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Item No. 7.2	Classification: Open	Date: 19 October 2022	Meeting Name: Planning Sub-Committee B
Report title:	Development Management planning application: Application 21/AP/2514 for: Full Planning Application Address: 2 Somerford Way, London SE16 6QW Proposal: Demolition of existing conservatory and construction of a dormer window to the existing house. Construction of a two-storey house to provide a 4-bedroom dwellinghouse with dormer windows.		
Ward(s) or groups affected:	Surrey Docks		
From:	Director of Planning and Growth		
Application Start Date	19/7/21	PPA Expiry Date	
Earliest Decision Date	25/6/22		

RECOMMENDATION

1. That planning permission be granted subject to conditions, and the applicant entering into an appropriate legal agreement to secure the new house as a self-build property.
2. The application is being dealt with at Planning Sub-Committee as the development is contrary to the development plan, being construction of a new house that is located on Metropolitan Open Land MOL, and not complying with policies relating to acceptable development on MOL.
3. In the event that the requirements of paragraph 1 above are not met by 31 December 2022, the head of development management be authorised to refuse planning permission, if appropriate. The reason for refusal will be that the development fails to comply with the council's policy for social rented and intermediate homes P1 of the Southwark Plan 2022.

EXECUTIVE SUMMARY

4. Permission is sought for alterations to an existing house and a new house adjoining it.
5. The side garden of the existing house is designated as MOL, the boundary of which sits on the flank wall of the existing house. The side garden of the house was created through sale of the land by the council to the then owner of the existing house in two parcels in 1983 and 1996. The land has the appearance of a domestic garden and is for the private use of the occupiers of the house. It

is not open to the public and serves and has served no purpose as open land for the enjoyment of the public since the sale/disposal by the council.

6. The location of the MOL boundary on the flank wall of the house is very longstanding and has not been re-drafted to take account of the creation of the side garden of the house which itself is longstanding. Whilst a new dwellinghouse is not development that is acceptable on designated MOL, the historic sale of the land and its use as a private garden for an extended period of time are considered to present very special circumstances that enable an exception to MOL policy to be made.
7. The new house provides an acceptable standard of accommodation and is of a design that fits in well with the local townscape. The applicant has confirmed that the house is 'self build' (a new house for the developers' family) and as such, is not required to make a contribution to affordable housing.

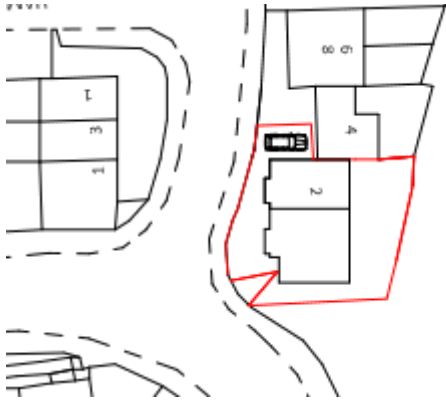
BACKGROUND INFORMATION

Site location and description

8. The application site is a two storey end of terraced house with a front and rear roof dormers. It has an existing single storey rear conservatory extension and ample land to the front, side and rear of the property. The curtilage of the property includes land to the side.
9. The site bounded:

To the east by: no.1 (on opposite side of the road)
To the south by: No.4
10. The land slopes up from the road. There are no significant changes between no. 2 and no. 4.
11. The site for the new house (side garden of the existing house) is designated as Metropolitan Open Land. The boundary of Russia Dock Woodland is on the flank of the existing house and the rear. The land for the new house is also designated as a Site of Importance for Nature Conservation and a local nature reserve. The site is located within an air quality management area, Flood Zone 3 and the Canada Water Action Area.
12. The street character is of houses with gardens, with a large area of well vegetated and tree-ed open space providing the side and rear setting to the existing dwelling.

13. Site layout: existing house no. 2 showing footprint of new house adjacent.



14. Existing house showing garden to side



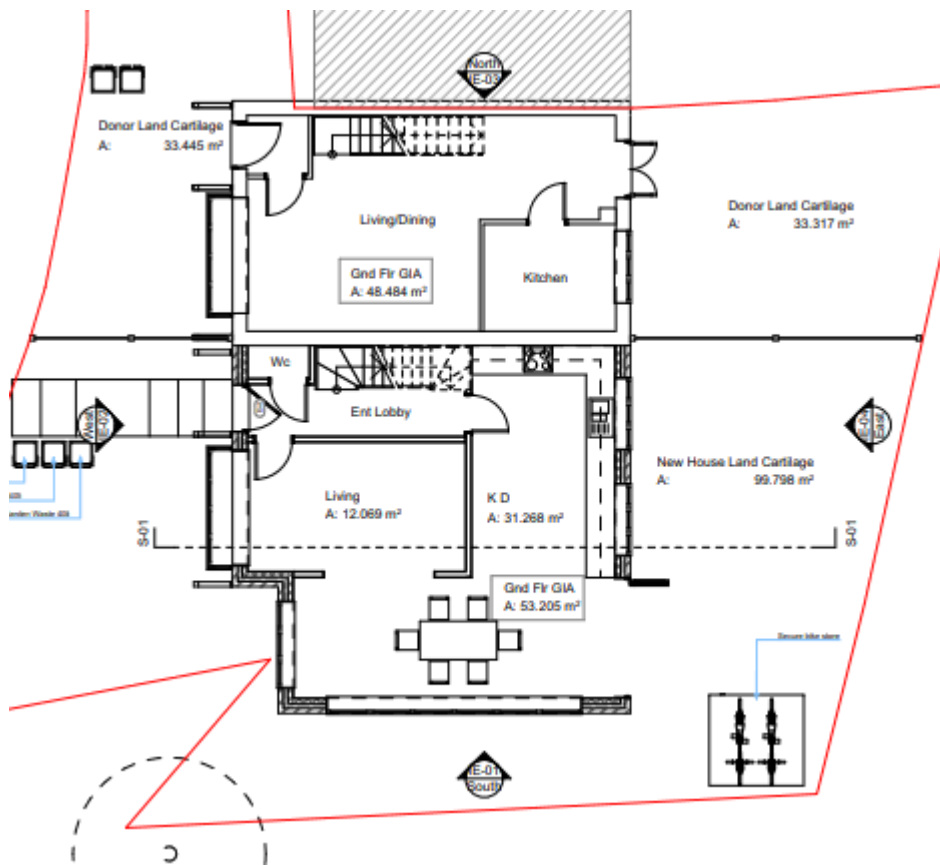
Details of proposal

15. Planning permission is sought for the demolition of existing rear conservatory to no. 2 to give an area of rear amenity space for the house; and construction of a dormer window to the existing house (full width of rear roof slope which has been subject to a previous certificate of lawful development)

and:

Construction of a two-storey house with front and rear dormer windows to the side of the existing house. The house will have a side/front/rear garden.

16. The new house will match the building line and height of no. 2 with a portion set back immediately adjacent to the new side garden. The materials will match the existing house. The overall appearance will be that the new house is a continuation of the terrace.



17. Amendments to the application

Various additional reports were required to support a full assessment of the proposal.

Consultation responses from members of the public and local groups

18. Ten letters of OBJECTION received from members of the public at time of writing.

Issues: development on land with MOL, SINC and nature reserve status; detrimental impact on woodland; impact on trees, nature and biodiversity, in particular the willow at the front of the adjoining land; change to landscaping in Somerford Way; lack of parking.

Friends of Russia Dock Woodland - OBJECT

- Friends of Russia Dock Woodland have always supported the councils stance on protection of MOL & LNR
- RDW is surrounded by low level housing with residents back gardens backing directly onto the Woodlands for obvious biodiversity reasons
- This protection has to be adhered to
- An impressive 50ft RDW Willow and its roots would almost certainly be compromised by the above application.

Further comments received:

- Friends of Russia Dock Woodland are fully supportive of Southwark Councils policy in protection of MOL/LNR inappropriate developments that be harmful to our award winning Woodland
- Any deviation from household gardens abutting the woodlands would be considered as an environmental step backwards and contravene the Councils Biodiversity Action Plan (BAP)
- Other photographic evidence shown by the applicant ie 1 Somerford Way +16 Victory Way do not compare in any way with the 2 Somerford Way application. Non of them abut RDW - MOL/ LNR - Plus No1 is not a new house it is an extension abutting Downtown Rd.
- Consultation should have been wider and the site notice was removed shortly after posting.

Consultation responses from external, internal and divisional consultees

19. Transport – Satisfied with the information submitted. No objection
20. Environmental agency – Require imposition of a pre-commencement conditions
21. Environmental Protection Team –Require imposition of a pre-commencement condition.
22. Urban Forester - One off site C category willow is affected with minor incursion into its root protection area. Given the open grown position within a grassed area and management under cyclical crown reduction the proposed development is not considered to have a significantly adverse effect should proposed tree protection measures by detailed in an arboricultural method statement. Landscaping should be provided to provide screening and ensure front garden amenity is not dominated by hard surfaced car parking.

Further comments following a Members site visit: The site backs onto Russia Dock Woodland which has been compromised by some incidental ingress into the MOL. This should be discouraged owing to damage to the ecosystem; potential for fly tipping or antisocial behaviour.

The Parks department have requested a 3m buffer zone around the site. The applicant has since been approached to provide a sum of money, to be secured via a S106 legal agreement, to enable planting a dense hedge along the boundaries to discourage footfall where the rear meets the woods.

23. Ecology Officer - The development is adjacent to a Local Nature Reserve. Information has been provided to explain the impacts. Subject to conditions on swift bricks and small mammal gaps in the boundary fence, no objections. There should be no outside lighting to minimise any harmful impacts on bats.
24. Southwark Council Parks – OBJECT
- The development is proposed on Metropolitan Open Land and development on MOL is contrary to GLA and LBS planning policy
 - It is adjacent to a nature reserve (Russia Dock Woodland) and both the building works and subsequent development will have a detrimental effect on the nature reserve, wildlife and people's enjoyment of the nature reserve at a time of increasing recognition of the value of green space and is contrary to LBS' response to the climate and biodiversity emergencies
 - It would impact the two adjacent willow trees which are a valued
 - landmark in the local area and would probably lead to them being felled
 - Many other private residences have their boundary with the nature reserve, allowing this proposed development could set an unsustainable precedent.

Planning history of the site, and adjoining or nearby sites.

25. Other than the grant of a certificate of lawful development under 21/AP/2514 for a rear dormer extension, there is no planning history. The rear dormer extension has not yet been constructed.
26. There is some uncertainty about how and when the side garden to the house became incorporated into the curtilage. This is relevant because the MOL and SINC designations include the side garden and the boundary lies on the flank wall of the existing house. Aerial photographs from the 1980's show a house with a rear garden only. A conservatory extension was constructed to the rear and at some point in the late 1980's there is indication of a side garden being created.
27. Title documents show that land was sold to the then owners of no. 2 in two parcels in 1983 and 1996 which is likely when the side garden was formalised. However the MOL boundary was not affected by this land sale and has

remained on the side wall of the dwellinghouse.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

28. The main issues to be considered in respect of this application are:
- Land use considerations specifically the designation of the development site as Metropolitan Open Land, a site of importance for nature conservation and a local nature reserve
 - Affordable housing, as a new dwelling is created
 - Consultation responses, and how the application addresses the concerns raised
 - Impact on the amenity of neighbouring occupiers
 - Good design and heritage
 - Energy
 - Fire safety regulations
 - Transport
 - Any other planning material considerations
 - Community impact and equalities assessment
 - Human rights implications, and
 - Positive and proactive statement.
29. These matters are discussed in detail in the 'Assessment' section of this report.

Legal context

30. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan comprises the London Plan 2016, the Core Strategy 2011, and the Saved Southwark Plan 2007. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision-makers determining planning applications for development within Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Section 66 of the Act also requires the Authority to pay special regard to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest which they possess.
31. The local planning authority may depart from the development plan policy where material considerations indicate that the plan should not be followed, subject to any conditions prescribed by direction by the Secretary of State. This power to depart from development plan policy is confirmed in [article 32 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#). In cases where the local planning authority intends to depart from development plan policy, [article 15\(3\) of the Development Management Procedure Order](#) sets out the publicity requirements which must be followed before the decision is taken. This application was publicised as a departure from the development plan policy in the Southwark News on 26.05.2022.

32. There are also specific statutory duties in respect of the Public Sector Equalities Duty which are highlighted in the relevant sections below and in the overall assessment at the end of the report.

Planning policy

National Planning Policy Framework (NPPF)

33. The revised National Planning Policy Framework ('NPPF') was published in July 2021 which sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental.
34. Paragraph 218 states that the policies in the Framework are material considerations which should be taken into account in dealing with applications.
- 35.
- Chapter 5 Delivering a Sufficient Supply of Homes
 - Chapter 8 Promoting Healthy and Safe Communities - note paragraph 103 states that policies for managing development within a Local Green Space (such as MOL) should be consistent with those for Green Belts.
 - Chapter 9 Promoting Sustainable Transport
 - Chapter 11 Making Effective Use of Land
 - Chapter 12 Achieving well-designed places
 - Chapter 13 Protecting Green Belt Land
 - Chapter 14 Meeting the challenge of climate change, flooding and coastal change
 - Chapter 15 Conservation and Enhancement of the Natural Environment

The London Plan 2021

36. On 2 March 2021, the Mayor of London published the London Plan 2021. The spatial development strategy sets a strategic framework for planning in Greater London and forms part of the statutory Development Plan for Greater London. The relevant policies are:
- D4 - Delivering good design
 - D6 - Housing Quality and Standards
 - D12 - Fire safety
 - H1- Increasing Housing Supply
 - H2 - Small sites
 - H4 - Affordable Housing
 - G1 - Green Infrastructure
 - G3 - Metropolitan Open Land
 - G6 - Biodiversity and access to nature
 - G7 - Trees and Woodland
 - S1 12 - Flood risk management
 - T6.1 - Residential Parking

Southwark Plan 2022

37. The Southwark Plan 2022 was adopted on 23 February 2022. The plan provides strategic policies, development management policies, area visions and site allocations which set out the strategy for managing growth and development across the borough from 2019 to 2036. The relevant policies are:
- P1 – Social Rented and Intermediate Housing
 - P14 - Design quality
 - P15 - Residential design
 - P18 - Efficient use of land
 - P54 - Car Parking
 - P56 - Protection of amenity
 - P57 - Open Space
 - P60 - Biodiversity
 - P61 - Trees
 - P70 - Energy
38. Of relevance in the consideration of this application is:
- 2015 Technical Updated to Residential Design Standards SPD (2011)
 - Sustainable Design and Construction SPD (2009)
 - S106 Supplementary Planning Guidance
 - S106 Affordable Housing

ASSESSMENT

Principle of the proposed development in terms of land use

Relevant policy designations

39. Development on MOL
- Inappropriate development on MOL has been raised in both letters of objection.
40. MOL is given the highest protection from inappropriate development in the NPPF, the London Plan 2021 and the Southwark Plan 2022. The NPPF makes it clear that MOL should be treated in the same way as designated Green Belt Land.
41. Paragraph 147 of the NPPF states that inappropriate development in the Green Belt is harmful and should not be approved except in very special circumstances. Para 148 states that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
42. Para 149 sets out the test for what is appropriate and therefore what would be allowed as development on the Green Belt (and MOL). This is also referred to in Policy P57 of the Southwark Plan 2022.

Appropriate development in MOL is considered to be:

- 43.
- a) buildings for agriculture and forestry
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces
 - e) limited infilling in villages
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites) and 44
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
44. Creation of a new private house is not listed as appropriate development and as such, it is considered that this development is contrary to the MOL policy. The development will only be acceptable should site circumstances, the nature of the development and any other material considerations indicate that the policy should, in very exceptional circumstances, be set aside.
45. The MOL/SINC/local nature reserve boundary has been on the flank wall of the existing house since at least the 2005 and there is no record of this boundary being changed via local plan inquiries. As such, it has a very longstanding open space designation that likely predates the creation of the side garden of the dwellinghouse. It is uncommon that part of a domestic curtilage would be bound by these planning designations and it may have arisen through the dwellinghouse acquiring, and then purchasing, part of Russia Dock Woodlands to create a side garden. This is enclosed by a fence and hedges and includes a garden shed and garden furniture. Its appearance is of a domestic garden within the curtilage of a house, rather than a publicly accessible element of open space, and this has been the case for many years. Exception (g) to the policy listed above allows for limited infilling which does not have a greater impact on the openness of the Green Belt (or MOL). Given the location of the side garden and the fact that it is right on the boundary of MOL the proposed new house is considered to have a limited impact on the openness of the MOL. In addition, the side garden is fenced off and not currently functioning as MOL and this is a material consideration.

46. Para 143 of the NPPF states that when defining Green Belt boundaries, plans should not include land which it is unnecessary to keep permanently open. In this case the side garden is not open to the public at all and falls instead within the curtilage of 2 Somerford Way so it is unnecessary for it to be kept permanently open. Once the land was sold to the then owner of 2 Somerford Way many years ago, it is clear that it would no longer serve as publicly accessible open space as it was for purposes of creating a private side garden.
47. Considering the history of the creation of the side garden, its location, current appearance and function, it is considered that in this case, an exception to the MOL policy can be made. Once the land was sold and incorporated as a side garden, its function as open space ceased. It has long appeared as a domestic garden with an outbuilding. It is on the extreme edge of Russia Dock Woodland where the open space meets areas of housing. There is certainly a reasonably strong case that through the local plan process, the MOL boundary could be redrafted to exclude this small area.
48. Creation of a new house is considered positive and will make a small contribution to the housing stock in the borough.

Affordable housing and development viability

49. Policy P1 of the Southwark Plan 2022 requires that development creating new housing units makes a contribution to affordable housing in the borough. For small sites, this is likely to be a financial sum based on the number of habitable rooms in the new development.
50. An exception can be made in the case of 'self building' where the affordable housing payment is effectively deferred but becomes payable should the dwelling be sold into the private market at a later date. This is secured via a S106 agreement.
51. In this case, the proposed new dwelling has 4 bedrooms and a kitchen living dining room which, being over 31m², counts as 2 habitable rooms. Six habitable rooms are therefore created in the new development.

The affordable housing contribution is therefore:

$$35\% \times 6 \text{ (hab rooms)} \times \text{£}100,000 = \text{£}210,000.$$

52. Policy P1 became a material consideration when the Southwark Plan 2022 was adopted in February 2022. This application pre-dates the adoption of the Southwark Plan by a significant period having been submitted in July 2021.
53. It is considered reasonable given the age of the application that the 'claw back' for the affordable housing sum is limited to 3 years, which is the same as for a CIL payment on self building. This means that if the house is sold within 3 years of completion, then the affordable housing payment (indexed) will be payable. If it is sold after the 3 year period, then there is no requirement for the affordable housing payment.

Impact on the amenity of neighbouring occupiers

54. The proposed development is considered to comply with Policy P56 Protection of Amenity of the Southwark Plan 2022. The works to the existing house are a rear dormer extension that is already subject to a certificate of lawful development, and removal of a conservatory extension which current occupies most of the rear garden, thereby re-creating amenity space for no.2. This does not harm the amenity of neighbours.
55. The new house is effectively a sideways extension of the terrace towards the open space. Front and rear building lines, materials and heights are matched. Windows largely look front and rear and offer similar view points to existing. There is good separation to houses opposite.

Quality of accommodation

56. The proposed new house is of a generous size and complies with the relevant space standards set out in the Residential Design Standards SPD.

4b5p	Design Standard	Proposed Room size	Complies
Bed 1	7.0sqm	10.13sqm	yes
Bed 2	7.0sqm	11.37sqm	yes
Bed 3	7.0sqm	7.85sqm	yes
Bed 4	12.00sqm	21.76sqm	yes
Liv/Kit/Din	15sqm	31.26sqm	yes
Bathroom 1	3.5sqm	5.01sqm	yes
En-suite	3.5sqm	3.81sqm	
Shower	3.5sqm	3.71sqm	
Storage	2.75sqm	14.16 sqm	yes
Outdoor space	50sqm	approx. 100 sqm	yes

57. All rooms have good outlook and daylighting.
58. In terms of amenity space, the removal of the conservatory at no.2 frees up the garden of the house to how it was when the house was constructed. The size is 33.3qsm which is below the 50sqm standard but given this was how the house was in its original form, it is considered acceptable.
59. The new house has outside space of almost 100sqm which well exceeds the minimum standard.
60. The development is considered to comply with the relevant standards for new housing and is acceptable.

61. There are bin storage areas to the front and cycle parking shown.
62. No parking is provided for the house. The location has a low PTAL of 1a and it is likely that the occupier of the proposed house would find car use preferable. The area is not heavily parked. It is not considered that one additional house would harm local transport conditions to such an extent as to find the development unacceptable.

Good design and heritage

63. Design policies seek that development is appropriate for its context in terms of form, materials and siting.
64. The site is not located within a conservation area nor within the setting of any heritage assets.
65. Alterations to no. 2 - the removal of the conservatory and the dormer extension are acceptable and do not raise any significant design issues.
66. New House - the new house is larger than no. 2. It has a greater width, albeit that part of it is set back from the front building line, reducing its bulk. Materials, height and building lines are maintained, so the house reads as part of the existing terrace. Detailed design in terms of windows and doors matches the neighbour.
67. One element of the MOL policy is relevant to the consideration of the design of the development:
68.
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

The new house is effectively an extension to no. 2. The proposal is a larger building than no. 2. Disproportionately large development is resisted on MOL. However, in this case, by maintaining height, building lines and materials, the proposal does not appear disproportionate to the terrace, and it is set in a generous garden which maintains the streetscene character of single dwellinghouses surrounded by gardens and greenery.

69. Given the garden to the rear and side of the proposed house, it is considered that the impacts on the setting of Russian Dock Woodland are softened. This can be further secured by requiring a landscaping proposal for the garden areas and boundary treatments, which can be secured by condition.
70. It is further recommended that all permitted development rights are removed by condition so that any extensions, alterations or outbuildings can be considered via a planning application, given the sensitivities of the location adjacent to designated open space.

Ecology

71. The site is located on the boundary of a SINC and a LNR. The impact on the SINC and the LNR has been raised in both letters of objection.
72. The Ecologist has reviewed the information provided by the applicant on the nature conservation interest in the site. Subject to conditions, the development is not considered harmful to nature conservation. A small mammal gap and swift bricks will be secured by condition. A condition is also recommended that the exterior of the building will not be security lit which will limit any impacts on bat activity in the vicinity.

Trees

73. The arboricultural impact assessment has been reviewed and subject to a condition, there are no harmful impacts arising from the development. There is an incursion into the root protection area of the willow to the front of the site, but with appropriate controls, there should not be significant adverse impacts. The area outside the curtilage should be suitably cordoned off, detailed in the tree protection plan, to prevent any potential damage to the tree or the MOL. Tree works are expected in order to facilitate any build, and these would need to be identified in the Arboricultural Method Statement, as conditioned.

A landscaping condition is also recommended to ensure that the site does not become dominated by hard surfacing.

Policy D12 (A) of the London Plan (2021) - Fire Safety

74. Paragraph 3.12.9 of Policy D12 explains that Fire Statements should be produced by someone who is “third-party independent and suitably-qualified”. The council considers this to be a qualified engineer with relevant experience in fire safety, such as a chartered engineer registered with the Engineering Council by the Institution of Fire Engineers, or a suitably qualified and competent professional with the demonstrable experience to address the complexity of the design being proposed.
75. This should be evidenced in the fire statement. The council accepts Fire Statements in good faith on that basis. The duty to identify fire risks and hazards in premises and to take appropriate action lies solely with the developer.
76. The applicant has provided a fire safety report. It has not been drafted by an individual with recognised fire safety qualifications. The following fire safety measures have been identified:

The primary means of escape will be through the front door providing an escape route onto the street. There is also the secondary option of escaping via the ground floor rear door providing access to the rear and side garden areas.

77. The proposed new dwelling will have interlinked smoke and heat detectors to provide early warning and detection of fire.

78. The construction of the new dwelling will comply with Building Regs approved Document B (Fire Safety).
79. The site lies at the junction of Somerford Way and Downtown Road and there is sufficient on-street space around the site for a fire truck and equipment to park outside the property.
80. There are no lifts proposed as this development comprises a 2-storey single dwellinghouse.
81. Periodic testing of the smoke/fire alarms will be undertaken.
82. Building control approval will be required during construction of the proposals to ensure compliance.
83. Notwithstanding that this is a fairly basic assessment, not prepared by an individual with specialist fire safety qualifications, it deals with the key points of the planning policy. The proposal is for a two storey house with roof accommodation, the same as other houses in the short terrace and which does not present unusual risks in relation to fire safety and on balance, the information provided satisfies the requirements of planning policy. This is not a full assessment of the requirements of fire safety in new building, which will be dealt with comprehensively at Building Regulations stage.

Energy

84. Policy P70 Energy applies to this development. The policy requires all development to minimise carbon emissions in accordance with the energy hierarchy of be lean, be clean, be green.
85. An energy report has been provided which sets out some fairly limited energy reduction measures. Development is now subject to new building regulation energy measures. Given the small scale of the proposal it is not feasible for substantial green energy measures on site and the applicant considers options such as solar panels not to be cost effective.

S106 and CIL

86. The developer has stated that this new house is a 'self build' which is for personal/family use. This means that it is exempt from CIL and an affordable housing contribution. If the house is sold onto the open market within 3 years, it becomes CIL liable. Similarly, a S106 legal agreement is recommended that the affordable housing payment is required if the house is sold onto within the 3 year period.

Any other matters

87. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights.

88. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.
89. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three "needs" which are central to the aims of the Act:
- The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
 - The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it, and
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
90. The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.
91. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership. An equalities impact assessment for this proposal is contained below:

Equalities Impact Assessment

92. The land affected by the development is currently a side garden to a house. The part enclosed by the fence is not available to any other users except for the occupants of the house. A strip of land approximately 2m wide in the applicant's ownership falls outside the site to the north and forms part of the grassed area forming a transition from the street to the woodland at this location. This strip of land is not used for scheduled community events although the local community, stakeholder groups, the Friends of RDW and volunteer groups undertake both passive and active activities across the entire LNR.
93. The grassed area to the north of the site offers a visual amenity to residents in the surrounding streets. Open grassed areas generally provide valuable open space for informal recreation activities in inner city boroughs. However, this grassed area, due to its limited size and location adjacent to a road, does not offer facilities for organised outdoor recreation. Its main benefit appears to be to add to greening and a sense of openness in the locality. The grassed area has however been subject to fly-tipping with garbage and debris being thrown into this area.

94. It is therefore, not considered that the construction of a new house will disproportionately affect any group with protected characteristics. There does not appear to be a 'desire line' to enter the main part of the Russia Dock open space from here (one such desire line exists to the side of the air shaft) and the formal Downtown entrance to the park is located within 60m of the site.
95. There is evidence of an informal path to the rear of 2 and 4 Somerford Way, possibly to give direct access to the rear garden of no. 4. Immediately to the west is a thickly planted wooded area. There is no obvious regular use of this area in the form of paths and clearings. Its value is one of nature conservation and biodiversity rather than offering an area of recreation to members of the public. It acts as a wooded buffer between the houses and the main Russia Dock Woodland open space. It is understood from the Parks Department that formalising access to the rear of gardens into these wooded buffer areas is discouraged as it damages the ecosystem, and can lead to flytipping and nefarious activities.
96. Extending the terrace northwards, other than some pruning of overhanging branches, would have little effect on the wooded buffer. Again, it is not considered that any group with protected characteristics would be disproportionately affected in any way.
97. It is against this background that it is assessed that this application has the legitimate aim of providing a new outdoor amenity space dwellinghouse. 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.

Carbon concurrent

Achieving net carbon zero development in Southwark

98. This application has taken measures to reduce carbon emissions on site with the aim of contributing to net carbon zero by 2050 in accordance with the adopted development plan.
99. These measures are summarised in the table below:

Net carbon zero: summary table	
Are carbon emission reductions covered in the main report?	No. The proposed development is a minor development and therefore is not required to provide minimum on site carbon saving figures.
Be Lean measures (energy efficient design and construction)	None.
Be Clean measures (low carbon energy supply)	None.

Be Green measures (on site renewable energy generation and storage)	None. The agent has stated that this is not cost effective.
Any other comments	A new house will be subject to up to date building regulations for energy efficiency

Meeting Southwark's climate change strategy and action plan

100. In July 2021, the council adopted its Climate Change Strategy and Action Plan for tackling the climate emergency. The plan sets out how emissions in the borough can be reduced from buildings, transport and waste disposal.
101. The Strategy sets out 148 Action Points that the council will undertake to achieve its ambition to do all it can to achieve a net zero carbon borough by 2030 across five key priority areas:
- Greener Buildings: these actions relate to Southwark's built environment and new developments e.g., emissions from privately rented homes, commercial offices and private property development. They cover scope one and two emissions.
 - Active and Sustainable Travel: these actions relate to surface transport across the borough, e.g., emissions from private car travel. They cover scope one, two and three emissions.
 - A Thriving Natural Environment: these actions relate to the maintenance and security of the borough's natural environment e.g., increasing tree canopy coverage.
 - A Circular Economy with Green Jobs: these actions relate to waste within the borough e.g., emissions from non-recyclable waste disposal. They cover scope one and two emissions.
 - Renewable Energy: these actions relate to the provision of more renewable energy within the borough i.e., local installation of technologies such as solar PV
102. The following action point/s have identified as relevant to this planning application:

Priority Area:	Thriving Natural Environment
Theme	Building and development works alongside and enhances our natural environment
Officer commentary:	Conditions are recommended to landscape the garden, provide swift bricks and small mammal gaps and to prohibit outdoor lighting to limit any impact on bats; safeguard trees
Priority Area:	Active and Sustainable Travel
Theme	Make cycling and walking easier
Officer commentary	The new house will provide cycle parking

Positive and proactive statement

103. The council has published its Plan 2022 on its website together with advice about how applications are considered and the information that needs to be submitted to ensure timely consideration of an application. Applicants are advised that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
104. The council provides a pre-application advice service that is available to all applicants in order to assist applicants in formulating proposals that are in accordance with the development plan and core strategy and submissions that are in accordance with the application requirements.

Conclusion

105. The proposal demonstrates conformity with the principles of sustainable development. It respects the amenity of neighbouring properties and is of an acceptable design. The reasons why an exception to MOL policy are relevant here have been explained. Accordingly, it is recommended that planning permission be granted.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 0254 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Recommendation (draft decision notice)
Appendix 2	Consultation undertaken and consultation responses received
Appendix 3	Planning history of the site and nearby sites

AUDIT TRAIL

Lead Officer	Stephen Platts, Director of Planning and Growth	
Report Author	Alison Brittain, Team Leader - Enforcement	
Version	Final	
Dated	22 August 2022	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Modernisation	No	No
Date final report sent to Constitutional Team		10 October 2022

RECOMMENDATION

This document shows the case officer's recommended decision for the application referred to below.

This document is not a decision notice for this application.

Applicant	Bogdan Melanuic	Reg. Number	21/AP/2514
Application Type	Minor application		
Recommendation	GRANT subject to Legal Agreement	Case Number	443-2

Draft of Decision Notice

Grant subject to Legal Agreement for the following development:

Demolition of existing conservatory and construction of a dormer window to the existing house. Construction of a two-storey house to provide a 4-bedroom dwellinghouse with dormer windows. This application is a DEPARTURE from the local plan in that it is development on Metropolitan Open Land.

2 Somerford Way London Southwark SE16 6QW

In accordance with application received on 16 July 2021 and Applicant's Drawing Nos.:

Existing Plans

Proposed Plans

EXISTING AND PROPOSED SOUTH ELEVATION PL.1 - B received 16/07/2021

EXISTING AND PROPOSED WEST ELEVATION PL.2 - B received 16/07/2021

EXISTING AND PROPOSED NORTH ELEVATION PL.3 - B received 16/07/2021

EXISTING AND PROPOSED EAST ELEVATION PL.4 - B received 16/07/2021
EXISTING AND PROPOSED SECTION S-01 PL.5 - A received 16/07/2021
PROPOSED SECOND FLOOR PLAN PL.11 - A received 16/07/2021
PROPOSED ROOF PLAN PL.13 - A received 16/07/2021
PROPOSED SITE PLAN PL.16 - B received 16/07/2021
PROPOSED GROUND FLOOR PLAN PL.7 - B received 16/07/2021
PROPOSED FIRST FLOOR PLAN PL.9 - B received 16/07/2021

Other Documents

Design and access statement received 16/07/2021

Time limit for implementing this permission and the approved plans

2. The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990 as amended.

Permission is subject to the following Pre-Commencements Condition(s)

3. Prior to the commencement of development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
 1. A site investigation scheme, based on the 'Phase 1 Environmental Site Assessment Report' by Enviro Solution Ltd (dated 12 January 2022, ref.CL101_V1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 2. The results of the site investigation and detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 3. A verification plan providing details of the data that will be collected in order

to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with the National Planning Policy Framework (NPPF) (Paragraph 174). The site is located over a Secondary Aquifer and it is understood that the site may be affected by historic contamination.

4. Prior to works commencing, including any demolition, an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority
 - .a) A pre-commencement meeting shall be arranged, the details of which shall be notified to the Local Planning Authority for agreement in writing prior to the meeting and prior to works commencing on site, including any demolition, changes to ground levels, pruning or tree removal.
 - b) A detailed Arboricultural Method Statement showing the means by which any retained trees on or directly adjacent to the site are to be protected from damage by demolition works, excavation, vehicles, stored or stacked building supplies, waste or other materials, and building plant, scaffolding or other equipment, shall then be submitted to and approved in writing by the Local Planning Authority. The method statements shall include details of facilitative pruning specifications and a supervision schedule overseen by an accredited arboricultural consultant.
 - c) Cross sections shall be provided to show surface and other changes to levels, special engineering or construction details and any proposed activity within root protection areas required in order to facilitate demolition, construction and excavation. The existing trees on or adjoining the site which are to be retained shall be protected and both the site and trees managed in accordance with the recommendations contained in the method statement.

Following the pre-commencement meeting all tree protection measures shall be installed, carried out and retained throughout the period of the works, unless otherwise agreed in writing by the Local Planning Authority. In any case, all works must adhere to BS5837: (2012) Trees in relation to demolition, design and construction and BS3998: (2010) Tree work - recommendations. If within the expiration of 5 years from the date of the occupation of the building for its permitted use any retained tree is removed, uprooted or destroyed or

dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

Reason: To avoid damage to the existing trees which represent an important visual amenity in the area, in accordance with The National Planning Policy Framework 2021 Parts 8, 11, 12, 15 and 16; Policies G1 (Green Infrastructure, G5 (Urban Greening) and G7 (Trees and Woodlands) of the London Plan 2021; and policies of The Southwark Plan 2022: P56 Protection of amenity; P57: Open space; P58: Open water space; P59: Green infrastructure, P66 Reducing noise pollution and enhancing soundscapes, P13: Design of places; P14: Design quality; P15: Residential design, P20: Conservation areas; P21: Conservation of the historic environment and natural heritage and P60 Biodiversity.

Permission is subject to the following Grade Condition(s)

5. Before any above grade work hereby authorised begins, detailed drawings of a hard and soft landscaping scheme showing the treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include proposed boundary treatments and these shall include a small mammal gap. The landscaping shall not be carried out otherwise than in accordance with any such approval given and shall be retained for the duration of the development. The planting, seeding and/or turfing shall be carried out in the first planting season following completion of building works and any trees or shrubs that is found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of the equivalent stem girth and species in the first suitable planting season. Planting shall comply to BS: 4428 Code of practice for general landscaping operations, BS: 5837 (2012) Trees in relation to demolition, design and construction and BS 7370-4:1993 Grounds maintenance Recommendations for maintenance of soft landscape (other than amenity turf).

Reason:

So that the Council may be satisfied with the details of the landscaping scheme, in accordance with: Chapters 8, 12, 15 and 16 of the National Planning Policy Framework 2021; Policies SI 4 (Managing heat risk), SI 13 (Sustainable drainage), G1 (Green Infrastructure, G5 (Urban Greening) and G7 (Trees and Woodlands) of the London Plan 2021; Policy P13 (Design of Places), Policy P14 (Design Quality), Policy P56 (Protection of Amenity),

Policy P57 (Open Space) and Policy P60 (Biodiversity) of the Southwark Plan (2022).

Permission is subject to the following Pre-Occupation Condition(s)

6. Prior to occupation of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a 'long-term monitoring and maintenance plan') for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, if appropriate, and for the reporting of this to the local planning authority. Any long-term monitoring and maintenance plan shall be implemented as approved.

Reason:

To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with the National Planning Policy Framework (NPPF) (Paragraph 174).

Permission is subject to the following Compliance Condition(s)

7. MATERIALS TO BE AS SPECIFIED

The materials to be used in the implementation of this permission shall not be otherwise than as described and specified in the application and on the drawings hereby approved unless the prior written consent of the local planning authority has been obtained for any proposed change or variation. The materials proposed shall match the materials of the adjoined house, no. 2 Somerford Way.

Reason:

To ensure that the new works blend in with the existing building in the interest of the design and appearance of the building in accordance with Chapter 12 (Achieving well-designed places) of the National Planning Policy Framework (2021); Policy D4 (Delivering good design) of the London Plan (2021);

Strategic Policy 12 (Design and Conservation) of the Core Strategy (2011); and Saved Policies 3.12 (Quality in Design) and 3.13 (Urban Design) of the Southwark Plan (2007).

8.

Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with the National Planning Policy Framework (NPPF) (Paragraph 174). Infiltrating water has the potential to cause remobilization of contaminants present in shallow soil/made ground which could ultimately cause pollution of groundwater.

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with the National Planning Policy Framework (NPPF) (Paragraph 174).

10. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason:

To ensure that the development does not harm groundwater resources in line with the National Planning Policy Framework (NPPF) (Paragraph 174). The developer should be aware of the potential risks associated with the use of piling where contamination is an issue. Piling or other penetrative methods of foundation design on contaminated sites can potentially result in unacceptable risks to underlying groundwaters. We recommend that where soil contamination is present, a risk assessment is carried out in accordance with our guidance 'Piling into Contaminated Sites'. We will not permit piling activities on parts of a site where an unacceptable risk is posed to controlled waters.

11. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order (or amendment or re-enactment thereof) no extension, enlargement or other alteration of the premises shall be carried out to the new house hereby approved, and no outbuilding shall be constructed or installed without the express permission of the local planning authority, to whom an application must be made. In addition, no external floodlighting shall be installed, either attached to the house or within the garden.

Reason: To safeguard the character and the amenities of the premises and setting of Russia Dock Woodlands, and to limit any harm to the local bat population, in accordance with Chapter 12 (Achieving good design) of the National Planning Policy Framework (2021); Policies D4 (Delivering good design) of the London Plan (2021); Policy P13 (Design of Places), Policy P14 (Design Quality), Policy P56 (Protection of Amenity) and Policy P60 Biodiversity of the Southwark Plan (2022).

12. Details of Swift nesting boxes / bricks shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use hereby granted permission. No fewer than 2 nesting boxes / bricks shall be provided and the details shall include the exact location, specification and design of the habitats. The boxes / bricks shall be installed with the development prior to the first occupation of the building to which they form part or the first use of the space in which they are contained. The Swift nesting boxes / bricks shall be installed strictly in accordance with the details so approved, shall be maintained as such thereafter. Discharge of this condition will be granted on receiving the details of the nest/roost features and mapped locations and Southwark Council agreeing the submitted plans, and once the nest/roost features are installed in full in accordance to the agreed plans. A post completion assessment will be required to confirm the nest/roost features have been installed to the agreed specification.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity in accordance with Chapter 15 (Conserving and enhancing the natural

environment) of the National Planning Policy Framework (2021); Policy G6 (Biodiversity and access to nature) of the London Plan (2021); P56 Protection of amenity, P57 Open space, P58 Open water space, P59 Green infrastructure, P60 Biodiversity, P66 Reducing noise pollution and enhancing soundscapes and P69 Sustainable standards of the Southwark Plan (2022).

Informatives

None

CONSULTATION UNDERTAKEN

Site notice date: 25/05/2022

Press notice date: 26/05/2022

Case officer site visit date: 25/05/2022

Neighbour consultation letters sent: 26/07/2021

Internal services consulted

Community Infrastructure Levy Team
Ecology
Environmental Protection
Flood Risk Management & Urban Drainage
Transport Policy
Urban Forester
Ecology
Parks Department

Statutory and non-statutory organisations

Environment Agency

Neighbour and local groups consulted:

4 Somerford Way London Southwark	9 Somerford Way London Southwark
1 Downtown Road London Southwark	7 Somerford Way London Southwark
1 Somerford Way London Southwark	5 Somerford Way London Southwark
6 Somerford Way London Southwark	1 Hamilton Close London Southwark
14 Somerford Way London Southwark	8 Somerford Way London Southwark
3 Somerford Way London Southwark	16 Somerford Way London Southwark

Friends of Russia Dock Woodland

Re-consultation:

Consultation responses received

Internal services

Community Infrastructure Levy Team

Ecology

Environmental Protection

Transport Policy

Urban Forester

Ecology

Parks Department

Statutory and non-statutory organisations

Environment Agency

Neighbour and local groups consulted:

Friends of Russia Dock Woodland

Relevant planning history

Reference and Proposal	Status
21/AP/2064 Certificate of lawful development (proposed) for the removal of the existing rear roof dormer and replacement with a larger dormer extension, and two rooflights to front roof slope.	GRANTED - Certificate of Lawfulness Prop 04/08/2021