



Planning Committee B

52 Loampit Hill, London, SE13 7SW

Date: 12 April 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Ladywell

Contributors: Alfie Williams

Outline and recommendations

This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to the submission of three objections from local residents.

Application details

Application reference number(s): DC/21/120340

Application Date: 8 February 2021

Applicant: Mr Alistair Higgins

Proposal: The demolition of the existing rear conservatory and construction of a two storey extension to the rear of 52 Loampit Hill, SE13, together with alterations to the roof of the existing rear outrigger and side addition in connection with the formation of a rear and side roof terrace at second floor level.

Background Papers: (1) Submission Drawings
(2) Submission technical reports and supporting documents
(3) Internal consultee responses
(4) External consultee responses

Designation: Air Quality Management Area
Local Open Space Deficiency
PTAL 6a

1 SITE AND CONTEXT

Site description and current use

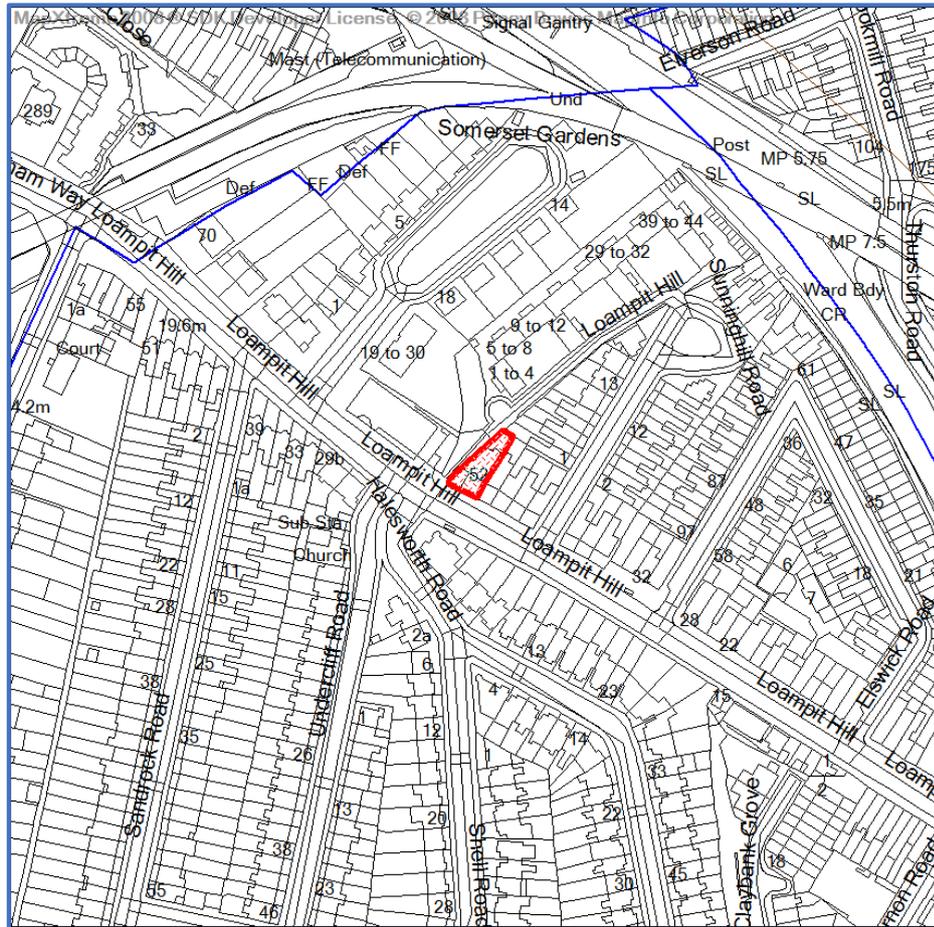
- 1 The application site is a three-storey Victorian property located on the northern side of Loampit Hill. The property is constructed from London stock bricks with a slate roof and timber sash windows. The front elevation is decorated with ornate stucco detailing to the facade and window surrounds. To the side the property is a two storey side addition with identical decoration. The front elevation also features a two storey bay. To the front of the property is a large front garden, part of which has been converted to form a drive with vehicle access facilitated by a dropped kerb.
- 2 At the rear, the property has a two storey outrigger aligned to the eastern side adjoining an identical structure at No.50. The rear garden is relatively shallow at 9m in length from the rear of the outrigger.

Figure 1. Site Location Plan

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Character of area

- 3 The property forms part of a terrace of identical residential properties. This section of Loampit Hill is largely residential as are the surrounding side roads. The opposite side of the road features terraces of two storey Victorian residential properties in addition to the rear boundaries of back gardens. St Johns Medical Centre is located to the east of the property.
- 4 Further to the west Loampit Hill has a more commercial character with parades of shops either side of the road as Loampit Hill becomes Loampit Vale at the boundary of Lewisham Town Centre. From this point the scale of development increases substantially.

Heritage

- 5 The site is not located within a Conservation Area and neither is the property listed. Somerset Gardens Conservation Area is located approximately 60m to the north-west of the site and contains the nearest listed buildings.

Transport

- 6 The site has a PTAL of 6a, which is an excellent level of public transport accessibility. Loampit Hill (A20) is a red route and forms part of the TfL Road Network.

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2 RELEVANT PLANNING HISTORY

- 7 Conditional temporary permission was granted in November 1996 for the use of the ground and first floors for educational purposes together with the conversion of the second floor to provide a one bedroom self contained flat, together with the erection of a conservatory at the rear. The permission attached a condition that required the cessation of the use on or before 31 December 1998.
- 8 DC/03/53577: The change of use of the second floor of 52 Loampit Hill SE13 for educational purposes in connection with the continued use of parts of the ground and first floors for educational purposes and the remainder of the property as a one bedroom residential unit – granted subject to the condition that the permission would be personal to the applicant.
- 9 DC/20/116511: The demolition of the existing rear conservatory and construction of a two storey extension to the rear of 52 Loampit Hill, SE13, together with alterations to the roof of the rear outrigger, the formation of a rear and side roof terrace at second floor level and alterations to the front elevation – withdrawn.

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 10 The proposed development would see the demolition of the existing conservatory and construction of a two storey extension infilling the side return adjacent to the outrigger. The extension would measure 6.1m deep x 6m high (including balustrade) with a width of between 4.5m and 2.6m. The extension would be constructed from London stock bricks to match the existing with large areas of crittal style glazing at ground and first floor level. The form of the original outrigger would be retained.
- 11 The extension would have a flat roof that would adjoin the outrigger and the roof of the side addition. The pitched roof of the outrigger would be removed to form a continuous flat roof adjoining the extension. These works would facilitate the provision of a 2nd floor terrace with an area of 35sqm. Screening would be installed on the party wall with No.50 Loampit Hill and a store constructed to form the side boundary of the terrace set in 0.5m from the party wall. A glazed balustrade would be installed at the perimeter of the terrace. A planter would be installed set back 1.7m from the rear elevation to form the rear boundary of the terrace.

4 CONSULTATION

4.1 APPLICATION PUBLICITY

- 12 Site notices were displayed on 16 February 2021. Letters were also sent to residents and business in the surrounding area as well as to the relevant ward Councillors on 15 February 2021.
- 13 Three responses were received, comprising three objections.

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4.1.1 Comments in objection

| Comment | Para where addressed |
|-------------------------------|----------------------|
| Loss of privacy | 43-50 |
| Increased noise & disturbance | 51-63 |

14 Matters raised in relation to the structural impact and impact to the party wall are not material planning considerations as they are suitably addressed by Building Regulations and party wall legislation. It is established planning practice to avoid duplicating the control given by other legislation.

5 POLICY CONTEXT

5.1 LEGISLATION

15 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

16 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.

17 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.

18 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

19 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)

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- 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

20 Lewisham SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

21 London Plan SPG:

- Character and Context (June 2014)

6 PLANNING CONSIDERATIONS

22 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

23 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.

24 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.

Discussion

25 The application property is in residential use and it is considered that its alteration and expansion for the purposes of continued residential occupation is acceptable in principle, subject to matters of urban design and impact on neighbouring amenity. These matters are considered in detail in the following sections of the report.

6.1.1 Principle of development conclusions

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

6.2 URBAN DESIGN

General Policy

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- 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 London Plan (Policy D3) and Core Strategy (Policy 15) design policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design, whilst the Development Management Local Plan, most specifically DM Policy 30, seeks to apply these principles.

Policy

- 29 LPP D3 states that development proposal should respond positively to the existing character of a place by identifying the special characteristics and features of the locality.
- 30 DMP 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.
- 31 DMP 31 requires development proposals for alterations and extensions to be of a high, site specific, and sensitive design quality, and respect and/or complement the form, setting, period, architectural characteristics, detailing of the original buildings, including external features such as chimneys, and porches. High quality matching or complementary materials should be used, appropriately and sensitively in relation to the context.
- 32 The Alterations and Extensions SPD highlights that the extra height and bulk of a two or extension compared to a single storey structure increases the visual prominence necessitating a high quality of design response.

Discussion

- 33 The proposed extension would feature a combination of matching brickwork and high quality contemporary design features that would complement the existing architecture. The height and massing of the extension would be proportionate, taking into account the width of the extension and three storey height of the host property. The retention of the outrigger form would ensure that the extension would be subservient to the original architecture. The use of glazing would result in a visually lightweight appearance and would assist in distinguishing the new built form from the original.
- 34 The rear elevation of the property is visible from public viewpoints from Grover Court and the adjacent path. The extension would be most prominent from the path adjacent to the site that connects Grover Court with Loampit Hill. This pathway is not used intensively as it is gated and only accessible for residents of Grover Court. The extension would be visible from Grover Court but would not be prominent given the distance and screening provided by the trees that line the path. As such, the extension would not have a significant visual impact of the appearance of the surrounding area.
- 35 The roof terrace would introduce additional bulk at third floor level in the form of the balustrades and planter. On balance, this additional bulk is assessed to be acceptable given that the glazed design of balustrades would mirror the high proportion of glazing in the extension and would be visually lightweight. Officers have also given weight to the limited impact to the streetscene of Grover Court. Moreover, the physical additions required for the roof terrace would be the minimum necessary for health and safety purposes and the screening of sensitive views.

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36 A condition would be imposed securing final details of all of the external features prior to above ground works, excluding the demolition of the conservatory.

6.2.1 Urban design conclusion

37 In summary, the proposed development would result in a sensitive addition to the property by virtue of the high quality design and proportionate scale of the extension.

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.

39 Core Strategy Policy 15 states that new development should be designed in a way that is sensitive to the local context. More specific to this, DMP 31 seeks to ensure that new residential development should not result in any significant loss of privacy and amenity to adjoining houses and their back gardens.

6.3.1 Enclosure, Outlook Daylight and Sunlight Levels

Policy

40 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of outlook, sunlight and daylight for its neighbours.

41 The guidance within the Alterations and Extensions SPD (2019) states that extensions should not have an overbearing or enclosing effect on adjacent properties by way of their height, position or depth.

Discussion

42 The proposed extension would be confined to the side return adjacent to the outrigger so would not introduce any material impacts to light or outlook levels at No.50 Loampit Hill. The 9m separation distance from the rear boundary would prevent any harmful impacts to No.1 Sunninghill Road in terms of enclosure, outlook or light levels, taking into account the scale of the proposed extension.

6.3.2 Privacy

Policy

43 DMP 31 states that roof terraces and balconies and non-residential extensions adjacent to dwellings should result in no significant loss of privacy to adjoining houses and their back gardens.

44 Sections 4.7 and 5.16 of the Alterations and Extensions SPD advise that the Council will not support external platforms where they are likely to give rise to a loss of privacy.

Discussion

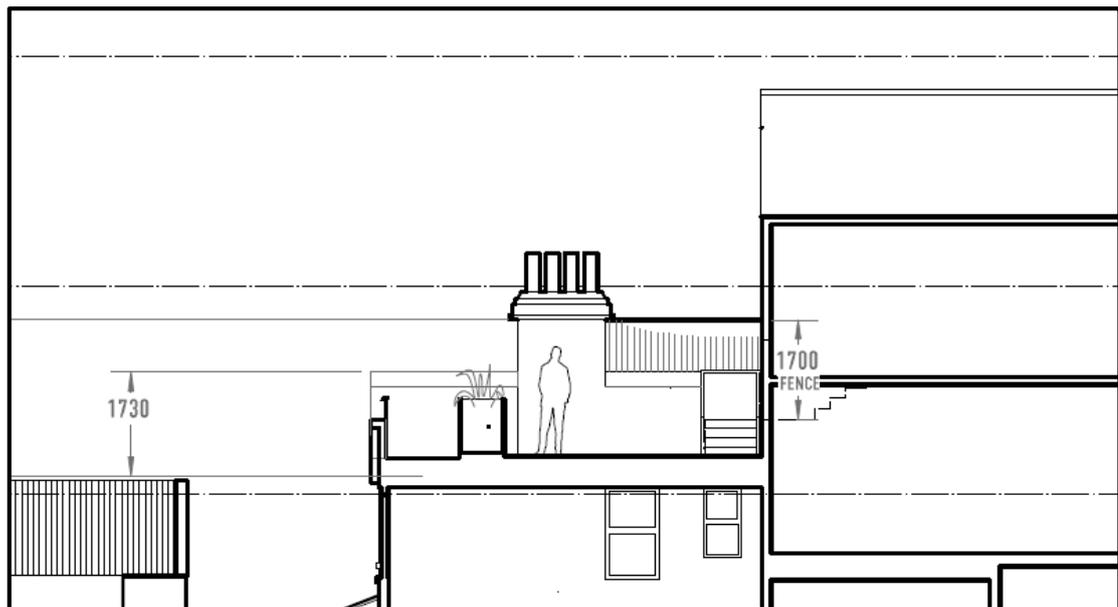
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- 45 The relationship between the proposed roof terrace and the properties to rear on Sunninghill Road and towards the east to the adjoining terrace would mean that there is potential to introduce direct overlooking. However, the roof terrace has been designed to mitigate these impacts.
- 46 Taking views towards the adjoining terrace of properties first, the principle concern would be direct views towards the rear garden and into the first and second floor windows at the adjoining property No.50. To combat these views the terrace would feature screening 1.7m above the stair level and 2.2m above the floor level of the terrace, see Figure 2 below. The screening combined with the chimney would be sufficient to prevent intrusive views thereby ensuring that there would be no harmful loss of privacy at No.50 or the wider terrace.

Figure 2. Section through the roof terrace



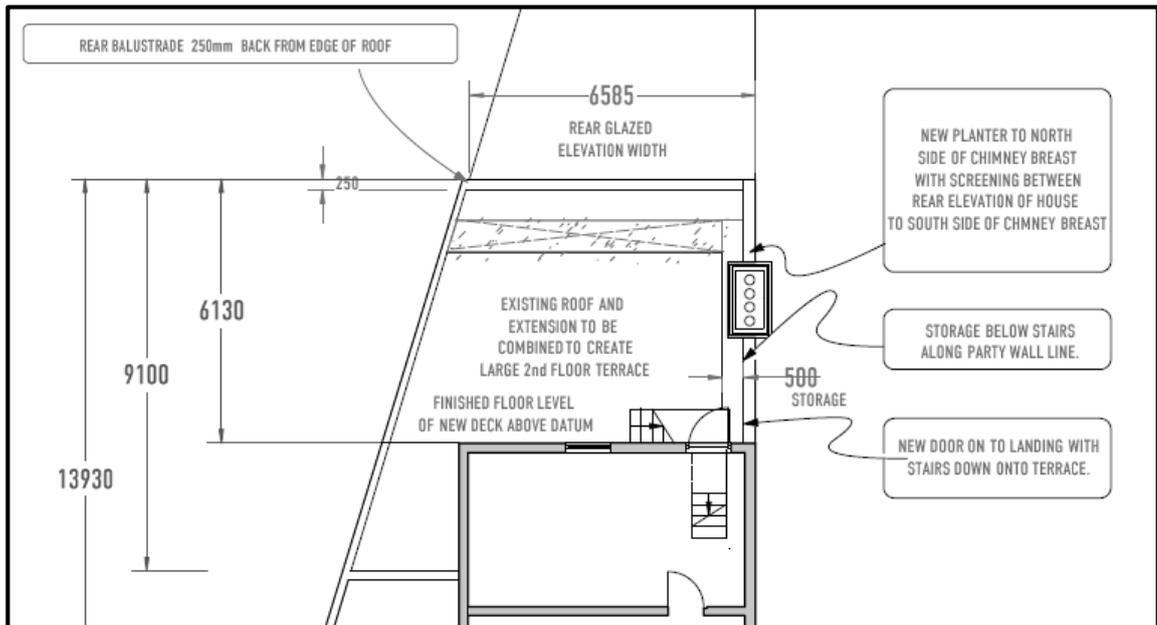
- 47 Solid screening would not be appropriate at the rear of the roof terrace as solid screening would introduce additional bulk at second floor level detracting from the overall appearance and subservience of the extension. Instead the terrace would feature a planter set back 1.7m from the rear elevation of the extension, see figure 3 below. The planter would form the rear boundary of the roof terrace increasing the distance between the roof terrace and the properties on Sunninghill Road. Officers, as a matter of planning judgement, are satisfied that the position of the terrace would ensure that views towards the rear would not be intrusive. In coming to this conclusion Officers have also given weight to the physical barriers between the rear gardens and the terrace including boundary fences, the extension/outrigger and the rear balustrade and planter on the roof terrace. Furthermore, overlooking of rear gardens is a typical feature of urban environments such as this, albeit not always from elevated external positions.

Figure 3. Proposed roof terrace plan

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- 48 Final details of the terrace screening, balustrades and planter would be secured by condition. The condition would also ensure that these features would be installed prior to the occupation of the development.
- 49 The windows in the rear of the proposed extension would permit views already possible from the existing windows in the property and therefore would not introduce any additional impacts to the privacy of neighbours.
- 50 Outlook from side elevations windows in the extension would be towards the medical centre overlooking the pathway to Grover Court. As such, there would be no perceptible loss of privacy to any residential properties. The same is true for views from the roof terrace towards the west and north-west.

6.3.3 Noise and disturbance

Policy

- 51 PPG states LPAs should consider noise when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment.
- 52 Noise can constitute a statutory nuisance and is subject to the provisions of the Environmental Protection Act 1990 and other relevant law. This includes noise affecting balconies and gardens.
- 53 Planning controls the effect of noise from external sources on residential uses and noise transmission between different uses. The relevant standard is BS: 8233:2014. This states the internal noise levels within living rooms must not exceed 35dB(A) during the daytime (0700-2300) and 30 dB(A) in bedrooms during the night-time (2300-0700). With respect to external areas, BS 8233:2014 recommends that external noise level does not exceed 50dB LAeq,T with an upper guideline of value of 55dB LAeq,T
- 54 A range of other legislation provides environmental protection, principally the Control of Pollution Act.

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- 55 LLP D14 states that residential development should avoid significant adverse impacts to quality of life.
- 56 DMP 26 aims to reduce excessive noise or vibration which can be detrimental to human health and well-being and can impact negatively on natural habitats.
- 57 Paragraph 5.16.3 of the SPD may be permitted if it can be demonstrated that noise transmission would not be possible.

Discussion

- 58 Concern has been raised by neighbours about the risk of harm to their living conditions from airborne noise and disturbance resulting from the use of the roof terrace.
- 59 Officers have assessed the existing sound environment and consider the existing sound environment to be different to other parts of the borough with similar density of residential land uses due to the proximity to a busy A Road, which is heavily trafficked. The traffic would therefore generate ambient noise in addition to the day-to-day activities typical in a residential area, which would include residents using their gardens for amenity purposes. Officers would expect the night-time noise environment to be noticeably quieter due to lower levels of activity but with higher levels than within a suburban area.
- 60 The nearest windows are within the rear elevation of No.50 Loampit Hill. The window closest to the boundary serves a second floor half-landing, which is less sensitive than a bedroom. The nearest bedroom window is located on the eastern side of the property. There would be no direct line of sight between the terrace and either of the two windows due to the screening to be installed on the boundary.
- 61 The application states the terrace would be used for residential amenity and it is on this basis that Officers have made their assessment. The terrace would measure approximately 35sqm and so would be similar in size to small rear garden, which supports this characterisation. Therefore, potential sources of noise and disturbance from the terrace include those similar to the normal use of existing neighbouring gardens: voices, music, scraping of chairs.
- 62 Officers recognise that disturbance from an elevated terrace, at a similar height to the affected windows, can be a more intrusive, and therefore more aggravating for neighbours. However, the size of the terrace, degree of screening and distance to the closest habitable window (approximately 4m) would mean that disturbances would be within appropriate levels. In making this assessment Officers have given weight to the urban character of the area where a degree of disturbance from neighbouring properties is a typical feature.
- 63 Structural noise transference via vibration is not likely to be significant given that works to the outrigger are limited to the provision of the new roof and screening. Furthermore, the works would be required to comply with Building Regulations.

6.3.4 Impact on neighbours conclusion

- 64 Officers are satisfied that, as a matter of planning judgement, the proposed development would have an acceptable impact on the living conditions of the neighbouring properties in terms of sense of enclosure, loss of privacy, loss of light and noise and disturbance (including vibration).

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7 LOCAL FINANCE CONSIDERATIONS

65 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).

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

67 The CIL is therefore a material consideration, however, this application would not generate a CIL contribution.

8 EQUALITIES CONSIDERATIONS

68 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.

69 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.

70 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.

71 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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- 72 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
- 73 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>
- 74 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

- 75 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
- 76 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.
- 77 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.
- 78 This application has the legitimate aim of extending a residential building. 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

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

80 The proposed development would result in an acceptable visual impact to the application property and the surrounding area by virtue of the high quality complementary materials proposed and the proportionate scale of the extension. Officers are also satisfied that the development would not result in any unacceptable impacts to the amenity of the neighbouring occupiers subject to conditions securing the provisions of screening and the planter prior to the occupation of the development. Accordingly, the application is recommended for approval.

11 RECOMMENDATION

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

11.1 CONDITIONS

1. 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:

DWG_01; DWG_02_Existing First Floor Plan BB; DWG_02_Existing Second Floor Plan CC; DWG_04; DWG_05; DWG_06; DWG_07; DWG_08; DWG_09; DWG_10; DWG_11; DWG_12; DWG_13; DWG_14; DWG_15; DWG_16; DWG_17; DWG_18; Site Plan received 23 December 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 and Design Quality**

(a) No above ground works shall commence on site (excluding demolition) until a detailed schedule and specification including manufacturer's literature or detailed drawings, in respect of the following:

- (i) brickwork, mortar, pointing & bond;
- (ii) windows and reveals;
- (iii) external doors;
- (iv) roofing materials and junctions (scale 1:5);

has been submitted to and approved in writing by the Council.

(b) The works shall then be carried in full accordance with the approved details prior to the first occupation of the development, and retained thereafter.

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Reason: To ensure that the local planning authority may be satisfied as to the external appearance of the building(s) 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.

4. Terrace Screening

- a) The roof terrace hereby permitted shall not be occupied until full details of the siting, appearance and specification of the screening, planter and balustrades has been submitted to and approved in writing by the local planning authority.
- b) The details approved by part (a) shall be installed prior to the occupation of the roof terrace and maintained permanently thereafter.

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 of the Development Management Local Plan (November 2014).

5. Roof Terrace

The roof terrace shall be provided and used in full accordance with drawing DWG_12 and all other areas of the flat roof shall only be used in the case of essential maintenance or repair, or escape in case of emergency.

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 of the Development Management Local Plan (November 2014).

11.2 INFORMATIVES

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.

12 BACKGROUND PAPERS

- (1) Submission Drawings
- (2) Submission technical reports and supporting documents
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(4) External consultee responses

13 **REPORT AUTHOR AND CONTACT**

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