

<b>Item No.</b> 6.1	<b>Classification:</b> OPEN	<b>Date:</b> 10 May 2012	<b>Meeting Name:</b> Dulwich Community Council
<b>Report title:</b>	<b>Development Management planning application:</b> Application 11/AP/1923 for: Full Planning Permission  <b>Address:</b> LAND ADJACENT TO 7-14 SPINNEY GARDENS, LONDON, SE19 1LL  <b>Proposal:</b> The construction of 4 low energy maisonettes with associated services and landscaping.		
<b>Ward(s) or groups affected:</b>	College		
<b>From:</b>			
<b>Application Start Date</b> 29 June 2011		<b>Application Expiry Date</b> 24 August 2011	

## RECOMMENDATION

- 1 Grant Detailed Planning Permission, subject to conditions.

## BACKGROUND INFORMATION

- 2 This application has been referred to the Dulwich Community Council due to the number of objections received.

### Site location and description

- 3 The application site refers to the triangular plot of land located adjacent to Nos. 7 - 14 Spinney Gardens immediately to the west of the Crystal Palace Parade embankment. The site is accessed from Bowley Lane leading to Spinney Gardens and is located off Farquhar Road. The surrounding built environment is residential in nature characterised by fairly modern dwellings on Spinney Gardens and Bowley Lane with areas of car parking along the stretch of Spinney Gardens below the embankment. Spinney Gardens and Bowley Lane are secluded from the surrounding area by the Crystal Palace Parade Embankment to the east and Dulwich Upper Wood to the west and south.
- 4 The application site is currently heavily planted with trees, a small vehicular turning area and a pathway from Spinney Gardens through to Bowley Lane. Neighbouring Dulwich Upper Wood is designated as an area of Metropolitan Open Land (MOL) and a Site of Importance for Nature Conservation. The application site borders the nature reserve and area of MOL however it is not designated as either. The site is not located within a Conservation Area nor does it refer to any listed buildings.

### Details of proposal

- 5 Planning consent is sought for the erection of four maisonettes accessed from Spinney Gardens and located within the north west corner of the site immediately adjacent to the nature reserve and MOL. the proposed maisonettes are modular in form, rising to two storeys and accommodating two bedrooms each. Living space will be open plan and outdoor amenity space will be provided (rear gardens for ground

floor units and front gardens for first floor units). The application initially included four car parking spaces and an underground water storage tank however these have been removed from the plans in order to reduce the impact on trees and the surrounding area.

### **Planning history**

- 6 10/AP/2165 - The construction of 4 maisonettes on ground and first floor levels, with landscaping and 4 parking spaces, including works to trees.  
Withdrawn - 24/11/2010
- 7 10/EQ/0059 - Low energy design for residential development of 4 no 2 bedroom flats.  
Pre-application advice.

### **Planning history of adjoining sites**

- 8 36 Spinney Gardens  
09/AP/2899 - (1) Ash- To fell to near ground Level, (2) Ash- To remove one lower limb and remove deadwood, (3) Large horse chestnut- to grown lift to give 5m ground clearance, prune back from building to give 3m clearance and remove major deadwood.  
Withdrawn - 21/10/2010
- 9 25 Spinney Gardens  
09/AP/2529 - Silver Birch - To fell near ground level and grind out resulting stump.  
Withdrawn - 21/10/2010
- 10 13 Burntwood Crescent  
00/AP/0649 - Conversion of loft space to bedroom in connection with use of the property as a single dwelling house plus insertion of velux window to front and rear roof pitches.  
Approved - 22/06/2000

## **KEY ISSUES FOR CONSIDERATION**

### **Summary of main issues**

- 11 The main issues to be considered in respect of this application are:
  - a) The principle of the development in terms of land use and conformity with strategic policies and the National Planning Policy Framework;
  - b) The impact on the residential and visual amenity of the area;
  - c) Design quality;
  - d) All other relevant material planning considerations.

### **Planning policy**

#### Core Strategy 2011

- 12 SP1 - Sustainable Development  
SP2 - Sustainable Transport  
SP5 - Providing New Homes  
SP11 - Open Spaces and Wildlife  
SP12 - Design and Conservation

SP13 - High Environmental Standards  
SP14 - Implementation and Delivery

Southwark Plan 2007 (July) - saved policies

- 13 For 12 months from 27 March 2012 weight can continue to be given to relevant local planning policies adopted in accordance with the Planning and Compulsory Purchase Act 2004, and those in the London Plan, in making decisions on planning applications even if there is a limited degree of conflict with the National Planning Policy Framework (NPPF). The weight given to the saved policies of the Southwark Plan should be according to their degree of consistency with policies in the NPPF.

Policy 3.2 Protection of amenity  
Policy 3.12 - Quality in design  
Policy 3.13 Urban design  
Policy 3.14 Designing out crime  
Policy 3.28 Biodiversity  
Policy 4.2 Quality of residential accommodation  
Policy 5.2 Transport impacts  
Policy 5.3 Walking and cycling  
Policy 5.6 Car parking

National Planning Policy Framework (NPPF)

- 14 The NPPF came into effect on 27 March 2012. It aims to strengthen local decision making and reinforce the importance of up-to-date plans. The policies in the NPPF are material considerations to be taken into account in making decisions on planning applications. The NPPF sets out the Government's commitment to a planning system that does everything it can do to support sustainable growth and a presumption in favour of sustainable development.

4). Promoting sustainable transport  
6). Delivering a wide choice of high quality homes  
7). Requiring good design.  
11). Conserving and enhancing the natural environment.

**Principle of development**

- 15 In land use terms the site is not designated as Metropolitan Open Land, nor does it have any other underlying designations that would lead to an objection in principle to the development of the site for residential purposes. The application site is not identified as a site of importance for nature conservation and as such it is considered that there will be no conflict of use detrimental to amenity.

**Environmental impact assessment**

- 16 The proposed development lies outwith the scope of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 and as such an EIA is not required in this instance.

**Impact of proposed development on amenity of adjoining occupiers and surrounding area**

- 17 Overall, the units successfully manage to avoid adverse impacts on the visual and residential amenity of the area. The separation distances between the proposed maisonettes and the existing dwellings on Spinney Gardens will ensure existing

residential properties do not suffer a loss of amenity in terms of a loss of daylight/sunlight, loss of outlook or a loss of privacy as a result of the proposal. The loss of trees on site to accommodate the new dwellings will not have an adverse impact on the visual amenity of the area.

#### **Quality of residential accommodation**

- 18 The proposed development will provide a good standard of living accommodation with all rooms and units exceeding the minimum space requirements of the SPD: Residential Design Standards and The London Plan 2011. Amenity space will be provided for all units with the ground floor units benefitting from larger rear gardens and the first floor units having access to smaller front gardens. Whilst this approach is considered acceptable it is considered that any shortfall in private outdoor amenity space can be compensated by the proximity of the development to Dulwich Upper Wood and Crystal Palace Park. As such the proposal is considered acceptable in terms of the quality of accommodation proposed and the level of outdoor amenity space.

#### **Impact of adjoining and nearby uses on occupiers and users of proposed development**

- 19 There will be no conflict of use detrimental to amenity.

#### **Traffic issues**

- 20 The proposed development has been amended to remove car parking in order to reduce the impact on trees. It is not considered that the proposal will have an adverse impact on traffic generation or parking.

#### **Cycle storage**

- 21 The applicant is providing secure cycle parking to the front of the dwellings in the form of cedar clad bike sheds at ground floor level. These cycle parking sheds are located within the front gardens for the first floor flats and as such may compromise the quality of the proposed outdoor amenity space if they are to be used by the ground floor residents also. As such it is considered appropriate to impose a planning condition to secure details of cycle parking prior to development taking place. The relevant condition will be imposed on any consent issued.

#### **Car Parking**

- 22 Given that the proposed site is not located within a Controlled Parking Zone, the Council do not have the power to control any overspill parking that may occur as a result of this development. Developments are required to provide off street parking to avoid any overspill parking associated with the development. However, given that this is for four maisonettes, and given the site constraints associated it is noted that it is not possible to provide any off street parking. The lack of parking is considered acceptable in this location due to the availability of parking on surrounding streets and the high PTAL level. The provision of four flats is not considered to have an unacceptable impact on the local area in terms of parking problems.

#### **Design issues**

- 23 In terms of bulk and mass, it is noted that surrounding residential development is characterised by pitched roof two storey terraced housing. The proposed development is a modular residential building rising to two storeys which would be lower in height than all the surrounding dwellings on Spinney Gardens and Bowley Lane. The benefit of the flat roofed design is the reduced mass and the incorporation of sedum roofs.

- 24 The elevations are considered acceptable and are designed to make full use of available daylight/sunlight whilst limiting the impact on the residential amenity of the dwellings on Spinney Gardens and the front gardens for the first floor units. As such the front elevation seems to lack visual interest due to the lack of windows on the north facing facades however the appropriate use of a variety of materials will help to provide a sufficient degree of articulation. Materials include Terracotta clay mathematical tiles, cedar boarding, copper roofing and aluminium clad timber windows. All windows on the front elevation are located on the returns in order to minimise overlooking of the properties on Spinney Gardens and this is considered to be an appropriate response to the sites locality.
- 25 The aims of the scheme to deliver and environmentally friendly housing is welcome and the construction techniques used, such as steel piles as opposed to concrete foundations will avoid damage to tree roots. The use of sustainable urban drainage principles is also to be encouraged. The proposed development is considered acceptable in terms of design and as such complies with saved policy 3.12 - Quality in design of The Southwark Plan 2007 (July) and Strategic Policy 12 - Design and Conservation of The Core Strategy 2011.

#### **Impact on character and setting of a listed building and/or conservation area**

- 26 The development will have no adverse impact on any listed buildings or conservation areas.

#### **Impact on trees**

- 27 The site is protected by a woodland Tree Preservation Order (ref. 415 confirmed 28/03/2012) which includes all trees on the site. These are characterised by a dense area of semi-mature self sown and planted native and non-native trees together with some larger specimens. Crowns of mature native specie trees overhang the site from the adjacent Dulwich Wood Nature Reserve which is also protected by TPO (ref. 4030 dated 10/07/1988).
- 28 Approximately two thirds of the site by area is affected by the proposed construction of two co-joined timber framed buildings with screw pile foundations. The arboricultural implications assessment contained within the arboricultural report by Indigo dated 26/07/2011 adheres to BS5837 Trees in relation to construction. It recommends six trees should be removed due to irredeemable structural defects and limited contribution to amenity. A total of 67 trees and three smaller tree groups are recorded.
- 29 In order to facilitate development 13 low quality and 14 moderate quality trees will require removal, totalling 2032 sq cm girth. Pruning of 10 tree crowns to provide clearance is also proposed. An unspecified number of replacement tree planting with native species is recommended. In total 49% of trees are proposed for removal representing 36% of the stem girth growing on site. The amended plans show the four car parking spaces are removed together with the proposed buried water recycling tank. These revisions are noted as being necessary to prevent damage to tree roots. Although a significant number of trees are proposed for removal the foundation design and construction method would allow damage to retained trees to be prevented. As such there are no objections to the proposed development subject to a comprehensive set of planning conditions relating to tree protection measures, landscaping, re-planting and woodland management.

#### **Planning obligations (S.106 undertaking or agreement)**

- 30 No planning obligations or S106 Agreements are required for an application of this

nature.

### **Sustainable development implications**

- 31 The proposed dwellings are designed as energy efficient and as such are considered sustainable in principle. The development makes use of natural materials and sustainable building methods including screw foundations, sedum roofs and natural drainage. The proposed dwellings will feature a high level of insulation and as such will reduce energy use. The development of four flats in itself raises no sustainability concerns.

### **Ecological impact and the local nature reserve**

- 32 An Ecological report has been completed for the proposed development which included bat surveys in May and August at both dusk and dawn. A number of bat species have been recorded within 1km of the survey area including Daubentons bat, Natterers bat, Noctule bat, Serotine, Common Pipistrelle and Soprano Pipistrelle. There are also records of Stag Beetles within 1 km of the survey area with the closest records dating to 1998 approximately 160 metres from the survey area and is also known to occur in the Dulwich Upper Wood area. Further species within the surrounding area include Hedgehogs and several bird species including Redwing, Brambling, Lesser Spotted Woodpecker, Herring Gull and Spotted Flycatcher. The latter three are Biodiversity Action Plan (BAP) species. Several surveys were undertaken and the Councils Ecology officer has raised no objection subject to conditions. The Ecology Officer has also confirmed that the Ecological Report has been completed in line with best practice.

### **Habitats**

- 33 In terms of habitats, the report concludes that there are no statutorily protected habitats on site and all plant species within the survey area are considered to be common at local and regional levels. The trees within the woodland and the ground flora in this area are not particularly diverse. Woodland is however identified as a Southwark Biodiversity Action Plan habitat and the loss of this habitat should be minimised as far as possible or replaced through replanting. The connectivity of the site (line of trees) should be retained either by retaining the trees along the north and south boundary or through creating a new link through native tree and shrub planting. In order to enhance the Ecological value of the site all new tree and shrub planting should as a minimum contain 50% native species or species with a known attraction to wildlife. The larger trees on the western boundary should be retained and protected during construction works with no vehicles or materials to be located within the fence line. These points can be accomplished through planning conditions as mentioned in the Impact on trees section above.

### **Great Crested Newts**

- 34 The report states that no ponds are located on site and no ponds are shown on OS maps within 250 metres of the survey area. No records of this species exist within 1km of the survey area and no implications are thought to exist for the proposals with regards to this species. Several of the letters of objection have raised the issue that there are in fact two ponds located approximately 60-80 metres from the application site. The councils Ecology Officer has been made aware that there are ponds within 250 metres of the site that were not identified in the Ecological Report and no objections have been raised with regards to this species.

### **Bats**

- 35 The majority of the trees within the survey area are not suitable as roosting sites for bats - the exception being a number of mature trees on the western site boundary which have features that could be used by small numbers of bats. No bats were recorded exiting or returning to these trees during the dusk/dawn surveys indicating

that they are not being used as roosting sites. As these trees have low to medium potential to be used as bat roosts and that bats are active in the area it is recommended that tree felling/lopping is undertaken using soft felling techniques to avoid any harm to bats. If any bats are discovered during works then all operations should cease and a licensed bat ecologist and Natural England should be contacted for advice. The woodland on site was identified as a minor commuting route for both Common and Soprano Pipistrelles. In order to retain this corridor a band of trees should be retained or replanted along the northern or southern site boundary and this can be accomplished by the arboricultural conditions outlined in the Impact on trees section above. It is also considered that at least two bat boxes should be installed as part of the proposals.

#### **Water Voles, Otters, Badger Setts and Reptiles**

- 36 No habitat with the potential to support Water Voles or Otters was identified on or near the application site. No evidence of badger setts or badger activity was identified within 30 metres of the survey area. No records of reptiles exist within 1 km of the survey area and there are no recordings of any high quality potential reptile habitats within the survey area.

#### **Stag Beetles**

- 37 The site does not contain extensive dead wood and is not thought to represent high quality potential for Stag Beetles. This species does occur within the adjacent Dulwich Upper Wood and appropriate precautions should be taken to protect the adjacent woodland.

#### **Hedgehogs**

- 38 The site does not contain any good quality potential refuge sites for hedgehogs however it is recommended that site clearance is undertaken with care for this species in mind and any discovered hedgehogs should be transported to cover within the adjacent Dulwich Upper Wood.

#### **Birds**

- 39 Birds may nest in the trees and shrubs on site and where possible works to remove a suitable nesting habitat should be undertaken outside of the nesting season which runs from March to August. If this is not possible then areas of suitable nesting habitat should be surveyed for the presence of nesting birds by a suitably experienced person immediately prior to the commencement of works on site. Nesting birds discovered during the works should remain undisturbed until nesting is complete. As with the bat boxes required above it is recommended that at least four bird boxes should be installed on site.

#### **Ecology conditions**

- 40 In assessing the proposed development and the submitted Ecological Assessment, the Councils Ecology Officer has recommended the following condition;

*Prior to the commencement of development a scheme for the provision and management of a buffer zone alongside the adjacent Local Nature Reserve and Site of Importance for Nature Conservation shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The scheme shall include a permanent 10 metre buffer zone along the boundary of Dulwich Upper Wood LNR.*

- 41 This condition is required in order to prevent adverse impacts on a Local Nature Reserve & a Site of Importance for Nature Conservation, to ensure compliance with Planning Policy Statement 9 and Policy. Article 10 of the Habitats Directive also stresses the importance of natural networks of linked corridors to allow movement of

species between suitable habitats, and promote the expansion of biodiversity. Such networks may also help wildlife adapt to climate change. This is also consistent with the existing buffer zone created when the Spinney Gardens development was constructed.

- 42 In this instance the proposed dwellings are located close to the boundary with the LNR and as such a 10 metre buffer cannot be accommodated. Given the location of a footpath within the LNR in close proximity to the boundary of the application site it is considered that this condition can be omitted subject to satisfactory boundary treatment in order to clearly define the boundary of the application site and the LNR and to maintain the protection of the LNR during and post development. The impact of the flank elevation of the dwelling on the LNR in the presence of the existing footpath just within the LNR boundary is considered to be very limited and as such the proposal is considered acceptable without the 10 metre buffer.

### **Other matters**

- 43 Section 143 of the Localism Act 2011 states the any financial sum that an authority has received, will, or could receive in the payment of CIL as a material "local financial consideration" in planning decisions. The requirement for Mayoral CIL is a material consideration. However, the weight to be attached to a local finance consideration remains a matter for the decision-maker. Mayoral CIL is to be used for strategic transport improvements in London, primarily Crossrail. CIL is payable on this application. The applicant has completed the relevant form.

### **Conclusion on planning issues**

- 44 The proposed development to provide four flatted dwellings is considered acceptable within the context of the surrounding area. The loss of the trees identified in the Arboricultural Report is acceptable subject to the conditions recommended by the Councils Urban Forester. The design of the dwellings is considered acceptable and there will be a limited impact on the visual and residential amenity of the area. The proposed development does not present a threat to the ecology of the area or the LNR. The development complies with the relevant saved policies of The Southwark Plan 2007 (July), The Core Strategy 2011 (April) and the provisions of The National Planning Framework and as such it is recommended that planning permission be granted subject to conditions.

### **Community impact statement**

- 45 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

a) The impact on local people is set out above.

b) There are no issues relevant to particular communities/groups.

c) There are no likely adverse or less good implications for any particular communities/groups.



## Consultations

- 46 Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

## Consultation replies

- 47 Details of consultation responses received are set out in Appendix 2.

48 Summary of consultation responses

All comments received in response to the proposed development have been summarised and addressed below;

Internal Consultees;

- 49 Design and Conservation – The application was taken to Design Surgery and no objections were raised.

**Response** - Noted and agreed.

- 50 Ecology Officer – No objections have been raised subject to the attachment of several conditions relating to vegetation clearance, biodiversity enhancement, protection of the local nature reserve and ecological monitoring.

**Response** - All relevant conditions will be imposed on any consent issued with the exception of the condition relating to the protection of the Local Nature Reserve. This condition requires a 10 metre buffer zone between the development and the LNR. In this instance the proposed dwellings are located close to the boundary with the LNR and as such a 10 metre buffer cannot be accommodated. Given the location of a footpath within the LNR in close proximity to the boundary of the application site it is considered that this condition can be omitted subject to satisfactory boundary treatment in order to clearly define the boundary of the application site and the LNR and to maintain the protection of the LNR during and post development. The impact of the flank elevation of the dwelling on the LNR in the presence of the existing footpath just within the LNR boundary is considered to be very limited and as such the proposal is considered acceptable without the 10 metre buffer.

- 51 Transport – No objection subject to conditions regarding cycle parking.

**Response** - Noted and agreed, the relevant conditions will be attached to any consent issued.

- 52 Urban Forester – No objection subject to conditions.

**Response** - Noted and agreed, the relevant conditions will be attached to any consent issued.

External Consultees;

- 53 London Borough of Bromley - No objections.

**Response** - Noted.

- 54 Metropolitan Police -No objections.

**Response** - Noted.

- 55 Natural England - No objections.

**Response** - Noted.

- 56 Thames Water - No objections.

**Response** - Noted.

- 57 Following neighbour consultation, 47 letters of objection have been received, the main points of which have been summarised and addressed below;
- 58 **Objection** - The proposed development will destroy the peacefulness of the forest and the surrounding area. The use of this land for housing will ruin the look of the Spinney Gardens design and will impact on the privacy of the residents.  
**Response** - The proposed dwellings are located a sufficient distance from those on Spinney Gardens and Bowley Lane to ensure there will be no loss of privacy. The inclusion of four dwellings within this areas not considered to a be a potential threat to the peacefulness of the adjacent Dulwich Upper Wood nor will the dwellings detract from the look of the surrounding built environment.
- 59 **Objection** - The existing dwellings in Spinney Gardens are very well designed and the proposed development is of a poor design that will be at odds with the character of the area.  
**Response** - The proposed dwellings are of an acceptable design, incorporating sedum roofs that will help integrate the development with the surrounding natural environment. The surrounding area is characterised by different house types on Bowley Lane and Spinney Gardens and the proposal will not have a negative impact on the established townscape.
- 60 **Objection** - The use of the land for private housing will have no benefit to the community. Cheaper and more affordable housing is what's required and the proposed development has been designed to maximise profit.  
**Response** - Affordable housing is required throughout the Borough however affordable housing is only required on schemes of 10 or more units. The application site cannot accommodate any more than four units and as such the tenure of the dwellings is considered acceptable.
- 61 **Objection** - The development will have an adverse impact on parking in Spinney Gardens and the construction works will cause a disturbance in terms of noise and congestion with heavy, polluting vehicles.  
**Response** - The lack of parking is considered acceptable in this location due to the availability of parking on surrounding streets and the high PTAL level. The provision of four flats is not considered to have an unacceptable impact on the local area in terms of parking problems.
- 62 **Objection** - The proposed development will cause an undue nuisance and disturbance to the peaceful forest and the associated wildlife, flora, fauna and local community and will have an adverse impact on the sensitive ecosystem that includes stag beetles and pipistrelle bats.  
**Response** - The Ecological Assessment and consultees including the Councils Ecology Officer and Natural England have raised no objections. It is not considered that a small development of four flats will have an undue impact on the adjacent LNR.
- 63 **Objection** - The privacy of walkers enjoying the solitude of the forest and walkways will be affected by the proposed dwellings which will force wildlife away and damage trees.  
**Response** - The amenity and privacy of the Dulwich Upper Wood will not be compromised by the construction of four dwellings on land outside of the LNR a short distance from existing areas of housing. Trees within the LNR and those to be retained on the application site will be protected during the course of construction by way of planning conditions.

64 **Objection** - The use of this land for housing is at odds with the aims of the Environment White Paper which says we should plant more woodland and increase biodiversity.

**Response** - The application site is not Metropolitan Open Land or Borough Open Land and it lies outside of the LNR. As such the principle of housing on the site subject to conditions is acceptable in line with the relevant planning policy documents. The Environment White Paper is not a material planning consideration and does not carry any weight in planning decisions.

65 **Objection** - The new dwellings will directly overlook the existing dwellings on Bowley Lane and the loss of the trees will destroy the pleasant views. Furthermore, the reduced tree area will affect how much space the children have to play.

**Response** - The development of the site will have no impact on the privacy of the dwellings on Bowley Lane which lie a distance of 13 metres away from the proposed dwellings. The dwellings on Bowley Lane are also not directly facing the application site - instead lying to the south east of the proposed dwellings. As has been established in planning law, nobody is entitled to a view over a third parties land and there will still be adequate space for children to play within the area post construction of four maisonettes.

66 **Objection** - Each apartment occupies an area of approximately 100 square metres and will have two bathrooms each. This is much bigger than existing dwellings in the area that are roughly 70 square metres with one bathroom each.

**Response** - The proposed dwellings meet the requirement of the SPD: residential Design Standards in relation to room sizes and each apartment is approximately 85-90 square metres which is considered a good size for a two bedroom property. This is not considered excessive and the inclusion of two bathrooms is acceptable. The size of the dwellings are comparable to those of the surrounding area and are considered acceptable.

67 **Objection** - The woods are a nature reserve and as such should be protected. Furthermore the Spinney is a safe place for children to play and this will be lost.

**Response** - The Dulwich Upper Wood is indeed a Local Nature Reserve and should be protected however the application site lies outside the LNR and has no designations under the Southwark Plan 2007 (July) or the Core Strategy 2011 and as such the principle of housing on the site is acceptable. As detailed previously, the construction of four maisonettes will have no impact on local children and there will still be sufficient leisure space for children within the area.

68 **Objection** - During the construction of the existing dwellings the landowners decided to leave the Spinney as it is in order to provide a buffer/screen between the dwellings on Bowley Close/Lane and those of Spinney Gardens. The removal of this land to build houses will spoil the unique feature of Spinney Gardens and will clash with the design of the existing dwellings in the area.

**Response** - It is not considered that the provision of four maisonettes on half of the site at Spinney Gardens will impact on the character or nature of the site. The dwellings are considered to be of an acceptable design and will have no adverse impact on the appearance of the existing dwellings at Spinney Gardens or Bowley Lane which are neither listed nor are they located within a conservation area.

69 **Objection** - The development will reduce the daylight and sunlight to the dwelling at 7 Bowley Lane and neighbouring dwellings and will destroy the private view.

**Response** - The trees of the LNR and the trees to be retained on site are much higher than the proposed dwellings therefore there will be no loss of daylight and sunlight to the dwelling at 7 Bowley Lane as a result of the proposed dwellings. As has been established in planning law, nobody is entitled to a view over a third parties land.

- 70 **Objection** - This is one of the last remaining areas of ancient woodland in south London and its loss should be resisted. The loss of trees will impact negatively on air quality as trees help reduce particulate pollution along with nitrogen dioxide, sulphur dioxide and ozone. This is not consistent with Southwark's vision to make air quality a priority.  
**Response** - The loss of the identified trees on site is not anticipated to have an adverse impact on air quality within the area and does not contradict the Council's objectives with regards to Air Quality Management.
- 71 **Objection** - The occupiers of the proposed development will add undue pressure to local resources and services.  
**Response** - It is not anticipated that the addition of four dwellings will have any noticeable impact on local resources or services.
- 72 **Objection** - The proposal, by destroying the Spinney, would remove an integral landscape element of the original design and in so doing would result in a loss of architectural quality to the housing scheme, a significant loss of amenity to homes on Spinney Gardens and on Bowley lane and the loss of an ecological asset.  
**Response** - As previously mentioned the construction of four flats on half the site at Spinney Gardens will have no impact on the architectural quality or appearance of the existing dwellings which are not listed nor are they located within a conservation area. The site is not within the protected LNR nor is it Metropolitan or Borough Open Land and as such the principle of housing is acceptable. The application site will retain a number of trees and will include replanting as part of planning conditions. As concluded in the Ecological Report there will be no adverse impact on the ecology of the area or biodiversity as a result of four dwellings on this small site.
- 73 **Objection** - Removal of the half hammerhead turning circle will compromise safe manoeuvring of vehicles, including service and emergency vehicles.  
**Response** - The turning circle/hammerhead is not being removed.
- 74 **Objection** - The development will result in an overdevelopment of the area and will not comply with current policy levels.  
**Response** - The site can easily accommodate four dwellings which is not an overdevelopment of the site nor is it as dense as the Spinney Gardens development.
- 75 **Objection** - The underground work to service the new dwellings will have an adverse impact on tree roots.  
**Response** - The impact on tree roots will be limited by the method of construction which will not result in large scale land excavation for foundations. Furthermore, tree roots will be protected by way of planning conditions.
- 76 **Objection** - There is a Tree Preservation Order on the site from 1988 and a further Order from 2011. The applicant has stated that they proposal to remove 33 trees when in fact the actual number requiring removal for the development to take place is more than 90 trees.  
**Response** - The Council's Urban Forester has been consulted on the proposal and has raised no objections. In order to facilitate development 13 low quality and 14 moderate quality trees will require removal, totalling 2032 sq cm girth. Pruning of 10 tree crowns to provide clearance is also proposed. An unspecified number of replacement tree planting with native species is recommended. In total 49% of trees are proposed for removal representing 36% of the stem girth growing on site. The amended plans show the four car parking spaces are removed together with the proposed buried water recycling tank. These revisions are noted as being necessary to prevent damage to tree roots. Although a significant number of trees are proposed for removal the foundation design and construction method would allow damage to

retained trees to be prevented. As such there are no objections to the proposed development subject to a comprehensive set of planning conditions relating to tree protection measures, landscaping, re-planting and woodland management.

- 77 **Objection** - The application seeks permission to build on land over which the applicant has no legal right to build, including over areas which lease holders have a legal right to access and use. Granting permission would entail sanctioning a breach by the freeholder of rights and obligations under the lease and would breach a 25 year old agreement to maintain the land as landscaped woodland.

**Response** - The applicant is the freeholder of the site. Issues with regards to leases or covenants are not material planning considerations, they are civil issues to be resolved between the parties involved.

- 78 **Objections** - There are several concerns regarding the Ecological Report which lists six species of bat within 1km of the site when according to the London Bat Group there are in fact nine. The application site is part of an ecologically important bat corridor.

**Response** - The Ecological Report has been reviewed by the Councils Ecology Officer who has confirmed that the report has been completed in line with best practice. Six species of bat were identified in the survey and relevant conditions have been recommended to ensure their protection. The woodland on site was identified as a minor commuting route for both Common and Soprano Pipistrelles. In order to retain this corridor a band of trees should be retained or replanted along the northern or southern site boundary and this can be accomplished by arboricultural conditions. It is also considered that at least two bat boxes should be installed as part of the proposals.

- 79 **Objection** - The Ecological report states that there are no ponds within 250m of the application site when in fact there are two ponds located 60/80 metres away with a healthy population of toads, newts and frogs.

**Response** - The Ecology report actually states that no ponds are located on site and no ponds are shown on OS maps within 250 metres of the survey area. Several of the letters of objection have raised the issue that there are in fact two ponds located approximately 60-80 metres from the application site. The councils Ecology Officer has been made aware that there are ponds within 250 metres of the site that were not identified in the Ecological Report. It is not anticipated that four dwellings will have an adverse impact on these ponds.

- 80 **Objection** - The occupier of 8 Spinney Gardens will be looking onto dustbin stores within four paces of their amenity space which is contrary to European Legislation. The development will also have an adverse impact in terms of overshadowing and a loss of daylight and sunlight.

**Response** - The occupier of 8 Spinney Gardens will look onto the front garden of the proposed dwellings which is not considered to be an adverse impact. Bin stores can be agreed by condition and may be concealed minimising any potential impacts. Given the height of the existing trees on site it is not considered that a two storey dwelling located at an angle to the dwelling at 8 Spinney Gardens will result in a loss of daylight and sunlight.

- 81 **Objection** - The proposed dwellings will reduce the green carpet effect and given the hilly terrain of the adjoining Dulwich Upper Wood there may be a further issue with regards to drainage that could lead to flash floods.

**Response** - The method of construction will reduce the impact of foundations and site clearance and will promote natural drainage. The lack of areas of hardstanding will prevent any issues with regards to drainage problems. Four dwellings will not result in flash floods within the area or the LNR.

- 82 **Objection** - The report claims that the area does not contain good quality refuge sites for hedgehogs when examination of the site shows plenty of good quality refuge sites.  
**Response** - The Ecological Report notes that the site does not contain any good quality potential refuge sites for hedgehogs however it is recommended that site clearance is undertaken with care for this species in mind and any discovered hedgehogs should be transported to cover within the adjacent Dulwich Upper Wood.
- 83 **Objection** - In terms of stag beetles the report states that only very small amounts of dead wood were identified within the site when in fact there are large amounts of dead wood and log piles providing a habitat for stag beetles.  
**Response** - The Ecological Report notes that the site does not contain extensive dead wood and is not thought to represent high quality potential for Stag Beetles. This species does occur within the adjacent Dulwich Upper Wood and appropriate precautions should be taken to protect the adjacent woodland.
- 84 **Objection** - The applicant has incorrectly completed Certificate B in the Planning Application Form.  
**Response** - The applicant has completed Certificate A in the application form which, as freeholder of the site, is the correct certificate in this instance,
- 85 **Objection** - The dwellings at Spinney Gardens are set back 12 metres from the Local Nature Reserve in order to maintain a safe and reasonable distance whereas the proposal includes no such buffer zone.  
**Response** - The Ecology Officer recommended a condition to ensure a 10 metre buffer between the site and the LNR. In this instance the proposed dwellings are located close to the boundary with the LNR and as such a 10 metre buffer cannot be accommodated. Given the location of a footpath within the LNR in close proximity to the boundary of the application site it is considered that this condition can be omitted subject to satisfactory boundary treatment in order to clearly define the boundary of the application site and the LNR and to maintain the protection of the LNR during and post development. The impact of the flank elevation of the dwelling on the LNR in the presence of the existing footpath just within the LNR boundary is considered to be very limited and as such the proposal is considered acceptable without the 10 metre buffer.
- 86 **Objection** - The application calls for the removal of a significant number of trees (33 individually itemised) and this will effectively terminate the sites roles as a green corridor.  
**Response** - The applicant intends to remove a number of trees from the site that are of varying quality. The Urban Forester has reviewed the document and the proposed tree removal and has raised no objections subject to landscaping conditions. The application site is not identified as Open Space, MOL or BOL under the saved Southwark Plan 2007 or The Core Strategy 2011 and as such does not represent the loss of open space or a green corridor.
- 87 **Objection** - The application fails to comply with Southwark Councils own guidelines that state that development should create, preserve and enhance open spaces and green corridors where appropriate.  
**Response** - The application site is not identified as Open Space, MOL or BOL under the saved Southwark Plan 2007 or The Core Strategy 2011 and as such does not represent the loss of open space or a green corridor.
- 88 **Objection** - The scheme may constitute a backland development within the area of The Dulwich SPD.  
**Response** - The proposed development site is on the highway and is not considered a backland site.

- 89 **Objection** - The survey period for the Ecological report was insufficient being carried out for a few hours on one day and then again at dawn the next morning. The surveyor did not show in the report where they stood to make their observations and no map or diagram showing activity was provided in the report.  
**Response** - The Councils Ecology Officer has reviewed the report and has confirmed that it represents best practice.
- 90 **Objection** - The arboricultural report is not a reliable document to base a decision on as it describes the trees as spindly, of poor quality and of a non diverse species mix when in fact the small site has a diverse and healthy species mix.  
**Response** - The Arboricultural Report and Ecological Report both conclude that there is not a diverse species mix on this small site.
- 91 **Objection** - Some of the trees listed for removal such as the mature sycamores T2 and T3 sit on the boundary with the LNR and their root systems reach into both the site and the LNR playing an important role in the ecology and biodiversity of the LNR and their removal would impact negatively on the LNR. Tree T12 is listed in the arboricultural report for removal however this tree is not within the application site, instead it is within the adjacent LNR and plays an important role. Tree T55 is within the main application site and is listed as Goat Willow - 'corrected lean, deadwood throughout' when in fact it appears to be alive and well.  
**Response** - In order to facilitate development 13 low quality and 14 moderate quality trees will require removal, totalling 2032 sq cm girth. Pruning of 10 tree crowns to provide clearance is also proposed. An unspecified number of replacement tree planting with native species is recommended. In total 49% of trees are proposed for removal representing 36% of the stem girth growing on site. The amended plans show the four car parking spaces are removed together with the proposed buried water recycling tank. These revisions are noted as being necessary to prevent damage to tree roots. Although a significant number of trees are proposed for removal the foundation design and construction method would allow damage to retained trees to be prevented. As such there are no objections to the proposed development subject to a comprehensive set of planning conditions relating to tree protection measures, landscaping, re-planting and woodland management.
- 92 **Objection** - The section of the site referred to as G3 is noted in the report to have trees in it (estimated at 60) of which only five are itemised and only one T64 is identified for removal. This is misleading as all trees other than T63; T65-T67 would be removed as would the screen between Spinney gardens and Bowley Lane.  
**Response** - This section of the site was proposed to accommodate car parking which has now been removed from the plans therefore it is unlikely that these trees will be removed. The Urban Forester has reviewed the proposal and raises no concerns subject to conditions as many of the trees are not of sufficient quality for a protection order. Re-planting will take place in line with planning conditions should consent be granted.
- 93 **Objection** - Spinney Gardens is an area of architectural significance within the borough and should be protected in line with Policy 3.15 - Conservation of the Historic Environment.  
**Response** - Spinney Gardens is not a conservation area, grouping of listed buildings or a heritage asset and as such saved policy 3.15 is not relevant. Spinney Gardens is not an area of architectural significance.
- 94 **Objection** - Trees within the LNR would need to be managed to prevent damage to the proposed dwellings - this is unacceptable.  
**Response** - Some trees in the LNR that overhang the application site will need to be managed to facilitate development. This does not mean they will be removed and as such it is reasonable that trees may be pruned for safety reasons.

- 95 **Objection** - Better lighting would be required than that currently shown as the access roads are already very dark and as a result of the development would have increased vehicular and pedestrian activity. Furthermore the path through the Spinney is already very dark and would be further shadowed by a two storey building - there is no provision for lighting this path.  
**Response** - A lighting scheme will be a conditioned requirement of any consent issued and as such appropriate street lighting can be secured by way of planning condition.
- 96 **Objection** - There is no boundary indicator to the north of the proposed dwellings and as such resident would not be aware of the limits of access to the grounds in and around Spinney Gardens or car parking thereby complicating any sense of ownership or responsibility.  
**Response** - The northern boundary will be clearly marked by the hedgerows surrounding the private front gardens of the proposed dwellings. This is considered to clearly differentiate between public and private land.
- 97 **Objection** - The east sector of the application site identified as G3 consists of a mound to a height of approximately 1.4 metres which will need to be removed or excavated to accommodate the parking. This section of the site would also have a very high level of tree loss.  
**Response** - This parking has been removed from the plans and as such there will be no requirement for excavation works.

#### **Human rights implications**

- 98 This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
- 99 This application has the legitimate aim of providing residential accommodation. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

#### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

##### **Strategic Director of Communities, Law & Governance**

100 N/A



## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/4030-A  Application file: 11/AP/1923  Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2TZ	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: <a href="mailto:planning.enquiries@southwark.gov.uk">planning.enquiries@southwark.gov.uk</a> Case officer telephone: 020 7525 5365 Council website: <a href="http://www.southwark.gov.uk">www.southwark.gov.uk</a>

## APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Neighbour consultee list

## AUDIT TRAIL

<b>Lead Officer</b>	Gary Rice, Head of Development Management	
<b>Report Author</b>	Terence McLellan, Planning Officer	
<b>Version</b>	Final	
<b>Dated</b>	27 April 2012	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	N/A	N/A
Director of Planning	Yes	Yes
Strategic Director of Environment and Leisure	N/A	N/A
<b>Date final report sent to Constitutional Team</b>		27 April 2012

**Consultation undertaken**

**Site notice date:** 19/07/2011

**Press notice date:** Not required.

**Case officer site visit date:** 19/07/2011

**Neighbour consultation letters sent:** 06/07/2011 and 11/04/2012

**Internal services consulted:**

Design and Conservation  
Ecology Officer  
Transport  
Urban Forester

**Statutory and non-statutory organisations consulted:**

London Borough of Bromley  
Metropolitan Police  
Natural England  
Thames Water

**Neighbours and local groups consulted:**

As detailed in Appendix 3

**Re-consultation:**

Re-consultation undertaken for 14 days on 11/04/2012.

## Consultation responses received

### **Internal services**

Design and Conservation - No objection.  
Ecology Officer - No objection subject to conditions.  
Transport - No objection.  
Urban Forester - No objection subject to conditions.

### **Statutory and non-statutory organisations**

London Borough of Bromley - No objections.  
Metropolitan Police - No objection.  
Natural England - No objection.  
Thames Water - No objection.

### **Neighbours and local groups**

Crystal Palace Community Association  
Crystal Palace Triangle Planning Group  
Dulwich Society  
Friends of Dulwich Upper Wood  
PCKO Architects  
Trust for Urban Ecology

Beechfield Road (SE6) No. 35A.

Bowley Lane Nos. 1, 3, 4, 5, 6 and 7.

Brockesley Street (E3) No. 38.

Burntwood View Nos. 2, 6 and 7.

Church Road No. 133 (Norwood Society).

Dunstons Road (SE22) No. 126A.

Gipsy Road No. 216A.

Hamilton Road (SE27) - No property number given.

Jasper Road No. 3.

Orchard Grove No. 35.

Marlowe Court No. 13.

Spinney Gardens Nos. 2, 4, 5, 8, 9, 11, 16, 18, 20, 21, 22, 29, 34, 36 and 45.

## APPENDIX 3

### Neighbour Consultee List for Application Reg. No. 11/AP/1923

4 BURNTWOOD VIEW LONDON SE19 1LG  
3 BURNTWOOD VIEW LONDON SE19 1LG  
6 BURNTWOOD VIEW LONDON SE19 1LG  
5 BURNTWOOD VIEW LONDON SE19 1LG  
7 BOWLEY LANE LONDON SE19 1LH  
6 BOWLEY LANE LONDON SE19 1LH  
2 BURNTWOOD VIEW LONDON SE19 1LG  
1 BURNTWOOD VIEW LONDON SE19 1LG  
12 BURNTWOOD VIEW LONDON SE19 1LG  
11 BURNTWOOD VIEW LONDON SE19 1LG  
14 BURNTWOOD VIEW LONDON SE19 1LG  
13 BURNTWOOD VIEW LONDON SE19 1LG  
8 BURNTWOOD VIEW LONDON SE19 1LG  
7 BURNTWOOD VIEW LONDON SE19 1LG  
10 BURNTWOOD VIEW LONDON SE19 1LG  
9 BURNTWOOD VIEW LONDON SE19 1LG  
5 BOWLEY LANE LONDON SE19 1LH  
13 SPINNEY GARDENS LONDON SE19 1LL  
12 SPINNEY GARDENS LONDON SE19 1LL  
5 SPINNEY GARDENS LONDON SE19 1LL  
14 SPINNEY GARDENS LONDON SE19 1LL  
11 SPINNEY GARDENS LONDON SE19 1LL  
10 SPINNEY GARDENS LONDON SE19 1LL  
2 BOWLEY LANE LONDON SE19 1LH  
1 BOWLEY LANE LONDON SE19 1LH  
4 BOWLEY LANE LONDON SE19 1LH  
3 BOWLEY LANE LONDON SE19 1LH  
7 SPINNEY GARDENS LONDON SE19 1LL  
6 SPINNEY GARDENS LONDON SE19 1LL  
9 SPINNEY GARDENS LONDON SE19 1LL  
8 SPINNEY GARDENS LONDON SE19 1LL