Sydenham

Contributors: Amanda Ghani

Outline and recommendations

The report has been brought before committee for a decision due to the submission of three objections from neighbouring properties.

Recommendation: that the Committee resolve to grant planning permission subject to the attached conditions and informatives

Application details

Application reference number(s): DC/21/120632

Application Date: 7th March 2021

Applicant: Mr Munton

Proposal: The construction of a single storey rear extension at 14A Elderton Road, SE26

Background Papers: (1) Submission drawings

Designation: Area of archaeological priority

PTAL 2

Screening: None

1 SITE AND CONTEXT

Site description and current use

- 1 The application relates to a two-storey, semi-detached property located on the eastern side of Elderton Road. The property is late Victorian and has a butterfly roof and an original two-storey rear outrigger and behind that, a more recently built single storey extension. The property has been in use as two flats since 1989. There is a small rear yard which is in sole use by the occupiers of Flat A, the ground floor flat, which is the subject of this application.
- 2 The site is not located in a conservation area, is not subject to an Article 4 Direction and is not a listed building nor in the vicinity of one.

Site Location Plan



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Character of area

- 3 Elderton Road comprises a mix of Victorian terraced and semi-detached dwellings, modern two-storey flatted developments, two large modern, two-storey terraced dwellings and a semi-detached pair of bungalows. The road gently slopes upwards in a south/northerly direction.

Surrounding area

- 4 To the south of the application site is Sydenham Road, the main thoroughfare through Sydenham. On Sydenham Road are local shopping parades, Sydenham library, Our Lady & St Philip Neri RC church and Home Park, which is a large open public space with playground. The area largely consist of different types of Victorian housing stock, interspersed with modern infill development.

Transport

- 5 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.

2 RELEVANT PLANNING HISTORY

- 6 DC/17/103232 – The removal of the existing rear extension and the construction of a single storey rear extension and a side infill extension at 14A Elderton Road, SE26 together with the replacement of a window and a door to the side elevation with a pair of French doors. Granted 18/10/17

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 7 The rear infill extension would extend 3.6m from the rear elevation of the dwelling, measure 1.65m wide and have a flat roof with a maximum height of 2.7m. An openable skylight measuring 1m x 0.6m would be sited in the roof close to the existing rear elevation of the property. A small window is proposed in the rear elevation of the extension. The extension would provide room for a second bedroom with en-suite. A new high level window would be installed in the ground floor rear elevation of the original building. A replacement UPVc window would be installed in the rear elevation of the existing single storey rear extension (bathroom)

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

- 8 None.

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4.2 APPLICATION PUBLICITY

- 9 Site notices were displayed on 1st April 2021.
- 10 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 24th March 2021
- 11 3 number responses received, comprising 3 objections, 0 support and 0 comments. 0 petition[s] received

4.2.1 Comments in objection

Comment	Para where addressed
Proposal would cause additional cars and vans to be parked in the road.	No additional dwellings are being proposed. The road is not within a controlled parking zone and so there are no restrictions in place to prevent on street parking in the road.
Loss of day/sunlight to neighbouring ground floor room and garden	Para.42
Overshadowing	Para.42

- 12 A number of other comments that are considered non-material to this case were also raised as follows:
- 13 Access to the roof of the building will need to be across the roof of the development which the objector considers a safety risk. This is not a material planning concern, but rather a civil matter that will need to be worked out by the objector and the applicant.
- 14 Main supporting wall to be removed, (there is historic bowing of the wall directly above). This is a matter for Building Control and is not a material planning concern.
- 15 Loss of access to down pipe that services flat above and the extension would be built over the drains that service both flats. These are matters for Building Control and are not material planning concerns and as such have not been assessed within this report.
- 16 Plans are inaccurate, indicating cavity walls, when they should be solid brick. Plans showing whether the walls are solid or cavity are not a material planning concern but are rather matters for Building Control.

4.3 INTERNAL CONSULTATION

- 17 No internal consultees were notified due to the nature of this application.

4.4 EXTERNAL CONSULTATION

- 18 No external consultees were notified due to the nature of this application.

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5 POLICY CONTEXT

5.1 LEGISLATION

19 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

5.2 MATERIAL CONSIDERATIONS

20 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.

21 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.

22 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to aforementioned directions and the test of reasonableness.

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

23 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)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

24 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

25 London Plan SPG/SPD:

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- Character and Context (June 2014)
- The control of dust and emissions during construction and demolition (July 2014)
- Housing (March 2016)

6 PLANNING CONSIDERATIONS

26 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

27 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.

28 The London Plan (LP) sets out a sequential spatial approach to making the best use of land set out in LPP GG2 (Parts A to C) that should be followed.

29 DM Policy 1 of the Development Management Local Plan states that ‘when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to find solutions which mean that proposals secure development that improves the economic, social and environmental conditions of the borough

Discussion

30 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.

6.1.1 Principle of development conclusions

The principle of development is supported subject to urban design details and impact on neighbouring amenity.

6.2 URBAN DESIGN

General Policy

31 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

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32 LPP D3, CS Policy 15 and DMLP DM31 requires that all new developments provide a high standard of design and should respect the existing forms of development in the vicinity

6.2.1 Appearance and character

Policy

33 The Alterations and Extensions SPD provides guidance for single storey rear extensions. 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

34 The proposed extension would extend 3.6m from the rear elevation of the host property at a height of 2.7m. The extension would infill the side return which is 1.65m wide; the extension and associated rainwater good would all be within the curtilage of the subject site. The extension would be confined to the rear of the property and would not be visible from the public realm.

35 The guidance in the Alterations and Extension SPD states that extensions more than 3m deep should generally have a height of no more than 2.5m on a shared boundary. Whilst the height of the extension on the shared boundary is 20cm higher than set out in the guidance, the proposed extension is of a modest scale and is sensitively designed. It respects the form and character of the existing building and is comparable in scale to other infill extensions in the vicinity.

Detailing and Materials

Discussion

36 The extension would be built of in reclaimed brick to match the original building and a masonry cavity wall. The windows would be UPVc framed to match existing. The materials for the flat roof have not been specified.

37 The existing boundary fence would be replaced with a masonry wall. The materials are considered to be of a suitably high quality. The use of high quality materials would be conditioned as part of an approval.

6.2.2 Urban design conclusion

38 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 and is compatible to the character and setting of the wider area.

6.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

39 NPPF para 130 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

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effects) of pollution on health and living conditions. This is reflected in relevant policies of the London Plan, the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (Housing SPD 2016, GLA; Alterations and Extensions SPD 2019, LBL).

- 40 This is reflected in the 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

- 41 The main impacts on amenity relevant to this application arise from (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) Loss of daylight within properties and loss of sunlight to amenity areas.
- 42 The proposed single storey rear infill extension would be confined to the side return adjacent to the outrigger and therefore potential impacts in terms of outlook and light would be limited to No.16. Officers note that No.16 has no extensions other than a garage to the side of the property. This neighbour has no windows in the side elevation of its two-storey outrigger; it has a similar 1.65m wide side return and there is a 1.8m high fence on the shared boundary. The proposed extension would be built up to the boundary line and this part of the boundary fence would be removed. The extension would be 900mm higher than the boundary fence. The proposed extension is of a modest height and as such, would not result in a significant impact in terms of outlook or loss of light to the ground floor rear window at No.16. The increase in height on this boundary is assessed as having no significant impact in terms of enclosure or harmful reduction to daylight or sunlight or overshadowing.
- 43 No window openings are proposed in the side elevation of the extension, so there would be no impact in terms of overlooking or loss of privacy.
- 44 There would be no adverse impact to occupiers of 14B the flat above the subject property.
- 45 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.

6.3.1 Impact on neighbours conclusion

- 46 Officers have not identified any materially harmful impacts to the living conditions of the neighbouring properties and therefore the proposed development would be compliant with CSP 15 and DMP 31

7 LOCAL FINANCE CONSIDERATIONS

- 47 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

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- 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).

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

49 The CIL is therefore a material consideration and the relevant form has been submitted.

8 EQUALITIES CONSIDERATIONS

50 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.

51 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.

52 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.

53 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>

54 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

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- Equality objectives and the equality duty
- Equality information and the equality duty

55 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>

56 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.

9 HUMAN RIGHTS IMPLICATIONS

57 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

58 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.

59 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.

60 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.

10 CONCLUSION

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

62 The proposed development is considered to be of a high, site specific and sensitive design quality that respects the form, setting and architectural character of the original

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building and is suitably subservient on the rear elevation of the dwelling and has no harmful impact on neighbouring amenity.

11 RECOMMENDATION

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

11.1 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:

Site Location Plan; Block Plan (Received 9 March 2021)

210211 001 C; 210211 002 C; 210211 003 C; 210211 004 C; 210211 005 B; 210211 006 B (Received 4 May 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) **MATERIALS**

No development above ground shall commence on site until a detailed schedule and specification of all external materials and finishes/windows and roof coverings to be used on the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

4) **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 roofed extension 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.

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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).

11.2 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.

- 3)

12 BACKGROUND PAPERS

64 (1) Submission drawings

13 REPORT AUTHOR AND CONTACT

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