



## Planning Committee C

### 1A Southbrook Road, SE12 8LH

**Date:** 26 April 2022

**Key decision:** No.

**Class:** Part 1

**Ward(s) affected:** Lee Green

**Contributors:** Jesenka Ozdalga

### Outline and recommendations

The report has been brought before committee for a decision due to the submission of 3 objections from local residents, with a recommendation that the Committee resolve to grant planning permission subject to the attached conditions and informatives.

## Application details

**Application reference number(s):** DC/21/124134

**Application Date:** 2 November 2021

**Applicant:** Neel Dakshy Architecture

**Proposal:** Construction of a single storey building with basement for use as a single dwelling house (Use Class C3) at 1A Southbrook Road SE12 (Formerly Land to r/o 118 Burnt Ash Road).

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

**Designation:** Lee Manor Conservation Area, PTAL 3

**Screening:** N/A

## 1 SITE AND CONTEXT

### *Site description and current use*

- 1 The application site is located on south side of Southbrook Road, close to the intersection with Burnt Ash Road and behind No 118 Burnt Ash Road. The site is currently used for the parking and storage.



Fig.1. Site Location Map

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

- 2 The area surrounding the site is mixed in its uses. The part of Burnt Ash Road that is the closest to the site has commercial units at the ground floor with residential uses on the upper floor. Southbrook Road is predominantly residential in character.

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

- 3 The site is within the Lee Manor Conservation Area and is subject to the Lee Manor Article 4(2) Direction. There is a locally listed Northbrook Public House on the opposite side of the road.
- 4 The site is located within the designated Lee Neighbourhood Forum area.

### ***Transport***

- 5 The site has a Public Transport Accessibility Level (PTAL) score of 3 on a scale of 1-6b, 1 being lowest and 6b the highest. Several bus routes operate along Burnt Ash Road and the site is in close proximity to Lee railway station.

### ***Local Environment***

- 6 The site falls within Flood Risk Zone 1, and is therefore considered as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%).

## **2 RELEVANT PLANNING HISTORY**

- 7 **DC/21/120110** – Redevelopment of the site including excavation works to provide single storey with basement office building (Use Class E) together with all necessary associated works at 1a Southbrook Road, SE12 (former address rear of 118a Burnt Ash Road, SE12). **Granted.**
- 8 **DC/20/115411** - The construction of a single-storey building for use as office (Use Class B1a) at the rear of 118a Burnt Ash Road, SE12 together with bin and cycle facilities. **Granted.**
- 9 **DC/19/110879** - The construction of a single storey building for office use (Class B1(a)) to the rear of 118 Burnt Ash Road, SE12. **Granted.**

## **3 CURRENT PLANNING APPLICATION**

### **3.1 THE PROPOSAL**

- 10 The application is for the construction of a two-storey 2b3p dwelling house. The dwelling house would be sited behind no 118 Burnt Ash Road and accessed from Southbrook

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Road. Refuse and cycle storage would be situated to the front of the site. No off street car parking is proposed as part of the development.

## 4 CONSULTATION

### 4.1 PRE-APPLICATION ENGAGEMENT

11 No pre-application advice was sought for this proposal.

### 4.2 APPLICATION PUBLICITY

12 Site notices were displayed on 17<sup>th</sup> November 2021 and a press notice was published on 17<sup>th</sup> November 2021.

13 Letters were sent to residents and business in the surrounding area, Lee Neighbourhood Forum, Lee Manor Society and the relevant ward Councillors on 9<sup>th</sup> November 2021.

14 3 responses were received from local residents, comprising 3 objections.

#### 4.2.1 Comments in objection

Comment	Para where addressed
Impact on daylight of neighbouring amenities	Para. 102-107
Construction noise	Para.109
Limited amenity space for new dwelling	Para.51
Poor standard of accommodation	Para.46-62
Not in keeping with the streetscene and character of the conservation area	Para.72-76
Poor outlook from the rooms	Para.57

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

- Impact on physical and mental wellbeing from construction works
- Harm to structural stability of surrounding buildings
- Harm to sewage system

### 4.3 INTERNAL CONSULTATION

16 The following internal consultees were notified on 9<sup>th</sup> November 2021.

17 Conservation: raised no objection.

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18 Highways: did not provide comment.

## **5 POLICY CONTEXT**

### **5.1 LEGISLATION**

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

20 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**

21 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.

22 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.

23 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**

24 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)

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## 5.5 SUPPLEMENTARY PLANNING GUIDANCE

25 Lewisham SPG/SPD:

- Small Sites Design Guide (October 2021)

26 London Plan SPG/SPD:

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

## 6 PLANNING CONSIDERATIONS

27 The main issues are:

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

### 6.1 PRINCIPLE OF DEVELOPMENT

#### *General policy*

28 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.

29 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.

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

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

32 DM Policy 1 of the Development Management Local Plan states that 'when considering development proposals, the Council will take a positive approach that reflects the

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presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to find solutions which mean that proposals secure development that improves the economic, social and environmental conditions of the borough.

- 33 The Core Strategy (CSP) recognises the Borough's need for housing and outlines the objectives to achieve 18,165 new dwellings between 2009/2010 and 2025. The London Plan (LPP) at Policy H1 increases Lewisham's ten-year (2019/20 - 2028/29) housing target at 16,670, or 1,667 as an annualised average. Lewisham Core Strategy Spatial Policy 1 'Lewisham Spatial Strategy' that links to Core Strategy Objective 2 'Housing Provision and Distribution' supports the delivery of new housing to meet local need.
- 34 DM Policy 33 States that if a site is considered suitable for development, planning permission will not be granted unless the proposed development is of the highest design quality and relates successfully and is sensitive to the existing design quality of the streetscape. This includes the spaces between buildings which may be as important as the character of the buildings themselves, and the size and proportions of adjacent buildings. Development on these sites must meet the policy requirements of DM Policy 30 (Urban design and local character), DM Policy 32 (Housing design, layout and space standards) and DM Policy 25 (Landscaping and trees).
- 35 DM Policy 33 sets out that infill sites are defined as sites within street frontages such as former builder's yards, small workshops and garages, gaps in terraces and gardens to the side of houses.
- 36 Small Sites SPD under section 29 - Side Street Development, paragraph 29.1.1. identifies this type of site to occur where existing garages or other outbuildings, or rear amenity space face directly onto a secondary street, and the distance from the rear of a house on the primary street is sufficient to allow new dwellings to be developed in place of existing structures.
- Discussion*
- 37 As an area of land with a street frontage, the application site represents an infill site and as such would need to adhere to the criteria as set out in the policy.
- 38 The site is also considered 'Side Street Development' in the Small Sites SPD.
- 39 Paragraph 195 of the NPPF sets out that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by the proposal and take into account the impact of the proposal on a heritage asset, avoiding or minimising any conflict between the heritage asset's conservation and any aspect of the proposal.
- 40 The principle of development on this site was established by previously granted applications DC/20/115411 dated 1 April 2020 and DC/21/120110 dated 9 March 2021. The principle of residential development which would also achieve the wider benefit of providing an additional home within the Borough is considered a planning merit. As such, the principle of development is acceptable.

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### 6.1.1 Principle of development conclusions

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

## 6.2 HOUSING

### *General Policy*

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

### 6.2.1 Residential Quality

#### *General Policy*

43 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).

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

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

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

##### *Policy*

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

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

##### *Discussion*

48 The minimum standards table for a 2b3p dwelling on two floors is shown in the table below.

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

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No of bedrooms	No. of persons	1 storey dwelling (proposed (target))	2 storey dwelling (proposed (target))	Built-in storage (proposed (target))
2b	3p	(61)	(70)	(1.5)

49 The gross internal floor area is 85.4sqm which is considered acceptable. The proposal also meets the requirements of LP Policy D6 in terms of the size of the double and single bedroom and storage space.

50 The floor to ceiling height of the dwelling would meet the 2.5m minimum requirement for new dwellings, with the ground floor having a height of 2.5m and basement floor having a floor to ceiling height of 2.5m.

51 The proposal would provide 13.5sqm of private outdoor space for the new dwelling in form of lightwell terrace at the lower ground floor level and gallery/balcony at ground floor level. The proposed private amenity space for the dwelling exceeds the minimum requirement in accordance with LP Policy D6 and is acceptable.

### ***Outlook & Privacy***

#### *Policy*

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

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

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

#### *Discussion*

55 The main habitable rooms are orientated to the west and south with fenestration to allow daylight and sunlight into the rooms.

56 The dwelling would benefit from a good level of privacy, as it is designed to overlook internal lightwell. The dwelling would be dual aspect which is considered sufficient to avoid unacceptable overheating.

57 The Small Sites SPD, under paragraph 12.22.3. states that two-storey dwellings (such as maisonettes), where the main entrance and habitable rooms are at ground floor level, with further living accommodation within a basement level, may be acceptable provided habitable rooms receive sufficient natural daylight and outlook. In this instance, even though habitable rooms would overlook the lightwell, it is considered that the lightwell is sufficiently large and with the partial removal of the existing side wall, would allow the new dwelling to receive sufficient levels of natural daylight and outlook.

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## ***Daylight and Sunlight***

### *Policy*

- 58 DM Policy 32 (1)(b) expects new development to provide a satisfactory level of natural lighting for its future occupiers.
- 59 Daylight and sunlight are generally measured against the Building Research Establishment (BRE) standards. This is not formal planning guidance and should be applied flexibly according to context. The BRE standards set out below are not a mandatory planning threshold.
- 60 In new dwellings, the BRE minimum recommended average daylight factor (ADF) is 1 % for bedrooms, 1.5% for living rooms and 2% for kitchens

### *Discussion*

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

## **6.2.2 Housing conclusion**

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

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

### *General Policy*

- 63 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.
- 64 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated
- 65 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
- 66 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.
- 67 LPP HC1 states that where development would affect heritage assets, it should be sympathetic to their form, scale, materials and architectural details.

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- 68 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
- 69 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.
- 70 LPP D3, CS Policy 15 and DMLP DM30 requires that all new developments provide a high standard of design and should respect the existing forms of development in the vicinity. The Small Sites SPD is relevant to the current application and is considered 'side street development'

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

#### *Policy*

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

#### *Discussion*

- 72 The subject site is considered a side street development site as set out in the Small Sites SPD. Side street development should generally be subservient to those fronting the primary street; the highest point of the new house should be below that of the property on the corner.
- 73 The proposed building will maintain the height of the existing boundary fence. Given that there would not be a major change to the appearance of the site when viewed from public areas, the proposal would not significantly alter the appearance of the site in the surrounding area. The proposed dwelling has been designed not to replicate the existing dwellings in the terrace, but rather create a subservient addition of modest scale with layout around the internal lightwell. This is considered to be an appropriate response given the plot size. The dwelling would appear sufficiently subservient within the streetscene.
- 74 Regarding the design of the building, it would have an appearance of a single-story structure which is similar to others found in the local area. The building would be constructed using stock bricks and a ply membrane roof with sedum blanket finish. Windows would be aluminium framed double glazed and floors and doors either composite timber or PPC aluminium framed glazed entrance to ground floor and emergency exit to basement. The proposed materials are considered acceptable. A condition would be added to ensure these materials are used and that design quality is maintained throughout the development process.
- 75 Paragraph 199 of the NPPF requires great weight to be given to the asset's conservation while para 202 requires harm to be weighed against any public benefits of the proposal. As no harm has been identified, no balancing act is deemed necessary.

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### 6.3.2 Urban design and heritage impacts conclusion

76 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would preserve the character and appearance of Lee Manor Conservation Area.

## 6.4 TRANSPORT IMPACT

### *General policy*

77 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 102. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and a choice of transport mode.

78 Para.109 states “Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.

79 Regionally, the Mayor’s Transport Strategy (‘the MTS’, GLA, March 2018) sets out the vision for London to become a city where walking, cycling and green public transport become the most appealing and practical choices. The MTS recognises links between car dependency and public health concerns

80 Policy T1 of the London Plan (2021) sets out the Mayor’s strategic approach to transport which aims to encourage the closer integration of transport and development. This is to be achieved by encouraging patterns and nodes of development that reduce the need to travel, especially by car; seeking to improve the capacity and accessibility of public transport, walking and cycling; supporting measures that encourage shifts to more sustainable modes and appropriate demand management; and promoting walking by ensuring an improved urban realm.

81 Core Strategy Policy 14 ‘Sustainable movement and transport’ promotes more sustainable transport choices through walking, cycling and public transport. It adopts a restricted approach on parking to aid the promotion of sustainable transport and ensuring all new and existing developments of a certain size have travel plans

### 6.4.1 Servicing and refuse

#### *Policy*

82 LPP T7 states that development proposals should facilitate sustainable freight movement by rail, waterways and road

83 CSP 13 sets out the Council’s waste management strategy for new development and states that major developments should be designed to incorporate the existing and future long-term needs of waste management and disposal.

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84 DMLP 29 requires new development to have no negative impact upon the safety and suitability of access and servicing

85 Storage facilities for waste and recycling containers should meet at least BS5906:2005 Code of Practice for waste management in Buildings in accordance with London Plan Housing Supplementary Planning Guidance (2016) standard 23

*Discussion*

86 A refuse store would be provided at the front of the site. The proposed provision of refuse storage appears sufficient and well located. Officers welcome the proposed green roof to the refuse and bike storage.

## 6.4.2 Transport modes

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

*Policy*

87 Development should give priority first to pedestrian and cycle movements, both within the scheme and within the neighbouring area. Development should create places that are safe, secure and attractive, minimising the scope for conflicts between pedestrians, cyclists and vehicles.

88 Cycle storage space should be provided in accordance with LPP T5, table 10.2 and London Cycle Design Standards. Developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards.

*Discussion*

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

### ***Private cars***

*Policy*

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

*Discussion*

91 No off-street parking is proposed as part of this development. The site is in Lee Green Controlled Parking Zone. Potential impact from loss of parking on this site was assessed in previously approved applications (DC/19/110879 and DC/20/116511). The site is located in an area which has a relatively high PTAL score and is well served by public transport and there is good access to services and facilities in the local area.

92 No parking survey data was provided by the applicant. However, officers note there are on street parking opportunities in the immediate vicinity which is likely to safely

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accommodate the small amount of parking that could be generated by the proposal. The restricted approach to off-street parking is consistent with the parking standards in the London Plan and would not give rise to an unacceptable level of harm in terms of parking, given the size of the development.

### ***Other***

93 A condition requiring the closure of the of the redundant access would be added.

### **6.4.3 Transport impact conclusion**

94 In summary, the proposed development is considered to have an acceptable impact on the surrounding highway and transport network.

## **6.5 LIVING CONDITIONS OF NEIGHBOURS**

### *General Policy*

95 NPPF para.130 sets sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At para 180 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions. This is reflected in relevant policies of the London Plan, the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (Housing SPD 2016, GLA; Alterations and Extensions SPD 2019, LBL).

96 LPP D3 states that development proposals should deliver appropriate outlook, privacy and amenity as well as mitigating noise levels.

97 DMP32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours

98 Further guidance is given in Housing SPD 2017, GLA. The main impacts on amenity arise from: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas; and (iv) noise and disturbance

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

#### *Policy*

99 Overbearing impact arising from the scale and position of development is subject to local context. Outlook is quoted as a distance between habitable rooms and boundaries. Privacy standards are distances between directly facing existing and new habitable windows and from shared boundaries where overlooking of amenity space might arise.

100 Privacy standards are distances between directly facing existing and new habitable windows and from shared boundaries where overlooking of amenity space might arise

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101 DMLP 32 expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours. Additionally, the justification for DMLP 32 at paragraph 2.250 advises that there should be a minimum separation distance of 21m between directly facing habitable room windows on main rear elevations.

*Discussion*

102 By virtue of the site layout, impacts of the proposal are limited to the existing basement flat located within frontage building at No 118 Burnt Ash Road. It is noted that the basement flat window at 118 Burnt Ash Road sits predominately below ground level and has restricted and limited outlook due to the wall of the existing access staircase and privacy screening.

103 The footprint and height of the proposed building and boundary wall would be the same as under approved applications DC/20/115411 dated 1 April 2020 and DC/21/120110 dated 9 March 2021. The proposed changes introduced to this application would not be visible or have impact on the enclosure, outlook of the affected neighbouring properties.

104 In terms of privacy, there would be no windows on the east elevation. Therefore, the proposal would not have any impact on privacy and overlooking.

105 The previous approved application DC/20/115411 dated 1 April 2020 was supported by a Daylight, Sunlight & Overshadowing report prepared by XCO2 and dated January 2020. All five (5) windows at the rear of 118 Burnt Ash Road have been tested. As the development submitted under this application have not altered the footprint, scale and height. The findings of the report and still relevant and valid.

106 Relating to daylight and sunlight, the report found that the daylight levels for potentially affected windows would be acceptable. In terms of sunlight, the analysis indicated that 4 of the 5 windows passed the 25-degree line test. The remaining window located in the basement would have less than 4% reduction in annual sunlight.

107 Relating to overshadowing, the report found that given the proximity of the proposed building to the rear elevation there would be an impact on overshadowing of the flat at times. However this would not be considered to be unreasonably adverse to warrant a reason for refusal.

## **6.5.2 Noise and disturbance**

*Policy*

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

*Discussion*

109 The introduction of a new residential property within a mixed use commercial and residential area is not considered to result in any significant long-term material impacts in terms of noise and disturbance. The construction phase of development is likely to

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introduce short-term disturbances to the surrounding properties, however that is an inevitable consequence of development and is not considered a material consideration in this case. Hours of noisy work are controlled by other legislation, and an informative is proposed in order to draw the Applicant's attention to Lewisham's Good Practice guide

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

110 Officers consider that the proposal would be acceptable and would have no significant harm upon the amenities of surrounding properties.

## **6.6 SUSTAINABLE DEVELOPMENT**

### *General Policy*

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

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

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

#### *Policy*

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

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

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

116 The proposed development is located within Flood Zone 1. The works shall be constructed to exceed current Building Regulations by 25% with particular reference to Part L. It is anticipated that this property will be heated using underfloor heating throughout served by an air-source heat-pump.

### **6.6.2 Sustainable Infrastructure conclusion**

117 Given the scale of the development, the proposed measures in terms of sustainability are considered acceptable.

## **6.7 NATURAL ENVIRONMENT**

### *General Policy*

118 Contributing to conserving and enhancing the natural environment and reducing pollution is a core principle for planning

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- 119 The NPPF and NPPG promote the conservation and enhancement of the natural environment (chapter 15) and set out several principles to support those objectives.
- 120 The NPPF at paragraph 185 states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the sensitivity of the site or wider area to impacts that could arise from the development

### 6.7.1 Green spaces and trees

#### *Policy*

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

#### *Discussion*

- 122 The existing site makes little contribution to the natural environment and given the size of the site there is limited opportunity to secure improvements. The proposal does however include provision of green roofs and planting within the lightwell at the lower ground floor level.

### 6.7.2 Natural Environment conclusion

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

## 7 LOCAL FINANCE CONSIDERATIONS

- 124 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).

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

- 126 The CIL is therefore a material consideration.

- 127 **£7,662.92** Lewisham CIL and **£5,063.00** MCIL is estimated to be payable on this application, subject to any valid applications for relief or exemption, and the applicant has completed the relevant form. This would be confirmed at a later date in a Liability Notice.

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## 8 EQUALITIES CONSIDERATIONS

- 128 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.
- 129 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.
- 130 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.
- 131 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>
- 132 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
- 133 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>

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134 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

135 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

136 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.

137 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.

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

## 10 CONCLUSION

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

140 The principle of an additional dwelling at this site is supported as it is situated in a sustainable urban location. The proposed development is acceptable in terms of scale, form, design and materials. Weight is given to the planning merit of additional housing.

141 The proposal would have no unacceptable impact on neighbouring properties in terms of enclosure, outlook and privacy, noise or disturbance. There would be no significant negative impact on the local transport network or parking.

## 11 RECOMMENDATION

142 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 with the date on which the permission is granted.

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

### 2) APPROVED PLANS

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

EX01; EX02; EX03; EX04; EX05; PL01; PL02; PL03; PL04; PL05; PL06; PL07; PL08; PL09; PL10; PL11.

**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

(a) The development shall be constructed in those materials as submitted namely: stock bricks, ply membrane roof with sedum blanket finish, aluminium framed double glazed windows and in full accordance with PL04; PL05; PL06; PL07; PL08; PL09 and PL10.

(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.

### 4) REFUSE STORAGE

Prior to first occupation of the development all refuse and recycling bins and associated facilities shall be provided and made available for use and maintained thereafter in accordance with approved plan PL02.

**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 Policy 13 'Addressing Lewisham waste management' of the Core Strategy (June 2011) and DM Policy '30 Urban design and local character' of the Development Management Local Plan (November 2014).

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5) **CYCLE PARKING**

Prior to first occupation, two (2) cycle parking spaces as shown on drawing number PL 02 shall be provided and made available for use and maintained thereafter.

**Reason:** In order to ensure adequate provision for cycle parking and to comply with Policy T5 cycling and Table 10.2 of the London Plan (March 2021) and Policy 14: Sustainable movement and transport of the Core Strategy (2011).

6) **CLOSURE OF EXISTING ACCESS**

The development hereby approved shall not be occupied until the existing access as shown on approved plan PL01 has been closed, the highway reinstated and the new access has been constructed in accordance with the permitted plans.

**Reason:** To confine access to the permitted points in order to ensure that the development does not prejudice the free flow of traffic or conditions of general safety along the neighbouring highway and to comply with the Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

## 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, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.
- 2) You are advised that all construction work should be undertaken in accordance with the "London Borough of Lewisham Code of Practice for Control of Pollution and Noise from Demolition and Construction Sites" available on the Lewisham web page
- 3) 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.

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## **12 BACKGROUND PAPERS**

(1) Submission drawings

(2) Internal consultee responses.

## **13 REPORT AUTHOR AND CONTACT**

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