



## Planning Committee C

### 36 Spring Hill, SE26 4LD

**Date:** 2<sup>nd</sup> December 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 12 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/21/120633

**Application Date:** 22<sup>nd</sup> February 2021

**Applicant:** Resi

**Proposal:** Construction of a three-storey, one-bedroom separate dwelling to the side of 36 Spring Hill, SE26, including associated landscaping, cycle and bin storage

**Background Papers:** (1) Submission drawings and documents  
(2) Internal consultee responses

**Designation:** Cobbs Corner Conservation Area, PTAL 3

**Screening:** N/A

## 1 SITE AND CONTEXT

### *Site description and current use*

- 1 The site is the side amenity space attached to No.36 and is located on the eastern side of Spring Hill, toward the bottom of the cul-de-sac. There is currently a single garage on the site.
- 2 The only properties that front on to Spring Hill are the two terraces of three-storey houses. No.36 is the northernmost end of terrace dwelling. The terraces were built in the 1970's and are not of historic value.

[Site Location Map](#)

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### ***Character of area***

- 3 The northern boundary abuts the rear boundaries of 35-45 (odd) Kinver Road. The site is relatively small and tapers slightly, measuring 11m wide at the front, reducing to 8.4m at the rear. Immediately adjoining the south is the modern infill terraces. To the east are the rear gardens of the two storey terraced properties in Peak Hill Gardens and to the west beyond the public highway are the side elevations of the rear gardens of Peak Hill Avenue and Mendip Close.

### ***Heritage/archaeology***

- 4 The site is within the Cobbs Corner Conservation Area which was designated in 2007. The conservation area consists of two distinct character areas. The first encompasses the commercial properties surrounding the roundabout and western end of Sydenham Road and includes two of the areas landmark buildings, the former Cobbs Corner Store and the Greyhound Pub. The second area which the subject site falls within, comprises residential streets to the north and north-west.

### ***Surrounding area***

- 5 The surrounding area comprises a mix of Victorian and modern terraced dwellings all of distinctive styles and form. The site is within a two minute walk of Kirkdale and Sydenham Road where there are local shopping parades and amenities.

### ***Transport***

- 6 The site has a Public Transport Accessibility Level (PTAL) rating of 3 which is considered modest, where on a scale of 1 to 6b, 1 is the lowest and 6 is the highest.

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However, the site is immediately adjacent to a PTAL 5 area which is considered to have very good access to public transport and amenities. The Sydenham Railway Station is within a five minute walking distance and there are bus stops for a number of bus routes to Lewisham, Blackheath, Croydon, Crystal Palace and central London within a similar walking distance.

## 2 RELEVANT PLANNING HISTORY

- 7 DC/20/119515 – Construction of a three-storey, two-bedroom separate dwelling to the side of 36 Spring Hill, SE26 including associated landscaping, cycle and bin storage. Refused 16/02/21
- 8 *Reasons for refusal:* 1) The proposed three storey dwelling, by reason of poor appearance due to a lack of sufficient set-back and subservience, would appear as an incongruous addition to the host terrace that would serve to harm the character of the conservation area 2) The proposed dwelling would provide an unsatisfactory standard of accommodation by reason of being undersized and providing no internal storage space.

## 3 CURRENT PLANNING APPLICATION

### 3.1 THE PROPOSALS

- 9 The application is for the construction of a three-storey 1b2p dwelling house. The dwelling house would be sited to the side of No.36 Spring Hill. Refuse and cycle storage would be situated to the front of the site. No off street car parking is proposed as part of the development.
- 10 The proposed three storey element would measure 7m deep, with the single storey rear element 2.9m deep. The dwelling would have pitched roof with a maximum height of 10m and an eaves height of 7.9m. The width of the dwelling on the front elevation is 3.5m narrowing to 3.2m at the rear.
- 11 The dwelling would be set back 2m from the front elevation of the host terrace and built up to the side boundary.

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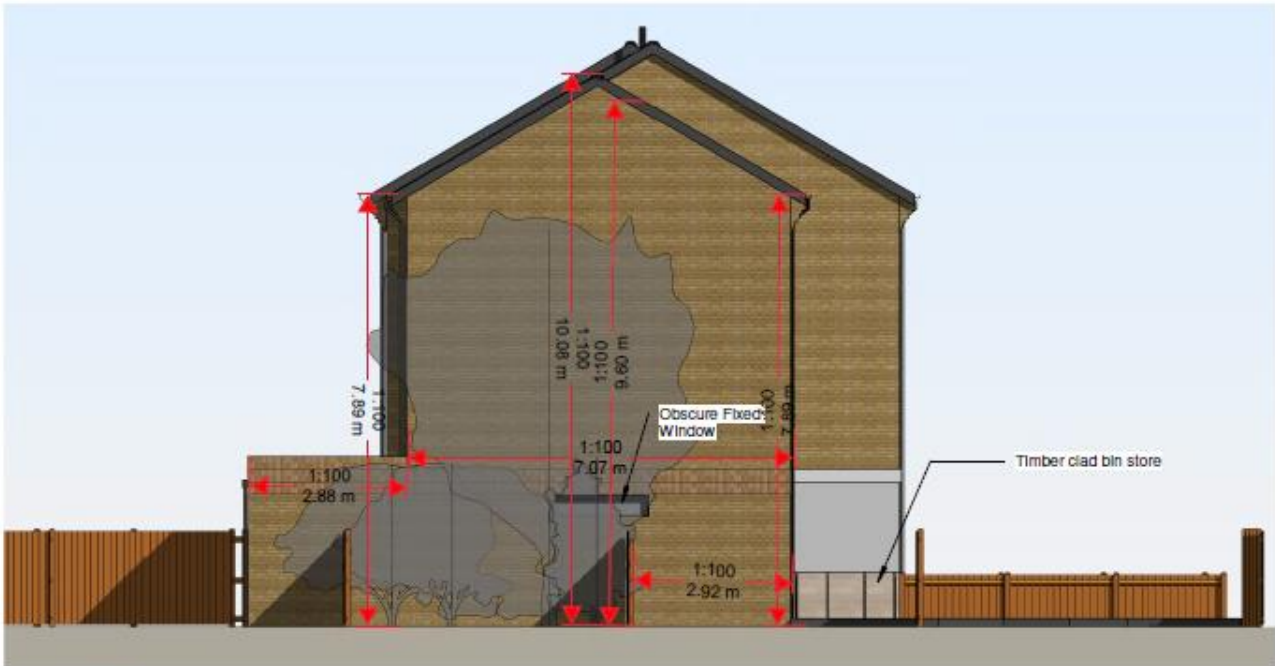
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Left Side Elevation (Proposed)



Right Side Elevation (Proposed)

1  
SCA 1 F

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## 3.2 COMPARISON WITH PREVIOUS SCHEME

- 12 The current application follows an earlier refusal. The key differences between the previous application and the current application include the type of accommodation proposed. The previous application was for a two bedroom dwelling. The current application is for a one bedroom dwelling. The current application omits the single storey element to the front and the set back from the front of the host terrace has been increased from 500mm to 2m. The changes have been made to overcome the previous reasons for refusal.

## 4 CONSULTATION

### 4.1 PRE-APPLICATION ENGAGEMENT

- 13 Pre-application advice was sought in November 2020 for demolition of the existing garage and the erection of a three-storey, 2b4p dwelling with associated landscaping.
- 14 Officers advice was that the principle of development could be acceptable subject to the scheme being justified in terms of scale, appropriate set backs, design, standard of accommodation and neighbour impacts.

### 4.2 APPLICATION PUBLICITY

- 15 Site notices were displayed on 6<sup>th</sup> March 2021 and a press notice was published on 10<sup>th</sup> March 2021.
- 16 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 4<sup>th</sup> March 2021.
- 17 12 number responses received, comprising 12 objections, 0 support and 0 comments.
- 18 Subsequently, a virtual local meeting was arranged for 14<sup>th</sup> July 2021, which was chaired by Cllr Lavery and attended by residents, the application team and planning officers. A summary of the meeting is attached in **Appendix 1**.

#### 4.2.1 Comments in objection

Comment	Para where addressed
Overdevelopment of site.	Para. 80-81
Construction noise	Para.122
Does not fit in with the streetscene	Para.80
Poor design	Para.82-84
Limited amenity space for new dwelling	Para.56
Poor standard of accommodation	Para.53-66
No off street parking adding to on street parking stress	Para.101-102

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Harms the streetscene and character of the area	Para.76-85
Too many infill developments in the borough	Para.32-46
Poor outlook from the rooms	Para.57-61
Build family homes instead.	A family sized dwelling could not be accommodated on this site.
Development would result In poor access to light and outlook to 41, 43 and 45 Kinver Road	Para.111-120
A category B tree would be damaged	There are no trees on site.
Overshadowing of 39 and 41 Kinver Road	Para.117
Development would result In uncomfortable and uncharacteristic proximity of buildings appearing overbearing and enclosing	Para.79-81
Loss of privacy to neighbouring properties	Para.114-120
Natural drainage will be insufficient, cul-de-sac is subject to flooding	Para.131-133
There is no garage	There is no existing garage on site and no garage is proposed.

19 A number of other comments were also raised as follows:

- Impact on physical and mental wellbeing during the pandemic and having to work from home
- Adjoining garden will be unusable during construction works.
- Harm to structural stability of surrounding buildings
- Legal covenant on land preventing another dwelling being built.
- Dense foliage referred to in the design and access statement is on the side of No.36 Spring Hill.
- Already plenty of homes in the area for sale or rent.

### 4.3 INTERNAL CONSULTATION

20 The following internal consultees were notified on 4<sup>th</sup> March 2021

21 Conservation: raised objection. See para 79 for further details.

22 Highways: raised no objections subject to conditions. See para 96-103 for further details.

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## **5 POLICY CONTEXT**

### **5.1 LEGISLATION**

23 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).

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

### **5.2 MATERIAL CONSIDERATIONS**

25 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.

26 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.

27 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**

28 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**

29 Lewisham SPG/SPD:

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- Alterations and Extensions Supplementary Planning Document (April 2019)
- Small Sites Design Guide (October 2021)

30 London Plan SPG/SPD:

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

## 6 PLANNING CONSIDERATIONS

31 The main issues are:

- Principle of Development
- Housing
- Urban Design
- Impact on Adjoining Properties
- Transport
- Sustainable Development
- Natural Environment

### 6.1 PRINCIPLE OF DEVELOPMENT

#### *General policy*

32 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.

33 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.

34 LPP H1 looks to increase housing supply by optimising the potential for housing delivery on all suitable and available sites especially those within areas of PTAL 3-6 or which are located within 800m distance of a station or town centre boundary. The current application meets this criteria.

35 Lewisham is defined as an Inner London borough in the London Plan, which sets out the Mayor of London's vision for Inner London. This includes among other things sustaining and enhancing its recent economic and demographic growth; supporting and sustaining existing and new communities; addressing its unique concentrations of deprivation; ensuring the availability of appropriate workspaces for the area's changing economy; and improving quality of life and health.

36 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

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that proposals secure development that improves the economic, social and environmental conditions of the borough.

- 37 The Core Strategy (CSP) recognises the Borough's need for housing and outlines the objectives to achieve 18,165 new dwellings between 2009/2010 and 2025. The London Plan (LPP) at Policy H1 increases Lewisham's ten-year (2019/20 - 2028/29) housing target at 16,670, or 1,667 as an annualised average. Lewisham Core Strategy Spatial Policy 1 'Lewisham Spatial Strategy' that links to Core Strategy Objective 2 'Housing Provision and Distribution' supports the delivery of new housing to meet local need.
- 38 DM Policy 33 States that if a site is considered suitable for development, planning permission will not be granted unless the proposed development is of the highest design quality and relates successfully and is sensitive to the existing design quality of the streetscape. This includes the spaces between buildings which may be as important as the character of the buildings themselves, and the size and proportions of adjacent buildings. Development on these sites must meet the policy requirements of DM Policy 30 (Urban design and local character), DM Policy 32 (Housing design, layout and space standards) and DM Policy 25 (Landscaping and trees).
- 39 DM Policy 33 sets out that infill sites are defined as sites within street frontages such as former builder's yards, small workshops and garages, gaps in terraces and gardens to the side of houses.
- 40 As an area of land with a street frontage, the application site represents an infill site and as such would need to adhere to the criteria as set out in the policy.
- 41 The site is also considered 'street extension infill development' in the Small Sites SPD.
- 42 Paragraph 195 of the NPPF sets out that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by the proposal and take into account the impact of the proposal on a heritage asset, avoiding or minimising any conflict between the heritage asset's conservation and any aspect of the proposal.
- 43 Paragraph 202 of the NPP states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 44 The acceptability of the principle of development for construction of a new dwelling was established in the previously refused application DC/20/119515.
- 45 The principle of residential development which would also achieve the wider benefit of providing an additional home within the Borough is considered a planning merit. As such, the principle of development is acceptable.

### **6.1.1 Principle of development conclusions**

- 46 In summary, officers raise no objection to the principle of development, subject to matters including design, standard of accommodation, neighbour impact and highways, whilst ensuring a successful approach to respecting the conservation area.

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## 6.2 HOUSING

### *General Policy*

47 National and regional policy promotes the most efficient use of land.

### 6.2.1 Residential Quality

#### *General Policy*

48 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. This is reflected in relevant policies of the London Plan (LPP D6), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA; Alterations and Extensions SPD 2019, LBL).

49 LPP D6 requires new homes to meet specific space and other standards. In addition, DMP 32 requires all new residential developments to provide accommodation of a good size, a good outlook, with acceptable shape and layout of rooms, with main habitable rooms receiving direct sunlight and daylight, and adequate privacy.

50 The main components of residential quality are: (i) space standards; (ii) outlook and privacy; (iii) overheating; (iv) daylight and sunlight; (v) noise and disturbance; (vi) accessibility and inclusivity; and (vii) children's play space.

#### ***Internal and external space standards***

##### *Policy*

51 LPP D6 seeks to achieve housing development with the highest quality internally and externally in relation to their context. Minimum space standards are set out in Table 3.1 of the London Plan.

52 The Technical Housing Standards (2015), Mayors Housing Supplementary Planning Guidance (SPG), London Plan Policy D6 and DM Policy 32 set out or make reference to the minimum space standards required for amenity space to achieve housing development that provides the highest quality of space externally in relation to its context. LPP D6 states that 'a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant'

##### *Discussion*

53 Officers note that there is no minimum gross internal floor area for a 1b2p dwelling on three floors. The nearest type of dwelling as outlined in the minimum standards table is for a 1b2p dwelling on two floors which is shown in the table below.

**Table [a]: Internal space standards target**

No of bedrooms	No. of persons	1 storey dwelling	2 storey dwelling	3 storey dwelling (proposed (target))	Built-in storage (proposed (target))

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		<b>(proposed (target))</b>	<b>(proposed (target))</b>		
1b	2p	(50)	(58)		(1.5)

54 The gross internal floor area is 65sqm which is considered acceptable. The proposal also meets the requirements of LP Policy D6 in terms of the size of the double bedroom.

55 The floor to ceiling height of the dwelling would meet or exceed the 2.5m minimum requirement for new dwellings, with the ground floor having a height of 2.6m and first and second floors having a floor to ceiling height of 2.5m.

56 The proposal includes vertically dividing the existing rear garden, which would provide 43sqm of private rear outdoor space for the new dwelling and the retention of 59sqm of the garden for the occupiers of No.36. The proposed private amenity space for the dwelling exceeds the minimum requirement in accordance with LP Policy D6 and both properties would have access to sufficient useable outdoor areas.

### **Outlook & Privacy**

#### *Policy*

57 LPP D1(8) requires development to achieve appropriate outlook, privacy and amenity

58 DMLP Policy 32 expects all new units to provide a satisfactory level of privacy, outlook and natural lighting for future residents, which is also supported by the Mayors Housing SPD. Furthermore, the London Plan Policy D6 requires the highest standards of sustainable design and construction to be achieved, including the avoidance of single-aspect units.

59 London Plan Policies D6 and SI 4 seek to avoid internal overheating through design, layout, orientation, materials and the incorporation of green infrastructure. The Mayors Housing SPG also demonstrates that development proposals should achieve an appropriate design of dwellings to avoid overheating without heavy reliance on energy intensive mechanical cooling systems

#### *Discussion*

60 The main habitable rooms are orientated to the front (western) and rear (eastern) facades with fenestration to allow daylight and sunlight into the rooms.

61 The dwelling would benefit from a good level of privacy, being suitably set back from the public realm. The dwelling would be dual aspect which is considered sufficient to avoid unacceptable overheating and would provide good outlook.

### **Daylight and Sunlight**

#### *Policy*

62 DM Policy 32 (1)(b) expects new development to provide a satisfactory level of natural lighting for its future occupiers

63 Daylight and sunlight are generally measured against the Building Research Establishment (BRE) standards. This is not formal planning guidance and should be

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applied flexibly according to context. The BRE standards set out below are not a mandatory planning threshold.

- 64 In new dwellings, the BRE minimum recommended average daylight factor (ADF) is 1 % for bedrooms, 1.5% for living rooms and 2 % for kitchens

*Discussion*

- 65 No daylight/sunlight assessment has been provided; but it is not considered necessary for this scheme given its modest scale and the benefits already identified, namely the unit being double aspect. As such, officers consider the daylight and sunlight levels to be acceptable

### **6.2.2 Housing conclusion**

- 66 Overall the proposed development would provide a good standard of residential accommodation in compliance with LP Policy D6 and DMLP 32.

## **6.3 URBAN DESIGN & HERITAGE IMPACT**

*General Policy*

- 67 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.
- 68 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated
- 69 Section 72 of the 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
- 70 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.
- 71 LPP HC1 states that where development would affect heritage assets, it should be sympathetic to their form, scale, materials and architectural details.
- 72 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
- 73 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.
- 74 LPP D3, CS Policy 15 and DMLP DM30 requires that all new developments provide a high standard of design and should respect the existing forms of development in the

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vicinity. The Small Sites SPD is relevant to the current application and is considered 'street extension infill development'

### 6.3.1 Appearance, character, form and scale.

#### *Policy*

75 LP Policy D3 requires all development to make the best use of land by following a design-led approach that optimises the capacity of sites. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth.

#### *Discussion*

- 76 The subject site is considered a street extension infill development site as set out in the Small Sites SPD. Street extension development should generally maintain the existing building line and the height should generally follow that of the closest neighbour. Direct overlooking of rear gardens should be avoided where possible.
- 77 As existing, No.36 forms an end of terrace property, being the last house of its modern style before a transition is made to the rear elevations of Victorian dwellings on Kinver Road. The terrace is one of two modern three-storey terraces that have staggered frontages giving the terrace a curved appearance that follows the curve of the road. Nos 12 and 36 are the two end properties that are set back from the rear boundaries of properties on Peak Hill Gardens and Kinver Road respectively. This part of the conservation area is characterised by planned form and incidental spaces, mature large canopy trees and views across back gardens, all of which creates relaxed and verdant urban form.
- 78 Attention is drawn to the two reasons for refusal regarding the previous application for a self-contained dwelling on this site. The previous proposal was considered harmful to the conservation area due to its insufficient set back and lack of subservience to the host terrace. The second refusal reason was regarding undersized accommodation.
- 79 The Conservation Officer has objected to the current proposal stating that an additional house on the north end of this terrace would appear as overdevelopment of the original concept and would erode the sense of space around the gardens of the neighbouring terraces and thus diminish the spatial quality that gives the conservation area significance. However, given the set back from the host terrace the level of harm is considered to be less than substantial.
- 80 The proposed dwelling has been designed not to replicate the existing dwellings in the terrace, but rather create a subservient addition, set back from the front and down from the roof ridge. This is considered to be an appropriate response given the plot width is narrower than the other plots in the host terrace. Due to its set back the dwelling would not be visible from long views looking north along Spring Hill. The dwelling would appear sufficiently subservient within the streetscene. The current application is considered to overcome the previous application's first reason for refusal. As such, the proposed dwelling is not considered to result in harm to the streetscene and wider conservation area and is not considered an overdevelopment of the site.
- 81 Furthermore, Officers note that a similar development was granted permission in 2016 to the side of 34 Peak Hill Gardens. This new dwelling (No.36) directly abuts the rear of the

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subject site and like the subject site, is at the end of a no-through road. Officers consider that due to the close proximity of this existing development, a precedent for this type of infill development has been set in the immediate vicinity which has been shown not to have such a harmful effect on the conservation area as to warrant a reason for refusal.

### ***Detailing and Materials***

#### *Policy*

DMLP Policy 30 requires the use of high quality materials that either match or compliment existing development.

#### *Discussion*

- 82 The proposed dwelling would be built in London Stock brickwork and have a slate tile roof, to match materials on the host terrace. The proposed aluminium windows are considered acceptable with regards to placement, size and materiality, given that they would not be read directly against the smaller windows apparent elsewhere on the terrace. Aluminium is considered a high quality material and an appropriate response for the site, as opposed to replicating the uPVC elsewhere on the host terrace.
- 83 The proposed materials are considered high quality and acceptable. A condition would be added to ensure these materials are used and that design quality is maintained throughout the development process.

*The proposed dwelling is sympathetic in its form, scale, materials and architectural details to the host terrace. Officers consider that the current proposal would lead to less than substantial harm to the Cobbs Corner Conservation Area.*

- 84 Paragraph 199 of the NPPF requires great weight to be given to the asset's conservation while para 202 requires harm to be weighed against any public benefits of the proposal. The proposal would infill the area to the side of No.36 Spring Hill and as such would diminish the spatial quality at the end of this host terrace; however this is considered to result in less than substantial harm to the streetscene and wider conservation area. The provision of an additional dwelling is considered a wider public benefit of the proposal. Officers conclude the public benefit outweighs the less than substantial harm identified above.

### **6.3.2 Urban design and heritage impacts conclusion**

- 85 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 Cobbs Corner Conservation Area. The provision of an additional dwelling is considered a significant planning merit that outweighs the less than substantial harm identified above.

## **6.4 TRANSPORT IMPACT**

#### *General policy*

- 86 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 102. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c)

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promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and a choice of transport mode.

- 87 Para.109 states “Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.
- 88 Regionally, the Mayor’s Transport Strategy (‘the MTS’, GLA, March 2018) sets out the vision for London to become a city where walking, cycling and green public transport become the most appealing and practical choices. The MTS recognises links between car dependency and public health concerns
- 89 Policy T1 of the London Plan (2021) sets out the Mayor’s strategic approach to transport which aims to encourage the closer integration of transport and development. This is to be achieved by encouraging patterns and nodes of development that reduce the need to travel, especially by car; seeking to improve the capacity and accessibility of public transport, walking and cycling; supporting measures that encourage shifts to more sustainable modes and appropriate demand management; and promoting walking by ensuring an improved urban realm.
- 90 Core Strategy Policy 14 ‘Sustainable movement and transport’ promotes more sustainable transport choices through walking, cycling and public transport. It adopts a restricted approach on parking to aid the promotion of sustainable transport and ensuring all new and existing developments of a certain size have travel plans

#### **6.4.1 Servicing and refuse**

##### *Policy*

- 91 LPP T7 states that development proposals should facilitate sustainable freight movement by rail, waterways and road
- 92 CSP 13 sets out the Council’s waste management strategy for new development and states that major developments should be designed to incorporate the existing and future long-term needs of waste management and disposal.
- 93 DMLP 29 requires new development to have no negative impact upon the safety and suitability of access and servicing
- 94 Storage facilities for waste and recycling containers should meet at least BS5906:2005 Code of Practice for waste management in Buildings in accordance with London Plan Housing Supplementary Planning Guidance (2016) standard 23

##### *Discussion*

- 95 A refuse store would be provided at the front of the site. No further details were submitted with the application to ensure that the storage facilities for waste and recycling containers meets at least BS5906:2005 standard. In light of this, officers consider it reasonable to secure the proposed details by condition. Officers consider it appropriate that the refuse store should feature a green roof to increase bio-diversity of the site.

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## 6.4.2 Transport modes

### ***Walking and cycling***

#### *Policy*

- 96 Development should give priority first to pedestrian and cycle movements, both within the scheme and within the neighbouring area. Development should create places that are safe, secure and attractive, minimising the scope for conflicts between pedestrians, cyclists and vehicles.
- 97 Cycle storage space should be provided in accordance with LPP T5, table 10.2 and London Cycle Design Standards. Developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards.

#### *Discussion*

- 98 The property would be provided with cycle storage for two bicycles to the front of the site. As such, the proposal is considered to be acceptable in terms of cycle parking provision, adhering to London Plan standards.

### ***Private cars***

#### *Policy*

- 99 LPP T6 supported by CSP 14 and DMLP 29 require developments to take a restrained approach to parking provision to ensure a balance is struck to prevent excessive car parking provision that can undermine cycling, walking and public transport use. Table 10.3 of the London Plan sets the maximum car parking standards for residential developments. The site has a PTAL 3 rating and under LPP T6 the maximum allowance for off street parking is 0.5 spaces per household.

#### *Discussion*

- 100 No off street parking is proposed as part of this development.
- 101 No parking survey data was provided by the applicant. However, officers note there are unrestricted on street parking opportunities in the immediate vicinity which is likely to safely accommodate the small amount of parking that could be generated by the proposal. The restricted approach to off-street parking is consistent with the parking standards in the London Plan and would not give rise to an unacceptable level of harm in terms of parking, given the size of the development.

## 6.4.3 Transport impact conclusion

- 102 In summary, the proposed development is considered to have an acceptable impact on the surrounding highway and transport network subject to the imposition of the conditions recommended above.

## 6.5 LIVING CONDITIONS OF NEIGHBOURS

### *General Policy*

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- 103 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 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).
- 104 LPP D3 states that development proposals should deliver appropriate outlook, privacy and amenity as well as mitigating noise levels.
- 105 DMP32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours
- 106 Further guidance is given in Housing SPD 2017, GLA. The Council has published the Alterations and Extensions SPD (2019) which establishes generally acceptable standards relating to these matters, although site context will mean these standards could be tightened or relaxed accordingly. The main impacts on amenity 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; and (iv) noise and disturbance

### **6.5.1 Enclosure, Outlook, access to Daylight and Privacy**

#### *Policy*

- 107 Overbearing impact arising from the scale and position of development is subject to local context. Outlook is quoted as a distance between habitable rooms and boundaries. Privacy standards are distances between directly facing existing and new habitable windows and from shared boundaries where overlooking of amenity space might arise.
- 108 Privacy standards are distances between directly facing existing and new habitable windows and from shared boundaries where overlooking of amenity space might arise
- 109 DMLP 32 expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours. Additionally, the justification for DMLP 32 at paragraph 2.250 advises that there should be a minimum separation distance of 21m between directly facing habitable room windows on main rear elevations.

#### *Discussion*

#### 110 *36 Spring Hill*

- 111 The single storey element of the proposed house would extend 2.9m beyond the rear wall of the house at 36 Spring Hill at a height of 3.1m. Due to the orientation of the application site, the proposal would not give rise to a significant overshadowing impact on No.36. Whilst the presence of the building would be noticeable, due to its depth it would not give rise to a significant overbearing impact. There would be no issues regarding loss of privacy.

#### 112 *36 Peak Hill Gardens.*

- 113 No.36 Peak Hill Gardens which abuts the rear of the site, has an existing single storey rear extension. The distance between the rear elevation of the existing extension and the rear elevation of the proposed new dwelling would be 20.6m. There is also a

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standard height (1.8m) boundary fence between both rear gardens. As a consequence there would be no significant impact on the occupiers of No.36 Peak Hill Gardens in terms of overlooking or overshadowing.

114 39 to 45 Kinver Road

115 The side elevation of the proposed dwelling would be approximately 9m from the rear elevations of the three-storey rear projections of Nos. 39-43 Kinver Road which abut the northern boundary. One window is proposed in the ground floor of the side elevation. The window would be high level and obscure glazed, servicing the kitchen/diner. As such there would be no issues regarding overlooking or loss of privacy to these neighbours.

116 The proposed single storey rear element would extend 1.8m along the rear boundary of No.39 Kinver Road at a height of 3.1m. The proposed development would extend along the entire rear boundary of No.41 Kinver Road ranging in height from 3.1m to 10m. The proposed development would extend 2.9m along the rear boundary with No.43 Kinver Road at a height ranging from 7.9m to 9.6m. The proposed dwelling is comparable in height to the existing terrace and the site is within a built up urban area. Whilst the development would result in an increase in visual impact when viewed from the rear windows and rear gardens of the Kinver Road properties due to it being sited closer than the existing terrace; a sufficient distance between the rear elevations of the Kinver Road properties and the development would be retained to prevent any significant overshadowing or loss of light to the rear windows.

117 The front elevation of the proposed dwelling would be set back approx.2.3m from the rear garden of No.45 Kinver Road. There would be no issues with overlooking from windows in the front elevation to this rear garden since the windows at ground and first floor levels would service the staircase and bathroom (which would have an obscure glazed window). The second floor windows service the staircase and a bedroom. Due to the narrow width of the bedroom at the front of the dwelling, views from this window are likely to be acute and not significant to warrant a reason for refusal.

118 All the windows in the rear elevation would be set in 2m from the side elevation and give views directly over the rear garden of the proposed site. As a consequence there would be no direct overlooking of rear gardens in Kinver Road.

119 As such, any sense of enclosure would not be so significant to warrant a reason for refusal.

## 6.5.2 Noise and disturbance

### *Policy*

120 The NPPF at para 174 states decisions should among other things prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Development should help to improve local environmental conditions. Para 185 states decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life

### *Discussion*

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121 The introduction of a new residential property within a residential area is not considered to result in any significant long-term material impacts in terms of noise and disturbance. The construction phase of development is likely to introduce short-term disturbances to the surrounding properties, however that is an inevitable consequence of development and is not considered a material consideration in this case. Hours of noisy work are controlled by other legislation, and an informative is proposed in order to draw the Applicant's attention to Lewisham's Good Practice guide

### **6.5.3 Impact on neighbours conclusion**

122 Officers consider that the proposal would be acceptable and would have no significant harm upon the amenities of surrounding properties. Officers also note that the previous two reasons for refusal did not include any significant detrimental impact on neighbouring amenity.

## **6.6 SUSTAINABLE DEVELOPMENT**

### *General Policy*

123 NPPF para.152 sets an expectation that planning will support transition to a low carbon future. This is reflected in relevant policies of the London Plan and the Local Plan.

124 CS Objective 5 sets out Lewisham's approach to climate change and adapting to its effects. CSP 7, CSP 9 and DMLP 22 support this.

### **6.6.1 Sustainable Urban Drainage and water efficiency.**

#### *Policy*

125 LPP SI 12 expects development proposals to ensure that flood risk is minimised and mitigated.

126 CSP 10 requires applicants to demonstrate that the most sustainable urban drainage system that is reasonably practical is incorporated to reduce flood risk, improve water quality and achieve amenity and habitat benefits.

127 LPP GG6 requires developments to make efficient use of water and reduce impacts from natural hazards like flooding.

128 The proposed development is located within Flood Zone 1 and is at high risk of surface water flooding. The NPPF requires a flood risk assessment to be undertaken for proposals that are subject to a high risk of surface water flooding within Flood Zone 1.

129 The proposal should include plans for managing surface water and for making sure there is no increase in the volume of surface water and rate of surface water runoff.

130 To mitigate surface water flooding, all surface water from the main roof of the new dwelling, the existing dwelling and frontage will be captured and directed into an underground tank to the front of the site. Water directed here will be directed into the mains at a controlled rate.

131 The proposed dwelling would incorporate water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a

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maximum of 105 litres of water is consumed per person per day. All water would be supplied through a water meter.

### **6.6.2 Sustainable Infrastructure conclusion**

- 132 The proposed development is acceptable with regard to flood risk and water management.

## **6.7 NATURAL ENVIRONMENT**

### *General Policy*

- 133 Contributing to conserving and enhancing the natural environment and reducing pollution is a core principle for planning
- 134 The NPPF and NPPG promote the conservation and enhancement of the natural environment (chapter 15) and set out several principles to support those objectives.
- 135 The NPPF at paragraph 185 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, living conditions and the natural environment, as well as the sensitivity of the site or wider area to impacts that could arise from the development

### **6.7.1 Green spaces and trees**

#### *Policy*

- 136 Paragraph 174 of the NPPF (2021) requires that decisions should contribute to and enhance the natural and local environment. DM Policy 25 seeks to ensure that applicants consider landscaping and trees as an integral part of the application and development process

#### *Discussion*

- 137 The existing site makes little contribution to the natural environment and given the size of the site there is limited opportunity to secure improvements. The proposal does however include retention of a lawn to the rear of the property and lawn to the frontage. The applicant proposes additional trees and hedges where appropriate to promote privacy and bio-diversity. However, no further details of landscaping have been specified. In light of this officers consider it reasonable to secure both soft and hard landscaping details by condition.

### **6.7.2 Natural Environment conclusion**

- 138 The proposal is acceptable in terms of natural environment, subject to conditions.

## **7 LOCAL FINANCE CONSIDERATIONS**

- 139 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).

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

141 The CIL is therefore a material consideration.

142 £5,850.00 Lewisham CIL and £3,865.18 MCIL is estimated to be payable on this application, subject to any valid applications for relief or exemption, and the applicant has completed the relevant form. This would be confirmed at a later date in a Liability Notice.

## 8 EQUALITIES CONSIDERATIONS

143 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.

144 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.

145 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.

146 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>

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- 147 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
- 148 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>
- 149 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

- 150 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
- 151 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.
- 152 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.
- 153 This application has the legitimate aim of providing a new building with residential uses. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

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## 10 CONCLUSION

- 154 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 155 The principle of an additional dwelling at this site is supported as it is situated in a sustainable urban location. The proposed development is acceptable in terms of scale, form, design and materials. Significant weight is given to the planning merit of additional housing.
- 156 The proposal would have no unacceptable impact on neighbouring properties in terms of enclosure, outlook and privacy, noise or disturbance. There would be no significant negative impact on the local transport network or parking.
- 157 Harm has been identified by the conservation officer in terms of the loss of the open space to the side of No.36 which would diminish the spatial quality that is a characteristic of the conservation area. However, this harm is not considered so critical as to outweigh the planning merit of an additional dwelling.

## 11 RECOMMENDATION

- 158 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:

55800-1100 Rev.A; 55800-1101 Rev.A; 55800-1200 Rev.A; 55800-1201 Rev.A;  
55800-1300 Rev.A; 55800-1500 Rev.A; Site Plan (Received 1<sup>st</sup> March 2021)

55800-3100 Rev.B; 55800-3101 Rev.B; 55800-3200 Rev.B; 55800-3201 Rev.B;  
55800-3300 Rev.B; 55800-3500 Rev.B; 55800-3600 Rev.B; 55800-3601 Rev.B  
(Received 8<sup>th</sup> November 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

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- a. No development above ground shall commence on site until a detailed schedule of all external materials and finishes/ windows and external doors/ roof coverings, to be used on the buildings, including details of privacy screening have been reviewed and approved in writing by the local planning authority.
- b. The scheme shall be carried out in accordance with the approved details.

**Reason:** To ensure that the local planning authority may be satisfied as to the external appearance of the buildings and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character, DM Policy 31 Alterations and extensions to existing buildings including residential extensions

#### 4) HARD LANDSCAPING

- (a) Prior to any works taking place drawings showing hard landscaping of any part of the site not occupied by buildings (including details of the permeability of hard surfaces) shall be submitted and approved in writing by the local planning authority.
- (b) All hard landscaping works which form part of the approved scheme under part (a) shall be completed prior to occupation of the development.

**Reason:** In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies SI 12 Flood risk management in the London Plan (March 2021), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

#### 5) REFUSE AND RECYCLING

- a. Notwithstanding the submitted plans, the development shall not be occupied until details of refuse and recycling facilities including food waste bin and details of the biodiversity living roof have been submitted to and approved in writing by the local planning authority.
- b. The facilities as approved under part (a) of this condition shall be provided in full prior to occupation of the development and shall thereafter be permanently retained and maintained.

**Reason:** In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character and Core Strategy Policy 13 Addressing Lewisham waste management requirements (2011).

#### 6) CYCLE STORAGE

- a. Notwithstanding the submitted plans, the development shall not be occupied until details of the cycle parking facilities that are safe, covered and

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weatherproofed including details of the biodiversity living roof shall be submitted to and approved in writing by the local planning authority.

b. The cycle parking facilities approved under part (a) of this condition shall be provided in full and made available for use prior to occupation of the development and maintained thereafter.

**Reason:** In order to ensure adequate provision for cycle parking and to comply with Policy T5 cycling and Table 10.2 of the London Plan (March 2021), Policy 14: Sustainable movement and transport of the Core Strategy (2011) and DM Policy 24 Biodiversity, living roofs and artificial playing pitches of the Development Management Local Plan (November 2014).

#### 7) SOFT LANDSCAPING

(a) A scheme of soft landscaping (including proposed plant numbers, species and location) and details of the management and maintenance of the landscaping for a period of five years shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works.

(b) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

**Reason:** In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Core Strategy Policy 12 Open space and environmental assets, Policy 15 High quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 25 Landscaping and trees and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

#### 8) OBSCURE GLAZING

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the new windows to be installed in the ground floor northern elevation and the bathroom window in the first floor of the western elevation of the building hereby approved shall be fitted as obscure glazed to a minimum of Level 3 on the 'Pilkington Scale' and retained in perpetuity.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, of the Development Management Local Plan (November 2014).

#### 9) BOUNDARY TREATMENT

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- (a) Details of the proposed boundary treatments including any gates, walls or fences shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works.
- (b) The approved boundary treatments shall be implemented prior to occupation of the buildings and retained in perpetuity.

**Reason:** To ensure that the boundary treatment is of adequate design in the interests of visual and residential amenity and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

#### 10) 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), and Policy T7 Deliveries, servicing and construction of the London Plan (March 2021).

## 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, pre-application advice was given and positive discussions took place which resulted in further information being submitted.
- 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

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3)

## **12 BACKGROUND PAPERS**

- (1) Submission drawings
- (2) Submission technical reports
- (3) Internal consultee responses.

## **13 REPORT AUTHOR AND CONTACT**

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