



Planning Committee B

Report title:

59 BRAMDEAN CRESCENT, LONDON, SE12 0UJ

Date: 11 Nov 2021

Key decision: No.

Class: Part 1

Ward(s) affected: Grove Park

Contributors: Zahra Rad

Outline and recommendations

The report has been brought before committee for a decision due to the submission of four objections from neighbouring properties, with a recommendation that the Committee resolve to grant planning permission subject to the attached conditions and informatives.

Application details

Application reference number(s): DC/21/120833

Application Date: 15 March 2021

Applicant: ARCCIDESIGNS

Proposal: Construction of a single storey rear extension at 59 BRAMDEAN CRESCENT, SE12

Background Papers: Submission drawings and documents

Designation: PTAL 1b
Local Open Space Deficiency
Grove Park Neighbourhood Forum
Small Houses in Multiple Occupancy Article 4 Direction
Not in a Conservation Area
Not a Listed Building

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application relates to a mid-terrace property on the Eastern side of Bramdean Crescent, at No 59. The property benefits from a long back garden at the bottom of which is an electricity post.
- 2 The property is not located within a conservation area, nor is it close to a listed building or non-designated heritage asset. The property is within Grove Park Neighbourhood Forum Area with a Small Houses in Multiple Occupancy Article 4 Direction.



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Character of area

- 3 The area is predominantly residential in nature and comprises of mostly terraced properties.

Surrounding area

- 4 Northbrook Park is approximately 180m to the north-west of the subject site, with Local Open Space Deficiency. There are local shopping parade 200m to the west (Burnt Ash) and 800m to the south at Grove Park.

Local environment

- 5 The south eastern railway lines are approximately 180m to the west of the application site.

Transport

- 6 The property is within 15 minutes walking distance from Grove Park railway Station, and has a PTAL rate of 1b.

2 RELEVANT PLANNING HISTORY

- 7 DC/20/119434 - Prior approval for the construction of a single storey rear extension at 59 Bramdean Crescent SE12. The proposal would measure 5m beyond the rear wall of the property, with a maximum height of 3.62m and an eaves height of 2.95m. Refused 03 Mar 2021 for the following reason:

- The proposed extension, by reason of its siting, and excessive height and depth, would result in a detrimental impact upon the residential amenity of nos. 57 and 61 Bramdean Crescent by way of overbearing visual harm, increased sense of enclosure and reduced outlook, contrary to Paragraph 127 of the National Planning Policy Framework (2019); Policy 15 'High quality design for Lewisham' of the Core Strategy (June 2011); Policy DM 31 'Alterations and extensions to existing buildings including residential extensions' of the Development Management Local Plan (November 2014), and the Alterations and Extensions Supplementary Planning Document (April 2019).]

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 8 The proposed development would extend the shared boundaries with Nos 57 and 61 by 3.2m with height of 2.8m, and a maximum height of 2.95m. Two lantern roof lights, with the height of 0.65m are also proposed. A set of large uPVC doors would give access to the back garden from the new kitchen/dining room.

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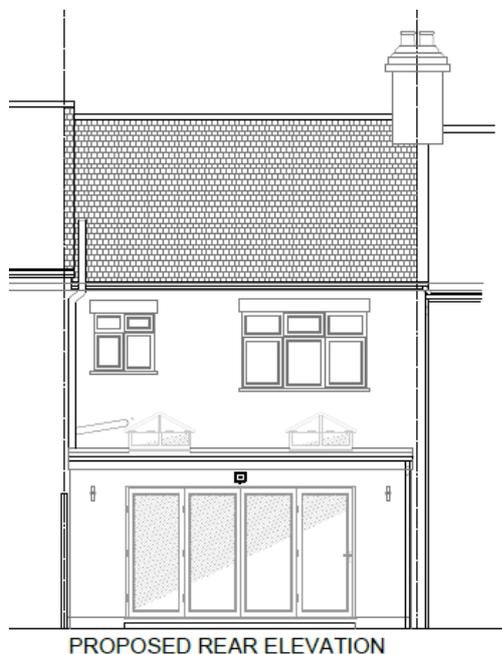


Figure 1 Proposed Rear Elevation

- 9 The proposed material would be Cavity wall with rendered and painted finish to match existing, and window frames in uPVC to match the existing.

3.2 Revisions

- 10 The depth was reduced from 4.5m to 3.2m and the eaves height was reduced from 2.95m to 2.8m

3.3 COMPARISON WITH PREVIOUS SCHEME

- 11 The prior approval (DC/20/119434) was refused for its scale and the amenity impact on the adjacent neighbouring properties. The size of the proposed rear extension was reduced within the current application (DC/21/120833) as following:
- Reduction of the depth from 5m to 3.2m
 - Reducing the height of the eaves from 2.95m to 2.8m.

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4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

4.2 No pre-application advice was sought from the council regarding the proposal.

4.3 APPLICATION PUBLICITY

12 Site notices were displayed on 27 March 2021.

13 Letters were sent to residents and business in the surrounding area, the relevant ward Councillors and Grove Park Neighbourhood Forum on 25 March 2021.

14 Four number responses received, comprising four objections.

4.3.1 Comments in objection

Comment	Para where addressed
Effect on the neighbours' enjoyment of their back garden	36
It will be a great shadow and would block the sunlight	47and 48
Generate more noise from the residents there	52
Negatively affect nature conservation and ecology of the vicinity	50
It will be an unattractive and eyesore structure	46

15 A number of non-material comments were also raised as follows:

- Potential fire risk due to its access from the narrow alleyway
- It would destroy the scenery and views from the back gardens and an unattractive structure
- Discrepancy on location plan due to the location of the sub-station
- and if this is granted then could open up for more house in our area to build houses in the back garden
- changing the value of properties

4.3.2 Comments in support

16 None

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4.4 INTERNAL CONSULTATION

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

4.5 EXTERNAL CONSULTATION

18 No internal consultees were notified due to the nature of this application

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) (LP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)

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- 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)
- Grove Park Neighbourhood Development Plan (June 2021)

25 London Plan SPG/SPD: [delete irrelevant documents]

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

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.

6.1.1 Principle of development conclusions

29 The Development Plan is generally supportive of people extending or altering their homes. The principle of development is supported, subject to details.

6.2 URBAN DESIGN

General Policy

30 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.

31 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.

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32 DMLP 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 DMLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design.

6.2.1 Appearance and character

Policy

33 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.

Discussion

34 Paragraph 4.2.3 of the Alterations and Extensions SPD sets out the following guidance for single storey rear extensions:

- *Rear extensions should generally not be more than 3m deep for terraced or semidetached properties.*
- *However as a general rule, extensions extending up to 3m in length should be no more than 3m in height on the boundary properties.*

35 The proposed development would extend the shared boundaries with Nos 57 and 61 by 3.2m with a height of 2.8m, sitting visibly below the first floor window sill. It is noted that the depth would be 0.2m more than a depth of 3m which is recommended under subparagraph 4.2.3 of SPD guidance, however as 0.2m is a small difference, and as the height is lower than the recommended height in SPD guidance (3m), on balance it is supported.

36 The proposed rear extension would occupy 7% of the back garden and 93% would remain. The proposed additional space would be a new kitchen and dining area.

37 Two lantern roof lights, with the height of 0.65m are proposed which still would be 0.55m below the window sill at the first floor. The lanterns would set in from both sides by 0.95m and set back from the rear elevation by 0.9m, therefore, due to its position and scale, the proposed extension would remain sufficiently subordinate to the host building and is acceptable.

38 A set of large uPVC doors would give access to the back garden from the new kitchen/dining room, which would not harm the appearance of the host building.

39 Therefore, the proposed single storey rear extension would have an acceptable size and scale in relation to the host property and as such would remain visually subservient to the host property and neighbouring properties.

40 The proposed material would be cavity wall with rendered and painted finish to match existing, and window frames in uPVC to match the existing. The materials would be acceptable.

41 The proposed extension would not be visible from the public realm and its design would be compatible with the special characteristics of the area.

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42 An objection highlighted that the development would have an impact on the nature conservation and ecology. It is however noted that the application site is not within a Site of Importance to Nature Conservation, nor are any trees or habitats affected by the proposals. Given this, and that the proposals are for a modest householder extension, it is considered that ecology is not a material planning consideration in this instance.

6.2.2 Urban design conclusion

43 In summary, the extension, due to its design and use of material, would preserve the character and appearance of the host dwelling.

6.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

44 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 185 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

45 LPP D3 states that development proposals should deliver appropriate outlook, privacy and amenity as well as mitigating noise levels. The Core Strategy (CP15), the Local Plan (DMP 31) and associated guidance (Alterations and Extensions SPD 2019).

46 The Council has published the Alterations and Extensions SPD (2019) which establishes generally acceptable standards relating to these matters (see below), although site context will mean these standards could be tightened or relaxed accordingly.

Discussion

47 Officers had concerns regarding the amenity impact of the proposed development on the adjacent neighbouring properties, particularly on No 57 due to the difference in levels between the back gardens (approximately 0.15m). Therefore amendments were carried out and the depth and the height of the proposed extension were reduced. The eaves height at the shared boundary would measure 2.95m from the garden level of No 57, therefore, on balance, it is not considered to have any unacceptable impact on the amenities of No 57 in terms of creating a sense of enclosure.

48 The garden level at No 61 is 0.2m higher than the garden level at No 59 therefore the proposed development would not have any adverse impact on the amenities of No 61.

49 Paragraph 3.3.9 SPD guidance states that the proposal should ensure that the extension would not significantly overshadow neighbouring habitable room windows or private gardens to an unacceptable degree.

50 It is noted that objection has been received regarding the potential of over shadowing, however given the above the proposed rear extension due to its size and scale, the size of the back garden and the directions of the sun it is not considered to result in unreasonable overshadowing of neighbours to the side and onto their back gardens.

51 There is a passageway to the rear (East) of No 59. Nos 130 and 132 Baring Road are the neighbours at the other side of this passageway (39m away) and Nos 11 to 15 Bramdean Gardens would be 20m away from No59. Therefore, the proposed

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development is not expected to have any impact on the amenities of neighbours living at the bottom of the back garden at Nos 130 and 132 Baring Road, due to the distance between the properties or the neighbours living at No 15 Bramdean Gardens due to the arrangement of the back gardens and the existing greenery.

52 An objection was raised regarding noise disturbance. No new dwelling is proposed within this application, and the proposals present a modest rear extension to a single family house, therefore no material change in noise after construction would be expected. It is recognised that during implementation of the development there would be some noise and disturbance from construction related activity, however this is a relatively short-term impact, given the scale of the proposed development and is not a material planning consideration.

53 Other issues such as change in views, potential of fire risk and etc. are not considered as planning considerations.

6.3.1 Impact on neighbours conclusion

54 The proposed single storey rear development, would not have adverse impact on the amenities of its neighbours, in terms of creating a sense of enclosure, impact on day light/sun light and impact on privacy and is therefore acceptable.

7 LOCAL FINANCE CONSIDERATIONS

55 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).

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

57 The CIL is therefore a material consideration.

58 CIL is chargeable on the net additional floor space of all new development. Since the proposal is not providing additional floor space CIL is not payable on this development.

8 EQUALITIES CONSIDERATIONS

59 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.

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

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- 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.

61 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.

62 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>

63 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

64 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>

65 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

66 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

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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

67 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.

68 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.

69 This application has the legitimate aim of providing a single storey rear extension. 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

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

71 The proposed alterations to the building are acceptable in terms of scale, form, and design.

72 The proposal would have no unacceptable impact on neighbouring properties in terms of overlooking, loss of daylight/sunlight, noise or disturbance. There would be no significant negative impact on the local transport network or parking.

73 In light of the above, it is recommended that planning permission is approved.

11 RECOMMENDATION

74 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.

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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:

AD/21/BRA59/PL01 page 1 of 2; AD/21/BRA59/PL01 page 2 of 2 (received 07 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) **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 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.

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, DM Policy 32 Housing design, layout and space standards, and DM Policy 33 Development on back gardens and amenity areas 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, positive discussions took place which resulted in further information being submitted.

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12 BACKGROUND PAPERS

75 Submission Drawings

76 Submission Technical Reports and Documents

13 REPORT AUTHOR AND CONTACT

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