



Planning Committee A

26 CANONBIE ROAD, LONDON, SE23 3AP.

Date: 17 March 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Forest Hill

Contributors: Estelle Pengelly

Outline and recommendations

This report sets out the officer's recommendation of approval for this planning application, subject to conditions. The case has been brought before members for a decision as four objections have been received from the neighbouring properties.

Application details

Application reference number(s): DC/21/124226

Application Date: 09 November 2021

Applicant: Dr and Mrs Hewett

Proposal: Construction of a roof extension to include raising the ridge height and the addition of a second storey with a Juliet balcony to the rear, together with the replacement of the single storey rear extension at 26 Canonbie Road SE23.

Background Papers: Submission Drawings
Planning Statement
Statutory Consultee Responses

Designation: PTAL 2

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 This application site relates to a two-storey detached dwelling, located on the North western side of Canonbie Road, at No 26. The property benefits from a single storey rear extension and a moderate size garden. The property is not located within a conservation area, nor is it close to a listed building or non-designated heritage asset.



Figure 1: Site Plan

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Character of area

- 2 The surrounding area is predominantly residential in nature comprising of various types of housing.



Figure 2: Aerial View

Surrounding area

- 3 Burwood Court is a block of flats adjoining the application site to the South West. A single storey dwelling (24A Canonbie Road) is currently being constructed adjoining the application site to the North East.

Local environment

- 4 The site is located in an air quality management area.

Transport

- 5 The site has a Public Transport Accessibility Level (PTAL) score of 2 on a scale of 1-6b, 1 being lowest and 6b the highest.

2 RELEVANT PLANNING HISTORY

- 6 None.

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3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 7 The proposal is for the construction of a roof extension to include raising the ridge height and the addition of a second storey with a Juliet balcony to the rear, the replacement and enlargement of the single storey rear extension, together with amendments to the fenestration at 26 Canonbie Road SE23.
- 8 The existing conservatory (3.5m deep and 3.6m wide) and external toilet at the rear would be replaced with a stepped single storey rear extension which would be 3.2m deep on the North eastern corner, be stepped back and be 1.2m deep on the South western corner providing a patio area. The roof would be mono-pitched at 3.3m in height and slope down to 2.5m (eaves height). The materials would be rendered walls and a brown clay or concrete tile roof.
- 9 The existing dwelling currently is two storeys. The proposal includes the construction of a second floor and amendment of the roof form. The height of the roof would be 9.8m. The height of the chimneys would be increased to match the height of the roof. The second storey would have a Juliet balcony at the rear. Two windows would be installed in the front elevation. The materials would be rendered walls and a brown clay or concrete tile roof.
- 10 The proposal also includes the replacement of all the windows with timber windows. A new obscure glazed window will be added in the east side elevation at ground floor level. The existing doors in the west side elevation will be removed. At first floor level the windows in the front and rear elevations will be amended in style and shape. The brickwork will be retained at ground floor level in the front elevation.



Figure 3: Proposed front elevation

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Figure 4: Proposed rear elevation

3.2 REVISIONS

11 The initial proposal included a balcony at the rear. The balcony was amended to a Juliet balcony.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

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

4.2 APPLICATION PUBLICITY

13 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 17 November 2021. A letter was sent to No. 24A Canonbie Road on 17 December 2021.

14 Four responses were received, comprising four objections.

4.2.1 Comments in objection

Comment	Para where addressed
The extension will result in the loss of light through the windows for the flats at 38 Canonbie Road (Burwood Court).	Para 42-45
The proposed structure is overbearing and out of character.	Para 34
The proposed balcony and window would cause loss of privacy.	Para 46
Sense of enclosure due to loss of view and outlook	Para 43-45

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There would be an increase in wind being tunnelled through between 26 Canonbie and 38 Canonbie Road.	The scale of the development would not give rise to microclimate impacts such as wind tunnels and is therefore not a consideration in this case
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4.3 INTERNAL CONSULTATION

15 No Internal Consultees were notified given the nature of the application.

4.4 EXTERNAL CONSULTATION

16 No External Consultees were notified given the nature of the application.

5 POLICY CONTEXT

5.1 LEGISLATION

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

5.2 MATERIAL CONSIDERATIONS

18 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.

19 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.

20 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

21 The Development Plan comprises:

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- 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

22 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

6 PLANNING CONSIDERATIONS

23 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

24 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.

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

6.1.1 Principle of development conclusions

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

6.2 URBAN DESIGN

General Policy

27 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.

28 CSP 15 outlines how the Council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to the local context and responds to local character.

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- 29 DMLP 30 states that all new developments should provide a high standard of design and should respect the existing forms of development in the vicinity. The London Plan, Core Strategy and DMLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design.
- 30 DMLP 31 states that extensions will not be permitted where they would adversely affect the architectural integrity of a group of buildings as a whole or cause an incongruous element in terms of the important features of a character area.

6.2.1 Appearance and character

Discussion

Single storey rear extension

- 31 Officers consider the proposed rear extension as a modest addition which is in line with the SPD guidelines.

Roof extension

- 32 Objections were raised regarding the design of the proposal, with concerns that the proposal is overbearing and out of character.
- 33 The general guidance in the Alterations and Extensions SPD Section 5 states that the roof form of a house and other houses in a street make a significant contribution to the character of an area. Roof extensions and alterations should be designed to complement the individual house and existing streetscape. The architectural integrity of a building must not be harmed by any roof extension or alteration. It is important to provide a roof form which is appropriate to the building and adjoining properties. This means that the changes must take into consideration the architectural language and proportions of the existing dwelling and its neighbours. Materials for extensions and alterations should be of a high quality.
- 34 Officers consider the addition of a storey and increase in ridge height to be acceptable and in line with SPD guidelines, given the site specific circumstances in this particular case. The proposed roof form would be appropriate for the area. The existing roof is lower than most of the existing roofs in the road. The proposed roof extension would be lower than the flat roof at 38 Canonbie Road, and higher than the ridge height at No. 24 Canonbie Road: it can therefore be seen to mediate between the differing heights of the adjoining neighbours. As there are various housing types and styles in close proximity to the application site, the proposal is not considered to diminish the character of Canonbie Road.

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Figure 5: Street Scene - various styles and sloping of Canonbie Road

Elevational Alterations

- 35 The proposal also includes the replacement of all the windows with timber windows. A new obscure glazed window will be added in the east side elevation at ground floor level. The existing doors in the west side elevation will be removed. At first floor level the windows in the front and rear elevations will be amended in style and shape. The brickwork will be retained at ground floor level in the front elevation.
- 36 Officers consider the amendments suitable as the proposed materials are of a suitable quality and this section of Canonbie Road has various designs and housing styles and the amendments would not be out of character.

6.2.2 Urban Design Conclusion

- 37 The proposed scheme would preserve the character and appearance of the host dwelling and would not adversely impact the street scene. Officers conclude that the proposal responds sensitively to its context and surrounding area and is therefore acceptable in terms of its design.

6.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 38 NPPF para 130 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At para 185 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.
- 39 This is reflected in relevant policies of the London Plan (D3), the Core Strategy (CP15), the Local Plan (DMP 31) and associated guidance (Alterations and Extensions SPD 2019).

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

41 Daylight and sunlight are generally measured against the Building Research Establishment (BRE) standards however this is not formal planning guidance and should be applied flexibly according to context. Due to the nature of the proposal a daylight and sunlight assessment was not required as the impact on daylight and sunlight could be assessed without it by planning Officers.

Discussion

42 Objections were received on the grounds of loss of light, outlook and sense of enclosure with regards to the construction of an additional storey and the windows facing the application site at 38 Canonbie Road (Burwood Court). Officers note that there is an existing separation distance of 2.9m between the existing dwelling at No. 26 and the block of flats at No. 38. Officers note that the Applicant confirmed that the windows at first and second floor levels serve bathrooms (see Figure 6, below). It should be noted that those windows face north-east.

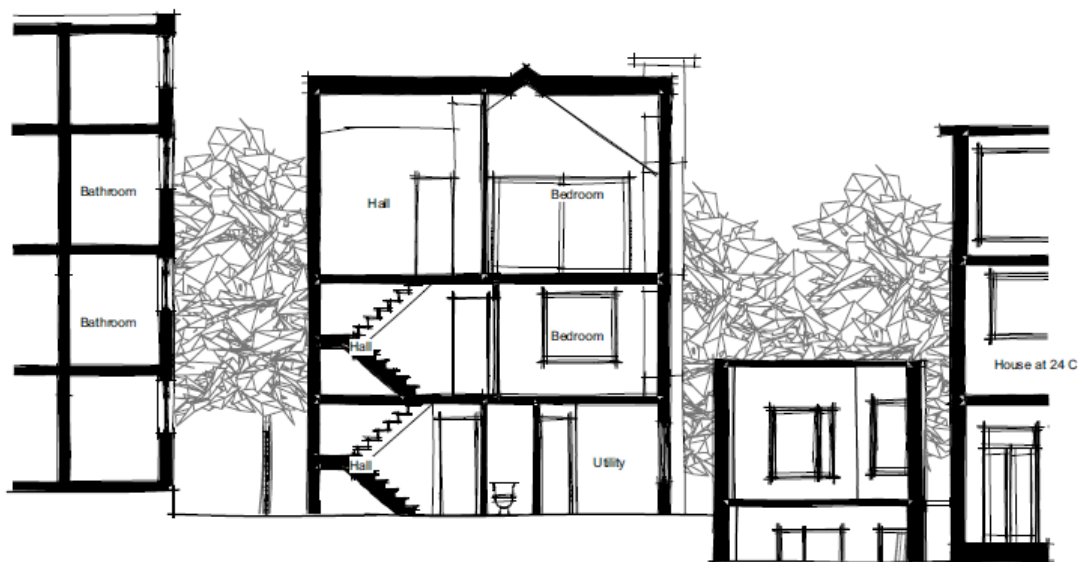


Figure 6: Proposed section

43 The ground floor window already suffers from lack of light, outlook and sense of enclosure. Due to the relationship between the existing dwelling and this window, Officers consider that the amount of loss of light, outlook and feeling of enclosure is not materially changing and the proposal would not be detrimental to this flat.

44 In terms of daylight and sunlight, BRE guidance states that calculations should be undertaken for habitable rooms such as living rooms, kitchens and bedrooms. The BRE guide states that windows to bathrooms, toilets, storerooms, circulation areas and garages need not be tested. The first and second floor windows serve non-habitable rooms and therefore loss of light and sense of enclosure is not considered to be harmful.

45 Officers consider that the third floor window might experience some minor loss of light and outlook and sense of enclosure but within acceptable tolerances.

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- 46 Officers note that an objection was received regarding overlooking from the balcony onto the neighbours' rear gardens. Officers requested amendments from the Applicant and the balcony was amended to a Juliet balcony which is considered acceptable in terms of privacy for the neighbours. Officers acknowledge that the Juliet balcony and the window at second floor level would permit overlooking onto the rear gardens of the neighbours, however, these views would be similar to the existing views from the windows at first floor level and would therefore be acceptable.
- 47 The new window proposed in the east side elevation at ground floor level will be obscure glazed and would therefore not impact the neighbour at No. 24A.
- 48 The single storey rear extension is not considered to impact the neighbours at No. 38 Canonbie Road due to the separation distance between the extension and the block of flats of 2.9m.
- 49 The single storey rear extension is considered acceptable in terms of the impact on the neighbour at No. 24A as there would be a separation distance of 0.9m between the extension and the building at No. 24A and the extension's depth (3.2m) combined with the eaves (2.5m) and ridge (3.3m) heights are acceptable in terms of the recommendations stipulated in the SPD guidelines with regards to extensions along shared boundaries.

6.3.1 Impact on neighbours conclusion

- 50 The proposed development would not introduce any unacceptably harmful impacts to the living conditions of any of the neighbouring properties and therefore would be compliant with LPP D3, CSP 15 and DMP 31 and the provisions of the 2019 SPD guidelines.

7 LOCAL FINANCE CONSIDERATIONS

- 51 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).
- 52 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 53 The CIL is therefore a material consideration.
- 54 This application is householder development and does not attract a CIL charge.

8 EQUALITIES CONSIDERATIONS

- 55 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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- 56 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.
- 57 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.
- 58 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>
- 59 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
- 60 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>
- 61 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.

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9 HUMAN RIGHTS IMPLICATIONS

62 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

63 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.

64 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.

65 This application has the legitimate aim of providing alterations to the existing building. The rights potentially engaged by this application, including Article 8 and Protocol 1 are not considered to be unlawfully interfered with by this proposal.

10 CONCLUSION

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

67 The proposed additions to the roof and rear of the existing dwelling are acceptable in terms of scale, form, and design.

68 The proposal would have no unacceptable impact on neighbouring properties in terms of overlooking, loss of daylight/sunlight or creating a sense of enclosure.

69 In light of the above, it is recommended that planning permission be granted.

11 RECOMMENDATION

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

11.1 CONDITIONS

- 1) FULL PLANNING PERMISSION TIME LIMIT

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

P003A; P001A; P006A (Received 12 January 2022);

P004B; P002B; P007B; P005B (Received 24 January 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.

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

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.

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.

12 BACKGROUND PAPERS

- 71 Submission Drawings
- 72 Planning Statement
- 73 Statutory Consultee Responses

13 REPORT AUTHOR AND CONTACT

- 74 Estelle Pengelly

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