

Committee	PLANNING COMMITTEE C	
Report Title	WOODELM COURT, DEVONSHIRE ROAD, SE23 3LX	
Ward	FOREST HILL	
Contributors	GEORGIA MCBIRNEY	
Class	PART 1	6 AUGUST 2020

<u>Reg. Nos.</u>	(A) DC/20/115985
<u>Application dated</u>	25/02/2020 as amended 04/03/2020
<u>Applicant</u>	Playle & Partners LLP on behalf of Vista Investment Projects Limited
<u>Proposal</u>	An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments in connection with the planning permission (DC/17/104524) granted on appeal (reference APP/C5690/W/18/3196082) dated 19 February 2019 for the erection of two storeys to provide 5 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at 123 Woodelm Court, Devonshire Road, London, SE23.
<u>Background Papers</u>	(1) Case File LE/33/123/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	PTAL 3 Air Quality Local Open Space Deficiency Adjacent to the Forest Hill Conservation Area

1 SUMMARY

- 1 This report sets out the officer's recommendation for the above proposal. Eight neighbour objections and one Resident Association objection were received. Temporary changes were made to the Council Scheme of Delegation which were agreed by the Council's Strategic Planning Committee at a meeting held on 9th June 2020 and changes to the Council's Statement of Community Involvement which were agreed at a Meeting of the Mayor and Cabinet held on 10th June 2020.
- 2 These temporary arrangements were put in place in response to the Covid-10 pandemic which has resulted in reduced resourcing capacity within the planning department. The application has been reviewed by a chairperson of one the Council's planning committee who has confirmed on 30th June 2020 that the application should be brought before a planning committee for a decision.

2 SITE AND CONTEXT

Site description and current use

- 3 The application site comprises of a proposed built block of flatted accommodation which is three storeys height which dates from approximately the 1970s. The block is brick built, with horizontal windows, projecting balconies and a flat roof and currently accommodates seven residential units with integral garaging to the rear.
- 4 The application site is situated on a corner plot on the western side of Devonshire Road and the southern corner of Ewelme Road. A number of mature trees are located within the site along the boundaries with these roads and the property is situated in open grounds which are grassed. The ground rises to the rear of the site.



Figure 1 Site Location Plan

Character of area

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

Heritage/archaeology

7 The application property is located adjacent to the Forest Hill Conservation Area, as the application site is enveloped by the conservation area to the north, east and west.

Local environment

8 The site lies within Flood Risk Zone 1.

Transport

9 The application site has a PTAL of 3, on a scale of 0 to 6b with, 0 being the lowest and 6b being the highest.

3 RELEVANT PLANNING HISTORY

10 **DC/17/104524:** Proposed extension of the existing building to include the erection of two storeys to provide 5 x 2 bed flats with associated parking, external elevational works to the existing building, the provision of a new lift and external landscaping at Woodelm Court, 123, Devonshire Road SE23.

11 DC/17/104524 was refused by the Council on the 8th February 2018 for the following reason:

The proposal, by reason of excessive scale and height accentuated by the site's prominent location, would appear as a jarring and incongruous form of development out of character with the urban typology of the area, and would impact adversely upon the significance of the adjacent Forest Hill Conservation Area, contrary to the National Planning Policy Framework (2012); Core Strategy Policy 15: High quality design for Lewisham and Core Strategy Policy 16: Conservation areas, heritage assets and the historic environment of the Core Strategy (2011); DM Policy 30: Urban design and local character and DM Policy 36: Listed Buildings, Conservation Areas and other designated heritage assets of the Development Management Local Plan (2014).

12 The refusal was appealed (APP/C5690/W/18/3196082) and the Planning Inspectorate (PINS) overturned the Council's delegated decision and allowed planning for the development subject to conditions on 19th February 2019.

13 PINS concluded that the proposed development would be congruent with the general scale and character of the host building and wider development in the area and would accord with planning policies.

14 The full appeal decision (APP/C5690/W/18/3196082) is attached in **Appendix 1**.

15 **DC/20/116056:** Details submitted in compliance with Condition 4 (Materials Schedule) of the planning appeal APP/C5690/W/18/3196082 dated 19/02/19 with regards to (DC/17/104524) for the proposed extension of the existing building to include the erection of two storeys to provide 5 x 2 bed flats with associated parking, external elevational works to the existing building, the provision of a new lift and external landscaping at Woodelm Court, 123, Devonshire Road SE23. **Granted 05/05/2020**

16 **DC/20/116238:** Details submitted in compliance with Condition 5 (landscaping) and Condition 6 (cycle storage details and waste management plan) of the planning permission (DC/17/104524) dated 19/02/19 for the proposed extension of the existing building to include the erection of two storeys to provide 5 x 2 bed flats with associated parking, external elevational works to the existing building, the provision of a new lift and external landscaping at Woodelm Court, 123, Devonshire Road SE23. **Granted 06/07/2020**

- 17 **DC/20/116535:** Details submitted in compliance with Condition 3 (construction management plan) of the planning permission (DC/17/104524) dated 19/02/19 for the proposed extension of the existing building to include the erection of two storeys to provide 5 x 2 bed flats with associated parking, external elevational works to the existing building, the provision of a new lift and external landscaping at Woodelm Court, 123, Devonshire Road SE23. **Granted 27/07/2020**

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSALS

- 18 The present application is an application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments in connection with the planning permission (DC/17/104524) granted on Appeal reference APP/C5690/W/18/3196082 dated 19 February 2019 for the erection of two storeys to provide 5 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at 123 Woodelm Court, Devonshire Road, London, SE23. in order to allow:-

- Increase in height of the building
- Alterations to building and roof line
- Relocation of the lift core and associated changes
- Removal of privacy screen
- Installation of signage
- Internal Alterations
- Alterations to the entrance layout and relocation of steps
- Alterations to windows and doors
- Alterations to balconies
- Alterations to rooflights
- Insertion of AVO Access hatch
- Alterations to materials

This application has been submitted as the proposed amendments would allow the approved scheme to comply with building regulations and be implemented. It is highlighted that this application does not seek any additional units.

5 CONSULTATION

5.1 PRE-APPLICATION ENGAGEMENT

- 19 No pre-application was undertaken prior to the submission of the current application.

5.2 APPLICATION PUBLICITY

20 Site notices were displayed on 18th March 2020 and a press notice was published on 18th March 2020.

21 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 10th March and re-consultation taking place on the 2nd and 9th April due to errors with the description and issues with all the submitted being publically displayed on the website.

22 Nine responses were received, comprising of eight neighbour objections and one residents association objection.

5.2.1 Comments in objections

23 Neighbour objections:

Comment	Section where addressed
The amendments are not minor material	Section 7.1
Loss of natural light	Section 7.6
Loss of privacy	Section 7.6
Negative impact on the conservation area	Section 7.4.2
Loss of views	Section 7.6
Increased congestion and pollution from associated car parking	Section 7.5
The increase in height is unacceptable	Section 7.4.1
Overshadowing	Section 7.6
The increase in height would be imposing and have an overbearing nature	Section 7.6

24 Objection from the Belle Vue Residents Association

Comment	Section where addressed
The amendments are not minor material as the increase in height is significant	Section 7.1
Daylight reduction issues	Section 7.6
Impact on the removal of privacy screens	Section 7.6

5.3 INTERNAL CONSULTATION

25 The following internal consultees were notified on 10th March 2020.

26 Conservation: Comments are integrated in planning consideration section below.

5.4 EXTERNAL CONSULTATION

27 The following External Consultees were notified on 10th March 2020

28 The Forest Hill Society: No response received.

6 POLICY CONTEXT

6.1 LEGISLATION

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

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

6.2 MATERIAL CONSIDERATIONS

31 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

32 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

33 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

6.3 NATIONAL POLICY & GUIDANCE

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

6.4 DEVELOPMENT PLAN

34 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

35 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

36 London Plan SPG/SPD:

- Planning for Equality and Diversity in London (October 2007)
- Sustainable Design and Construction (April 2014)

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

6.6 OTHER MATERIAL DOCUMENTS

- The Mayor of London published a draft London Plan on 29 November 2017. The Examination in Public was held between 15th January and 22nd May 2019. The Inspector's report and recommendations were published on 8 October 2019. The Mayor issued to the Secretary of State (SoS) the Intend to Publish London Plan on 9th December 2019. The SoS issued a letter on 13 March 2020 directing modifications to the Local Plan, and the Mayor of London responded on 24 April 2020 indicating he will work with the SoS to achieve the necessary outcomes. Notwithstanding these requested modifications, this document now has some weight as a material consideration when determining planning applications

7 PLANNING CONSIDERATIONS

37 The main issues are:

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

7.1 APPLICATION TYPE

38 Section 73 of the Town and Country Planning Act (1990) concerns applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. Due to the proposed amendments, condition 2 attached to appeal decision APP/C5690/W/18/3196082 is proposed to be amended to include updated drawing numbers to reflect the proposed amendments.

39 This section sets out an application of planning guidance to this issue for member's reference. Members should note that valid applications are to be determined against the provisions of the development plan and material considerations.

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

41 If granted the legal effect of an application made under Section 73 is to generate a new planning permission with the amended condition then placed on the application.

42 The application seeks a number of changes to the external appearance of the building and the height of the building. The proposed amendments would not result in any additional residential units or storeys compared to the approved scheme, as such the proposed amendments to the drawings and condition 2 are considered to be minor in the context of the above.

7.2 PRINCIPLE OF DEVELOPMENT

43 The previous appeal decision established that the principle of two new storeys to the existing three storey building, in order to provide a net increase of five new residential units is acceptable. Lewisham as Local Planning Authority is bound by the Inspector's findings in relation to the principle of an addition to the existing building. The proposed amendments would still provide no increase in residential units compared to the appeal position and officers understand the application is made largely to address building controls issues. The principle of development is still considered to be acceptable.

44 It should be highlighted that as of the 1st August 2020 subject to a prior approval process, two additional storeys to provide new flats on an existing purpose-built detached block of flats can be constructed utilising permitted development rights. Therefore, Class A of Part 20 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020 establishes the principle of the two storey upward extension to be acceptable.

7.2.1 Principle of development conclusions

45 The principle of development is still considered to be acceptable subject to the other considerations set out in this report.

7.3 HOUSING

46 This section covers: (i) the contribution to housing supply, including density; (ii) the dwelling size mix; (iii) the standard of accommodation; and (iv) total affordable housing proposed and its tenure split.

7.3.1 Contribution to housing supply

Policy

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

48 The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. The NPPF sets out the need to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

49 The NPPF encourage the efficient use of land subject to several criteria set out in paragraph 122. Paragraph 123 applies where there is an existing or anticipated shortage of land for meeting, identified housing needs and strongly encourage the optimal use of the potential of each site.

50 LPP 3.3 and 3.4 seeks to increase the housing supply and to optimise housing output within the density ranges set out in the sustainable residential quality (SRQ) matrix.

- 51 Draft LPPs H1 and H2 support the most efficient use of land and development at the optimum density. Defining optimum is particular to each site and is the result of the design-led approach. Consideration should be given to (i) the site context; (ii) its connectivity and accessibility by walking and cycling and existing and planned public transport (including PTAL); and (iii) the capacity of surrounding infrastructure.
- 52 The current London Plan sets an annual target of 1,385 new homes until 2025.
- 53 National and regional policy avoids specifying prescriptive dwelling size mixes for market and intermediate houses.
- 54 NPPF para 61 expects planning policies to reflect the need to housing size, type and tenure (including affordable housing) for different groups in the community.
- 55 LPP 3.8 states that Londoners should have a genuine choice of homes, including differing sizes and types. Draft LPP H12 sets out that an appropriate mix of unit sizes should be informed by several criteria set out in the policy.
- 56 CSP 1 echoes the above with several criteria however expects the provision of family housing (3+ bedrooms) in major developments. This is not directly applicable to the current application as it is not a major development as only five units are proposed.

Discussion

- 57 The current application still proposes 5x two-bedroom units. The previous appeal decision established that proposed 5x two-bedroom units are considered to make a positive contribution to the housing delivery in the borough and are suitable for the location given the reasonable PTAL. Given that the proposed amendments would not alter the number and type of units, the provision of 5x two-bedroom units is still considered to be acceptable.

7.3.2 Affordable housing

Percentage of affordable housing

- 58 CSP 1 and DMP 7 seek to provide a mix of dwellings and provide affordable housing. CSP 1 requires major residential development to provide a proportion of family sized dwellings. These policies are not applicable to this application as the current application is not a major application as only five units are proposed and no changes are proposed in respect of this compared to the approved application.

7.3.3 Residential Quality

General Policy

- 59 NPPF para 127 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 3.5), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA; Alterations and Extensions SPD 2019, LBL).
- 60 The previous application (DC/17/104524) established that the proposed application would provide an acceptable standard of accommodation. Due to the proposed amendments, officers need to have regards as to whether the proposed development would still provide an acceptable standard of accommodation.

Space standards

Policy

61 The Technical Housing Standards (2015), Mayors Housing Supplementary Planning Guidance (SPG), LPP 3.5 and DMP 32 set out or make reference to the minimum internal space standards to achieve housing development that provide the highest quality of space internally in relation to its context.

Discussion

62 Any 2B/3P dwelling as outlined by the London Plan is required to provide a minimum of 61m² Gross Internal Area (GIA) with a minimum of 2m² of built in storage and a 2B/4P dwelling is required to provide a minimum of 70m² GIA with a minimum of 2.0m². Application DC/17/104524 established that the proposed development would provide an acceptable standard of accommodation.

63 It should be highlighted to Members that the proposed units have been labelled differently on the plans submitted on the current application and the changes in the unit numbers are detailed in the table 1 below.

64 The table below sets out proposed dwelling sizes.

Table 1: Unit references

Application DC/17/104524	Current Application
3.01	8
3.02	9
3.03	10
4.01	11
4.02	12

65 Table 2 below details the amendments proposed to each unit compared to approve application.

Table 2: Proposed amendments

Unit	Proposed Amendments
8	<ul style="list-style-type: none">• GIA of unit reduced to 60.02m²• Kitchen and balcony enlarged

	<ul style="list-style-type: none"> • Bedroom 1 and 2 and storage reduced in size
9	<ul style="list-style-type: none"> • Single and double bedrooms have changed places • Balcony reduced in size by 0.65m²
10	<ul style="list-style-type: none"> • Single and double bedroom have changed places • Balcony reduced in size by 0.65m²
11	<ul style="list-style-type: none"> • GIA of unit enlarged to 79.9m² • En-suite is relocated to bedroom 2
12	<ul style="list-style-type: none"> • Reduction in private amenity space to 13m² due to the removal of 1 balcony

66 Units 9 to 12 would still comply or exceed with the minimum GIA requirements. In regards to the reduction in size of the balconies for units 9 and 10, this reduction in size is not considered to result in unacceptable standard of accommodation that would warrant a refusal on this ground. Whilst officers note that it is regrettable that one balcony would be omitted from unit 12, the unit would still comply with the requirements for private amenity space and as such, this is considered to be acceptable.

67 The GIA of Unit 8 (Unit 3.01 on the approved plans) would be reduced from 61m² to 60.02m², officers acknowledge that would result in the unit failing to comply with the minimum GIA for a 2B3P which is 61m². Given that the reduction in size compared to the approved would be 0.98m² and that both of the bedrooms would exceed the minimum size requirements, the reduction in the GIA compared to the approved is not considered to result in an unacceptable standard of accommodation that would warrant a refusal on this ground.

Outlook, Privacy and Natural Light

Policy

68 DMP 32 expects all new development to provide a satisfactory level of privacy, outlook and natural lighting for future residents, which is also supported by the Mayors Housing SPG. Furthermore, LPP 5.3 requires the highest standards of sustainable design and construction to be achieved, including the avoidance of single aspect units.

Discussion

69 Application DC/17/104524 established that the proposed units would be provided with an acceptable level of outlook and privacy for a typical urban setting; and also that the units would be provided with acceptable levels of natural light. The reduction in size of windows is not considered to result in an unacceptable outlook from the units or

considered to result in an unacceptable level of privacy. The reduction in size of the windows is not considered to reduce the natural light to the units to an unacceptable level; it should be noted that the proposed windows would be similar in the size to those which serve the existing flats within the building.

Summary of Residential Quality

70 Application DC/17/104524 established that the proposed development would provide an acceptable standard of accommodation; officers acknowledge that amendments are proposed. The proposed amendments are still considered to result in the proposed development providing an acceptable standard of accommodation.

7.3.4 Housing conclusion

71 Five new units were approved by APP/C5690/W/18/3196082 and significant weight needs to be attached to this. The amendments proposed to the development allowed by APP/C5690/W/18/3196082 would still provide five new units, which are considered to provide good quality accommodation. The proposed development is still considered to comply with the NPPF, LPP 3.5, CSP 15 and DMP 32.

7.4 URBAN DESIGN

General Policy

72 The NPPF at para 124 states the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG encourages decision taker to always secure high quality design; this includes being visually attractive and functional, however other issues should be considered.

73 LPP 7.6 requires development to positively contribute to its immediate environs in a coherent manner, using the highest quality materials and design.

74 CSP 15 repeats the necessity to achieve high quality design. DMP 30 and 36 states that new developments should provide a high standard of design and should respect the existing forms of development in the vicinity.

7.4.1 Appearance and character

Policy

75 Planning should promote local character. The successful integration of all forms of new development with their surrounding context is an important design objective (NPPG).

76 In terms of architectural style, the NPPF encourage development that achieve well designed places, specifically development that is sympathetic to local character and history, including the surrounding built environment and landscaping setting, while not preventing or discouraging appropriate innovation or change (para 127). At para, 131, the NPPF states great weight should be given to outstanding or innovative designs, which promote high levels of sustainability, or help raise the standard of design more generally in the area.

Form, Scale and Layout

Policy

77 LPP 7.4 states that buildings, streets and open space should provide a high-quality design that has regard to pattern and grain of the existing building spaces and street,

scale, proportion and mass. LPP 7.6 states that buildings should be of proportion, composition, scale and orientation that enhances activates and appropriately defines the public realm and further states that the building form and layout should have regard to the density and character of the surrounding development.

Discussion

- 78 The Planning Inspector stated in appeal decision APP/C5690/W/18/3196082 that 'due to the flat roofed nature of the host building, I consider that the overall height would be largely consistent with the height of other accommodation blocks and Victorian terraced dwellings surrounding the site. In particular the overall height would be compatible with the 4-storey mansion block to the south and the 3-storey terrace to the north, or building at Belle Vue, opposite the site on Devonshire Road.'
- 79 Appeal decision APP/C5690/W/18/3196082, goes on to state that the 'property is positioned forward of the general building line along Devonshire Road. However, in light of the open setting of the building and the boundary trees, I do not consider that the building is particular prominent in the streetscene. I accept that the addition of an upwards extension would increase the visibility of the building, particularly looking northwards along Devonshire Road, but I do not consider that this would increase in dominance in any great effect, in light of the prevailing characteristics and building heights within the area. Moreover, the set back of the top floor would help to reduce its overall massing and general bulk, even with a small overhang of the roof and thus I am satisfied that the development would not have a jarring and incongruous effect.'
- 80 The appeal decision also highlights that the proposed development is not considered to have an unacceptable impact on the setting of the Forest Hill Conservation Area.
- 81 Compared to the development approved by APP/C5690/W/18/3196082, the maximum height of the building would increase by 1.47m and the building line would be extended by 2m on each level (on the elevation facing towards Ewelme Road). The applicant outlines that the amendments to the height and building line are proposed due the re-location of the lift core and to meet acoustic and structural requirements whilst maintaining the floor to ceiling heights.
- 82 Figure 2 below shows the proposed amendments to the height and building line (in pink) overlaid the approved elevation.

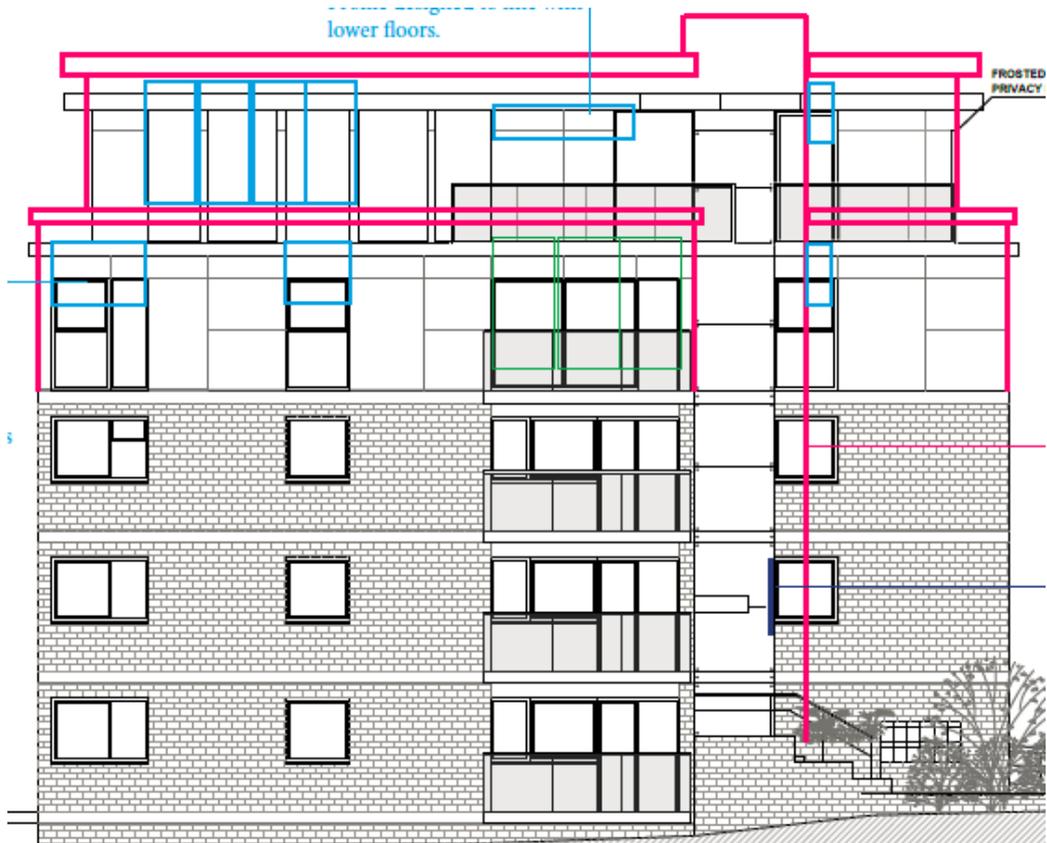


Figure 2 Proposed amendments overlaid approved

83 The proposed increase in height and amendments to the building and roofline would not result in any additional storeys nor are any additional units proposed. Officers needs to also have regard to the comments made by the Planning Inspector in APP/C5690/W/18/3196082. Given that the application site is not considered to be in a particularly prominent location, the set in of the building within the application site and as the increase in height and scale would not result in an increase in the number of storey or units, the proposed alterations to the height and scale of the development are not considered to result in the proposed development appearing as an over dominant addition within the site or wider streetscene, nor having an unacceptable impact on the setting of the Forest Hill Conservation Area.

Detailing and Materials

Policy

84 The LPP 7.6 and DMP 32 seek to ensure buildings are of a high architectural quality and comprise details and materials that complement the local architecture without necessarily replicating it.

Discussion

85 On all four elevations amendments are proposed to windows and doors within the two storey extension which would accommodate the five proposed units.

86 Figures 3, 4, 5 and 6 below illustrate the proposed amendments to the windows and doors on the proposed second and third floors.

87 It should be highlighted that appeal decision APP/C5690/W/18/3196082 states ‘although the proposed windows would be full height, this would echo the rhythm and pattern of the existing fenestration and thus I find no harm’.

88 On the front elevation as shown in Figure 3, the proposed full height window openings on the second floor level are proposed to be replaced by window openings similar to those on the existing building at lower ground to first floor level. The replacement of the full height windows is considered to be more in keeping with the existing fenestration pattern on the building and as such are considered to be acceptable.

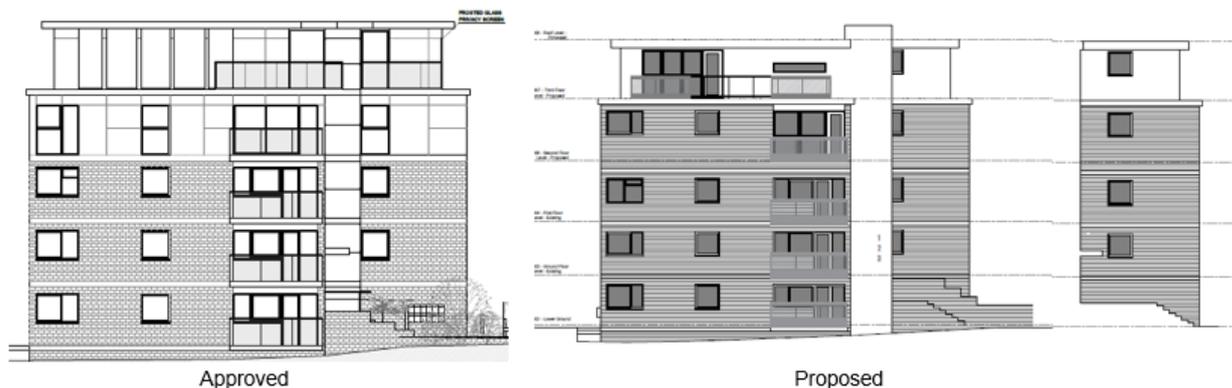


Figure 3 Approved and Proposed Front Elevation

89 On the front elevation of the proposed third floor level, it is proposed for the glazed portion of the elevation to be replaced by three window and door openings (the amendments are proposed to due to alterations proposed to balconies) and a floor to ceiling window would be replaced by a high-level horizontal window opening. The proposed window and door arrangement providing access to the balcony is similar in appearance to the others of the building and as such is not considered to have an unacceptable impact on the character and appearance of host building. Officers do acknowledge that the proposed high-level horizontal window would be a new feature within the building, however the introduction of a high-level window is not considered to have an unacceptable impact on the character and appearance building nor on the adjoining conservation area.

90 On the rear as shown in Figure 4, the full height window openings on the proposed second floor are proposed to be replaced by windows openings to match those on the levels below as such the alterations to the proposed windows at second floor level are considered to be acceptable.

91 On the rear as shown in Figure 4, it is proposed that on the proposed third floor level, the openings are proposed to be reduced in size and positioning adjusted to accommodate the alterations in building height. The proposed alterations would be similar in appearance to the other openings on the property and as such are not considered to have an unacceptable impact on the character and appearance of the building or adjacent conservation area.



Figure 4 Approved and Proposed Rear Elevation

- 92 On the side elevation as shown in Figure 5, on the proposed second floor level it is proposed for the approved full height window openings to be replaced by window openings similar to those on the lower levels. The proposed windows are not considered to have an unacceptable impact on the character and appearance of the host building or on the adjoining conservation area.
- 93 On the side elevation of the proposed third floor level, it is proposed for the approved widow openings to be replaced by a double full height window opening and a horizontal high-level window as shown in Figure 5. Given that the approved window openings were full height, the proposed double full height window opening is considered to be acceptable. As highlighted above in paragraph 90 the introduction of high-level windows are not considered to have an unacceptable impact on the character and appearance of the host building or adjoining conservation area.

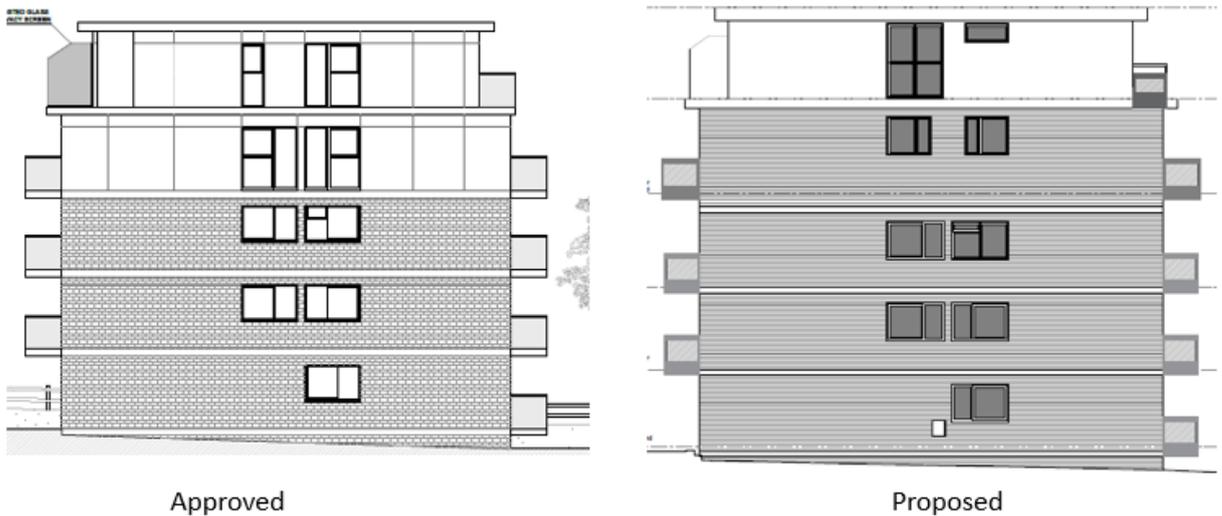


Figure 5 Approved and Proposed Side Elevation

- 94 On the side elevation as shown in Figure 6, due to the re-location of the lift core, windows have been amended and repositioned at ground level and above. These alterations would incorporate windows which extend between floor levels as they serve the stairwell and lift lobby. These windows would be similar to those proposed in other elevations of the building and as such are not considered to have an unacceptable

impact on the character and appearance of the host building or adjacent conservation area.

- 95 In addition, on the side elevation as shown in Figure 6, the full height window in the proposed second floor level is proposed to be replaced by a window similar in appearance to the windows on the lower levels. On the third floor, the proposed floor to ceiling windows are proposed to be re-sited due to the alterations to the building height. The proposed alterations at both second and third floor are considered to be in-keeping with the existing character of the building and are not considered to have an unacceptable impact on the character and appearance of the host building or adjacent conservation area.

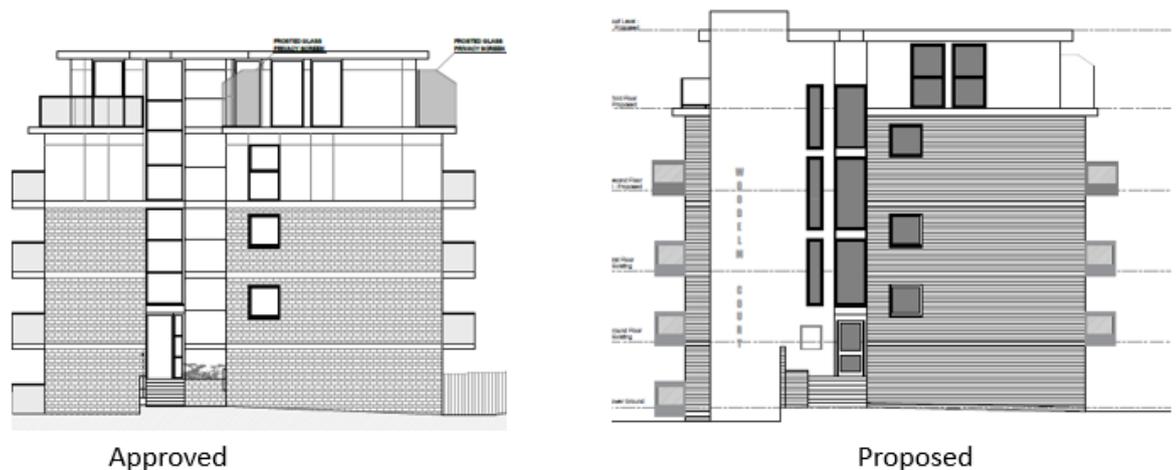


Figure 6 Approved and Proposed Side Elevation

- 96 The proposed balcony and privacy screen which was approved on the front and side elevation which would serve unit 12 are to be removed from the development. The removal of these elements are not considered to have an unacceptable impact on the character and appearance of the building nor on the adjacent conversation area.
- 97 On the front elevation it is proposed for the length of the approved balcony which would serve unit 11 to be extended. Given that the principle of balconies is already established by the existing building and the appeal decision, the extension to the approved balcony is not considered to have an unacceptable impact on the character and appearance of the host building and adjacent conservation area.
- 98 Due to the alterations to the building line and relocation of the lift core the proposed entrance and steps would be amended. The entrance door to the building would be relocated within the same elevation and the entrance steps would be re-sited. The proposed entrance and steps is similar that which was approved, the proposed amendments are not considered to have an unacceptable impact on the character and appearance of the host building and adjacent conservation area.
- 99 Signage detailing the name of the building is proposed to be installed on the front and side elevation of the building. The principle of signage is considered to be acceptable, the material and detailed design of the signage would be secured by condition.
- 100 On the flat roof of the building, three rooflights and an AVO access hatch are proposed. These would have limited visibility as they would not project above the proposed roofline.

The proposed rooflights and AVO access hatch are not considered to have an unacceptable impact on the character and appearance of the host building or adjacent conservation area.

101 APP/C5690/W/18/3196082 was approved with a condition requiring for external material to be submitted and approved in writing. The external materials have been approved by DC/20/116056 and Condition 4 of the APP/C5690/W/18/3196082 would be amended as to comply with the approved details.

102 APP/C5690/W/18/3196082 was approved with a condition requiring for details of Hard and Soft Landscaping to be submitted to and approved in writing. The Hard and Soft Landscaping were approved by DC/20/116238 and Condition 5 would be amended as to comply with the approved details.

7.4.2 Impact on Heritage Assets

Policy

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

104 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.

105 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.

106 LPP 7.8 states that development should among other things conserve and incorporate heritage assets where appropriate. Where it would affect heritage assets, development should be sympathetic to their form, scale, materials and architectural details. DLPP HC1 reflects adopted policy.

107 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.

108 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.

Discussion

109 Officers need to have regards to appeal decision APP/C5690/W/18/3196082 in which the Planning Inspector outlined that the existing building makes a limited contribution to the setting of the conservation area and that the development proposed on APP/C5690/W/18/3196082 would not harm the setting of the conservation area.

110 Whilst officers acknowledge the increase in height and alterations to the building line, considering the comments made by the Planning Inspectorate and the scope of the amendments proposed on the current application, the proposed alterations are not considered to harm the setting of the Forest Hill Conservation Area.

Summary

111 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 or appearance of the Forest Hill Conservation Area.

7.4.3 Urban design conclusion

112 In conclusion, the amendments to the development approved by APP/C5690/W/18/3196082 are considered to have an acceptable impact on the character and appearance of the approved scheme, the wider street scene and the adjacent Forest Hill Conservation Area.

7.5 TRANSPORT

General policy

113 Nationally, the NPPF requires the planning system to actively manage growth to support the objective of para 102. This includes: (a) addressing impact on the transport network; (b) realised 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 design.

114 As this present application is a Section 73 application only the aspect which are being proposed to be amended are considered below.

115 It should be highlighted that appeal decision APP/C5690/W/18/3196082 did not raise any concerns in regards to impact in terms of transport or on the Highway network. The Planning Inspectorate attached conditions in regards to cycle parking and refuse storage and a Construction Management Plan.

116 APP/C5690/W/18/3196082 was approved with a condition requiring cycle parking and refuse details to be submitted and approved in writing. The cycle parking and refuse details have been approved by DC/20/116238 and Condition 6 will be amended as to comply with the approved details.

117 APP/C5690/W/18/3196082 was approved with a Construction Management Plan condition. The Construction Management Plan was approved by DC/20/116535 and Condition 3 will be amended as to comply with the approved details.

7.6 LIVING CONDITIONS OF NEIGHBOURS

118 NPPF para 127 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 paragraph 180 it stated decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of living conditions.

119 This is reflect in relevant policies of the London Plan (LPP 7.6), the Core Strategy (CSP 15), the Local Plan (DMP 32) and associated guidance (Housing SPD, 2017, GLA).

120 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy and outlook and natural lighting for its neighbours.

121 It should be acknowledged that APP/C5690/W/18/3196082 did not consider the development proposed to have an unacceptable impact in terms of loss of privacy, or sunlight and daylight due to the separation distances. The Planning Inspectorate in APP/C5690/W/18/3196082 also stated that there would be no violation of rights in regards to Article 1 and 8 of the European Convention on Human Rights.

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

Alterations to Height and Building Line

123 Whilst officers acknowledge that the overall height of the building would be increase by 1.47m and the building line would be altered to accommodate the re-location of the lift core, the proposed amendments would not result in the development extending beyond the established building line fronting Devonshire Road. Given that the separation distance would be between be between 19-21m to the properties on eastern side of Devonshire, the proposed increased height and alterations to the building line are not considered to result in an unacceptable impact in terms of sense of enclosure, loss of outlook or loss of light.

124 Drakes Court is situated to the side and rear of the application site and the separation distance to the building within Drakes Court fronting Devonshire Road and Ewelme Road is approximately 21m. Due to the siting of the alterations to the building line, this would have negligible impact on Drakes Court. Due to the separation distance between the building at the application site and the building within Drakes Court, the proposed increase in height by 1.47m is not considered to have an unacceptable impact in terms of sense of enclosure, loss of outlook or loss of light.

125 No. 131A Devonshire Road is situated on the opposite side of the junction with Ewelme Road. The separation distance is approximately 19m and No.131A is the closest neighbour. Whilst officers acknowledge that alterations that the alterations to the building line would bring elements of the development closer to No. 131A, the separation distance is considered to be sufficient so that the increase in height and alterations to the building line would not have an unacceptable in terms of sense of enclosure, loss of outlook or loss of light.

Alterations to Windows, Doors and Balconies

126 As shown in Figure 3, the openings and glazing on the proposed second and third levels would be reduced in size compared to the openings and glazing which was approved. Given the separation distance to the properties on the eastern side of Devonshire Road, the proposed alterations to the openings and glazing on the front elevation are not considered to have an unacceptable impact in terms of overlooking of loss of privacy. In addition, whilst officers acknowledge that on the length of the proposed balcony on the third floor level would be increased, given the separation distance and as the principle of balconies is established at the site, the proposed alterations to the balcony on the front elevation are not considered to result on an unacceptable impact in terms of overlooking or loss or privacy or an unacceptable impact in terms of noise and disturbance.

127 Due to the separation distance to Drakes Court to the side and rear and the scale of alterations to the windows proposed on the side and rear elevations facing Drakes Court (as shown in Figures 4 and 5), the proposed alterations to the openings are not considered to have an unacceptable impact in terms of overlooking or loss of privacy.

128 Due to the separation distance across the junction to No.131A Devonshire Road, the alterations to the windows in the proposed second and third storeys are not considered to have an unacceptable impact in terms of loss of overlooking and loss of privacy.

Officers acknowledge that due to the alterations to the building line that the windows on part of the side elevation would be closer to No. 131A by 2m, however, considering that the separation distance would still be approximately 17m and as the windows would serve the stairwell and lift lobby the proposed windows are not considered to have an unacceptable impact in terms of overlooking or loss of privacy.

129 The alterations in regards to the entrance, signage and rooflights and AVO access hatch are not considered to have an unacceptable impact on neighbouring amenity

7.6.1 Impact on neighbours conclusion

130 Officers consider that the proposed amendments to the scheme approved by APP/C5690/W/18/3196082 would still have an acceptable impact on the neighbouring amenity of surrounding properties.

8 LOCAL FINANCE CONSIDERATIONS

131 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).

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

133 The CIL is therefore a material consideration.

134 £37,101 Lewisham CIL and £24,513 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.

9 EQUALITIES CONSIDERATIONS

135 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.

136 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.

- 137 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.
- 138 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>
- 139 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
- 140 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>
- 141 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.

10 HUMAN RIGHTS IMPLICATIONS

- 142 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

143 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.

144 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.

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

11 CONCLUSION

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

147 The application seeks to amendments under Section 73 to a scheme which was granted planning permission (APP/C5690/W/18/3196082) by the Planning Inspector.

148 The proposed amendments are considered to be minor material in the context of the approved scheme and as such the application type is considered to be correct.

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

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

12 RECOMMENDATION

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

12.1 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 19 February 2019 on which the original permission APP/C5690/W/18/3196082 was granted.

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

2) APPROVED DRAWINGS

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

Documents from DC/17/104524 allowed by appeal APP/C5690/W/18/3196082

PBA Consulting BS5837 2012 Trees in Relation to Design, Demolition and Construction, Tree Report Ref no. 6210 (dated December 2017); Heritage Statement; Highways Note by Waterman Infrastructure and Environment Limited (dated 29 November 2017) received 21 December 2017

Documents from DC/20/115985

9945-00-3103 Rev C; 9945-00-3401 Rev E; 9945-01-3104 Rev B; 9945-02-3105 Rev C; 9945-04-3107 Rev E; 9945-05-3108 Rev F; 9945-06-3109 Rev B; 9945-ZZ-3201 Rev G; 9945-ZZ-3202 Rev G; 9945-ZZ-3203 Rev F; 9945-ZZ-3204 Rev F received 4th March 2020

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) CONSTRUCTION MANAGEMENT PLAN

The development shall be carried out in accordance with the approved Construction Management Plan approved under DC/20/116535 granted 27th July 2020.

Reason: In order that the local planning authority may be satisfied that the demolition and construction process is carried out in a manner which will minimise possible noise, disturbance and pollution to neighbouring properties and to comply with Policy 5.3 Sustainable design and construction, Policy 6.3 Assessing effects of development on transport capacity and Policy 7.14 Improving air quality of the London Plan (2015).

4) EXTERNAL MATERIALS

The development shall be constructed in accordance with the approved External Materials approved under application reference DC/20/116056 granted 5th May 2020.

Reason: To ensure that the high design quality demonstrated in the plans and submission is delivered so that 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.

5) HARD AND SOFT LANDSCAPING

(a) The development shall be carried out in accordance with the approved Hard and Soft Landscaping approved under application reference DC/20/116238 granted 6th July 2020.

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

Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies 5.12 Flood risk management and 5.13 Sustainable Drainage in the London Plan (2015), Policy 12 Open space and environmental assets and Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

6) CYCLE PARKING AND REFUSE STORAGE

(a) The development shall be carried out in accordance with the approved cycle parking facilities and refuse/recycling facilities approved under application reference DC/20/116238 dated 6th July 2020.

(b) These shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter.

Reason: In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse storage and Cycle Parkin in the interest of safeguarding the amenities of neighbouring occupiers and the area in general and to ensure adequate provision for cycle parking, in compliance Core Strategy Policy 13 Addressing Lewisham waste management requirements and Core Strategy Policy 14 Sustainable movement and transport (2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014)

12.2 INFORMATIVES

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

2) **Street Naming and Numbering**

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.