



Planning Committee A

Report title:

Woodelm Court, 123 Devonshire Road, SE23 3LX

Date: 17 March 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Forest Hill

Contributors: Georgia McBirney

Outline and recommendations

This report sets out the officer recommendation of approval for this planning application. This case has been brought before committee for a decision as an objection has been received from a Residents Association.

Application details

Application reference number(s): DC/21/123797

Application Date: 02 November 2021

Applicant: Playle & Partners LLP on behalf of Vista Investment Projects Limited

Proposal: An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments for the variation of Condition (2) approved drawings in connection with the planning permission (DC/20/118644) dated 14 January 2021 for the erection of two additional storeys above the existing residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23

Background Papers: Submission drawings
Submission technical reports
Internal consultee comments
Statutory consultee comments

Designation: PTAL 3, Air Quality, Local Open Space Deficiency

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site comprises of a purpose built block of flatted accommodation which is three storeys in height and dates approximately from the 1970s. The block is brick built with horizontal windows, projecting balconies and flat roof. The building currently hosts seven residential units with integral garages at the rear.
- 2 The application site is situated on a corner plot on the western side of Devonshire Road and the southern corner of Ewelme Road as shown in Figure 1. The property is situated in open grounds. The ground rises to the rear of the site.

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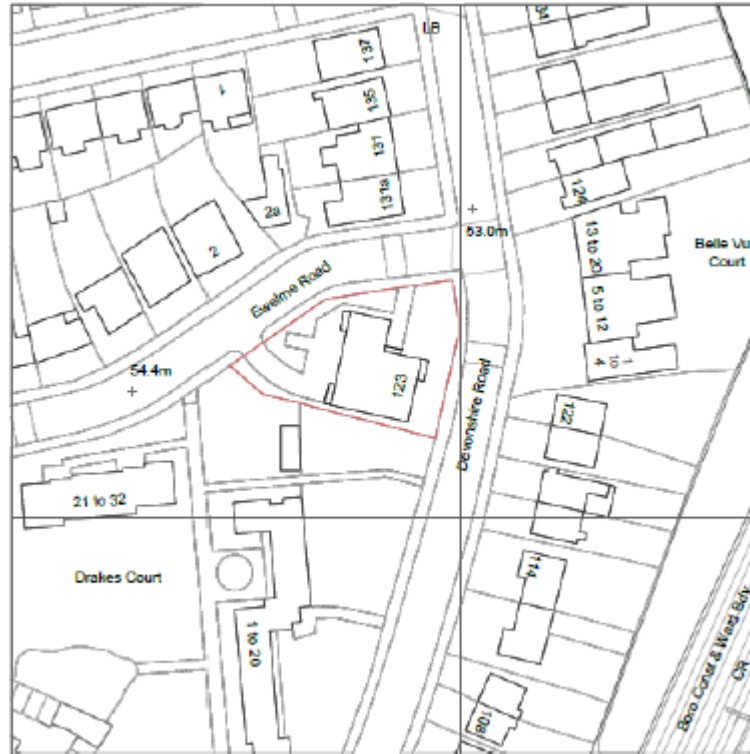


Figure 1 Site Location Plan

Character of area

- 3 To the side and rear are also post war, 20th century modern flatted accommodation blocks, three and four storey in height, also set in open grounds.
- 4 The wider area comprises of Victorian dwellings, terraced, and semi-detached, some of which are three and four storeys in height, with some units having basement level accommodation and/or accommodation within the roof. These properties fall within the Forest Hill Conservation Area.

Heritage/archaeology

- 5 The application site is located adjacent to the Forest Hill Conservation Area.

Local environment

- 6 The site lies within Flood Risk Zone 1.

Transport

- 7 The application site has a PTAL 3, on a scale of 0 to 6b, with 6b representing the highest accessibility to public transport.

2 RELEVANT PLANNING HISTORY

- 8 **DC/17/104524:** Proposed extension of the existing building to include the erection of two storeys to provide 5 x 2 bed flats with associated parking, external elevational works to the existing building, the provision of a new lift and external landscaping at Woodelm

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Court, 123, Devonshire Road SE23. Refused by the Council in February 2018 and was allowed on appeal in February 2019 (APP/C5690/W/18/3196082).

- 9 **DC/20/115985:** An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments in connection with the planning permission (DC/17/104524) granted on Appeal reference APP/C5690/W/18/3196082 dated 19 February 2019 for the erection of two storeys to provide 5 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at 123 Woodelm Court, Devonshire Road, London, SE23.
- 10 Application DC/20/115985 was determined by Planning Committee C in August 2020. The application was approved.
- 11 **DC/20/118644:** The erection of two additional storeys above the existing residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23.
- 12 This application was reviewed by a Chair person of one of the Council's Planning Committees who confirmed that the application could be issued under delegated powers under the Temporary changes to the Councils Statement of Community Involvement, that were in place at the time of this decision. The application was approved.
- 13 **DC/21/122723:** An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments for the variation of Condition (2) approved drawings in connection with the planning permission (DC/20/118644) dated 14 January 2021 for the erection of two additional storeys above the existing residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23. Refused in September 2021, for the following reason:
- Cumulatively the introduction of the plant room at lower ground and ground floor level, the introduction of an external service riser, the introduction of curtain walling and the alterations to the entrance are considered to be visually obtrusive and disruptive elements which degrade the approved design quality, resulting in a building of low visual quality contrary to Paragraph 126 of the National Planning Policy Framework (2021), Policies D4 Delivering Good Design and D6 Housing Quality and Standards of the London Plan (2021), Policy 15 High Quality Design for Lewisham of the Core Strategy (June 2011), DM Policy 30 Urban Design and Local Character and DM Policy 31 Alterations and Extensions to Existing Buildings including Residential Extensions of the Development Management Local Plan (2014).

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 14 The current application is an application submitted under S73 of the Town and Country Planning Act 1990 (as amended) for a minor material amendment for the variation of Condition (2) approved drawings in connection with planning permission DC/20/118644 dated 14 January 2021 for erection of two additional storeys above the existing

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residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23

15 The amendments proposed are:

- Removal of the lift
- The installation of an external service riser and plant intake room
- Alterations to the lobby area and entrance steps
- Alterations to balconies
- Alterations to elevations

3.2 COMPARISON WITH PREVIOUS SCHEME

16 Compared to refused application DC/21/122723, the following amendments have been made:

- All of the balconies would be the same size
- Alterations to materials
- Alterations to the lobby area and entrance steps

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

17 No consultation was undertaken by the applicant prior to the application being submitted. Officer's note that due to the scale of the proposal there is no policy requirement for the applicant to consult with neighbours prior to submitting an application.

4.2 APPLICATION PUBLICITY

18 Site notices were displayed on the 9th November 2021 and press advert was published on the 10th November 2021.

19 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 2nd November 2021.

20 [4] number responses received, comprising [2] objections, [2] support and [0] comments. It is noted that one of the objections is from the Belle Vue Residents Association.

4.2.1 Comments in objection

Comment	Para where addressed
The amendments would exacerbate the loss of views	There is no right to a view in planning terms. Notwithstanding this, the additional storeys have been approved by planning history.

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Additional glare from the building	Para 114
No social housing is required	There is no policy requirement for the provision of social housing as established by the planning history
Loss of light and over shadowing	Section 6.5
Overlooking and loss of privacy	Section 6.5
The two additional storeys are not in keeping with the area	The additional storeys have been approved by planning history
Do not support the light grey render of the top floor	Paras 83 to 85
Object to the service riser	Para 73

- 21 The Belle Vue Residents Association do not consider that they were given a sufficient opportunity to address planning committee during the committee meeting for DC/20/115985. This comment relates to the planning committee process for DC/20/115985, this is not a material consideration in the assessment of the current application.
- 22 The proposal changes every few months- There is not a limit on the number of applications that can be submitted on a site, each application is assessed by the Council on its own merit.
- 23 The proposals are motivated by generating a cash profit – The intentions of the applicant are not a material planning consideration.

4.2.2 Comments in support

Comment	Para where addressed
Support the removal of the lift and lift shaft	Noted by officers
Support the service riser for cables and the like as it will bring updated services	Noted by officers
The proposed front entrance is an improvement	Noted by officers

4.3 INTERNAL CONSULTATION

- 24 The following internal consultees were notified on 2nd November 2021.
- 25 Conservation: No objections raised.
- 26 Highways: No comments received.

4.4 EXTERNAL CONSULTATION

- 27 The following External Consultees were notified on 2nd November 2021
- 28 Forest Hill Society: No response received.

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5 POLICY CONTEXT

5.1 LEGISLATION

29 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).

30 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

31 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.

32 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.

33 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.

34 The main issues to be considered for Section 73 applications are whether the proposed amendments would be acceptable with respect to the Development Plan and whether the proposed variations of conditions are minor in the context of the guidance as set out within the 'Flexible options for planning permissions' section of the Planning Practice Guidance (2014), whilst still adhering to the crux of the objectives of the relevant policies, in the context of the development proposals.

35 The Guidance states that "a minor material amendment is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved." This is not a statutory definition. It is the judgement of the LPA, on an individual case basis, as to whether the alterations to the original scheme are non-material, minor material or so material as to warrant a new planning application.

5.3 NATIONAL POLICY & GUIDANCE

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

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5.4 DEVELOPMENT PLAN

36 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

37 Lewisham SPG/SPD:

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

38 London Plan SPG/SPD:

- Planning for Equality and Diversity in London (October 2007)
- Character and Context (June 2014)
- The control of dust and emissions during construction and demolition (July 2014)
- Accessible London: Achieving an Inclusive Environment (October 2014)
- Housing (March 2016)

6 PLANNING CONSIDERATIONS

39 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

40 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.

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6.1.1 Principle of development conclusions

- 41 The new London Plan (March 2021) has been formally adopted since the original decision (DC/20/118644) was made in January 2021.
- 42 As the London Plan (2021) has now been adopted, it forms part of the Development Plan, and officers have given due consideration to the adopted policies where relevant in this report. Policies 3.3, 3.5 and 3.8 of the Old London Plan set out that there is a pressing need for more homes in London. This has been carried through into the current London Plan, with Policy H2 requiring boroughs to pro-actively support well designed homes on small sites. Further to this, the Small Sites SPD (2021), supports vertical intensification. The adopted London Plan the Small Sites SPD have strengthened the argument around this type of intensification.
- 43 The principle of development, established as acceptable in the original permission is not affected by the proposals, in consideration of the now adopted London Plan.

6.2 HOUSING

- 44 This section covers: standard of accommodation. Members are advised that only the considerations that are impacted by the amendments are set out below.

6.2.1 Residential Quality

General Policy

- 45 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).
- 46 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.

Internal space standards

Policy

- 47 London Plan Policy D6 and DM Policy 32 seeks to achieve housing developments with the highest quality internally and externally in relation to their context and sets out minimum space standards. These policies set out the requirements with regards to housing design, seeking to ensure the long term sustainability of the new housing provision.

Discussion

- 48 The proposed alterations include amending the approved recessed windows in the living areas of the additional dwellings so that they are in line with the building line. As a result of this all of the units in the additional storeys would be enlarged. Table 1 below sets out the approved and proposed Gross Internal Area (GIA) of each dwelling.

Table [1]: Internal space standards – approved v proposed

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Unit	Approved GIA	Proposed GIA
8	60m ²	61.6m ²
9	63.4m ²	64.9m ²
10	63.3m ²	64.8m ²
11	60m ²	61.6m ²
12	63.4m ²	64.9m ²
13	63.3m ²	64.8m ²

49 On application DC/20/118644, Units 8 and 11 did not comply with the minimum GIA for 2B3P units; the shortfall was 1m². That has now been rectified as can be seen from Table 1: dwellings 8 and 11 would both have GIA of 61.6m² and would therefore comply with the minimum space standards for a 2B3P unit, and such this is considered acceptable.

50 In respect of dwellings 8, 10, 12 and 13, all of the units would be enlarged slightly and would exceed the minimum GIA for a 2B3P unit.

External space standards

Policy

51 Standard 4.10.1 of the Mayors Housing SPG states that a 'minimum of 5sqm of private amenity outdoor amenity space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant'

Discussion

52 The application proposes alterations to all of the balconies on the building (existing building and additional storeys) so that they have the same width and depth. It is noted on recently refused MMA application DC/21/122723, the applicants only proposed to amend some of the balconies and this contributed to the refusal reason of that application.

53 Table 2 below sets out the sizes of the balconies below. For the existing flats, the table sets out existing and proposed and for the proposed flats within the additional storeys, the table sets out approved and proposed.

Table [2]: External space standards

Unit	1	2	3	4	5	6	7	8	9	10	11	12	13
Existing or approved (m ²)	4.1	4.1	4.1	4.1	4.1	4.1	4.1	6.2	5	5	6.2	5	5
Proposed (m ²)	5	5	5	5	5	5	5	5	5	5	5	5	5

54 In terms of the existing flats (1 to 7), all of the balconies would be enlarged compared to existing. It is noted that as these flats are existing, the space standards with London Plan Policy D6 cannot be retrospectively applied to these units. Officer's note that the balconies would not be compliant with current policy standards for a 2B3P unit, however,

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given that they would be enlarged compared to the existing this is considered to be acceptable.

- 55 In terms of the balconies for units 8 to 13 all of the balconies would be 5m². For units 9, 10, 12 and 13 this is the same as approved on DC/20/118644 and for units 8 and 11, the balconies would be 1.2m² smaller than approved on DC/20/118644. All of the balconies would be 1m² smaller than as required by policy. The London Plan Housing SPG states that where site constraints make it impossible to provide private amenity space, dwellings may instead be provided with additional internal living space equivalent to the area of open space requirements. All of the units would exceed the minimum GIA by at least 1.6m², as on DC/20/118644, the 1m² shortfall of the private amenity space is compensated by in the GIA minimum exceedance, and as such, on balance, the private amenity space for units 8 to 13 is considered to be acceptable.

Accessibility and inclusivity

Policy

- 56 Paragraph 130 of the NPPF states that planning decisions and policies should create places that are accessible. Policy D5 Inclusive design of the London Plan states that development should achieve the highest standards of inclusive design.

Discussion

- 57 Appeal decision APP/C5690/W/18/3196082, and planning applications DC/20/115985 and DC/20/118644 were all approved with a lift. It is noted that the existing building does not have step free access from the main entrance or within the building. It is also noted that the lift approved by APP/C5690/W/18/3196082, DC/20/115985 and DC/20/118644, did not result in step free access within the building, as all of the flats had to be accessed via a flight of steps once exiting the lift, this is due to the position of the existing stair core within the building.
- 58 Previously refused application, DC/21/122723, raised no objection to the omission of the approved lift due to the existing situation in the building and the siting of the stair core which would require a flight of stairs to be climbed between the lift and the entrances to the flat. This is still considered to be the case. It is noted that the development would still need to comply with the required building regulations.

6.2.2 Housing conclusion

- 59 The proposed amendments are considered to be acceptable in regards to residential quality.

6.3 URBAN DESIGN

General Policy

- 60 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.
- 61 Policies D4 and D6 of the London Plan emphasise that the 'scrutiny of a proposed development should cover its layout, scale, height, density, land uses, materials, architectural treatment, detailing and landscaping'.

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- 62 Core Strategy Policy 15 outlines how the Council will apply national and regional policy and guidance to ensure the highest quality design, and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of site, is sensitive to local context, and responds to local character.
- 63 DMP 30 requires planning applications to demonstrate site specific response, which creates a positive relationship with the existing townscape whereby the height, scale and mass of the proposed development relates to the urban typology of the area.
- 64 As the application site is adjacent to the Forest Hill Conservation Area DM Policy 36 is also relevant. DM Policy 36 states in point 4 c that permission will not be granted adjacent to a conservation area where the development would have a significant impact on the conservation area.

6.3.1 Appearance and character

Policy

- 65 In terms of architectural style, the NPPF encourages development that is sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (para 130).
- 66 London Plan Policy D3 states that development should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions. Proposals should be of high quality, with architecture that pays attention to detail, and gives thorough consideration to the practicality of use, flexibility, safety and building lifespan through appropriate construction methods and the use of attractive, robust materials which weather and mature well.
- 67 DM Policy 30 requires planning applications to demonstrate a site specific response which creates a positive relationship with the existing townscape whereby the height, scale and mass of the proposed development relates to the urban typology of the area.
- 68 DM Policy 32 expects new residential development to be attractive and neighbourly.

Discussion

- 69 As set out above, this application seeks to make minor material amendments to an approved scheme. Therefore the principle of two additional storeys is firmly established. This section focuses on the amendments proposed to the approved scheme.

Removal of Lift

- 70 The amendments propose to remove the approved lift, this would result in the lift core which would have extended above the flat roof being omitted. This amendment would result in no element extending above the flat roof of the additional storeys. The proposed amendment is not considered to have an unacceptable impact on the character and appearance of the development approved by DC/20/118644.

The installation of an external service riser and plant intake room

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- 71 This application proposes to introduce a plant intake room at lower ground floor level. The plant intake room would not extend beyond the building line fronting Devonshire Road and would have a depth 0.1m greater than the omitted lift core (which extended on all storeys of the building). The plant intake room would be accessed externally via steps which would adjoin the entrance. The plant intake room would be finished in materials to match the rest of the building.
- 72 It is noted that on the previously refused application DC/21/122723, the plant intake room proposed on that application was proposed to be constructed in materials that did not match the building and was accessed via double doors on the elevation fronting Devonshire Road.
- 73 An external plant intake room was not proposed on DC/20/118644 and this amendment would introduce a new element. Considering the scale of the plant intake rooms, its siting and materials matching the rest of the building, the proposed plant intake room is considered to have an acceptable impact on the character and appearance of the development approved by DC/20/118644.
- 74 Also on the Ewelme Road elevation, an external service riser is proposed. The external service riser would project 0.4m from the elevation and would have a width of 1.7m, and would extend ground floor level and above. The external service riser would not extend above the flat roof of the building. The external service riser would be constructed in materials to match the rest of the building. It is noted that on the previously refused application, the external service riser was proposed to be constructed in materials that did not match the building.
- 75 An external service riser was not proposed on DC/20/118644 and this amendment would introduce a new element. Considering the scale of the external service riser combined with its materiality, it is to have an acceptable impact on the character and appearance of the development approved by DC/20/118644.

Alterations to lobby area and entrance steps

- 76 Application DC/20/118644 was approved with a front extension and for the building to be accessed via a single door opening. This application proposes to omit the front extension and for the entrance door to be centrally arranged with glazed panels either side. Due to the amendments, the lobby area outside the front door would be enlarged (it would be sited in the place of the omitted lift core and front extension).
- 77 The omission of the front extension, alterations to the front entrance and enlarged outside lobby area are considered to have an acceptable impact on the character and appearance of the development approved by DC/20/118644.
- 78 The alterations to the lobby area result in an amended layout for the soft and hard landscaping; the amendments are considered to be acceptable.

Alterations to balconies

- 79 This application proposes to alter all of the balconies on the building so that all would be the same size. It is noted that on previously refused application DC/21/122723, the elevations would have incorporated balconies of different sizes and this contributed to the refusal of DC/21/122723.

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80 The alterations to the balconies so that they would all be uniform in size is not considered to have an unacceptable impact on the character and appearance of the development approved by DC/20/118644.

Alterations to elevations

81 The elevational alterations proposed on this application are:

- Amending the recessed windows in the living areas of the additional dwellings so that they would be in line with the building line
- Introduction of curtain walling in the Ewelme Road elevation in the additional storeys
- The third floor would be finished in a light grey render

82 The proposed amendments to the recessed windows in the living areas of the additional dwellings, so that they would be in line with the building line, is considered to have an acceptable impact on the character and appearance of the development approved by DC/20/118644. It is noted that the existing flats on the lower levels do not have recessed windows in the living areas.

83 Application DC/20/118644 was approved with two window openings on each level in the Ewelme Road elevation. This application seeks to alter and extend the curtain walling that currently exists on the lower levels of the building so that the additional storeys would incorporate curtain walling. The submission sets out that the curtain walling would incorporate powder coated frames which would be Basalt grey (RAL 7012) in colours, it is noted that this would match the approved windows and doors. The proposed alteration to the existing curtain walling and the introduction of curtain walling within the additional storeys is considered to have an acceptable impact on the character and appearance of the development approved by DC/20/118644.

84 The materials condition attached to APP/C5690/W/18/3196082 and planning applications DC/20/115985 and DC/20/118644 were approved with the proposed third floor being clad in through-colour fibre cement panels – Equione (Natura) N281 Nimbus. This application seeks to amend the third floor so that it would be finished in a scraped render in a light grey colour. It is noted that previously refused application DC/21/122723 did not propose this amendment.

85 In appeal decision APP/C5690/W/18/3196082, the Planning Inspector sets out in paragraph 8 *'concern is also raised regarding the design of the extension, partially as the area is typically characterised by brick buildings of both traditional and modern design. The use of coloured cladding panels for the external walls is not commonplace in the area, however, in combination with the wide plans to rejuvenate the external appearance of the building, I am satisfied that the development would read as a cohesive structure. I do not consider the use of cladding would be inappropriate on a c1970's building, nor in the wider area to justify refusal and I am mindful that the final colours of the panels could reasonably be dealt with by a materials condition'*.

86 The reasoning applied by the Planning Inspector in appeal decision APP/C5690/W/18/3196082, can be applied to this current application. Whilst officers acknowledge that render is not a common feature within the streetscene, the replacement of the approved cladding with render is still considered to result in a cohesive structure and the use of render is not considered to be inappropriate on a

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building from c.1970's nor in the wider area. It is noted that Conservation Officers raised no objection to the proposed change in material.

6.3.2 Impact on Heritage Assets

Policy

- 87 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.
- 88 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.
- 89 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.
- 90 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.
- 91 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.

Discussion

- 92 Officers have regard to appeal decision APP/C5690/W/18/3196082, in which the Planning Inspector outlined that the existing building makes a limited contribution to the setting of the conservation area and the development proposed on APP/C5690/W/18/3196082 would not harm the setting of the conservation area.
- 93 When considering the scope of the amendments to the development approved under DC/20/118644 and the comments made by the Planning Inspector in APP/C5690/W/18/3196082, officers consider that the current proposals would not harm the setting of the Forest Hill Conservation Area.

Summary

- 94 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 setting and the character and appearance of the Forest Hill Conservation Area.

6.3.3 Urban design conclusion

- 95 The amendments to the development approved by DC/20/118644 are considered to have an acceptable impact on the character and appearance of the approved scheme,

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the wider street scene and on the setting and character and appearance of the adjacent Forest Hill Conservation Area.

6.4 TRANSPORT IMPACT

General policy

96 The NPPF paragraph 110 states that planning decisions should ensure safe and suitable access to the site for all users, and that any significant impacts from the development on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree.

97 Paragraph 111 of the NPPF 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'.

Discussion

98 The amendments proposed on this application do not have a transport and highways impact and therefore do not fall to be considered.

99 It is highlighted for Members that conditions in respect of the Construction Management Plan, Cycle Parking and Refuse Storage are still applicable.

6.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

100 NPPF para 130 sets an expectation that new development will be designed to create place that amongst other things have a 'high standard' of amenity for existing and future users. This is reflected in relevant policies of LPP D3, D6 and D14 and DMP 30 and 32.

101 DMP 31(1)(b) expects new development to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours. The Small Site SPD provides general guidance in section 12 (sub section 12.2 to 12.4) and specific guidance in section 32.

Discussion

102 Officers will only have regards to the impacts of the proposed amendments on neighbouring amenity.

Removal of lift

103 The removal of the lift core would not have an unacceptable impact on neighbouring amenity. It is highlighted that the removal of the lift core reduces the maximum height of the building.

The installation of an external service riser and plant intake room

104 Considering the scale and siting of the plant intake room and service riser, it is considered to have an acceptable impact on neighbouring amenity.

Alterations to the lobby area and entrance steps

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105 The separation distance to the properties on the opposite side of the junction with Ewelme Road is approximately 19m and the separation distance to the properties on the opposite side of Devonshire Road is between 19-21m. Considering the separation distance to neighbouring properties and the siting and scale of the alterations, the alterations to the lobby area and entrance steps are not considered to have an unacceptable impact on neighbouring amenity.

Alterations to balconies

106 The separation distance to the properties on the opposite side of Devonshire Road is between 19 and 21m and the separation distance to Drakes Court which is situated to the side and rear is 21m. Considering the separation distances to the properties situated opposite and to the rear, the alterations to the balconies are not considered to have an unacceptable impact on neighbouring amenity.

Alterations to elevations

107 The separation distance to the properties on the opposite side of Devonshire Road is between 19 and 21m and the separation distance to Drakes Court which is situated to the side and rear is 21m. Considering that the windows would be in line with the approved building line and the separation distance to properties opposite and to the rear, the alterations to windows are considered to have an acceptable impact in terms of overlooking or loss of privacy.

108 On the elevation facing Ewelme Road the amount of glazing would increase due to the proposed curtain walling. It is noted that the curtain walling would serve the communal hallways and not the flats. The separation distance to the dwellings on the opposite side of the junction with Ewelme Road is approximately 19m. Considering that the curtain walling would serve communal hallways and the separation distance to the properties opposite, the proposed curtain walling is not considered to result in an unacceptable impact in terms of overlooking and loss of privacy.

109 The removal of the lift core would not have an unacceptable impact on neighbouring amenity. It is highlighted that the removal of the lift core reduces the maximum height of the building.

110 Considering the scale and siting of the plant intake room and service riser, it is considered to have an acceptable impact on neighbouring amenity.

111 The separation distance to the properties on the opposite side of the junction with Ewelme Road is approximately 19m and the separation distance to the properties on the opposite side of Devonshire Road is between 19-21m. Considering the separation distance to neighbouring properties and the siting and scale of the alterations, the alterations to the lobby area and entrance steps are not considered to have an unacceptable impact on neighbouring amenity.

112 The separation distance to the properties on the opposite side of Devonshire Road is between 19 and 21m and the separation distance to Drakes Court which is situated to the side and rear is 21m. Considering the separation distances to the properties situated opposite and to the rear, the alterations to the balconies are not considered to have an unacceptable impact on neighbouring amenity.

113 The separation distance to the properties on the opposite side of Devonshire Road is between 19 and 21m and the separation distance to Drakes Court which is situated to

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the side and rear is 21m. Considering that the windows would be in line with the approved building line and the separation distance to properties opposite and to the rear, the alterations to windows are considered to have an acceptable impact in terms of overlooking or loss of privacy.

On the elevation facing Ewelme Road the amount of glazing would increase due to the proposed curtain walling. It is noted that the curtain walling would serve the communal hallways and not the flats. The separation distance to the dwellings on the opposite side of the junction with Ewelme Road is approximately 19m. Considering that the curtain walling would serve communal hallways and the separation distance to the properties opposite, the proposed curtain walling is not considered to result in an unacceptable impact in terms of overlooking and loss of privacy.

114 Concern has been raised by neighbours in respect of additional glare from the glazing. Considering the orientation of the building and the siting of the glazing, the curtain walling is not considered to result in materially harmful impact as a result of glare.

115 The replacement of cladding with render would have an acceptable impact on neighbouring amenity.

6.5.1 Impact on neighbours conclusion

116 The amendments to the development approved by DC/20/118644 are considered to have an acceptable impact on neighbouring amenity.

7 LOCAL FINANCE CONSIDERATIONS

117 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).

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

119 The CIL is therefore a material consideration.

120 The application is CIL liable and the amount due to be paid would be confirmed at a later date in a liability notice.

8 EQUALITIES CONSIDERATIONS

121 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.

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- 122 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.
- 123 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.
- 124 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>
- 125 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
- 126 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>
- 127 The existing building is not wheelchair accessible and the amendments in this application would result in no difference to the existing arrangement in terms of wheelchair accessibility. Notwithstanding this, if there was a lift in the building, there are stairs that would need to be negotiated to access the lift and the residential units.

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9 HUMAN RIGHTS IMPLICATIONS

128 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

129 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.

130 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.

131 This application has the legitimate aim of providing a two storey extension to provide six new dwellings. The rights potentially engaged by this application, including respect for your private and family life, home and correspondence and the freedom to enjoy one's home are not considered unlawfully interfered with by this proposal.

10 CONCLUSION

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

133 The application seeks amendments under Section 73 to a scheme which was granted planning permission in 2021 (DC/20/118644).

134 The proposed alterations to the approved scheme are considered to be acceptable in terms of residential quality, design and impact on neighbouring amenity.

135 Subject to the imposition of conditions, the development is acceptable and in accordance with the development plan.

11 RECOMMENDATION

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

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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 the date of 14th January 2021 on which the original permission DC/20/118644 was granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

2) APPROVED DRAWINGS

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

Documents from DC/20/118644

1859-EX200 Rev P2; 9945-XX-3601 Rev D; WEC-PP-02/A;; WODLM-E001 Rev /; WODLM-E002 Rev /; WODLM-E003 Rev /; WODLM-E004 Rev /; WODLM-L001 Rev /; WODLM-P001 Rev /; WODLM-P002 Rev /; WODLM-P003 Rev /; WODLM-P004 Rev /; WODLM-S001 Rev /; WODLM-ST001 Rev /; 123 Woodelm Court, Devonshire Road Implementation Programme (prepared by James Lee Landscape & Garden Design, dated September 2020); Construction Management Plan (prepared by Vista Developments, dated September 2020); Highway Statement (prepared by Waterman Infrastructure & Environment Limited, dated September 2020); Plant Management & Maintenance Plan (prepared by James Lee Landscape & Garden Design, dated September 2020); Recycling and Waste Management Plan (prepared by Vista Developments, dated September 2020); Tree Report (prepared by PBA Consulting, dated September 2020); Wheelchair Statement (prepared by Playle & Partners LLP, dated September 2020)

Documents from DC/21/123797

Received 12th October 2021

9945-00-3103 Rev N; 9945-00-3401 Rev O; 9945-01-3104 Rev O; 9945-02-3105 Rev P; 9945-04-3107 Rev V; 9945-05-3158 Rev Q; 9945-06-3159 Rev O; 9945-ZZ-3204 Rev N; 9945-ZZ-3251 Rev N; 9945-ZZ-3252 Rev K; 9945-ZZ-3253 Rev L; 9945-ZZ-3255 Rev A; WEC-SP-01/F; External Materials Rev S4-B (prepared by Playle & Partners LLP, dated 6th October 2021)

Received 23rd February 2022

WEC-HDL-01/B; WEC-PP-01/A; 123 Woodelm Court, Devonshire Road, V4 (prepared by James Lee Landscape & Garden Design, dated 23 February 2022)

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.

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3) CONSTRUCTION MANAGEMENT PLAN

The development shall be carried out in accordance with Construction Management Plan approved by DC/20/118644: Construction Management Plan (prepared by Vista Developments, dated September 2020).

Reason: In order that the local planning authority may be satisfied that the demolition and construction process is carried out in a manner which will minimise possible noise, disturbance and pollution to neighbouring properties and to comply with Policy SI1 Improving air quality and Policy T7 Deliveries, servicing and construction of the London Plan (March 2021).

4) EXTERNAL MATERIALS

(a) The development shall be constructed in those materials as set out in External Materials Rev S4-B (prepared by Playle & Partners LLP, dated 6th October 2021).

(b) The scheme shall be carried out in full accordance with those details as approved.

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

5) REFUSE/RECYCLING FACILITIES

(a) The development shall be carried out in accordance with the refuse/recycling facilities: 9945-XX-3601 Rev D approved by DC/20/118644.

(b) The facilities as approved under part (a) 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 PARKING

(a) The development shall be carried out in accordance with the cycle parking as shown on 9945-XX-3601 Rev D approved by DC/20/118644.

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(b) All cycle parking spaces shall be provided 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 14: Sustainable movement and transport of the Core Strategy (2011).

7) HARD AND SOFT LANDSCAPING

(a) The development shall be carried out in accordance with the hereby approved Hard and Soft Landscaping:

Documents from DC/20/118644

WEC-PP-02/A; 123 Woodelm Court, Devonshire Road Implementation Programme (prepared by James Lee Landscape & Garden Design, dated September 2020); 123 Woodelm Court, Devonshire Road V2 (prepared by James Lee Landscape & Garden Design, dated 11 September 2020); Plant Management & Maintenance Plan (prepared by James Lee Landscape & Garden Design, dated September 2020)

Documents from DC/21/123797

Received 12th October 2021

WEC-SP-01/F

Received 23rd February 2022

WEC-HDL-01/B; WEC-PP-01/A; 123 Woodelm Court, Devonshire Road, V4 (prepared by James Lee Landscape & Garden Design, dated 23 February 2022)

(b) The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

Any trees or 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 Policies SI 12 Flood risk management in the London Plan (March 2021), Core Strategy Policy 12 Open space and environmental assets Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November

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2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

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.

- 2) As you are aware the approved development is liable to pay the Community Infrastructure Levy (CIL) which will be payable on commencement of the development. An '**assumption of liability form**' must be completed and before development commences you must submit a '**CIL Commencement Notice form**' to the council. You should note that any claims for relief, where they apply, must be submitted and determined prior to commencement of the development. Failure to follow the CIL payment process may result in penalties. More information on CIL is available at: -
<http://www.lewisham.gov.uk/my services/planning/apply-for-planning-permission/application-process/Pages/Community-Infrastructure-Levy.aspx>

- 3) 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.

- 4) The applicant be advised that the implementation of the proposal will require approval by the Council of a Street naming & Numbering application. Application forms are available on the Council's web site.

12 BACKGROUND PAPERS

- 1) Submission drawings
- 2) Submission technical reports
- 3) Internal consultee responses
- 4) Statutory consultee responses

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13 REPORT AUTHOR AND CONTACT

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