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Merton Council

Planning Applications Committee Agenda

Membership

Councillors:

Dave Ward (Chair)
Stephen Crowe (Vice-Chair)
Stephen Alambritis MBE
Billy Christie
David Dean
Nick Draper
Joan Henry
Simon McGrath
Carl Quilliam
Peter Southgate

Substitute Members:

Eloise Bailey
Edward Foley
Edward Gretton
Najeeb Latif
Dennis Pearce
John Dehaney

Date: Thursday 11 November 2021

Time: 7.15 pm

Venue: Merton Civic Centre, London Road, Morden SM4 5DX

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<https://www.youtube.com/user/MertonCouncil>

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Planning Applications Committee Agenda

11 November 2021

- 1 Apologies for absence
- 2 Declarations of Pecuniary Interest
- 3 Minutes of the previous meeting 1 - 4
- 4 Town Planning Applications
The Chair will announce the order of Items at the beginning of the Meeting.
A Supplementary Agenda with any modifications will be published on the day of the meeting.
Note: there is no written report for this item
- 5 81 – 83 Wimbledon Hill Road, Wimbledon, SW19 7QS 5 - 24
Application No: 21/P0119
Ward: Hillside
Recommendation: GRANT Planning Permission subject to Conditions and S106 Agreement
- 6 Planning Appeal Decisions 25 - 28
Officer Recommendation:
That Members note the contents of the report.
- 7 Planning Enforcement - Summary of Current Cases 29 - 36
Officer Recommendation:
That Members note the contents of the report.

Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

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Agenda Item 3

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at www.merton.gov.uk/committee.

PLANNING APPLICATIONS COMMITTEE

21 OCTOBER 2021
(7.15 pm - 8.54 pm)

PRESENT Councillors Councillor Dave Ward (in the Chair),
Councillor Stephen Crowe, Councillor Stephen Alambritis,
Councillor Billy Christie, Councillor Nick Draper,
Councillor Joan Henry, Councillor John Dehaney, Councillor
Najeeb Latif, Councillor Simon McGrath and
Councillor Peter Southgate

ALSO PRESENT Councillor Eleanor Stringer

Jonathan Lewis (Development Control Team Leader (South)),
Leigh Harrington (Planner), Lesley Barakchizadeh (Interim
Building and Development Control Manager), Andrew Robertson
(Head of Democracy and Electoral Services) and Richard
Seedhouse (Democratic Services Officer)

**ATTENDING
REMOTELY** Councillor Nigel Benbow

Tim Bryson (Development Control Team Leader (North)) and
Amy Dumitrescu (Democracy Services Manager)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies for absence were received from Councillors Quilliam and Dean.
Councillors Latif and Dehaney attended as substitutes.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 23 September 2021 were
agreed as an accurate record.

4 TOWN PLANNING APPLICATIONS (Agenda Item 4)

The Committee noted the amendments and modifications to the officer's report. The
Chair advised the items would be heard in reverse order; item 7, 6 and then 5. For
the purpose of the minutes, items appear minuted in agenda order.

5 GARAGE BLOCK, HEYFORD AVENUE, LAND REAR OF 145 & 147 SPRINGFIELD AVENUE, RAYNES PARK (Agenda Item 5)

Proposal: Demolition of Garage block and erection of a 2 bed bungalow with habitable roofspace.

The Development Control Team Leader (South) presented the report and members commented on the application.

The Chair moved to the vote on the officer's recommendation and it was

RESOLVED:

that the Committee granted planning permission subject to conditions.

6 52B RUSSELL ROAD, WIMBLEDON, LONDON, SW19 1QL (Agenda Item 6)

Proposal: Replacement of bedroom window with doors

The Development Control Team Leader (North) presented the report.

The Committee received a verbal representation from two objectors who made points including:

- The current application was factually incorrect and no notices had been affixed outside the property
- There had been no building control completion certificate
- The application if granted would set an unacceptable precedent
- The proposal would harm the character of the building

The Committee received a verbal presentation from the Applicant who made points in response including:

- Any dispute between the freeholders was not a planning consideration
- The joinery was inkeeping with others within the area

A statement was read out on behalf of Councillor Nigel Benbow on the Application, stating that the doors were unsuitable and out of keeping with the current building.

The Development Control Team Leader (North) responded to the points raised advising that neighbour letters had been sent as required and noting that the issues raised around freeholder/leaseholder disputes were not a planning matter.

Members commented on the application noting that the doors were at ground level and would therefore not lead to any loss of light.

The Chair moved to the vote and it was

RESOLVED:

That the Committee granted planning permission subject to conditions.

7 EDDIE KATZ, 42 STATION ROAD, COLLIERS WOOD, LONDON, SW19 2LP
(Agenda Item 7)

Proposal: Redevelopment of the site including the erection of buildings (1x10 storeys block and 1x13 storeys block) to provide a mixed use scheme including 116x residential units (use class C3) and commercial floorspace (use Class E). Together with associated car and cycle parking, hard and soft landscaping and associated infrastructure.

The Planner presented the report and brought to members' attention amendments to the S106 heads of Terms and a number of the planning conditions as set out in the Supplementary Agenda.

The Committee received verbal presentations from two objectors who made points including:

- The proposal was too high and too dense and the heat pumps would add noise.
- The proposal would overshadow the area next to it and close off views of the sky to the East.
- The proposal would increase traffic and would cause difficulties for emergency services access to the proposed building.
- The proposal contradicted the principles in the tall buildings background paper as well as policies DMD2 and DMD4.
- The proposal would lead to a loss of light for nearby homes and would cause overlooking to nearby homes due to overhanging balconies.
- The size and density of the proposal would create significant noise and odour and destroy the quiet character of the area.

The Applicant spoke in response and made points including:

- The Applicant had worked closely on the designs with Thames Water, the Environment Agency and the Fire Brigade.
- The Applicant had held two public consultation events and made changes following feedback received including reducing the design from 15 to 13 storeys.
- The Applicant believed that the heights were in-keeping with the precedent in the area.
- Daylight modelling had shown 100% compliance with the guidance
- The proposal would provide new housing and public realm
- The massing had been carefully considered

The Chair noted that the two ward Councillors who would be speaking were Abbey Ward Councillors and the application was located in Colliers Wood Ward. However, given that the roads directly affected by the proposal fell within Abbey ward, the Chair had agreed to these councillors speaking.

Councillor Eleanor Stringer gave a verbal presentation to the Committee noting that whilst there were many positive aspects to the application, she had concerns

regarding overdevelopment of the site in an area of historic importance, noting that the tallest recent approvals were 7 storeys high and noting the privacy concerns of residents.

A statement was read out on behalf of Councillor Nigel Benbow, stating that the design of the buildings did not blend in with the surroundings, that he had concerns around the height and mass of the proposals and that it would result in loss of light to local properties.

The Development Control Team Leader (South) responded that the wider overall context had been considered and noted that the PTAL rating within the area was up to 4.

The Planner responded to members' questions:

- A fire engine would be able to access the site and the proposal was covered with a fire safety statement.
- The decision was an indicative decision which would then be passed to the Mayor of London for a final determination.
- The density of the proposal was 1349 habitable rooms per hectare.
- Whilst some elements were 100% compliant there were varying parts within it and there were some reductions in the visual sky element on some properties.

Members commented on the proposal noting the provision of affordable housing and also expressing concerns on the height of the proposals and the impact on the area.

The Chair moved to the vote and it was

RESOLVED:

That the Committee granted planning permission subject to any direction from the Mayor of London the completion of a S106 agreement and conditions.

8 PLANNING APPEAL DECISIONS (Agenda Item 8)

The Committee noted that a report would be within the agenda for the next meeting.

9 PLANNING ENFORCEMENT - SUMMARY OF CURRENT CASES (Agenda Item 9)

The Committee noted the report.

PLANNING APPLICATIONS COMMITTEE
11th November 2021

Item No:

UPRN

APPLICATION NO.

DATE VALID

21/P0119

16/12/2020

Address/Site:

81 – 83 Wimbledon Hill Road, Wimbledon, SW19 7QS

(Ward)

Hillside

Proposal:

Erection of a five storey residential block plus basement comprising 17 x self-contained flats (3 x 3 bed, 10 x 2 bed & 4 x 1 bed) plus three bedroom detached dwelling arranged over 2 floors (ground floor and basement). Basement to accommodate 9 car parking spaces.

Drawing Nos:

PL-002 (PL4), PL-003 (PL5), PL-004 (PL4), PL-005 (PL4), PL-006 (PL4), PL-007 (PL4), PL-008 (PL4), PL-009 (PL5), PL-010 (PL6), PL-011 (PL5), PL-013 (PL5) – Proposed east elevation, PL-013 (PL5) – Proposed west elevation, PL-020 (PL5), PL-021 (PL3), SK001.

Contact Officer:

David Gardener (0208 545 3115)

RECOMMENDATION

GRANT Planning Permission Subject to Conditions and S106 Agreement

CHECKLIST INFORMATION

- Heads of agreement: Permit free
- Is a screening opinion required: No
- Is an Environmental Statement required: No
- Has an Environmental Impact Assessment been submitted: No
- Press notice: No
- Site notice: Yes
- Design Review Panel consulted: No
- Number of neighbours consulted: 168
- External consultations: None

1. INTRODUCTION

- 1.1 The application has been brought before the Planning Applications Committee due to the nature and number of objections received.

2. SITE AND SURROUNDINGS

- 2.1 The application site is currently occupied by a three storey (including basement) detached early 20th Century building, which is currently sub-divided into 5 self-contained flats. The site is located on the north side of Wimbledon Hill Road, and is not located in a conservation, although the front boundary adjoins the Merton (Wimbledon Hill Road) Conservation Area.
- 2.2 The site currently provides off-street parking to the front and side of the existing building, including 3 garages, although it is not clear whether these are being currently used for parking.
- 2.3 The surrounding area is predominantly residential, comprising a mixture of purpose built blocks of flats and houses. The application site is bounded by Bluegates, a four storey block of flats to the west, Harrowdene Court, a five storey block of flats to the north, and Leeward Gardens, a development of 2 – 3 storey dwellings to the east. It should be noted that Nos. 26 – 30 Leeward Gardens are orientated so that the rear elevations of these dwellings face the side boundary of the application site.
- 2.4 The site has excellent public transport accessibility (PTAL 6a) and is also located in a controlled parking zone (zone W2).
- 2.5 The application site comprises a number of trees, although only one, a Sycamore tree, located to the rear of the site, is subject to a Tree Preservation Order. Trees, subject to TPO's are also located in the garden of No. 26 Leeward Gardens, close to the side boundary with the application site.

3. CURRENT PROPOSAL

- 3.1 Erection of a five storey residential block plus basement comprising 17 x self-contained flats (3 x 3 bed, 10 x 2 bed & 4 x 1 bed) plus a 3 bedroom detached dwelling arranged over 2 floors (ground floor and basement).
- 3.2 The proposed building would have a contemporary design, featuring a flat roof, and comprises red brickwork (including textured brickwork) and buff cement cladding facing materials, metal windows, and glass balustrades. The proposed house would feature a green roof.
- 3.3 All of the flats would have access to a private terrace, balcony or garden. A communal garden would also be located to the rear of the building.
- 3.4 The proposed basement, which is accessed via a car lift, would accommodate 9 car parking spaces (including 2 disabled spaces), whilst secure cycle storage and bin storage is located at ground level.
- 3.5 Amended Plans:
Please note that the application has been amended following submission of the application. The maximum height of the building has been reduced by approx.

50cm, whilst the footprint of the building has been reduced, with the front and rear elevations pulled back. The building, above ground floor level, has also been shifted slightly further to the west. The footprint of the top floor has also been reduced. The proposed facing materials have also been amended with for example, glass balustrades replacing the brick balustrades previously proposed.

4. PLANNING HISTORY

The following planning history is relevant:

- 4.1 MER847/65(D) - Erection of a range of five lock-up garages. Granted - 10/03/1966
- 4.2 89/P1216 - Erection of two pre-fabricated garages. Granted - 17/11/1989
- 4.3 00/P1873 - Erection of a single-storey timber chalet building in the back garden. Granted - 16/11/2000

5. POLICY CONTEXT

- 5.1 Adopted Merton Sites and Policies Plan and Policies Maps (July 2014):
DM D1 (Urban design and the public realm), DM D2 (Design considerations in all developments), DM D3 (Alterations and extensions to existing buildings), DM EP2 (Reducing and mitigating noise), DM F1 (Support for flood risk management), DM F2 (Sustainable urban drainage systems SuDS, wastewater and water infrastructure), DM H2 (Housing Mix), DM H3 (Support for affordable housing), DM O2 (Nature Conservation, Trees, hedges and landscape features), DM T1 (Support for sustainable transport and active travel), DM T2 (Transport impacts of development), DM T3 (Car parking and servicing standards)
- 5.2 Adopted Core Strategy (July 2011):
CS.8 (Housing Choice), CS.9 (Housing Provision), CS.14 (Design), CS.15 (Climate Change), CS.18 (Active Transport), CS.19 (Public Transport), CS.20 (Parking, Servicing and Delivery)
- 5.3 The relevant policies in the London Plan (March 2021) are:
GG6 (Increasing efficiency and resilience), D2 (Infrastructure requirements for sustainable densities), D3 (Optimising site capacity through the design-led approach), D4 (Delivering good design), D5 (Inclusive design), D8 (Public realm), D10 (Basement development), D11 (Safety, security and resilience to emergency), D12 (Fire safety), G5 (Urban greening), D6 (Housing quality and standards), H1 (Increasing housing supply), H4 (Delivering affordable housing), H5 (Threshold approach to applications), H6 (Affordable housing tenure), H7 (Monitoring of affordable housing), H10 (Housing size Mix), SI 1 (Improving air quality), SI 2 (Minimising greenhouse gas emissions), SI 3 (Energy infrastructure), SI 4 (Managing heat risk), SI 5 (Water infrastructure), SI 13 (Sustainable drainage), T4 (Assessing and mitigating transport impacts), T5 (Cycling), T6 (Car parking), T7 (Deliveries, servicing and construction)

- 5.4 Mayor of London Housing Supplementary Planning Guidance (March 2016)
- 5.5 Merton Council Small Sites Toolkit SPD 2021
- 5.5 Department for Communities and Local Government 'Technical housing standards – nationally described space standard'
- 5.6 National Planning Policy Framework 2019

6. CONSULTATION

6.1 The application was originally publicised by means of a site and press notice and individual letters to occupiers of neighbouring properties. In response, 50 letters of objection were received including objection letters from the Belvedere Estate Residents' Association (BERA) and Wimbledon East Hillside Residents' Association (WEHRA), and independent Daylight/Sunlight Report by Right of Light Consulting. The letters of objection were on the following grounds:

- Impact of basement on flood risk and structural integrity of surrounding properties/subsidence
- Poor design/ out of character with surrounding area/demolition of an existing building with heritage and architectural value/impact on adjacent conservation area and listed building/impact on streetscene
- Lack of affordable housing
- Privacy loss/overlooking/visual intrusion/overbearing impact
- Daylight/sunlight loss and inaccuracies/inadequacies of daylight/sunlight report/right to light, inaccuracies/lack of information in drawings and submitted documents to accurately assess the application properly
- Excessive size, bulk, massing and height
- Overdevelopment of site/too high density
- Lack of infrastructure to support increase in population
- Damage to retaining wall between Bluegates and No.2b Belvedere Drive
- Lack of parking/traffic impact/highway and pedestrian/cyclist safety
- Noise, vibration, dust, pollution and general disturbance to surrounding properties, including during construction works
- Loss of greenery and trees (including a tree with a TPO)/impact on biodiversity
- Poor standard of accommodation/security concerns
- Lack of consultation from the developer
- Contradicts a number of national and local planning policies
- Concerns regarding waste disposal and sewerage

6.2 Wimbledon East Hillside Residents' Association (WEHRA)

6.3 Objects regarding excessive bulk, height, density and impact that this would have on neighbouring properties regarding loss of daylight/sunlight and

privacy. Also objects regarding safety, flood risk, and lack of affordable housing.

6.4 Belvedere Estate Residents' Association (BERA)

6.5 Objects due to concerns raised by Thames Water and the Designing Out Crime Officer, loss of daylight/sunlight, overshadowing, flooding risk, demolition of existing building, failure to submit Construction Traffic Management Report, disruption to Bus and Cycle Lane, overdevelopment, and overbearing impact. Also question why a developer would construct the proposed development if making a loss as suggested by the developer's viability assessment.

6.6 Following the submission of the amended plans to the proposal, a further re-consultation was undertaken by the Council with neighbouring occupiers. In response a further 29 letters of objection were received on the following grounds:

- Little change to original proposal
- Loss of existing house
- Excessive height and bulk/dominates surrounding buildings/poor design/out of character with surroundings
- Impact of depth of excavation on surrounding buildings and viability of trees
- Inaccurate documents
- Loss of daylight/sunlight and overshadowing
- Overlooking/loss of privacy/noise and disturbance with use and during construction
- Visual intrusion/dominant/overbearing/loss of outlook
- Loss of trees
- Overdevelopment/too high density
- Flood risk
- Lack of supporting infrastructure
- Financial risk to the developer/lack of affordable housing/additional units not required to meet housing targets
- Impact on adjacent conservation area and listed building
- Traffic impact
- Concerns raised by Design Out Crime Officer regarding safety

6.3 Future Merton - Transport Planning

6.4 No objections, subject to conditions and S106 Agreement preventing future occupiers obtaining on-street parking permits.

6.5 Future Merton – Flood Risk Officer

6.6 The application is supported by a BIA and Drainage/SuDS strategy. It is likely that groundwater (perched) will be found on excavation and hence dewatering will be required. Furthermore, we would seek additional mitigation (above those stated in the BIA) in terms of passive drainage measures around the structure given the relative gradient of Wimbledon Hill Rd to allow the free flow of perched groundwater around the structure.

- 6.7 The site is not shown to be at high risk of surface water flooding as shown on the surface water flood maps and it is not located in flood zone associated with river flooding. Conditions are recommended if minded to approve the application.
- 6.8 Council's Tree Officer
- 6.9 There are trees subject to Tree Preservation Order's within the site and adjacent on Leeward Gardens. Most of the TPO's trees at the site have been removed over the years and only the Sycamore tree at the rear is now subject to a TPO. In no. 26, there are 2 trees, which are subject to TPO's, which are affected by this proposal. The works include the cutting back of a Hornbeam tree. I would object to this as the tree has a good even shape and this would disfigure that shape.
- 6.10 The proposal requires the removal of 3 'B' category trees, and there would appear to be little opportunity for new tree planting. Certainly, no large species of tree.
- 6.11 Council's Environmental Health Officer
- 6.12 No objections, subject to appropriate conditions.
- 6.13 Thames Water
- 6.14 No objections, subject to appropriate conditions.
- 6.15 Council's Structural Engineer
- 6.16 The Basement Impact Assessment and supplementary information have demonstrated that the proposed development can be built safely without adversely affecting the surrounding natural and built environment. However, as the distance between the face of excavation and the highway boundary (approx. 8m and below) is less than the depth of excavation (8.5m), we would require additional information be submitted. This can be dealt with through conditions.
- 6.17 Designing Out Crime Officer
- 6.18 Has raised some security concerns, and as such has requested some conditions to deliver a safer development.
- 6.19 Future Merton – Climate Change Officer
- 6.20 No objections subject to appropriate conditions and S106 to secure carbon offset contribution.

7. PLANNING CONSIDERATIONS

7.1 Principle of Development

- 7.1.2 The proposal would result in a net increase of 13 self-contained residential units, which would help contribute to the council's housing target of providing 500 – 600 residential units in Wimbledon for the period 2011 – 2026 set out in policy CS 9 of the Core Planning Strategy 2011.
- 7.1.3 Policy H1 of the London Plan 2021 has set Merton a ten-year housing target of 9,180 new homes. By providing a net increase in 13 new units the proposals would make a small contribution to meeting that target and providing much needed new housing.
- 7.1.3 Policy H2 of the London Plan 2021 outlines that Boroughs should pro-actively support well-designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to:
- 1) significantly increase the contribution of small sites to meeting London's housing needs
 - 2) diversify the sources, locations, type and mix of housing supply
 - 3) support small and medium-sized housebuilders
 - 4) support those wishing to bring forward custom, self-build and community led housing
 - 5) achieve the minimum targets for small sites set out in Table 4.2 as a component of the overall housing targets set out in Table 4.1.
- 7.1.4 Historically small sites have been crucial to housing delivery in Merton and they continue to offer opportunities to grow Merton's housing stock. Over the last 15 years, small sites have provided over 60% of built homes borough-wide and account for over 95% of approved applications. The Council have recently adopted a Small Sites Toolkit SPD 2021 which outlines guidance on developing small sites.
- 7.1.5 The proposal to provide new residential units to this small site (0.2 ha in size) is considered to respond positively to London Plan and Core Strategy planning policies to increase housing supply and optimise small sites and is supported by Officers.

7.2 Visual amenity

- 7.2.1 Policy DM D2 of the Adopted Sites and Policies Plan and Policies Maps (July 2014) states that proposals for development will be required to relate positively and appropriately to the siting, rhythm, scale, density, proportions, height, materials and massing of surrounding buildings, whilst using appropriate architectural forms, language, detailing and materials which complement and enhance the character of the wider setting.
- 7.2.2 The application has been amended on officer advice and is considered to be a high quality design that responds well to both the topography of Wimbledon Hill Road, and architectural styles of surrounding buildings. The massing, scale and height of the proposal are considered acceptable with the main building and house responding well to the gradient of the hill.

- 7.2.3 The proposed main building is five storeys, and it should be noted that the surrounding area comprises a number of flatted blocks of similar heights, with Harrowdene Court to the rear also being five storeys, and Hill Court (No.104 Wimbledon Hill Road) on the opposite side of Wimbledon Hill Road being six storeys in height. The proposed building would also be sited more towards the west of the application site, so that there is a minimum 20m gap, and therefore breathing space, between the building and the two-storey houses on Leeward Gardens. The proposed house is low-rise with only a single storey above ground level, which means it would have very little impact when viewed from the street.
- 7.2.4 The proposed buildings are contemporary design, comprising predominantly red brick (including textured red brick soldier course), with the main building also featuring fibre cement cladding on parts of the side elevations, balconies floors, and top floor elevation to compliment this. The balustrades to the balconies would be glass. This is considered acceptable and would relate well to the surrounding building, which are also predominantly red brick.
- 7.2.5 The Wimbledon Hill Road Conservation Area boundary lies to the front of the site and captures the road, rather than the surrounding built form in this immediate area, apart from number 100 which is a two storey Grade II Listed Building known as the White House. The proposed design and scale of the flatted building and single dwelling house would be of an appropriate built form which would be largely in keeping with the surrounding flatted development and takes into account the topography of the hill. The front building line would be similar to the existing and overall officers are satisfied that it would not cause harm to the setting of the Conservation Area. The proposal would remain of a large separation distance to the Grade II Listed Building opposite such that there would be no harm caused to its setting.
- 7.2.6 Overall, it is considered that the proposal would result in a high quality development and as such complies with all the relevant design planning policies.

7.3 Residential Amenity

- 7.3.1 Policy DM D2 of the Adopted Sites and Policies Plan and Policies Maps (July 2014) states that proposals for development will be required to ensure provision of appropriate levels of sunlight and daylight, quality of living conditions, amenity space and privacy, to both proposed and adjoining buildings and gardens. Development should also protect new and existing development from visual intrusion.
- 7.3.2 The application site is bounded by Bluegates, a four storey block of flats to the west, Harrowdene Court, a five storey block of flats to the north (rear), and Leeward Gardens, a development of 2 – 3 storey dwellings to the east. It should be noted that Nos. 26 – 30 Leeward Gardens are orientated so that the rear boundary of these dwellings bounds the side boundary of the application site.

- 7.3.3 The orientation and shallow depth of rear gardens of Nos. 26 – 30 Leeward Gardens, does hinder the development potential of the application site. In addition to the aforementioned constraints, the site due to the gradient of the hill, is also located on higher ground than Leeward Gardens, which further increases any impact of a redevelopment. However, despite these constraints, it is considered, that the proposed development would, on balance, have an acceptable impact on the amenity of these properties. It is accepted that there would be some visual impact on Nos. 26 – 30 Leeward Gardens, however, to reduce this impact the main building would be predominantly sited on the western part of the site so that it is a minimum of 20m from the rear elevation of Nos. 26 – 30, and 13.5m from the boundary, which is considered to be a sufficient distance to prevent an unacceptable level of privacy loss (20m is generally considered an acceptable distance between facing windows) and visual intrusion. It should be noted that the east facing side windows above ground floor level are angled, and the top floor terrace is set back to further reduce any overlooking. To further reduce its bulk and massing when viewed from Leeward Gardens, the top floor is set back on its eastern elevation, which means it would be read more as a 4 storey building, than a five storey building from these properties, and the building is split into two distinct front and rear segments, which are separated by the stair core, which is set back from the east side of the building. This would help break up the building when viewed from Leeward Gardens.
- 7.3.4 The application also proposes a single detached house, which would sit between the main flatted building and the boundary with Leeward Gardens. It is considered that the proposed house would not be visually intrusive or overbearing when viewed from Leeward Gardens given the house would feature a flat roof of 3m in height, which is not considered excessive, whilst the bulk of the house would sit a minimum of approx. 1.7m from the boundary with Leeward Gardens. The applicant has submitted a daylight/sunlight report, which confirms, that Nos. 26 – 31 Leeward Gardens would not suffer an unacceptable level of daylight/sunlight loss or overshadowing as a result of the development.
- 7.3.5 A four storey block of flats (Bluegates), which fronts Wimbledon Hill Road, is located to the west of the application site. The proposed building would be located between 2.9m and 4.7m from the side boundary with this building, and 7m from the nearest part of the building, and approx. 10m from the nearest side facing windows, which is considered an acceptable distance for two side on facing developments of this size. In terms of privacy, the west facing side windows of the rear flats would face a side facing blank wall at Bluegates, whilst the windows to the living/kitchen areas would be obscure glazed. The bedrooms to these flats would not be obscure glazed, however on balance it is considered the impact on privacy would be acceptable given bedrooms are generally not heavily used during the day. It is noted that the outlook from the balconies set back from the front elevation of Bluegates would be impacted by the proposal, however, it is considered that the impact would be acceptable given the flank wall of Bluegates itself has a much larger impact given the balconies are sited hard up against this wall. The proposed building would also extend approx. 7.2m beyond the rear wall of Bluegates. This is also considered acceptable

given the sizeable gap between both buildings, and the fact that the majority of the land to the rear of Bluegates is hard surfaced for car parking. Also part of the projection at the rear is from the rear balconies, which would further lessen the visual impact.

- 7.3.6 The proposal would fail the daylight/sunlight test to the ground and first floor side windows at Bluegates, however, given these windows are side windows, with some appearing to be secondary windows, coupled with the fact that the failure is marginal, it would not warrant a refusal of the application on daylight/sunlight grounds.
- 7.3.7 Located to the rear of the site is Harrowdene Court, a five storey block of flats, which fronts Belvedere Drive. The proposed development would be located a minimum of approx. 12.6m from the rear boundary, and approx. 21m from the closest rear windows at Harrowdene Court, which is considered a sufficient distance to prevent an unacceptable level of privacy loss and visual intrusion. It should also be noted that the Harrowdene Court itself is five storeys, and is located very close to the boundary with the application site. However, Harrowdene Court is also orientated so that it would not directly face the proposed development, which means from the bulk of rear windows, the proposed building would only be visible from an oblique angle. The submitted daylight/sunlight report has also confirmed that the proposed development would also not have an unacceptable impact on daylight/sunlight levels to rear windows of Harrowdene Court.
- 7.3.8 Overall, it is considered that the proposal would not have a detrimental impact on the levels of amenity currently enjoyed by occupiers of surrounding properties and would accord with policies DM D2 and DM D3 Adopted Merton Sites and Policies Plan and Policies Maps (July 2014).

7.4 Standard of Accommodation

- 7.4.1 The Department for Communities and Local Government 'Technical housing standards – nationally described space standard' and Policy D6 of the London Plan 2021, provides the most up to date and appropriate minimum space standards for Merton. In addition, adopted policy CS.14 of the Core Strategy and DM D2 of the Adopted Sites and Policies Plan and Policies Maps (July 2014) encourages well designed housing in the borough by ensuring that all residential development complies with the most appropriate minimum space standards and provides functional internal spaces that are fit for purpose. New residential development should safeguard the amenities of occupiers by providing appropriate levels of sunlight & daylight and privacy for occupiers of adjacent properties and for future occupiers of proposed dwellings. The living conditions of existing and future residents should not be diminished by increased noise or disturbance.
- 7.4.2 The proposed residential units all exceed national and regional standards in terms of gross internal floor size and bedroom sizes. All the units are dual or triple aspect and all have adequate levels of light and outlook. The proposed

flats and house all have private balconies, terraces and/or gardens, with all but two units complying with the minimum space standards set out in policy DM D2 of the Adopted Merton Sites and Policies Plan and Policies Maps (July 2014), which requires for flatted dwellings, a minimum of 5sqm of private outdoor space should be provided for 1-2 person flatted dwellings with an extra 1sqm provided for each additional occupant. The two units (Units Nos. 3 & 4) that do not comply, will have a shortfall of only 3sqm, and would have direct access to a communal garden, so this is still considered acceptable in this instance.

7.5 Housing Mix

7.5.1 Policy DM H2 of the Adopted Merton Sites and Policies Plan and Policies Maps (July 2014) states that residential proposals will be considered favourably where they contribute to meeting the needs of different households such as families with children, single person households and older people by providing a mix of swelling sizes, taking account of the borough level indicative proportions concerning housing mix. Therefore in assessing development proposals the council will take account of Merton's Housing Strategy (2011-2015) borough level indicative proportions which are set out as follows:

Number of bedrooms	Percentage of units
One	33%
Two	32%
Three +	35%

7.5.2 It is considered that the proposal provides a good mix of properties with 4 x 1 bedroom units (22%), 10 x 2 bedroom units (56%) and 4 x 3 bedroom units/house (22%). Although there is a disproportionate number of 2 bedroom units in relation to the policy aim, it is not excessive and would not warrant a refusal of the application.

7.6 Parking and Traffic

7.6.1 The application site has very good level of accessibility to public transport with a PTAL rating of 6a with the site located a short distance from a number of bus routes and Wimbledon Railway Station. The application site is also located in a Controlled Parking Zone (Zone W2) and as such is located in an area of the borough subject to high parking stress.

7.6.2 London Plan Policy T6.1 requires all residential development that is located in areas of PTAL 6a to be car free. The proposed development would provide a total of nine off-street car parking spaces (including two disabled spaces), which would be accommodated in the basement. The proposed development would therefore provide (not including disabled space provision), 0.39 spaces per dwelling. It is considered that although this would exceed the maximum standards set out in the London Plan, it would not warrant a refusal of the application as it is not excessive. It should also be noted that the existing development provides a number of off-street car parking spaces including 3 garages, so the net uplift, despite 13 additional residential units being provided

on site would be minimal. Given the site is within a Controlled Parking Zone and has good access to public transport, the development will be required to be 'permit free', so that it complies with Policy CS.20 of the Core Planning Strategy, which states that the Council will support permit free developments in areas within CPZ's benefiting from good access to public transport (PTAL 4-6).

- 7.6.3 London Plan Policy T6.1 requires that for 3 per cent of dwellings, at least one designated disabled persons parking bay per dwelling is available from the outset, whilst demonstrating how an additional seven per cent of dwellings could be provided with one designated disabled persons parking space per dwelling in future upon request as soon as existing provision is insufficient. It is considered that given the proposed development provides two disabled spaces from the outset (i.e. a minimum of 10% of total spaces), that it complies with London Plan policy.
- 7.6.4 London Plan Policy T6.1 requires that all residential car parking spaces must provide infrastructure for electric or Ultra-Low Emission vehicles. At least 20 per cent of spaces should have active charging facilities, with passive provision for all remaining spaces. In this instance, all nine spaces would have electric charge points (i.e. be active), and as such would exceed the requirements of this policy. This will be secured by condition.
- 7.6.5 In terms of cycle parking, London Plan Policy T5 requires 1 long stay space per 1 bedroom (1 person) dwelling, 1.5 spaces per 1 bedroom (2 person) dwellings, and 2 spaces for all other dwellings, which means a total of 34 spaces should be provided. It also requires 2 short stay spaces for between 5 and 40 dwellings. It is considered that the proposal would comply with this policy given 34 long stay cycle spaces would be provided in a secure covered cycle store on the western boundary of the site, and 2 short stay spaces would be provided close to the communal entrance.
- 7.6.6 The development would be serviced on site and the applicant has provided swept path analysis showing how a light goods vehicle can enter and exit the site in forward gear. Bin storage would be located close to the front boundary, which means it is in an easily accessible location for waste collection, which would be done on-street. The Council's Transport Planner has raised no objection to the proposal.
- 7.6.7 Overall, it is considered that the proposal would comply with relevant planning policy relating to traffic and parking.

7.7 Trees

- 7.7.1 Policy DM O2 of the Adopted Merton Sites and Policies Plan and Policies Maps (July 2014) states that development will only be permitted if it will not damage or destroy any tree which is protected by a tree preservation order, is within a conservation area; or, has significant amenity value. Policy CS.13 in the Core Planning Strategy is similarly protective of trees with amenity value.

- 7.7.2 There are trees subject to Tree Preservation Order's within the site and adjacent on Leeward Gardens. The Council's Tree officer has outlined that most of the TPO trees at the site have been removed over the years and only the Sycamore and Horse Chestnut trees (labelled T8 and T9 on the submitted tree survey) are now subject to a TPO. In no. 26, there are also 2 trees, which are subject to TPO's, which are affected by this proposal. The Council's Tree Officer objected to the cutting back of a Hornbeam Tree at No.26 at the tree has a good even shape and this would disfigure that shape. The applicant has since confirmed that this tree would not be cut back.
- 7.7.3 The proposal requires the removal and replacement of 3 'B' category trees (1 x Ash, 1 x Indian Beam & Common Hornbeam) as well as some other less significant trees. Given these trees are not protected by a Tree Preservation Order, there is no objection to their removal. The Horse Chestnut tree, which is subject to a TPO (labelled T9 on the tree survey) is to be removed. There is no objection to this given it is now heavily decayed. A condition, will be attached securing replacement trees, with a requirement that some of these are planted close to the boundary with Harrowdene Court to provide some screening.

7.8 Sustainability and Energy

- 7.8.1 London Plan Policies SI 2 and SI 5 expects a minimum on-site reduction of CO2 emissions at least 35 per cent beyond Building Regulations for major developments. Residential development should achieve 10 per cent, and non-residential development should achieve 15 per cent through energy efficiency measures. Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided, in agreement with the borough, either: 1) through a cash in lieu contribution to the borough's carbon offset fund, or 2) off-site provided that an alternative proposal is identified and delivery is certain. Development proposals should also achieve mains water consumption of 105 litres or less per head per day.
- 7.8.2 The applicant has provided an updated energy statement which indicates that the proposed development will achieve a 64% improvement against Part L 2013 using a communal ground source heat pump and 8.4 kWp solar PV which exceeds the policy requirement. The remaining carbon shortfall of 10.7tCO₂/year will be offset at a rate of £95/tCO₂, with a total carbon offset contribution of £30,612 which will be secured via a S106 legal agreement. The applicant has also provided design stage water calculations which indicate that the proposed development will achieve internal water usage rates of less than 105 litres per person per day in line with Merton's minimum requirements. The Council's Climate Change Officer has raised no objection to the proposed energy strategy, subject to conditions and S106 Agreement to secure the carbon-off set contribution.

7.9 Drainage and Flood Risk

- 7.9.1 Policy DM D2 of the Adopted Sites and Policies Plan and Policies Maps (July 2014) requires proposals that incorporate basements and subterranean development to include a hydrology report which set out the impacts of the

development on groundwater and surface water movements and how these will be addressed.

7.9.2 The site is not shown to be at high risk of surface water flooding as shown on the surface water flood maps and it is not located in flood zone associated with river flooding.

7.9.3 The application is supported by a Basement Impact Assessment (BIA) and Drainage/SuDS Strategy. The Council's Flood Engineer has assessed the proposal and considers it likely that groundwater (perched) will be found on excavation and hence dewatering will be required. Furthermore, the Council will seek additional mitigation (above those stated in the BIA) in terms of passive drainage measures around the structure given the relative gradient of Wimbledon Hill Rd to allow the free flow of perched groundwater around the structure. This will be secured by condition. Further, the Council's structural Engineer has assessed the proposal and outlines that the Basement Impact Assessment and supplementary information have demonstrated that the proposed development can be built safely without adversely affecting the surrounding natural and built environment.

7.10 Affordable Housing

7.10.1 Policy H4 of the London Plan 2021 has a strategic target of 50 per cent of all new homes delivered across London to be genuinely affordable. Planning policy CS 8 (Housing Choice) of Merton's Core Planning Strategy states that development proposals of 10 units or more require an on-site affordable housing target of 40% (60% social rented and 40% intermediate). In seeking affordable housing provision, the Council will have regard to site characteristics, such as its site size, its suitability and its economic of provision such as financial viability issues and other planning contributions. Affordable housing should be provided on site. Affordable housing must only be provided off-site or as a cash in lieu contribution in exceptional circumstances. A separate financial viability assessment will be required (for applications where they are not providing a policy compliant level (including tenure mix) of affordable housing and where they are not meeting the Mayor of London Affordable Housing and Viability SPG 2017 threshold).

7.10.2 The proposed development would comprise 18 self-contained residential units. The development will not provide any affordable housing and as such is not policy compliant. The applicant has provided a financial viability assessment, which states that the proposed development would generate a deficit of £3.89m and as such would not be viable if any affordable housing was provided. The financial viability assessment has been independently assessed by the Council's Viability Consultants, which concludes that although the deficit would likely be much lower (i.e. £154 – 194K), the development cannot provide any affordable housing. An early and late stage review mechanism would be applied in this instance to capture any uplift in value.

7.11 Fire safety

7.11.1 Policy D12 of the London Plan states that major applications should be accompanied by a fire statement, prepared by a suitably qualified third party assessor, demonstrating how the development proposals would achieve the highest standards of fire safety, including details of construction methods and materials, means of escape, fire safety features and means of access for fire service personnel. Additionally London Plan Policy D5 requires developments to incorporate safe and dignified emergency evacuation for all building users, with fire evacuation lifts suitable to be used to evacuate people who require level access from the buildings.

7.11.2 The application has not been accompanied by a Fire Statement as the application was submitted prior to the adoption of the London Plan 2021. Officers therefore consider that a condition securing this prior to commencement of development can be reasonably applied in this case.

8. ENVIRONMENTAL IMPACT ASSESSMENT

8.1 The application does not constitute Schedule 1 or Schedule 2 development. Accordingly, there are no requirements in terms of EIA submission.

9. LOCAL FINANCIAL CONSIDERATIONS

9.1 The proposal would result in a net gain in gross floor space and as such will be liable to pay a Community Infrastructure Levy (CIL).

10. SECTION 106 LEGAL AGREEMENT

10.1 Permit Free

10.2 The development is to be 'Permit Free' in line with policy CS.20 of the Core Planning Strategy, which seek to reduce reliance on private motor vehicles in locations with good access to public transport facilities.

10.4 Carbon Offset Contribution

10.5 Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, policy SI 2 of the London Plan 2021, requires that any shortfall should be provided through a cash in lieu contribution to the borough's carbon offset fund. In this instance, there is a carbon shortfall of 10.7tCO₂/ year, which will be offset at a rate of £95/tCO₂, which equates to a total carbon offset contribution of £30,612.

10.6 Early and Late Stage Review (Affordable Housing)

10.7 In line with the Mayor's Housing SPG and the advice from the Council's viability consultants, early and late stage reviews are required to be included within the S106 Agreement in order to capture any uplift in value.

11. CONCLUSION

- 11.1 It is considered that the proposed development is a high quality design that responds well to both the topography of the site and architectural styles of surrounding buildings. It is also considered that the proposal would be acceptable in terms of its impact on residential amenity and standard of accommodation. In terms of parking and traffic impact it is noted that the application site has excellent access to public transport and is in a controlled parking zone, which means the residential units would be 'permit free' in line with policy requirements. The proposal would provide an increase density on a small site, striking a balance between site optimisation and surrounding constraints to the site, which is considered to be supported. Overall, it is considered that the proposal would comply with all relevant planning policies and as such planning permission should be granted.

RECOMMENDATION

GRANT PLANNING PERMISSION subject to the completion of a S106 agreement covering the following heads of terms:

- 1) Car park Permit Free
- 2) Carbon offset Financial Contribution (£30,612)
- 3) Incorporate early and late stage review for affordable housing
- 4) Paying the Council's legal and professional costs in drafting, completing and monitoring the legal agreement.

And subject to the following conditions:

1. A.1 (Commencement of Development)
2. A.7 (Approved plans)
3. B.1 (External Materials to be Approved)
5. C.7 (Refuse & Recycling (Implementation))
6. C.8 (No Use of Flat Roof)
7. C.9 (Balcony/Terrace (Screening))
8. D.11 (Construction Times)
9. F.1 (Landscaping/Planting Scheme)
10. F.2 (Landscaping (Implementation))
11. F.5 (Tree Protection)

12. F.8 (Site Supervision)
13. F.9 (Hardstandings)
14. H.4 (Provision of Vehicle Parking)
15. Electric Charge Points to be implemented prior to occupation and retained permanently thereafter.
14. H.7 (Cycle Parking to be Implemented)
15. Demolition/Construction Logistic Plan (including a Construction Management plan in accordance with TfL guidance)
16. Before the commencement of the development, details of the proposed green/brown roofs (including: species, planting density, substrate, a section drawing at scale 1:20 demonstrating the adequate depth availability for a viable green/brown; and a maintenance plan) shall be submitted to an approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the approved details and be permanently retained as such.

Reason: In order to conserve and enhance biodiversity and wildlife habitats in accordance with the provisions of policy CS.13 of Merton's Core Planning Strategy 2011.

17. Prior to the commencement of development, the applicant shall submit a detailed proposal on how drainage and groundwater will be managed and mitigated during (dewatering) and post construction (permanent phase), for example through the implementation of passive drainage measures around the basement structure.

Reason: To reduce the risk of surface and foul water flooding to the proposed development and future users, and ensure surface water and foul flood risk does not increase offsite in accordance with Merton's policies CS16, DMF2 and the London Plan policy 5.13.

18. Prior to the commencement of development, a detailed scheme for the provision of surface and foul water drainage shall be submitted to and approved in writing by the local planning authority for both phases of the development. The drainage scheme will dispose of surface water by means of a sustainable drainage system (SuDS) to include a green roof, rainwater harvesting and will discharge at the agreed run-off rate of no more than 5l/s (and a volume of attenuation no less than 32m³), in accordance with drainage hierarchy contained within the London Plan Policy (5.12, 5.13 and SPG) and the advice contained within the National SuDS Standards

Reason: To reduce the risk of surface and foul water flooding to the proposed development and future users, and ensure surface water and foul flood risk does not increase offsite in accordance with Merton's policies CS16, DMF2 and the London Plan policy 5.13.

19. No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to significantly impact / cause failure of local underground sewerage utility infrastructure.

20. No construction shall take place within 5m of the water main. Information detailing how the developer intends to divert the asset / align the development, so as to prevent the potential for damage to subsurface potable water infrastructure, must be submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any construction must be undertaken in accordance with the terms of the approved information. Unrestricted access must be available at all times for the maintenance and repair of the asset during and after the construction works.

Reason: The proposed works will be in close proximity to underground strategic water main, utility infrastructure. The works has the potential to impact on local underground water utility infrastructure.

21. The development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific security needs of the development in accordance with the principles and objectives of Secured by Design. Details of these measures shall be submitted to and approved in writing by the local planning authority prior to commencement of the development and shall be implemented in accordance with the approved details prior to occupation.

Reason: In order to achieve the principles and objectives of Secured by Design to improve community safety and crime prevention in accordance with Policy CS.14 of Merton Core Strategy: Design, and Strategic Objectives 2 (b) and 5 (f); and Policy 7.3 Designing out Crime of the London Plan.

22. Prior to occupation a Secured by Design final certificate shall be submitted to and approved by the Local Planning Authority.

Reason: In order to achieve the principles and objectives of Secured by Design to improve community safety and crime prevention in accordance with Policy CS.14 of Merton Core Strategy: Design, and Strategic Objectives 2 (b) and 5 (f); and Policy 7.3 Designing out Crime of the London Plan.

23. Prior to commencement of works, a preliminary risk assessment, and investigation shall be undertaken to consider the potential for contaminated land. If necessary, a detailed remediation scheme to bring the site to a suitable

state for the intended use by removing unacceptable risks to health and the built environment, shall be submitted to and approved by the Local Planning Authority prior to commencement of works. The approved remediation works shall be completed in accordance with the approved details, and a verification report, demonstrating the then effectiveness of the remediation, shall be submitted and approved by the Local Planning Authority.

Reason: To protect the health of future users of the site in accordance with policy 5.21 of the London Plan 2016 and policy DM EP4 of Merton's sites and policies plan 2014.

24. No part of the development hereby approved shall be occupied until evidence has been submitted to the Local Planning Authority confirming that the development has achieved CO2 reductions in accordance with those outlined in the approved Environmental Statement Addendum, and wholesome water consumption rates of no greater than 105 litres per person per day.

Reason: In order to ensure that actual operational energy performance and water usage is minimised in compliance Policies SI 2 and SI 5 of the London Plan 2021.

25. In order to demonstrate compliance with the 'be seen' post-construction monitoring requirement of Policy SI 2 of the London Plan, the legal Owner shall at all times and all in all respects comply with the energy monitoring requirements set out in points a, b and c below. In the case of non-compliance the legal Owner shall upon written notice from the Local Planning Authority immediately take all steps reasonably required to remedy non-compliance.

a. Within four weeks of planning permission being issued by the Local Planning Authority, the Owner is required to submit to the GLA accurate and verified estimates of the 'be seen' energy performance indicators, as outlined in Chapter 3 'Planning stage' of the GLA 'Be seen' energy monitoring guidance document, for the consented development. This should be submitted to the GLA's monitoring portal in accordance with the 'Be seen' energy monitoring guidance.

b. Once the as-built design has been completed (upon commencement of RIBA Stage 6) and prior to the building(s) being occupied (or handed over to a new legal owner, if applicable), the legal Owner is required to provide updated accurate and verified estimates of the 'be seen' energy performance indicators for each reportable unit of the development, as per the methodology outlined in Chapter 4 'As-built stage' of the GLA 'Be seen' energy monitoring guidance. All data and supporting evidence should be uploaded to the GLA's monitoring portal. The owner should also confirm that suitable monitoring devices have been installed and maintained for the monitoring of the in-use energy performance indicators, as outlined in Chapter 5 'In-use stage' of the GLA 'Be seen' energy monitoring guidance document.

c. Upon completion of the first year of occupation following the end of the defects liability period (DLP) and for the following four years, the legal Owner is required to provide accurate and verified annual in-use energy performance

data for all relevant indicators under each reportable unit of the development as per the methodology outlined in Chapter 5 'In-use stage' of the GLA 'Be seen' energy monitoring guidance document. All data and supporting evidence should be uploaded to the GLA's monitoring portal. This condition will be satisfied after the legal Owner has reported on all relevant indicators included in Chapter 5 'In-use stage' of the GLA 'Be Seen' energy monitoring guidance document for at least five years.

Reason: In order to ensure that actual operational energy performance is minimised and demonstrate compliance with the 'be seen' post-construction monitoring requirement of Policy SI 2 of the London Plan 2021.

26. Prior to the commencement of developments a Fire Safety Statement and Strategy shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the residential development hereby approved the Fire safety measures detailed in the approved document shall be implemented and retained thereafter unless or until they require amendment in accordance with updated Fire Safety Regulations.

Reason: to provide a safe living environment and to reduce the risk of fire related danger in accordance with London Plan 2021 policy D12 and Merton Sites and Policies Plan 2014 policy DM D2.

Committee: Planning Applications

Date: 11th November 2021

Subject: Planning Appeal Decisions

Lead officer: Head of Sustainable Communities

Lead member: Chair, Planning Applications Committee

Recommendation:

That Members note the contents of the report.

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 For Members' information recent decisions made by Inspectors appointed by the Secretary of State for Communities and Local Government in respect of recent Town Planning Appeals are set out below.
- 1.2 The relevant Inspectors decision letters are not attached to this report but can be viewed by following each individual link. Other agenda papers for this meeting can be viewed on the Committee Page of the Council Website via the following link:

[**LINK TO COMMITTEE PAGE**](#)

DETAILS

Application Number **19/P1591**
Appeal number: APP/T5720/W/20/3245507
Site: 7 Streatham Road, Mitcham CR4 2AD
Development: RETENTION OF EXISTING ENLARGED OUTBUILDING FOR USE
AS A SELF-CONTAINED 1 BED UNIT
Appeal Decision: DISMISSED
Date of Appeal Decision: 5th October 2020

[**LINK TO DECISION**](#)

Application Number: **19/P4300**

Appeal number: APP/T5720/D/20/3256574
Site: 25 Greenwood Close, Morden SM4 4HX
Development: RETENTION AND PROPOSED REDUCTION IN SIZE OF AN EXISTING CANOPY ATTACHED TO THE REAR EXTENSION
LPA Decision: Refused (Delegated)
Appeal Decision: **ALLOWED**
Date of Appeal Decision: 1st November 2020

[LINK TO DECISION](#)

Application Number: **20/P3832**
Appeal number: APP/T5720/W/21/3270169
Site: 2 Orchard Close, Raynes Park SW20 9HU
Development: ERECTION OF A TWO STOREY SIDE EXTENSION, REAR ROOF EXTENSIONS, ALTERATIONS TO FACADE AND LANDSCAPING IN CONNECTION WITH THE CONVERSION OF THE PROPERTY INTO 1 X DWELLINGHOUSE WITH ANCILLARY ANNEX AND 1 X SELF-CONTAINED FLAT.
LPA Decision: Non Determination
Appeal Decision: DISMISSED
Costs Decision: REFUSED
Date of Appeal Decision: 22nd October 2020

[LINK TO DECISION](#)

[LINK TO COSTS DECISION](#)

Application Number: **21/P0034**
Appeal number: APP/T5720/W/21/3273800
Site: 89 Worple Road, Wimbledon SW19 4JG
Development: PRIOR APPROVAL FOR THE ERECTION OF TWO ADDITIONAL STOREYS ON TOP OF EXISTING BLOCK OF FLATS TO CREATE 3 x NEW RESIDENTIAL UNITS.
LPA Decision: Refused (Delegated)
Appeal Decision: DISMISSED
Date of Appeal Decision: 22nd October 2020

[LINK TO DECISION](#)

Alternative options

- 3.1 The appeal decision is final unless it is successfully challenged in the Courts. If a challenge is successful, the appeal decision will be quashed and the case returned to the Secretary of State for re-determination. It does not follow necessarily that the original appeal decision will be reversed when it is re-determined.
- 3.2 The Council may wish to consider taking legal advice before embarking on a challenge. The following applies: Under the provision of Section 288 of the Town & Country Planning Act 1990, or Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990, a person or an establishment who is aggrieved by a decision may seek to have it quashed by making an application to the High Court on the following grounds: -
1. That the decision is not within the powers of the Act; or
 2. That any of the relevant requirements have not been complied with; (relevant requirements means any requirements of the 1990 Act or of the Tribunal's Land Enquiries Act 1992, or of any Order, Regulation or Rule made under those Acts).

1 CONSULTATION UNDERTAKEN OR PROPOSED

- 1.1. None required for the purposes of this report.

2 TIMETABLE

- 2.1. N/A

3 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 3.1. There are financial implications for the Council in respect of appeal decisions where costs are awarded against the Council.

4 LEGAL AND STATUTORY IMPLICATIONS

- 4.1. An Inspector's decision may be challenged in the High Court, within 6 weeks of the date of the decision letter (see above).

5 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 5.1. None for the purposes of this report.

6 CRIME AND DISORDER IMPLICATIONS

6.1. None for the purposes of this report.

7 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

7.1. See 6.1 above.

8 BACKGROUND PAPERS

8.1. The papers used to compile this report are the Council's Development Control service's Town Planning files relating to the sites referred to above and the agendas and minutes of the Planning Applications Committee where relevant.

Committee: Planning Applications Committee

Date: 11th November 2021

Agenda item:

Wards: All

Subject: PLANNING ENFORCEMENT - SUMMARY OF CURRENT CASES

Lead officer: HEAD OF SUSTAINABLE COMMUNITIES

Lead member: CABINET MEMBER FOR REGENERATION, HOUSING AND
TRANSPORT COUNCILLOR MARTIN WHELTON

COUNCILLOR DAVE WARD, CHAIR, PLANNING APPLICATIONS COMMITTEE

Contact Officer Ray Littlefield: 0208 545 3911
Ray.Littlefield@merton.gov.uk

Recommendation:

That Members note the contents of the report.

1. Purpose of report and executive summary

This report details a summary of casework being dealt with by the Planning Enforcement Team and contains figures of the number of different types of cases being progressed, with brief summaries of all new enforcement notices and the progress of all enforcement appeals.

Current Enforcement Cases:	574	¹ (561)	New Appeals:	(0)	(0)
New Complaints	40	(41)	Instructions to Legal	0	(0)
Cases Closed	27		Existing Appeals	2	(2)
No Breach:	19		<hr/>		
Breach Ceased:	7		TREE ISSUES		
NFA ² (see below):	1		Tree Applications Received	50	(32)
Total	27		% Determined within time limits:	50 %	
New Enforcement Notices Issued			High Hedges Complaint	0	(1)
Breach of Condition Notice:	0		New Tree Preservation Orders (TPO)	2	(2)
New Enforcement Notice issued	1	(0)	Tree Replacement Notice	0	
S.215: ³	0		Tree/High Hedge Appeal	0	(0)
Others (PCN, TSN)	1	(1)			
Total	0	(0)			
Prosecutions: (instructed)	0	(0)			

Note (*figures are for the period from (from 13th October 2021 to 2nd November 2021*). The figure for current enforcement cases was taken directly from M3 crystal report.

¹ Totals in brackets are previous month's figures

² confirmed breach but not expedient to take further action.

³ S215 Notice: Land Adversely Affecting Amenity of Neighbourhood.

2.0 New Enforcement Actions

TRUSTFORD, 67 – 71 PLOUGH LANE, TOOTING, SW19 0BW. On the 14th May 2021, 11 trees were removed from the front boundary to the property. This property is located within the Wandle Valley Conservation Area, and the statutory notice of 6 weeks prior to the commencement of tree work was not given to this Authority. This case is currently under investigation with a view to taking enforcement action. Trustford have begun planting new trees on the site. 12 new Silver Birch trees have been planted alongside the boundary with the River Wandle. New trees are proposed to be planted along the boundary to the front of the site in September, with an additional underplanting of shrubs.

52B Russell Road, Wimbledon, London, SW19 1QL. This is regarding the erection of a 2 metre boundary fence, facing the highway, which had a retrospective planning application submitted ref: 20/P2317 and refused. The applicant appealed the decision to the Planning Inspectorate. The appeal was dismissed on 14th June 2021. An enforcement notice was issued on 13th September 2021 to remove the fence. The

Notice took effect on 15th October 2021 with a one calendar month period of time for compliance.

Land to the rear of 42 Tamworth Lane, Mitcham, CR4 1DA. This is concerning a s215 notice served on untidy land. A s215 notice was issued on 10th May 2021. This notice requires compliance at the end of July 2021 requiring the Land to be tidied up / cleared. The Council have now taken Direct Action and cleared the land.

193 London Road, CR4 2JD. This is concerning a s215 notice served on untidy land. A s215 notice was issued on 1st December 2020. This notice requires compliance at the end of February 2021 requiring the Land to be tidied up / cleared. The Land is actively being cleared.

283 Galpins Road CR7 6EY. This is concerning a s215 notice served on untidy land. A s215 notice was issued on 23 December 2019. This notice required compliance at the end of February 2020 requiring the Land to be tidied up / cleared. Site visit arranged.

31 Edgehill Road, Mitcham, CR4 2HY. This is concerning a raised platform/garden that has been raised by approximately 90cm. An enforcement notice has been served to remove the raised platform and reduce the garden level by 90cm. The notice would have taken effect on 18/12/19, with a compliance date of 18/03/20, however an appeal has been submitted and is underway.

155 Canterbury Road, Morden, SM4 6QG. This is concerning an outbuilding in the rear garden that has had a retrospective planning application refused. An enforcement notice has been served on the property for the outbuilding to be demolished, the notice would have taken effect on 9th December 2019 and the compliance period would have been two months. However it has now been appealed to the Planning Inspectorate. The appeal was dismissed by Decision letter dated 19th August 2020. The compliance date i.e. Demolish the unauthorised rear outbuilding is 19th December 2020. Site visit to be arranged.

208 Bishopsford Road, Morden, SM4 6DA. This is concerning the erection of a single storey rear extension onto an existing extension on the ground floor. A Planning Enforcement Notice has been issued requiring the demolition of the Extension. The Notice was issued on 4th October 2019, the Notice came into effect on 10th November 2019 with a compliance period of 3 months, unless an appeal was made before 10th November 2019. An appeal was submitted but rejected by the Planning Inspectorate as it was received by The Planning Inspectorate one day late. Compliance date was 10th February 2020. Further action is under consideration. A new planning application for a reduced structure has now been recommended for approval.

The former laundry site, 1 Caxton Road, Wimbledon SW19 8SJ. Planning Permission was granted for 9 flats, with 609square metres of (Class B1) office units.

22 flats have been created. A Planning Enforcement Notice was issued on 11th October 2018 requiring either the demolition of the development or building to the approved scheme.

The Notice took effect on 18th November 2018 with a compliance period of 12 calendar months. An appeal was made but subsequently withdrawn the following day. The owner decided to comply with the approved permission and is in the process of returning some the residential units back to their authorised office use. Bath and shower units have been removed; the office units are currently being advertised for let. The garage flat is no longer being used for residential and is in the process of being returned to a garage. Planning Application 19/P1527 for Discharge of Conditions has been submitted and is currently being considered. Revised scheme re-submitted and approved.

Works are underway to expose the depth and boundary of the foundations in order to confirm an alternative landscaping scheme is feasible. A further scheme is under consideration. A finale inspection is to be undertaken as the requested works / Landscaping has now been carried out.

This Planning Enforcement Notice has now been satisfactorily complied with.

6 CARTMEL GARDENS, MORDEN SM4 6QN: (Notice 2) This is regarding a side extension not built in accordance with approved plans and being used as a self contained unit of accommodation. A planning Enforcement Notice was subsequently issued on 24th September 2019 and took effect on 24th October 2019. The Notice requires the cessation of the use of side extension as separate self-contained unit, and the removal of all those fixtures and fittings that facilitate the unauthorised use of the extension including the permanent removal of the facilities in use for cooking facilities, kitchen unit, sink, worktop, appliances, and food preparation areas. This Notice has a compliance period of 3 calendar months. An appeal was submitted but subsequently withdrawn. A second Notice was subject of an appeal now determined.

Some Recent Enforcement Actions

7 Streatham Road, Mitcham, CR4 2AD

The Council served two enforcement notices on 6th June 2019, requiring the outbuilding to be demolished and to clear debris and all other related materials. The second enforcement notice is for an unauthorised front, side and rear (adjacent to Graham Road) dormer roof extensions. An appeal was lost for the dormers to be considered permitted development, the notice requires the owner to demolish the unauthorised front, side and rear roof dormer extensions (adjacent to Graham Road) and to clear debris and all other related materials. Both Notices came into effect on 8th July 2019 unless appeals were made before this date. No appeals were lodged.

The compliance date of the Enforcement Notice relating to the outbuilding to be demolished and to clear debris and all other related materials has now passed without compliance. The second enforcement notice was not complied with and now prosecution proceedings are being undertaken.

The plea hearing has now taken place at Lavender Hill Magistrates Court, where the defendant pleaded not guilty and the second hearing is due on the 14th January 2020.

A second hearing was held on 14th January 2020, and adjourned until 4th February 2020 in order for the defendant to seek further legal advice.

The defendant again appeared in court and pleaded not guilty, a trial date was set for 21st May 2020. Due to the Covid-19 pandemic this has been postponed. The case has been listed for a 'non-effective' hearing on Tuesday 14 July 2020, where a new trial date will be set.

This was postponed until another date yet to be given. The Council has now instructed external Counsel to prosecute in these matters.

The next 'non-effective' hearing date is 2nd October 2020. This date has been re-scheduled to 27th November 2020. This was again re-scheduled to 4th January 2021. Outcome not known at the time of compiling this report.

A trial date has now been set for 28th and 29th April 2021.

At trial the defendant changed his plea from not guilty to guilty on the two charges of failing to comply with the two Planning Enforcement Notices, however due to the current appeals with the Planning Inspectorate relating to two planning application appeals associated with the two illegal developments, sentencing was deferred until 7th October 2021 at Wimbledon Magistrates Court.

The two planning appeals were dismissed by Decision letters dated 5th October 2021. Sentencing has again be deferred until 16th December 20021at Wimbledon Magistrates Court.

6 CARTMEL GARDENS, MORDEN SM4 6QN: (Notice 1) This is regarding a side extension not built in accordance with approved plans. A planning Enforcement Notice was subsequently issued on 24th September 2019 and would have taken effect on 24th October 2019. The notice requires the demolition of the rear extension. This Notice has a compliance period of 3 calendar months. An Appeal was electronically submitted. This Appeal has now been determined by Decision letter dated 23rd June 2020. The Appeal was dismissed and the Enforcement Notice upheld. The compliance period is 3 months from the date of the Decision letter. Direct action is now under consideration.

183A Streatham Road CR4 2AG. An Enforcement Notice was issued on 1st May 2019 relating to the erection of a rear balcony to the existing rear roof dormer of the property. The Notice requires demolishing the rear balcony to the existing rear roof dormer and restoring the property to that prior to the breach. The Notice would have taken effect on 4th June 2019, with a compliance period of 2 months. An Appeal to The Planning Inspectorate has been made. The appeal was determined by Decision letter dated 18th March 2020. The appeal was dismissed with a slight variation of the wording of the enforcement Notice. The Enforcement Notice had a 2 months compliance period. A further site inspection found that the Enforcement Notice has been complied with.

47 Edgehill Road CR4 2HY. This is concerning a rear extension not being built to the dimensions provided on the prior approval application. A Planning Enforcement Notice was subsequently issued requiring the demolition of the single storey rear extension. The Notice would have taken effect on 16th September 2019, with a compliance period of 3 calendar months. An Appeal has started. This Appeal has now been determined by Decision letter dated 16th July 2020. The appeal was allowed and the Enforcement Notice quashed.

33 HASSOCKS ROAD, LONDON. SW16 5EU: This was regarding the unauthorised conversion from a single dwelling into 2 x self contained flats against a refusal planning permission. A planning Enforcement Notice was subsequently issued on 10th September 2019 and would have taken effect on 15th October 2019. This Notice has a compliance period of 3 calendar months, unless an appeal is made to the Planning Inspectorate before the Notice takes effect. An Appeal has been submitted, and has started. The appeal site visit was postponed, by The Planning Inspectorate. This Appeal has now been determined by Decision letter dated 17th July 2020. The Appeal was dismissed and the Enforcement Notice upheld. The Notice was varied and the time for compliance extended from 3 months to 6 months from the date of the Appeal Decision letter. However, minor costs were awarded to the appellant for extra work and or time that had been spent on the appeal that were not needed.

76 Shaldon Drive, Morden, SM4 4BH. An enforcement notice was served on 14th August 2019 relating to an outbuilding being used as a self-contained unit. The notice requires the removal of all kitchen facilities, fixtures, fittings, cooker, worktops, kitchen units. The notice takes effect on 16th September 2019, with a compliance period of 1 month. An Appeal has been electronically submitted, This Appeal has now started. The date of the Planning Inspectors site visit was 20th October 2020.

By Decision Letter dated 4th November 2020 the appeal was dismissed and the Enforcement Notice was upheld. The compliance date was 4th December 2020. The owner claims the requirements of the Notice have been met and an inspection is to be carried out.

Existing enforcement appeals

2

Appeals determined

0

New Enforcement Appeals

0

3.4 Requested update from PAC

None

4. Consultation undertaken or proposed

None required for the purposes of this report

5 Timetable

N/A

6. Financial, resource and property implications

N/A

7. Legal and statutory implications

N/A

8. Human rights, equalities and community cohesion implications

N/A

9. Crime and disorder implications

N/A

10. Risk Management and Health and Safety implications.

N/A

11. Appendices – the following documents are to be published with this report and form part of the report Background Papers

N/A

12. Background Papers

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