

PLANNING COMMITTEE A

Date of Meeting: **THURSDAY, 30 AUGUST 2012 TIME 7.30 PM**

PLACE: **ROOM 1 & 2, CIVIC SUITE, LEWISHAM TOWN HALL, CATFORD, SE6 4RU**

Members of the Committee are summoned to attend this meeting:

**Membership
Councillors:**

**Abdeslam Amrani (Chair)
Obajimi Adefiranye
Anne Affiku
Jenni Clutten
Vincent Davis
Amanda De Ryk
Jim Mallory
Stephen Padmore
Jacq Paschoud
Sam Owolabi-Oluyole**

The public are welcome to attend our committee meetings, however, occasionally committees may have to consider some business in private. Copies of reports can be made available in additional formats on request.

**Barry Quirk
Chief Executive
Lewisham Town Hall
London SE6 4RU
Date: Tuesday, 21 August 2012**

**For further information please contact:
Shelley McPhee Committee Co-ordinator
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Order Of Business			
Item No	Title of Report	Ward	Page No.
1.	Declarations of Interests		1 - 4
2.	Minutes		5 - 6
3.	55-59 HONOR OAK PARK SE23	Crofton Park	7 - 28
4.	78 CANADIAN AVENUE SE6	Catford South	29 - 36
5.	21 LOAMPIT HILL SE13	Ladywell	37 - 60
6.	171 NEW CROSS ROAD SE14	New Cross	61 - 68

Committee	PLANNING COMMITTEE (A)	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 30 AUGUST 2012

Declaration of interests

Members are asked to declare any personal interest they have in any item on the agenda.

1 Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (1) Disclosable pecuniary interests
- (2) Other registerable interests
- (3) Non-registerable interests

2 Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.
- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member's knowledge, the Council is landlord and the tenant is a firm in which the relevant person* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-
 - (a) that body to the member's knowledge has a place of business or land in the borough; and
 - (b) either
 - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or

- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

(3) Other registerable interests

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council
- (b) Any body exercising functions of a public nature or directed to charitable purposes , or whose principal purposes include the influence of public opinion or policy, including any political party
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25

(4) Non registerable interests

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members' Interests (for example a matter concerning the closure of a school at which a Member's child attends).

(5) Declaration and Impact of interest on member's participation

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take not part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.

- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

(6) Sensitive information

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

(7) Exempt categories

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

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Committee	PLANNING COMMITTEE (A)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date 30 AUGUST 2012

MINUTES

To approve the minutes of the meetings of the Planning Committee (A) held on 7 June 2012 and 19 July 2012.

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Committee	PLANNING COMMITTEE (A)	
Report Title	55-59 HONOR OAK PARK, SE23	
Ward	Crofton Park	
Contributors	Geoff Whittington	
Class	PART 1	Date: 30 AUGUST 2012

Reg. Nos. DC/11/79057

Application dated 12 December 2011 completed 31 May 2012.

Applicant Cantel Investments Ltd

Proposal The part demolition, alterations and conversion of the ground floor shop units to form one retail unit (Use Class A1) at 55-59 Honor Oak Park SE23, together with the construction of a part single/ part two-storey extension at the rear, provision of 1.6 metre high timber fences at first floor level, installation of new windows and doors in the rear elevation, residential and commercial refuse/ recycle storage at the rear and the reconfiguration of the upper floor flats to provide 3, one bedroom self-contained flats.

Applicant's Plan Nos. Design and Access Statement (8 May 2012), Delivery & servicing Plan (31 May 2012), 182-OS-001, 182-A-100, 101, 102, 103, 104, 105, 106, 107, 182-A-200, 201A, 202A, 203, 204, 205, 206, 207 & 301.

Background Papers

- (1) Case File LE/340/57/TP
- (2) Lewisham Development Framework: Core Strategy (2011)
- (3) Adopted Unitary Development Plan (July 2004)
- (4) The London Plan (2011)
- (5) Lifetime Homes Standards
- (6) Residential Development Standards: SPD adopted 2006)

Designation Adopted UDP - Existing Use

1.0 Property/Site Description

- 1.1 The application site is located within a shopping parade on the south side of Honor Oak Park, close to its junction with Grierson Road. The site is comprised of three, 3-storey adjoining buildings, with commercial units at ground floor and residential flats above.
- 1.2 No.55 Honor Oak Park is currently in use for retail purposes, no.57 was formerly a restaurant but is now vacant, whilst no.59 is also in A3 restaurant use.
- 1.3 Accessed from the rear of no.55 is a 1 bedroom maisonette (flat A), together with a 2 bedroom maisonette above the commercial unit (flat B).

- 1.4 At the rear of no.57 is a 2-storey element that accommodates a 2 bedroom maisonette (flat A). Flat B is a 1 bedroom maisonette that is also accessed from the rear. Flat C is accessed from an entrance to the front, but does not form part of this application.
- 1.5 Flat A above no.59 is a 3 bedroom maisonette that is accessed from the rear.
- 1.6 Honor Oak Park comprises a range of commercial units within the parades on either side between Lessing Street and Grierson Road, however 7 of the units appear to have been converted into residential accommodation. Apart from nos. 57, 59, and 78 Honor Oak Park, no other commercial units are currently vacant.
- 1.7 The surrounding areas are predominantly residential, characterised by terraced properties. Permission was granted in 2010 for the demolition of the former garages on the site at the rear of 45-63 Honor Oak Park and the construction of 1 one bedroom, 1 two bedroom and 2 three bedroom two-storey houses fronting Ballina Street and Grierson Road, and a one bedroom single storey courtyard house, the provision of 3 car parking spaces at the rear of 49-51 & 59 Honor Oak Park with access onto Ballina Street. At the time of writing this report, construction works were ongoing.
- 1.8 The site is not located within a conservation area, neither are the buildings listed.
- 1.9 The area is well served by public transport, with bus routes operating locally on Honor Oak Park and Stondon Park to the east, whilst Honor Oak train station lies a short walking distance away. Short term parking is available on Honor Oak Park, whilst there is an existing loading bay close to the application premises.

2.0 Planning History

- 2.1 In 1978, permission was granted for the amalgamation and use of the ground floor shops at 57 and 59 Honor Oak Park as a photographers studio with ancillary offices together with alterations to the shop fronts.
- 2.2 Permission was granted in 1992 for the change of use of 57 and 59 Honor Oak Park to a fitness studio with ancillary retail area, changing facilities, office and kitchen.
- 2.3 In 1993, permission was granted for the change of use of 57 and 59 Honor Oak Park as a restaurant.
- 2.4 Permission granted in 1995 for the use of 57B Honor Oak Park as a one bedroom dwelling.
- 2.5 In 1994, permission was granted for the use of part of the ground floor of 55 Honor Oak Park to provide two chapels of rest and preparation room for the existing Funeral Directors business.
- 2.6 Permission granted in 1997 for the change of use of the ground floor of 57/59 Honor Oak Park to Class A3 to include takeaway use, together with the erection of an extract duct on the rear elevation.
- 2.7 In 1998, permission was granted for the installation of a new shopfront at 59 Honor Oak Park.

3.0 Current Planning Application

- 3.1 The application proposes the undertaking of partial demolition works within and to the rear of nos 55-59 Honor Oak Park, including the removal of internal walls, loss of part of flat A to the rear of no.57 and commercial floorspace at the rear of no.59. A proportion of the external yard areas would also be lost.
- 3.2 This would allow for the construction of a part single/ two-storey extension, of which the ground floor element would span across the rear of nos.55-59, set-back approximately 5 metres from the edge of the rear passageway between Ballina Street and Grierson Road.
- 3.3 The existing and proposed ground floor space would allow for the amalgamation of the 3 commercial units into one retail space, measuring 319 sq.metres, with storage and plant areas at the rear. Sainsbury's have expressed an interest in occupying the store should permission be granted, however it must be acknowledged they are not the applicants in this case.
- 3.4 Refuse and recycling stores and secure cycle stores would be provided separately within the rear yard for staff and residents.
- 3.5 At first floor, the existing 2-storey freestanding element would be extended to link with the main body of no.57, with flat A becoming a one bedroom unit, accessed from the rear passageway.
- 3.6 External alterations to the existing 2-storey element to the rear of no.59 would include the formation of entrances to two residential units, together with the erection of 1.6 metre high boundary fencing between, and to the rear of nos.57 and 59.
- 3.7 Flats A and B, which are accessed from the rear of no.55, would be retained, with only minor internal alterations to Flat A that would include the removal of an existing ground floor bathroom to create an enlarged living room area.
- 3.8 Alterations to the front of the building would include the removal of existing signage, replacement glazing to nos.55 and 57 whereby their existing entrances would be removed, whilst the entrance to the new store would be from no.59. Existing features including the stallrisers, fascias and pilasters would largely be retained.
- 3.9 Lorries and vans delivering goods to the store would park on the existing loading bay close to the application site on Honor Oak Park.

4.0 Consultation

Neighbours & Local Amenity Societies etc.

- 4.1 Letters of consultation were sent to local residents and shop owners within a 50 metre radius, and the Forest Hill Society on 20 January 2012, together with a notice displayed on site. Ward Councillors were also consulted.

4.2 During the original consultation period, 91 letters were received from the occupiers of 14b, 21a, 27, 28, 41, 49, 55b, 60, 64a, 66, Flat C 105, 106, 120, 121, Flat 1 129 & 194 Honor Oak Park, 14b, 92, 109, 111, 115, 117, 120, 144, 145, 154, 155 & 178 Grierson Road, 6 & 16 Gabriel Street, 94b, 94-96, 102, 125, 165, 177, 183 & 189 Brockley Rise, 28 & 59 Codrington Hill, 41 & 45 Brockley View, 211a, 257, 262, 290 & 320 Devonshire Road, 19a & 91 Stillness Road, 73 Duncombe Hill, 28 Agnew Road, 76 Gladiator Road, 10, 19 & 34 Garthorne Road, 219 Manwood Road, 11, 69b & 104a Bovill Road, 189a Crofton Park Road, 2a Elsworth Street, 160 Gavestone Road, 82 Stondon Park, 3 Osborn Lane, 109 Bexhill Road, 1 & 31 Maclean Road, 5, 6 & 30 Ballina Street, 48 Riseldine Road, 54 Ackroyd Road, 87 Boveney Road, 5 Walters Way, 19 Garthorne Road, 28 Stockwell Park Crescent and 87 Junction Road, objecting to the proposal on the following grounds:

- (1) already a sufficient number of retail shops in the locality;
- (2) additional on-street parking;
- (3) excessive parking already experienced within the area, due in part to commuters driving to the nearby train station;
- (4) a supermarket such as Sainsbury's is not required;
- (5) impact upon existing smaller outlets;
- (6) Honor Oak Park is not suitable for large delivery vehicles, and will result in congestion;
- (7) the thought of a large chain dominating the high street is soul destroying and the Council should be helping local people maintain their jobs and their dignity as business people;
- (8) Honor Oak is a local community with small shops all trying to make a living;
- (9) there are three Sainsbury's within a 5-10 minute drive from the site;
- (10) it would damage the health of the population – Sainsbury's is not conducive to healthy living or a healthy environment;
- (11) will result in an increase in vacant commercial premises;
- (12) Honor Oak Park is a major thoroughfare, with a flow of traffic that is constant;
- (13) it would be perverse for the Council to grant permission having refused the Dominos application opposite the application site;
- (14) existing shops would close and the parade would turn into a slum.

4.3 The Forest Hill Society raised no objections to the proposed supermarket, but were concerned with the proposed standard of residential accommodation.

4.4 Three petitions were also received, with a total of 216 signatures objecting to the proposed supermarket.

- 4.5 44 letters of support were received from the occupiers of 19a, 42 & 61 Codrington Hill, 3 Segal Close, 1, 36a & 42 Garthorne Road, 34a Ballina Street, 47b, 80a, 86a & 88a Bovill Road, 44 Honor Oak Park, Flat 2 174 & 263 Devonshire Road, 94 Days Lane, 17 Herschell Road, Flat 21 14 Boveney Road, 15 Wyleu Street, 37 Chapter Road, 37 Stillness Road, 29 & 31 Tatnell Road, 16 Maclean Road, 24 & 40 Whatman Road, 7, 11 & 29 Parbury Road, 35 Merchland Road, 16 Ebsworth Street, 33 Dunoon Road, 5 Agnew Road, 7 & 52 Gabriel Street, 20 Torcross Drive, 2 Walters Way, 27 Ringmore Rise, 31 Ewart Road, and 18 & 41 Hengrave Road.
- 4.6 In light of the number of objections received, a local meeting was held at St. Cyprians Hall, Brockley Road on 19 April 2012. In the event, 24 residents attended the meeting, with a panel comprised of Cllr Morrison (Chair), planning agent, applicant, Sainsbury's representatives and the Council's planning officer.
- 4.7 The main concerns raised included additional traffic and on-street parking, servicing and deliveries, Sainsbury's occupying the premises and the impact it would have upon existing shops in Honor Oak Park, the ethics of Sainsbury's as a business and how they operate.
- 4.8 There was also support shown to the proposal, including the benefits Sainsbury's would have upon the parade, employment and the convenience it would provide to local people.
- 4.9 The minutes of the meeting are attached in the appendices of this report.
- 4.10 In May 2012, a second consultation period was undertaken in light of an error within the original description, which referred to nos. 57-59 Honor Oak Park rather than 55-59. An updated Design and Access Statement and a Delivery & Servicing Plan were made available for public viewing on the Council's web-site.
- 4.11 A further 26 letters were received from the occupiers of Flat 2 - 2, 14a, 50a, 66, 105 & 121 Honor Oak Park, 34b Ballina Street, 6 & 16 Gabriel Street, 144 & 155 Grierson Road, 236b, 300 & 320 Devonshire Road, 47 Tatnell Road, 91 Bovill Road, 38 Codrington Hill, 22 Maclean Road, 8 Walters Way, 56 Montem Road, 45 Stillness Road and 52 & 53 Riseldine Road, objecting on grounds similar to those addressed earlier. Further concerns raised include:
- (1) The Sainsbury people at the (local) meeting told us there would be minimal disruption to the traffic with deliveries – they said there would be one delivery a day, but after discussions, there would be at least four deliveries each day made by a large lorry – depending on the time of day, it would gridlock Honor Oak (Park) more than once a day;
 - (2) Existing and proposed flats do not have dedicated parking facilities – implies more on-street parking;
 - (3) The plans imply a very high rear extension – the whole extension will appear to be 2-stories;
 - (4) Refuse concerns.

Honor Oak Park Residents Association

- 4.12 HOPRA have reiterated their objections particularly as it includes three existing separate units. The large shop may affect the saleability of the new residential units being constructed at the rear of the application site.
- 4.13 The proposal will mean that a very substantial shop will require servicing daily. The potential for disruption to traffic and the annoyance to residents from an estimated five deliveries a day will be substantial.
- 4.14 The problems for residents close to the proposed development far outweigh the potential benefits for other residents.
- 4.15 A considerable amount of money has been spent in the last few years on traffic calming measures for Honor Oak Park. The development will take away the benefits gained from this work and is also likely to lead to added pressure on parking locally.
- 4.16 In response to the reconsultation, 27 letters of support have been received from the occupiers of 101 Honor Oak Road, 24 Honor Oak Rise, 36 & 40 Hengrave Road, 14 & 36 Agnew Road, 101a Stondon Park, 147 Crofton Park Road, 1, 36 & 52 Gabriel Street, 3 & Flat b 3 Stillness Road, 25 Ebsworth Street, 2 Austin Close, 88a Bovill Road, 29 Tatnell Road, 58 & 61 Codrington Hill, 23 & 40 Whatman Road, 62 Garthorne Road, 1 Courtrai Road and 30 Brockley View.

(Letters are available to Members)

Highways and Transportation

- 4.17 Unobjectionable in principle.

Environmental Health

- 4.18 No objections raised.

5.0 Policy Context

Introduction

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:
- (a) the provisions of the development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.
- 5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.
- 5.3 The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core

Strategy and policies in the London Plan (July 2011). The National Planning Policy Framework does not change the legal status of the development plan.

National Planning Policy Framework (NPPF)

- 5.4 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary this states that (paragraph 211), policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. In summary, this states, that for a period of 12 months from publication of the NPPF decision takers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.
- 5.5 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, 214 and 215 of the NPPF.

Ministerial Statement: Planning for Growth (23 March 2011)

- 5.6 The statement sets out that the planning system has a key role to play in rebuilding Britain's economy by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Government's expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

London Plan (July 2011)

- 5.7 The London Plan policies relevant to this application are;

Policy 1.1 Delivering the strategic vision and objectives for London, 3.3 Increasing housing supply; 3.4 Optimising housing potential; 3.5 Quality and design of housing developments; 3.8 Housing choice; 3.16 Protection and enhancement of social infrastructure; 4.8 Supporting a successful and diverse retail sector; 5.2 Minimising carbon dioxide emissions; 5.3 Sustainable design and construction; 5.7 Renewable energy; 5.12 Flood risk management; 5.13 Sustainable drainage; 6.9 Cycling; 6.13 Parking; 7.1 Building London's neighbourhoods and communities 7.3 Designing out crime; 7.4 Local character; 7.5 Public realm and 7.6 Architecture in the London Plan.

London Plan Supplementary Planning Guidance (SPG)

- 5.8 The London Plan SPG's relevant to this application are:

Accessible London: Achieving an Inclusive Environment (2004); Housing (2005) & Sustainable Design and Construction (2006).

London Plan Best Practice Guidance

5.9 The London Plan Best Practice Guidance's relevant to this application are:

Control of dust and emissions from construction and demolition (2006); Wheelchair Accessible Housing (2007) & London Housing Design Guide (Interim Edition, 2010).

Core Strategy

5.10 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:

Objective 1 Physical and socio-economic benefits, Objective 2 Housing provision and distribution, Objective 3 Local housing need, Objective 5 Climate change, Objective 6 Flood risk reduction and water management, Objective 7 Open spaces and environmental assets, Objective 8 Waste management, Objective 9 Transport and accessibility, Objective 10 Protect and enhance Lewisham's character, Objective 11 Community well-being, Spatial Policy 1: Lewisham Spatial Strategy; Spatial Policy 2: Regeneration and Growth Areas; Spatial Policy 5: Areas of Stability and Managed Change; Core Strategy Policy 1: Housing provision, mix and affordability; Policy 7: Climate change and adapting to the effects; Policy 8: Sustainable design and construction and energy efficiency; Policy 9: Improving local air quality; Policy 10: Managing and reducing the risk of flooding; Policy 14: Sustainable movement and transport & Policy 15: High quality design for Lewisham.

Unitary Development Plan (2004)

5.11 The saved policies of the UDP relevant to this application are;

STR URB 1; The Built Environment; URB 3: Urban Design; URB 12: Landscape and Development; HSG 4: Residential Amenity; HSG 5: Layout and Design of New Residential Development; HSG 7: Gardens; HSG 8: Backland and In-fill Development, ENV.PRO 11: Noise Generating Development; STC 1: The Shopping Hierarchy; STC 8: Local Shopping Parades and Corner Shops and STC 9: Restaurants, A3 Uses and Take Away Hot Food Shops.

Residential Standards Supplementary Planning Document (August 2006)

5.12 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility.

6.0 Planning Considerations

- 6.1 The main issues to consider in this case include the nature of the locality, the formation of a single retail unit and associated highways/ delivery and servicing issues, the scale and appearance of proposed extensions and alterations, together with their impact upon the visual amenities of neighbouring occupiers and the streetscene generally, standard of proposed residential accommodation, and refuse matters.

Principle of Development

- 6.2 During the course of this application the main focus has centred upon the provision of the new retail unit, which is understood to be Sainsbury's. Existing shopkeepers in Honor Oak Park have raised a number of concerns toward the amalgamation of the 3 units, and the impact a supermarket, would have upon their livelihoods. In their opinion, increased retail competition on such a scale would serve to harm already struggling businesses within the vicinity, resulting ultimately in an increase of vacant commercial units. Many residential occupiers support this view, and have questioned the need for a Sainbury's within the area.
- 6.3 A number of local residents have confirmed they are in favour of a supermarket, within the parade, and consider that it would improve the parade and attract new businesses, rather than impacting negatively.
- 6.4 However, one of the three units in A1 Retail use at the moment, while the other double unit is in restaurant A3 use. A change of use to retail from a restaurant use is permitted development in accordance with the Town and Country Planning (Use Classes) Order 1987, and therefore does not require planning permission.. Additionally, permission is not required to amalgamate the three units into one - only the external alterations need consent.
- 6.5 The only other planning issue concerning the new retail unit is the size; the extensions proposed would create an increase in commercial space from 189.5 square meters to 316 square meters. Crofton Park is designated as a Neighbourhood Local Shopping Centre (NLSC) under Spatial Policy 5 of the Core Strategy, and there are no policies to restrict retail development in NLSC. The policy considers that these local parades represent a sustainable resource for residents who can minimise unnecessary journeys to shop.
- 6.6 Officers cannot recommend a refusal of permission based upon the type of retailer being the likely future occupiers of the store, or increased commercial competition their presence would create. During the local meeting, objections were raised in regard to the ethics of certain retailers, however such views are not planning considerations. A larger retail unit would have different servicing needs from smaller shops and these are discussed below.
- 6.7 Planning policy actively encourages residential use above shops and the new flats are considered acceptable in principle subject to providing acceptable standards of accommodation.
- 6.8 Overall, Officers do not consider that the principle of the uses are acceptable subject to acceptable details. These are discussed below.

Delivery, Servicing and Parking

- 6.7 London Plan Policies 6.9: Cycling & 6.13 Parking seek to develop walking and cycling in London while keeping car parking to a minimum. Policies require that development proposals that generate a large volume of traffic or person movement must be located close to good public transport facilities.
- 6.8 During the local meeting, representatives from Sainsbury's were in attendance, and advised that the majority of customers would be local, and so would walk to the store rather than drive. Many local residents have stated such retail provision would be welcomed within the area, reducing the need to drive elsewhere to do their shopping, whilst those who commute from Honor Oak Station would be able to shop for their evening meal at the new store on their way home rather than in central London before they board the train.
- 6.9 For those driving past, there are short term parking opportunities along Honor Oak Park. Unrestricted parking to neighbouring residential streets is possible, however it is acknowledged that even during daytime hours, availability of spaces are minimal.
- 6.10 The issue of retail servicing is addressed within the Delivery and Service Plan (May 2012) produced by Sainsbury's Supermarkets Ltd. The suggested arrangements for servicing from Honor Oak Park are set out in paragraph 3 to 3.14 of the report;
- The store will open between the hours of 07.00 – 23.00 7 days a week, therefore daily deliveries are required, with fresh produce deliveries needed each day to maintain supply. Servicing will be undertaken directly from Honor Oak Park outside the site – an existing loading bay of approximately 15 metres in length is situated adjacent the site.
 - This allows all deliveries to be undertaken at an off peak period – it is Sainsbury's standard practice that such deliveries take place away from the AM and PM peak hours.
 - Sainsbury's have forecast that two depot deliveries will be sufficient for daily customer trade. The store will be serviced by an 11 metre rigid vehicle with tailgate lift. The use of 11 metre rigid vehicle allows for transportation of recyclable materials and food waste in empty vehicles back to the depot, whilst reducing servicing trips and making efficient use of fuel.
 - A small number of direct deliveries will be made each day by third-party suppliers, such as bread and newspapers. Such deliveries are often undertaken from panel or box vans, and would be delivered from the existing front loading bay.
 - To ensure health and safety of pedestrians, stock cages and pallets would not be held on the footway at any time – the store manager would ensure the footway is kept clear.
- 6.11 Sainsbury's have confirmed that any waste would be taken through the store and collected from the front only by either the delivery truck or a Sainsbury's refuse vehicle.

- 6.12 Based on the information provided, Highways officers have stated that the Delivery and Servicing Plan is acceptable – if implemented, ‘it will reduce the impact of the servicing activity and will ensure that the number of deliveries and the delivery times associated with the proposal will be controlled.
- 6.13 ‘The site is within a local shopping parade and close to a train station, so most of the trips to the site will be pedestrian and cycle trips. The application will generate some additional short term parking demand adjacent to the site, but when compared to the existing use, the proposal would not have an adverse impact on traffic flow or on car parking in the vicinity of the site.
- 6.14 ‘Therefore, the the application, is unobjectionable subject to the site operating in accordance with the Delivery and Servicing Plan submitted with the application.’
- 6.15 ‘The waste storage/collection details are considered acceptable’, considering refuse would be collected from the front of the premises by a Sainsbury’s vehicle.
- 6.16 Five separate deliveries may occur daily, however the majority of deliveries would take no longer than 10 minutes, whilst the main deliveries would take a maximum of 40 minutes, which would include the loading of refuse/ waste.
- 6.17 In light of the above information and comments, it is considered that the application demonstrates sufficiently that the proposed retail unit can be adequately serviced without either significant impact on adjoining residents, highway safety or bus service provision.

Extensions and Alterations

- 6.18 Policy URB 3 Urban Design states that the Council will expect a high standard of design in new development, whilst ensuring that schemes are compatible with or complement the scale and character of the existing development and its setting.
- 6.19 Policy HSG 4 Residential Amenity expresses the desire to improve and safeguard the character and amenities of residential areas in a number of ways. These include the siting of new dwellings appropriately seeking higher standards of design and landscaping in all new development in residential areas.
- 6.20 Officers are satisfied that the scale of the part single/ 2-storey extension to the rear of the properties are acceptable, appropriately sized for a site of this nature, and would not compromise the appearance of the existing buildings or the streetscene generally. The applicants have advised external facing materials would match the existing, which a planning condition would seek to ensure.
- 6.21 The proposed siting of the extensions would not result in a significant visual impact upon the amenities of neighbouring occupiers. The first floor extension to the rear of no.59 was originally intended to extend 4.8 metres beyond the rear elevation of no.61, however this element has since been removed in light of concerns raised by officers toward the visual impact upon the adjoining occupiers.
- 6.22 The appearance of alterations to the front of nos 55-59 are considered acceptable. Existing pilasters, stallrisers and fascias would be largely retained, whilst an enlarged entrance would be formed to the front of no.59.

Standard of Accommodation

- 6.23 The layout and circulation of the proposed units are considered to be acceptable and would provide a good standard of accommodation for future occupants, in accordance with the minimum standards set out within the London Plan (2011) and Residential Development Standards SPD. Each habitable room would be afforded sufficient outlook and natural light intake.
- 6.24 Proposed fencing have been reduced in height to 1.6 metres to avoid sense of enclosure and poor outlook to the occupiers.
- 6.25 Policy HSG 7: Gardens of the UDP seeks to encourage private amenity space for all new dwellings where possible, and for family units or new build development this is an essential requirement. For conversions and smaller units it is not always possible to provide such facilities, however in this case, 3 units would make use of the newly created flat roof to provide private amenity areas. Whilst the principle of this is acceptable, further plans by way of a condition shall be formally submitted that demonstrates how measures can be undertaken to assist in the avoidance of loss of privacy to adjoining residential occupiers from users of the flat roof areas.
- 6.26 Core Strategy Policies require all new dwellings to meet Lifetime Homes criteria. However, when dealing with conversions it is not always possible for dwellings to meet these standards due to the constraints of the existing building. The proposed reconfiguration of the units would largely be accommodated within the existing fabric of the building, therefore Code 4 would not necessarily be expected in this case.
- 6.27 No dwellings would be afforded car parking spaces, which has raised concern from a neighbour that it would result in additional on-street parking pressures. The PTAL for this area is 4, which is attributed to good access to public transport services, including a number of bus routes and Honor Oak train station. Secure cycle provision would also be provided within the rear yard, which is subject to a planning condition. For these reasons, officers raise no objections to off-street parking provision not forming part of this application.

Refuse Storage

- 6.28 The submitted plans show the siting of refuse and recycling bins at the rear of the building, with separate areas for the commercial units and residential occupiers.
- 6.29 The applicant has confirmed that commercial waste would be taken through the shop to be collected by a waiting vehicle on the loading bay space.
- 6.30 In regard to residential waste, it is understood that bins were located within the rear passageway and collected. However, considering the development that is currently being constructed at the rear, whereby a section of the passageway has been significantly reduced in width, siting bins in the same area may serve to restrict pedestrian movement. It is therefore appropriate to include a condition that ensures bins would be located safely close to the nearest highway on collection day.

Sustainable Measures

- 6.31 The London Plan requires that boroughs should ensure developments meet the highest standards of sustainable design and construction.
- 6.32 The applicant has confirmed the new commercial element would seek to comply with BREEAM Very Good to Excellent criteria. It is suggested a condition be included that requests details be formally submitted demonstrating that such measures have been achieved.

Community Infrastructure Levy

- 6.33 The Community Infrastructure Levy (CIL) is a levy which was implemented by the London Mayor on April 1 2012. In this case, the development is not considered to be CIL liable as proposed additional floorspace would be less than 100sq.m.

7.0 Consultations

- 7.1 With regard to procedural matters, neighbour notifications have been carried out in accordance with the Council's usual procedure. Officers are satisfied that all statutory Council procedures have been followed and all neighbour concerns have been addressed.
- 7.2 Some occupiers complained they were not formally advised of the application during the first consultation period. The Council consulted occupiers within a 50 metre radius of the application site, which is a statutory distance usually expected for major applications. Site notices were also displayed within the parade.

8.0 Conclusion

- 8.1 Whilst it is accepted that many residents and shopkeepers object to the principle of an enlarged shop that may be occupied by Sainsbury's, as addressed earlier in this report, officers cannot recommend a refusal on these grounds as retail is a permitted form of use that does not require planning consent.
- 8.2 Officers have undertaken a thorough assessment of the Service and Delivery Plan submitted by the applicant, and have visited the immediate area on several occasions to observe parking patterns during the day. It is acknowledged that parking levels to neighbouring residential streets are high, however there are short-term on-street parking opportunities to the corners of those roads and Honor Oak Park. The applicant has also suggested the provision of secure cycle spaces to the front of the shop.
- 8.3 An existing loading bay is positioned close to the shop, and can accommodate an 11 metre long delivery vehicle. Due to the size of the shop, the larger deliveries would take between 30-40 minutes, which would include taking away refuse waste. Other deliveries should take no more than 10 minutes.
- 8.4 It is considered the design and massing of the proposed extensions are acceptable, and would respect the general character of the building and the area generally.

8.5 The level of impact upon the visual amenities of neighbouring occupiers would be minimal, however further details are required relating to use of the first floor private amenity areas, whilst the standard of proposed accommodation is acceptable. It is therefore recommended permission be granted.

9.0 Summary of Reasons for Grant of Planning Permission

9.1 The decision to grant planning permission has been taken having regard to the policies and proposals in the London Plan (2011), the adopted Core Strategy and saved policies in the Unitary Development Plan (July 2004), as set out below and all relevant material considerations, including comments received in response to third party consultation.

9.2 The local planning authority has considered the particular circumstances of the application against relevant planning policy set out in the London Plan (2011), the adopted Core Strategy (2011) and saved policies in the Council's Unitary Development Plan (July 2004). The local planning authority has further had regard to the Mayor of London's Supplementary Planning Guidance and Best Practice Guidance; as well as Government Planning Policy Guidance and Statements, and other material considerations including the conditions to be imposed on the permission.

9.3 On balance, it is considered that the proposal satisfies Council's policies and will not result in any material harm being in accordance with 3.3 Increasing housing supply; 3.4 Optimising housing potential; 3.5 Quality and design of housing developments; 3.8 Housing choice; 3.16 Protection and enhancement of social infrastructure; 5.2 Minimising carbon dioxide emissions; 5.3 Sustainable design and construction; 5.7 Renewable energy; 5.12 Flood risk management; 5.13 Sustainable drainage; 6.9 Cycling; 6.13 Parking; 7.4 Local character; 7.5 Public realm & 7.6 Architecture in the London Plan (2011), Objective 1 Physical and socio-economic benefits, Objective 2 Housing provision and distribution, Objective 3 Local housing need, Objective 5 Climate change, Objective 6 Flood risk reduction and water management, Objective 7 Open spaces and environmental assets, Objective 8 Waste management, Objective 9 Transport and accessibility, Objective 10 Protect and enhance Lewisham's character, Objective 11 Community well-being, Policy 1 Housing provision, mix and affordability, Policy 7 Climate change and adapting to the effects, Policy 8 Sustainable design and construction and energy efficiency, Policy 10 Managing and reducing the risk of flooding, Policy 12 Open space and environmental assets, Policy 14 Sustainable movement and transport and Policy 15 High quality design for Lewisham of the adopted Core Strategy (2011), saved policies URB 3 Urban Design, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development and HSG 7 Gardens in the Council's Unitary Development Plan (July 2004) and the Residential Development Standards SPD (August 2006).

10.0 RECOMMENDATION GRANT PERMISSION subject to the following conditions:-

- (1) B02 Materials to Match Existing
- (2) B07 Reveals (1) - Extensions
- (3) L01 Planting, Paving, Walls Etc

- (4) Details of the construction, including facing materials, of the proposed commercial and residential refuse and bicycle storage chambers shall be submitted to and approved in writing by the local planning authority, and the chambers shall be constructed in accordance with the approved details before the commercial unit or any of the residential units hereby approved are occupied.
- (5)
 - (i) The commercial unit shall achieve a BREEAM rating of minimum 'Very Good'.
 - (ii) Within three months of first occupation of the commercial unit, evidence shall be submitted to demonstrate full compliance with the requirements of this condition, which shall include a Post Construction BREEAM Certificate.
- (6) The premises shall not be open for customer business between the hours of 11 pm and 7 am on any day of the week.
- (7) Details of any external lighting to be installed at the site, including measures to prevent light spillage, shall be submitted to and approved in writing by the local planning authority before first occupation of the commercial and residential units. Any such external lighting shall be installed in accordance with the approved drawings and such directional hoods shall be retained permanently. The applicant should demonstrate that the proposed lighting is the minimum needed for security and working purposes and that the proposals minimise pollution from glare and spillage.
- (8) Secure parking for bicycles to the Honor Oak Park frontage shall be provided for customers of the retail unit, in accordance with details to be submitted to and approved in writing by the local planning authority. Such provision as may be approved under this condition, shall be provided before the shop unit is first occupied and retained permanently thereafter.
- (9) DS5 - Disabled Shopfronts
- (10) N01 - Sound Insulation – Commercial
- (11)
 - (i) The rating level of the noise emitted from fixed plant and from the premises on the site shall be 5dB below the existing background level at any time. The noise levels shall be determined at the façade of any noise sensitive property. The measurements and assessments shall be made by a suitably qualified acoustic consultant according to BS4142:1997.
 - (ii) Development shall not commence until details of the scheme complying with paragraph (i) of this condition have been submitted to and approved in writing by the local planning authority.
 - (iii) The development shall not be occupied until the scheme approved pursuant to paragraph (ii) of this condition has been implemented in its entirety. Thereafter, the scheme shall be maintained in perpetuity."
- (12) No deliveries shall be taken at or despatched from the site outside the hours of 7 am and 8 pm on Mondays to Fridays, 9 am and 1 pm on Saturdays and Sundays, nor at any time on Public Holidays.

- (13) The development shall be operated in all aspects in accordance with the approved Delivery and Service Plan.
- (14) Details shall be submitted and approved in writing by the LPA prior to first occupation of the residential units hereby permitted illustrating domestic refuse / recycling storage and collection points where on collection day. The provision shall be implemented as per the approved plans and permanently maintained thereafter.
- (15) Commercial refuse shall not be collected from the existing passageway at the rear of the application premises between Grierson Road and Ballina Street, unless confirmed in writing by the local planning authority.

Reasons

- (1) B02R
- (2) B07R
- (3) L01R
- (4) In order that the local planning authority may be satisfied as to the appearance of the refuse chamber and to comply with Policy 15 High quality design for Lewisham of the adopted Core Strategy (June 2011) and Policy URB 3 Urban Design in the adopted Unitary Development Plan (July 2004).
- (5) To ensure the development achieves the maximum possible in respect of energy and carbon emissions and to comply with Policy 8: Sustainable design and construction and energy efficiency of the adopted Core Strategy (2011).
- (6) To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to comply with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity and STC 9 Restaurants, A3 Uses and Take Away Hot Food Shops in the adopted Unitary Development Plan (July 2004).
- (7) In order that the local planning authority may be satisfied that the lighting is installed and maintained in a manner which will minimise possible light pollution to neighbouring properties and to comply with Policies ENV.PRO 12 Light Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (8) In order to ensure adequate provision for cycle parking and to comply with Policy 14 Sustainable movement and transport of the adopted Core Strategy (June 2011).
- (9) DS05R
- (10) N01R
- (11) N02R

- (12) In order to safeguard the amenities of adjoining residents and to comply with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (13) To ensure that the local planning authority may be satisfied as to the adoption and operation of the Delivery & Servicing Plan and to ensure that the use of the building does not increase on-street parking in the vicinity and reduces the impact of servicing activity.
- (14) To avoid prejudicing the enjoyment by neighbouring occupiers of their properties, and to comply with HSG 4 Residential Amenity of the adopted UDP (2004).
- (15) To avoid prejudicing the enjoyment by neighbouring occupiers of their properties, and to comply with HSG 4 Residential Amenity of the adopted UDP (2004).

Informatives

Construction Sites Code of Practice or any other such codes applicable at the time of construction.

The applicant is advised that the provision of advertisements relating to the commercial use would require separate permission.

Assessment of the noise scheme should be carried out by a suitably qualified acoustic consultant.

Minutes of Meeting:

Local meeting held at St. Cyprians Hall, Brockley Road on 19 April 2012

Panel: Cllr Morrison (Cllr)	- Chair
Robin Inglis (RI)	- Applicant
Christian Grooth (CG)	- (Agent)
Rob Mellor (RM)	- (Sainsbury's)
C. Ogden (CO)	- (Sainsbury's)
Geoff Whittington (GW)	- (Planning Officer)

7pm start:

Cllr Morrison explains procedure of meeting.

RM: Introduces himself, and explains this is not a Sainsbury's planning application. A lease will only be signed should permission be granted by the Council. This is a developer led application. The opportunity was presented to Sainsbury's.

CG: Describes application, including the residential element.

Obj: Why is no.55 not included in the original description? I was under the impression that the application involved only two shop units, not three.

Obj: Two units is bad enough, but three is unacceptable.

GW: Acknowledges the error, and confirms reconsultation will be undertaken.

Obj: Three units – how is that meant to enhance the parade – it will not. There would be a whole string of issues. High rents pushed former occupiers out. I'm upset that it is now three units. Why isn't the person who bought the properties here tonight?

RI: It will not be the case that local shopkeepers will be affected. No-one has been forced out. When occupied, the units were under market rent – there was nothing underhand in the unit becoming vacant.

Cllr: There have been a number of objections and support. In terms of the incorrect description, where do we stand legally?

GW: A second consultation will be undertaken, and all those who have written to the council to comment will be formally notified.

Obj: A range of shops in the parade will be affected. Sainsbury's are within close proximity of the area already. There will be more harm than good – shops will lose trade.

CO: There are no Sainsbury's within 1km of the site. This is a brilliant location due to passing trade and the train station nearby. It will provide convenience for local residents. Sainsbury's would generally sell items that are not already sold in existing shops. There would be no bakery as there is already one nearby. Sainsbury's wants to be part of the community.

- Obj: (local shopkeeper) Commuters tend to buy food near their work, for example at London Bridge, and then travel into Honor Oak train station. A Sainsbury's will mean existing shops will close, resulting in anti-social behaviour.
- Obj: Not convinced there would be no urban blight should Sainsbury's occupy the unit. They are a capitalist organisation that makes money for its shareholders – it is not community led. The proposal is a monstrosity. It will not address healthy eating initiatives.
- CO: Sainsbury's are proud of healthy eating initiatives. (CO refers to a case study that supports this.)
- Sup: Many units have closed down in the area – what do objectors want to see instead? This would be convenient – I support local supermarkets.
- RI: Difficult to fill shops with specific trades – butchers etc, whatever the rent levels are.
- Obj: I've seen a lot of change – dead against a Sainsbury's, seeing what they have done elsewhere – all about shares value. Sainsbury's have no knowledge of the area. It is gridlocked at 4pm. Sainsbury's should work with the local community, and buy produce from local allotments.
- CO: The shop would be geared toward footfall, more so than car users. People walking past the shop to or from the train station – does not envisage people driving to it.
- Sup: Does not understand financial points being raised. Where can I buy good quality chicken and steak in Honor Oak Park? Local quality is not good. There are empty shops in the parade – nothing to do with Sainsburys. People will come to area, which will help local shops. I hope it will provide a cash point machine.
- Obj: 30 years ago, there were few empty shops – the area has been rising in recent years. Bus stops on either side will result in congestion. Deliveries and refuse collection will not help either. Three units forming part of this application causes concerns.
- RM: Deliveries would be made from the existing loading bay outside the shop. There is no advantage to delivering during peak hours. There would be one Sainsbury's delivery a day, outside of peak times, taking no longer than 45 minutes, with rubbish taken away for recycling. The delivery lorry would be an 11 metre rigid type. There would be two bread deliveries a day – 15 minutes to unload. Tabacco and liquor also – small van delivery. 4-5 deliveries a day.
- Obj: This is confusing – you initially said there would be one delivery a day. Now you are saying 4-5. Can you confirm how many deliveries a day there would be.
- RM: There would be up to 5 deliveries a day.
- Obj: That's not what you said initially.
- RM: Explains that the main delivery would be from a Sainsbury's lorry once a day. There would be other deliveries made by smaller vehicles later in the day.
- Obj: Raises concerns toward the number of deliveries.

Obj: The deliveries will compromise pedestrian safety, and will create traffic obstacles, particularly when buses pass by.

Sup: Sainsbury's will not take my custom away from local shops.

Obj: Access to rear has been diminished. Concerned that new development at rear will interfere with shop.

RI: Access will remain from rear – no right of way for vehicles. There will be no interference from new development upon the shop.

Obj: I meant in terms of construction works.

RI: The main access is from the front.

Obj: From a planning point of view, I have concerns, including Sainsbury's occupying the premises.

GW: The Council has no influence on who occupies the unit for retail purposes.

Obj: Parking is a nightmare around surrounding streets – it will get worse as a consequence, in addition to more empty shops.

RI: There will be no increase in residential units.

Obj: (Shopkeeper) There is no accountability on behalf of Sainsbury's – decisions are made miles away from here. From a safety point of view, I am concerned with the 11 metre long trucks. A Highways officer should be at this meeting.

GW: Confirms further discussions will be held with Highways officers after this meeting.

Obj: Not happy with the choice of venue – why so far from the application site?

GW: The alternative was the Civic Suite in Catford – this was the most local venue available.

Obj: Will highways issues be taken on board by the Council and the size of the shop?

GW: The size of the shop, ie the combination of three shops into one is not a concern. Highways will be advised of information forthcoming from the Sainsbury's representatives.

Obj: Delivery cages left on the pavement will cause a hazard for pedestrians.

RM: Cages will be taken straight into the shop – empty cages would not be stored on the street before being collected.

GW: Explains consultation and committee processes.

8pm: Cllr closes meeting.

55-59 Honor Oak Park SE23



Scale:1250
Base on the
Ordnance Survey map
Licence no:100017710
London, SE6 4RU

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Committee	PLANNING COMMITTEE (A)	
Report Title	78 CANADIAN AVENUE, SE6 3BP	
Ward	Catford South	
Contributors	Geoff Whittington	
Class	PART 1	Date: 30 AUGUST 2012

Reg. Nos. DC/12/79404

Application dated 25 January 2012 completed 13 March 2012

Applicant Mrs A Wallace

Proposal The mixed use of 78 Canadian Avenue SE6 as a Family Contact Centre (Use Class D1) and dwelling-house (Use Class C3)

Applicant's Plan Nos. AMWL/012/001 & 002, Design and Access Statement and Site Location Plan.

Background Papers

- (1) Case File LE/697/78/TP
- (2) Lewisham Development Framework: Core Strategy (2011)
- (3) Adopted Unitary Development Plan (July 2004)
- (4) The London Plan (2011)
- (5) Lifetime Homes Standards
- (6) Residential Development Standards: SPD adopted 2006)

Designation Adopted UDP - Existing Use

1.0 Property/Site Description

- 1.1 The application property is a 2-storey semi-detached dwelling located within the Culverley Green Conservation Area on the south side of Canadian Avenue, close to the junction with Bromley Road.
- 1.2 The character of the area is predominantly residential, including properties that have been converted into self-contained flats and care homes.
- 1.3 The property benefits from a spacious private garden at the rear. An existing driveway to the front allows for off-street parking.
- 1.4 The area is well served by public transport, with bus routes operating locally on nearby Bromley Road. The two Catford train stations lie within a short walking distance. On-street parking is restricted to residents only.

2.0 Planning History

- 2.1 No planning history.

3.0 Current Planning Application

- 3.1 The application proposes the use of the property as a contact centre during day-time hours, whilst remaining primarily as a single dwelling-house.

- 3.2 The use would provide a place for parents to meet with their young children who they have been separated from for varying reasons. This would operate on an appointment basis between 9am – 6pm Mondays to Fridays, and 9am – 5pm Saturdays and Sundays.
- 3.3 The meetings would take place within the ground floor living room of the dwelling, whilst the conservatory would provide a playroom for younger children. Existing bedrooms on the upper floor may also be used for play and reading purposes. The applicant, who also lives at the property, would oversee the meetings, and would employ two part-time administrative staff.
- 3.4 Outside of work hours, the property would be used as a single family dwelling.
- 3.5 No external alterations are proposed to the property.

4.0 Consultation

Neighbours & Local Amenity Societies etc.

- 4.1 Letters of consultation were sent to 51 local residents, together with a notice displayed on site. Ward Councillors were also consulted.
- 4.2 During the consultation period, one letter was received from the occupier of 76 Canadian Avenue, objecting to the proposal on the following grounds:
- Inadequate parking to accommodate staff, social workers, visitors and other users;
 - They will probably park on our driveway since it is only next door;
 - Already numerous care homes within the vicinity.
- 4.3 The Culverley Green Residents Association raised concerns toward the proposal in respect of its location within a residential area, loss of a dwelling-house, and organisation/ management of the use.
- 4.4 During a discussion with the planning officer, the Association were prepared to withdraw their objections toward the principle of the use, however their concerns were maintained in light of the applicant's decision to operate the proposed use at weekends.

(Letters are available to Members)

Highways and Transportation

- 4.5 Unobjectionable in principle.

Environmental Health

- 4.9 No objections raised.

5.0 Policy Context

National Planning Policy Framework (NPPF)

- 5.1 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary this states that (paragraph 211), policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. In summary, this states, that for a period of 12 months from publication of the NPPF decision makers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.
- 5.2 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, 214 and 215 of the NPPF.

Ministerial Statement: Planning for Growth (23 March 2011)

- 5.3 The statement sets out that the planning system has a key role to play in rebuilding Britain's economy by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Government's expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

London Plan (July 2011)

- 5.4 The London Plan policies relevant to this application are;
- 3.3 Increasing housing supply; 3.4 Optimising housing potential; 3.6 Children and young people's play and informal recreation facilities; 3.8 Housing choice; 3.16 Protection and enhancement of social infrastructure; 3.17 Health and social care facilities; 6.9 Cycling; 6.13 Parking; 7.4 Local character & 7.5 Public realm.

London Plan Supplementary Planning Guidance (SPG)

- 5.5 The London Plan SPG's relevant to this application are:
- Accessible London: Achieving an Inclusive Environment (2004) & Housing (2005).

Core Strategy

- 5.6 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:

Spatial Policy 1: Lewisham Spatial Strategy; Spatial Policy 5: Areas of Stability and Managed Change; Objective 10: Protect and enhance Lewisham's character; Core Strategy Policy 1: Housing provision, mix and affordability; Policy 14: Sustainable movement and transport, Core Strategy Policy 15: High quality design for Lewisham, Policy 16: Conservation areas, heritage assets, and the historic environment & Policy 19: Provision and maintenance of community and recreational facilities;

Unitary Development Plan (2004)

5.7 The saved policies of the UDP relevant to this application are;

STR URB 1 The Built Environment; URB 3 Urban Design; HSG 1 Prevention of Loss of Housing; HSG 4 Residential Amenity and HSG 7 Gardens.

6.0 Planning Considerations

6.1 The main issues to consider in regard to this application include the suitability of the property to accommodate the proposed use, the resulting impact upon the amenities of neighbouring occupiers, and parking related issues.

Proposed Use

6.2 The use involves children from broken homes meeting with their parents or relatives on several occasions at the property on an appointment basis. The planning statement explains that 'the family centre is a place where vulnerable families living in the local area can come for assistance or services. In this case, it is a Child Contact Centre where children, who are looked after by the local authority, are brought by the foster carer to meet their birth parents for supervised contact time. The use of the rooms is strictly by prior appointment and a supervisor is in attendance to observe/ assist throughout.'

6.3 The applicant has explained that such meetings once took place in Council offices, however the provision of such facilities has diminished in recent years. Subsequently, this has resulted in a need to find alternative places to accommodate this type of use. Dwelling-houses are now a favoured option as they provide a more homely environment as opposed to the formal surroundings of a council office.

6.4 Each appointment, of which there would be up to 5 each day, would last for a maximum of 2 hours between 9am to 6pm Mondays-Fridays, and 9am-5pm Saturdays and Sundays. Outside these times, the dwelling would revert back to being used solely as a family household. Contrary to their statement, the upper floor bedrooms would not be 'furnished as living room spaces'. The rooms may be used for play purposes, however they would primarily remain as bedrooms. No internal or external structural alterations are proposed in this case.

6.5 The applicant has stated that she is fully qualified in this particular field, and her role is to oversee the meetings to ensure both parties participate in an appropriate manner. Two staff members would be employed to undertake administrative tasks on a part-time basis.

- 6.6 The applicant would have a close working relationship with Lewisham social services, who would ensure she has the right credentials to be undertaking such a role. The majority of children/ families would reside in Lewisham Borough, however it is likely some would come from neighbouring boroughs also.

Residential Amenity

- 6.7 Having dealt with similar cases in recent years, officers are satisfied that such a use is capable of operating in a discreet manner that is not detrimental to neighbouring residents.
- 6.8 The meetings would generally be held within the property, but younger children may be allowed to play in the rear garden during breaks. During the meetings, the child would undertake activities such as reading, writing, drawing and playing board games with their parents. The applicant has confirmed that noisy activities or the playing of music would not be encouraged.
- 6.9 Whilst the applicant has included Sundays as a day of operation, she has confirmed this is unlikely to occur regularly. The primary days of use would be Mondays to Fridays, however weekends would be used should there be an over-demand of appointments.
- 6.10 Considering the nature of the use, officers raise no objections to the principle of occasional weekend operation.
- 6.11 It is also suggested a condition be included that prevents any other form of activity that falls within Use Class D1 to operate without the benefit of planning permission. This would afford the local authority an opportunity to formally assess any future proposals for the property.

Highways

- 6.12 Officers have raised no objections to the proposal. The property has an existing front driveway that can accommodate off-street parking. There are currently on-street parking restrictions along Canadian Avenue, but this particular area is well served by public transport and officers do not consider that a refusal on traffic grounds could be sustained in this instance.
- 6.13 A neighbouring occupier is concerned that visitors would park on his driveway next to the application site. The applicant has responded that she would not allow this to happen, and would seek to advise all carers to park only on the driveway of no.78, or on street where permitted.

7.0 Consultations

- 7.1 With regard to procedural matters, neighbour notifications have been carried out in accordance with the Council's usual procedure. Officers are satisfied that all statutory Council procedures have been followed and all neighbour concerns have been addressed.

8.0 Conclusion

8.1 The proposed use of the property as a contact centre is considered acceptable, providing facilities for a worthwhile need. Subject to overall management of the use, there is no reason why it cannot operate without disturbing neighbouring occupiers. For these reasons, it is therefore recommended permission be granted.

9.0 Summary of Reasons for Grant of Planning Permission

9.1 The decision to grant planning permission has been taken having regard to the policies and proposals in the London Plan (2011), the adopted Core Strategy and saved policies in the Unitary Development Plan (July 2004), as set out below and all relevant material considerations, including comments received in response to third party consultation.

9.2 The local planning authority has considered the particular circumstances of the application against relevant planning policy set out in the London Plan (2011), the adopted Core Strategy (2011) and saved policies in the Council's Unitary Development Plan (July 2004).

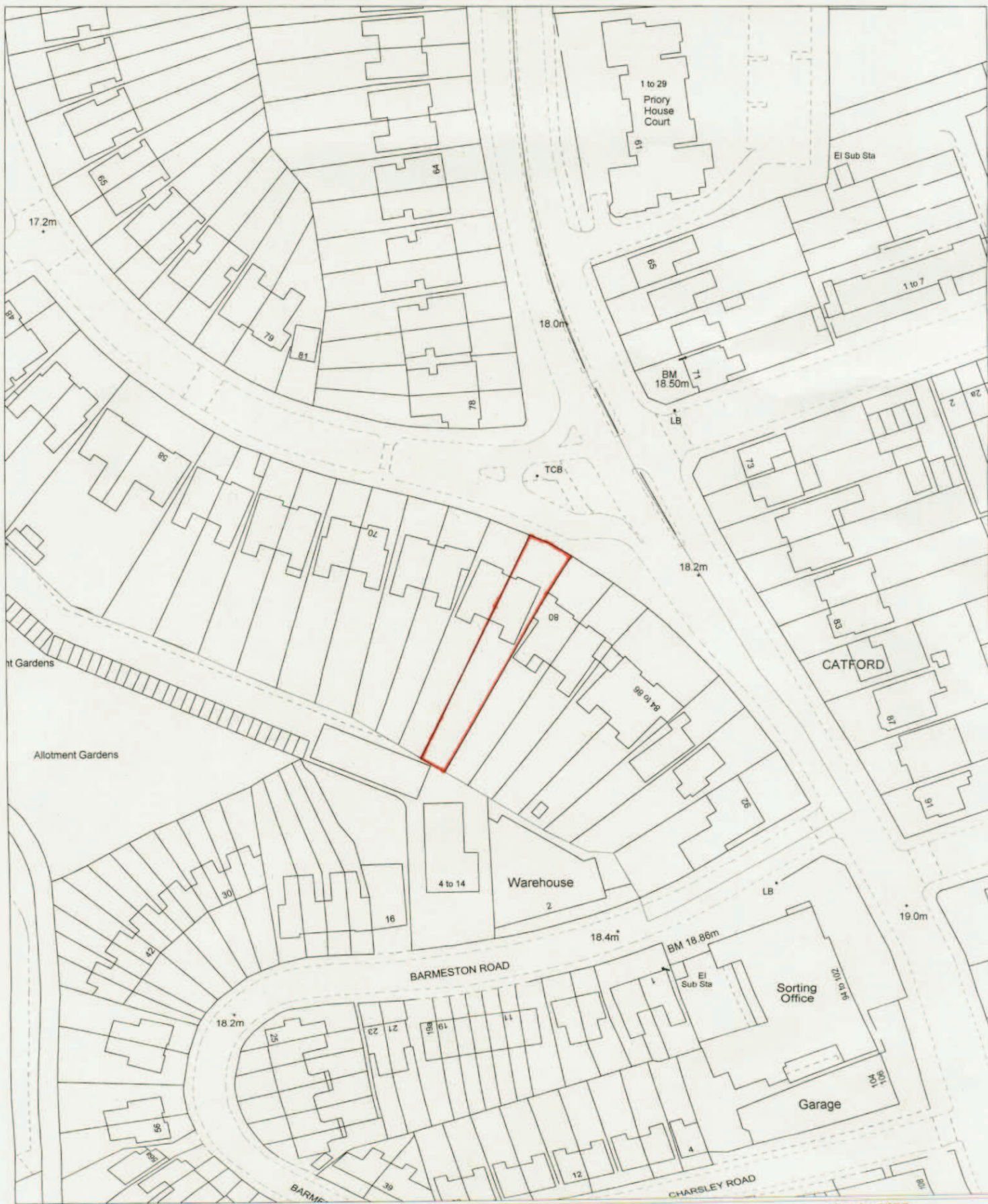
10.0 RECOMMENDATION GRANT PERMISSION subject to the following condition:-

The premises shall be used for the mixed uses as a single family dwelling house and a Family Contact Centre and for no other purposes in the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason:

To allow the local planning authority to properly assess the impact of other uses within Class D1 on the residential amenities of neighbouring occupiers, in accordance with Policy 19 Provision and maintenance of community and recreational facilities in the adopted Core Strategy (June 2011) and Policy HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

78 Canadian Avenue SE6



Date: 21/08/12

Scale: 1:250
Based on the Ordnance Survey map Licence no: 100017710 London, SE6 4SU

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Committee	PLANNING COMMITTEE A	
Report Title	21 LOAMPIT HILL SE13 - REQUEST FOR ENFORCEMENT ACTION	
Ward	Ladywell	
Contributors	Janet Hurst and Gemma Barnes	
Class	PART 1	Date: 30 AUGUST 2012

Background Papers

- (1) Adopted Unitary Development Plan (July 2004)
- (2) Local Development Framework (June 2011)
- (3) The London Plan (July 2011)
- (4) Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006)
- (5) National Planning Policy Framework (March 2012)
Paragraph 207: Enforcement

Designation

Adopted UDP - Existing Use
PTAL 5
Local Open Space Deficiency
Not in a Conservation Area
Not a Listed Building
A Road

1.0 Introduction

- 1.1 This report deals with a breach of planning control at 21 Loampit Hill, in relation to the unauthorised change of use from a retail unit to residential use and alterations to the elevations of the premises and whether it is expedient for the Council to instigate formal enforcement action.

2.0 Property/Site Description

- 2.1 The property site is within a corner plot of land located at the junction of Halesworth Road with Loampit Hill. The premises is at the north east corner of a larger site which is mainly occupied by a grand and ornately detailed late Victorian/early Edwardian three storey residential property, which positively dominates this prominent corner and is known as 1 Halesworth Road. Halesworth Road rises steeply towards the south and the ground level of no.1 Halesworth Road ranges from 1.5m – 2.5m higher than the ground level of Loampit Hill, and is typical of the ground level difference between Loampit Hill and Halesworth Road. A 2.5m high brick retaining wall forms the boundary of the site with Loampit Hill. The wall descends in height to approximately 1.3m high at the junction with Halesworth Road, where no.1 can be accessed. The main entrance to no.1 is from Halesworth Road itself, though 1B Halesworth Road is accessed by a substantial external staircase which extends from the rear yard to first floor level. The alterations, which are the subject of this report do not affect the access to 1B Halesworth Road.
- 2.2 21 Loampit Hill is a single storey building, that occupies a gap in the brick retaining wall fronting Loampit Hill. The building is bounded to the south and west by the curtilage of 1 Halesworth Road and to the east by part of the rear garden of 3 Halesworth Road.
- 2.3 The premises is not within a conservation area, or subject to an Article 4 Direction, nor is it within the vicinity of any listed building.

2.4 The premises use has recently been changed from use as a lock-up shop unit to residential use, which is occupied by two people. The premises has a residential front door, with a small window either side of the front door fronting Loampit Hill. The premises comprises of two rooms and a separate bathroom at ground level, and has a form of 'tunnel' link stairway, which links the premises to what was formerly a separate store room, which now forms a small kitchen at upper ground floor level within the main building at 1 Halesworth Road.

3.0 Planning History

3.1 In 1973 planning permission was granted for the use of the ground floor vacant shop premises at 21 Loampit Hill as an administration office in connection with the student hostel at 1 Halesworth Road.

3.2 In 1978 planning permission was granted for the use of the shop premises at 21 Loampit Hill as a general local office.

3.3 In 1981 planning permission was granted for the use of the ground floor at 21 Loampit Hill as an office in connection with a driving school.

3.4 In 1990 planning permission was refused for the change of use of 21 Loampit Hill to a amusement centre. The reason for refusal was:-

"The use of the premises as an amusement centre has a detrimental effect on the amenities of adjoining residents by reason of its proximity to nearby residential properties and the noise and general activity associated with its operation.

3.5 In 2009 planning permission was refused for the change of use of 21 Loampit Hill SE13, to Class A2 use (Financial & Professional Services), together with the construction of an additional storey, single storey extension to the rear and alterations to the front elevation. The reason for refusal was as follows:-

"The submitted drawings and information are insufficient and do not provide enough detailed information to fully assess the proposals and to enable the Council to consider the impacts of the development on the existing residential accommodation, particularly at 1a Halesworth Road and the street scene generally, contrary to policies URB 3 Urban Design, URB 6 Alterations and Extensions and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004)."

3.6 In 2010 planning permission was refused for the change of use of 21 Loampit Hill SE13, to Class A2 use (Financial & Professional Services), together with the construction of an additional storey, single storey extension to the rear and alterations to the front elevation. The reasons for refusal was as follows:-

"The excavation works proposed in association with the change of use at 21 Loampit Hill would be inappropriate and result in overdevelopment of this constrained site, causing unacceptable harm to neighbouring residents of 1 Halesworth Road, contrary to policies URB 3 Urban Design, URB 6 Alterations and Extensions and HSG 4 Residential Amenity of the adopted Unitary Development Plan (July 2004)."

4.0 Policy Context.

National Planning Policy Framework (March 2012)

- 4.1 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation and states, in paragraph 211, that policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215, guidance is given on the weight to be given to policies in the development plan. In summary, this states that for a period of 12 months from publication of the NPPF, decision takers can give full weight to policies adopted since 2004, even if there is limited conflict with the NPPF. Following this period, weight should be given to existing policies according to their consistency with the NPPF.
- 4.2 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process, in accordance with paragraphs 211, 214 and 215 of the NPPF.
- 4.3 With regard to enforcement Paragraph 207 of the NPPF states:-
- "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning decisions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."*
- 4.4 In addition, Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) is relevant.

London Plan (July 2011)

- 4.5 The London Plan was published in July 2011. Together with the Core Strategy and saved policies in the adopted Lewisham UDP (July 2004), the London Plan comprises the development plan for Lewisham. The policies that are relevant to this case are:

Policy 3.3 Increasing housing supply
Policy 3.4 Optimising housing potential
Policy 3.5 Quality and design of housing developments
Policy 5.1 Climate change mitigation
Policy 5.2 Minimising carbon dioxide emissions
Policy 5.3 Sustainable design and construction
Policy 6.3 Assessing effects of development on transport capacity
Policy 6.9 Cycling
Policy 6.13 Parking
Policy 7.1 Building London's neighbourhoods and communities
Policy 7.2 An inclusive environment
Policy 7.3 Designing out crime

Policy 7.4 Local character
Policy 7.5 Public realm
Policy 7.6 Architecture

4.6 Adopted UDP (July 2004)

URB1 Development Site and Key Development Sites
URB3 Urban Design
URB6 Alterations and Extensions
HSG4 Residential Amenity
HSG5 Layout and Design of New Residential Development
HSG10 Conversion of office and other Commercial Space to Residential Accommodation

4.7 Core Strategy

The Core Strategy was adopted on 29 June 2011.

The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:

Objective 1: Physical and socio-economic benefits
Objective 2: Housing provision and distribution
Objective 3: Local housing needs
Objective 4: Economic activity and local businesses
Objective 5: Climate change
Objective 9: Transport and accessibility
Objective 10: Protect and enhance Lewisham's character
Spatial Policy 1: Lewisham Spatial Policy
Spatial Policy 5: Areas of Stability and Managed Change
Policy 1: Housing provision, mix and affordability
Policy 6: Retail hierarchy and locations of retail development
Policy 7: Climate change and adapting to the effects
Policy 8: Sustainable design and construction and energy efficiency
Policy 14: Sustainable movement and transport
Policy 15: High quality design for Lewisham

4.8 Residential Standards Supplementary Planning Document (2006).

5.0 Consideration of Enforcement Action

5.1 The main issue for consideration is whether it is appropriate and expedient for the Council to serve an Enforcement Notice, under the Town and Country Planning Act 1990 (as amended) on those who have a legal interest in the land which is the subject of this report.

Breach

5.2 The Council has confirmed by way of a site inspection that the building known as 21 Loampit Hill has been extended and altered in order to facilitate a change of use to residential use.

5.3 The following physical alterations have been undertaken:

- The removal of the existing shop front and replacement with a UPVc residential front door and the installation of two small UPVc double glazed windows positioned either side of the front door, with the remainder of the front elevation constructed in brick work.
- Internally the property has been altered, by the construction of a partition wall to divide the single unit into two separate rooms, one extremely small, with the small window to the front and the other with the residential front door and the small window fronting onto Loampit Hill.
- The installation of a partition wall to the rear of the larger room to create a separate bathroom, which has been fitted with a bathtub and a macerator toilet. There are no windows, means of ventilation or natural lighting.
- Excavation has taken place behind the original commercial unit which is underneath the yard area and access stairs for nos. 1A and 1B Halesworth Road. The excavation extends out as far as the walls to the residential properties. This has created a short, narrow tunnel link with a stairway to the main building at 1 Halesworth Road, and incorporates what was a store room at upper ground level. There is no means of natural light to the tunnel link stairway. Although not a planning issue, the associated underpinning work associated with forming the new staircase is incomplete.
- The incorporated store room at upper ground level has been converted into a kitchen and fitted with a kitchen sink, kitchen cupboards, washing machine, electric cooker and a fridge. The existing wooden door which was the only entrance to the original store room and was accessible only from the shared yard area, which also permits access to 1A and 1B Halesworth Road, has been replaced with a UPVc residential front door and a small wooden framed window has been replaced with a UPVc double glaze window.

5.4 To date no retrospective application has been submitted despite the land owner being invited to submit an application to regularise the breach of planning control.

Planning Considerations

The main planning considerations :

- Loss of the retail use
- Visual impact of operational development
- Standard of accommodation provided within the residential unit
- Sustainability
- Impact on neighbouring amenity, including land ownership issues
- Transport issues

Loss of retail use

5.5 Prior to the unauthorised conversion taking place the property was vacant and had been for approximately 2-3 years. However, the last known use and therefore lawful planning use was as an A1 retail lock-up shop that was last used as a hairdressers (information contained in the planning records confirms this).

- 5.6 The site is not in a defined centre and is not within a parade. It is an isolated unit situated within a large retaining wall along Loampit Hill and does not have any immediate neighbours to either side. The nearest shops to the application site are on the opposite side of Loampit Hill and are situated some 55m away.
- 5.7 Taking account of the location of the property and the fact that it had been vacant for a fairly significant period of time the Council would not object in principle to the loss of the retail use if an alternative commercial use were to be proposed. An alternative small scale, commercial use within the existing building could be acceptable in principle. Alternatively the Council would not object the loss of building entirely but for the reasons demonstrated in this report it is not considered that an acceptable form of residential development can be achieved within the existing building; and to date the owner of the site has failed to demonstrate that the site is suitable for any form of residential development. Consequently the proposal is contrary to Policy HSG10 of the UDP.

Visual impact

- 5.9 National and local planning policies place considerable emphasis on the importance of achieving high quality design that complements existing development, established townscape and character. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Legibility and function are important aspects of good design. When critiquing design local planning authorities must take a proportionate approach to the type of development proposed and its context.
- 5.10 The building subject of this report forms part of a prominent corner site occupied by a large grand building that still retains many of its traditional features such as timber sash windows. This site makes a positive visual contribution to the streetscene. The building subject of this report plays an important role in the streetscene of this part of Loampit Hill particularly when read against the backdrop of the grand building behind.
- 5.11 The Council has photographic evidence to show that prior to the unauthorised conversion taking place there was a shopfront with central entrance door and large glazed panels above a stallriser on either side at the front of the unit. There was also a fascia sign and roller shutter. A drawing submitted as part of the 2010 application entitled 'Existing Front Elevation' shows the shopfront in situ.
- 5.12 In order to facilitate the unauthorised conversion to residential use the owner has removed the shopfront from the building and installed replacement domestic style door and windows with brick infill.
- 5.13 The Council acknowledge that the previous shopfront was in a poor state of repair and as a result of the unit being vacant for a considerable period of time the roller shutters were pulled down. This did have an adverse impact in visual terms. However, this could have been easily rectified by the vacant unit being brought back into commercial use and would not override the need for a replacement shopfront or alternative treatment of the front elevation to be of high quality design.

- 5.14 The operational development that has been undertaken reflects the unauthorised change of use within the building. Given that the residential use of this building is not considered to be acceptable the alterations to the front elevation are not acceptable in principle, as the domestic style door and windows would fail to reflect the function of the building, which would adversely affect legibility and would hinder commercial use. Furthermore it is not considered that the UPVc fenestration complements the adjoining building which still retains a large proportion of traditional timber framed fenestration. The alterations to the front elevation are therefore considered to be contrary to Policies 7.1 Building London's neighbourhoods and communities, 7.4 Local character and 7.6 Architecture of the London Plan and Objective 10: Protect and enhance Lewisham's character and Policy 15: High quality design for Lewisham of the Core Strategy.
- 5.15 In order to remedy the harm caused by the unauthorised removal of the shopfront the Council will require the owner to reinstate the shopfront by removing the unauthorised doors, window and bricks and installing a shopfront to match the design of the former shopfront as shown on the plan entitled 'Existing Front Elevation' (copy of the relevant plan attached as Appendix A).
- 5.16 In addition the owner has replaced the existing timber window and door in the north elevation of the main building with UPVC window and door. Given the raised level of the main building these openings are clearly visible in the streetscene. The majority of the fenestration in the main building is timber framed, the replacement UPVc fenestration is at odds with the existing building. In this prominent location the UPVc fenestration is considered to be unacceptable as it significantly detracts from the character and appearance of the building contrary to Policies 7.1 Building London's neighbourhoods and communities, 7.4 Local character and 7.6 Architecture of the London Plan and Objective 10: Protect and enhance Lewisham's character and Policy 15: High quality design for Lewisham of the Core Strategy.
- 5.17 In order to remedy the visual harm being caused by the unauthorised window and door the Council will require the owner to install replacement timber framed fenestration and door as shown on the photograph attached as Appendix B.

Standard of accommodation

- 5.18 The London Plan, Core Strategy and 'saved' UDP policies seek to ensure a mix and balance of residential provision to meet the full range of identified housing need in the Borough, including single people, families of different sizes, persons with special needs and for affordable homes. Adopted policies seek to ensure that new residential accommodation (including conversions) is of high quality design with appropriate facilities and standards of accommodation required to ensure genuine sustainable living.
- 5.19 The residential accommodation provided is considered to be of extremely poor design and quality in terms of property size overall, individual room sizes, internal layout and poor standard of natural light and outlook. Taken from the application form submitted with the 2010 application for conversion of the building (including excavation) the overall unit size is stated to be 33sqm. London Plan Policy 3.5 (and associated Table 3.3) sets out the minimum sizes for new residential units (including conversions). The smallest 1 person unit should have a minimum floor area of 37 sqm, a one bedroom unit should have a minimum floor area of 50 sqm.

This building has a floor area of approximately 33sqm and has been subdivided internally to provide a very small and narrow bedroom with separate living area and kitchen. The unit falls significantly short of the minimum floorarea for a one bedroom flat and is below the floor area for a studio unit.

- 5.20 The only fenestration in the building is the two small windows and door in the front elevation at ground floor level (adjacent to Loampit Hill) and the small window and door in the raised ground floor level of the main building. The two doors are of solid design with small fanlight glazed sections at the top, this style of door does not allow a great deal of light into the building so light entering the building is restricted to the relatively small window openings. The level of natural light received in the building is considered to be poor.
- 5.21 The aforementioned openings are also the only source of outlook. However, the upper floor window is located above the internal stairwell where access to the window is restricted. Consequently limited outlook can be provided from the kitchen. The lower floor windows are adjacent to the pavement edge and therefore in the interest of privacy future occupiers of the unit are likely to keep blinds/curtains drawn most of the time. This would limit outlook from the bedroom and main living area.
- 5.22 Natural ventilation throughout the building will be limited given the internal layout particularly the kitchen and bathroom.
- 5.23 The internal layout of the premises is somewhat contrived and constrained by virtue of the extremely narrow bedroom, small kitchen area and relationship of the internal stairwell to the kitchen and access corridor on the upper level. It is questionable whether the access door on the upper floor is safe given its relationship to the stairwell. Indeed access to the kitchen would be difficult, if not impossible, for any future occupier with mobility constraints.
- 5.24 The internal layout is not lifetime home compliant, there is no provision for amenity space and it is not clear that there is sufficient space within the site boundary (and land within the Owners deeds) to provide refuse, recycling and cycle storage facilities as required for all new dwellings.
- 5.25 Overall the internal layout of the premises is considered to be poor, the unit provides a substandard form of accommodation that does not meet the requirements of Policy HSG5 of the UDP or Policy 1: Housing provision, mix and affordability of the Core Strategy.

Sustainability

- 5.26 London Plan and Core Strategy Policies advocate the need for sustainable development. All new development should address climate change and reduce carbon emissions. Core Strategy Policy 8 requires all new residential development to meet a minimum of Code for Sustainable Homes Level 4 and commercial buildings to achieve a BREEAM rating of 'Excellent'. The Council adopt a pragmatic approach when dealing with the conversion of existing buildings where minimal changes to the building fabric are proposed as it is recognised that it is very onerous and expensive for existing buildings to be retrofitted in order to meet Level 4 or 'Excellent' standards. However, all practical measures to reduce energy and water consumption should be adopted.

5.27 The conversion of this building to residential in its current form is not considered to represent a sustainable form of development. Given the contrived layout, small unit size, access arrangements (internally and externally), low levels of natural light and ventilation and the poor standard of accommodation provided it is not considered that this building offers an attractive or satisfactory living environment. People occupying this building would be unlikely to do so through choice, in the long term. This type of accommodation does not offer a genuine sustainable form of residential development.

Impact on neighbours

5.28 Policy HSG4 of the UDP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

5.29 It is not considered that the unauthorised change of use would harm neighbouring properties in terms of noise and disturbance. There is no increase in overlooking or loss of privacy and the operational development undertaken does not harm neighbours by way of overshadowing or loss of outlook.

5.30 However, in order to facilitate the unauthorised conversion the owner has extended the existing building internally by excavating behind the existing unit which is underneath the yard area and access stairs for nos. 1A and 1B Halesworth Road.

5.31 Although it is accepted that construction matters are more usually a Building Regulation issue, it is considered that excavation works that have been undertaken are substantial. This has compromised access to the flat at 1B Halesworth Road and could have had significant structural implications on the neighbouring residential properties. Although not strictly a planning issue, the owner has, as a result of the excavation undertaken, caused some damage to the neighbouring flat as cracks have appeared within the rear kitchen wall of that property. Building Control officers have previously visited the site and have seen that the works were being undertaken without structural support and considered this work dangerous.

5.32 In addition, to representations received as part of the planning application submitted in 2010, it also appears that the land above the excavated section of the building is not within the applicant's ownership. The deeds to the owner's property clearly states that he only owns what was previously the store and the toilet and does not have title to any of the land surrounding it, though there is likely to be a right of access over the yard area. Consequently the works undertaken affect land not in the ownership of 21 Loampit Hill. Whilst this isn't a matter to be regularized through the planning system, it is important to note that it has not been demonstrated that a satisfactory residential unit can be provided within the legal curtilage of 21 Loampit Hill.

Transport

- 5.33 London Plan and Core Strategy Policies encourage sustainable transport modes whilst recognising the need for operational parking for commercial uses and disabled parking facilities. Car parking standards within the London Plan should be used as a basis for assessment. Cycle parking should be provided in accordance with London Plan standards.
- 5.34 Given the location of the site and high PTAL rating the Council would be unlikely to raise an objection to the use of this small building for commercial or residential purposes on the grounds of increase in traffic generation or parking problems. However, all residential units are required to provide secure, covered cycle storage. It has not been demonstrated that such facilities can be provided for the existing unit. Consequently the existing development fails to comply with Policy 6.9 Cycling in the London Plan and Core Strategy Policy 14: Sustainable movement and transport in this respect.

Summary

- 5.35 Overall for the reasons stated the unauthorised conversion of this building to residential use (and the operational development required to facilitate the conversion) is considered to be an unacceptable form of development that has resulted in the creation of a poor standard of dwelling, which is detrimental to neighbouring amenity and to the character and appearance of the site and surrounding area.
- 5.36 The benefit to the Borough of this one additional unit is far outweighed by the adverse impact of the development as set out in this report.

6.0 Legal Implications

- 6.1 Government Policy advice to local planning authorities on the use of their enforcement powers is set out in The National Planning Policy Framework (2012). They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.
- 6.2 The Local Government Ombudsman can make a finding of "maladministration" if a Council fails to take enforcement action when it is plainly necessary to do so.
- 6.3 For the planning system to be robust and to fully achieve its objectives, local planning authorities should take a proportionate approach to enforcement. Where developers or individuals have proceeded without due regard to the planning process, resulting in unacceptable impacts on the local community, local planning authorities should take appropriate action.
- 6.4 Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

7.0 Human Rights Implications-

7.1 Implications in relation to the Human Rights Act 1998 (HRA) have been identified in regards to the alleged breach. Action will therefore be relevant to the occupiers' Article 8 rights and potentially their Article 1 rights under the first protocol of the HRA, as set out below:

Schedule 1, Part I - The Convention

Article 8 Right to Respect for Private and Family Life

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of his right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Schedule 1, Part II - The First Protocol

Article 1 Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

7.2 In relation to Article 8 particular consideration has been given to the personal circumstances of the occupiers of the residential premises and impact on the occupiers in taking enforcement action. At the time of writing this report Officers understand occupation of the premises to be transient and in any event for the reasons demonstrated in this report, given the standard of residential accommodation provided it is considered to be in the public interest to take proportionate enforcement action.

8.0 Equalities implications

8.1 The Council has considered the public sector equality duty under section 149 of the Equalities Act 2010 and in the exercise of its functions to have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct which is prohibited under this Act and to foster good relations between persons who share a relevant protected characteristic and those who do not share it. The new duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex and sexual orientation.

8.2 As with the case with the original separate duties, the new duty continues to be a “have regard duty” and the weight to attach to it is a matter for the committee bearing in mind relevance and proportionality. It is not an absolute requirement to eliminate discrimination, advance equality of opportunity, advance equality of opportunity or foster good relations.

8.3 It is considered that in this matter there is no known impact on equality and pursuing enforcement action is proportionate and appropriate in all the circumstances.

9.0 Conclusion

9.1 The conversion of this building to residential use is an unacceptable form of development by virtue of the poor standard of accommodation provided in terms of unit size, layout, provision of natural light and ventilation, internal access arrangements and lack of refuse, recycling and cycle storage facilities. Furthermore the external alterations have an adverse visual impact on the character and appearance of the host building particularly when read against the backdrop of the main building on the site, which is detrimental to the visual amenity of the streetscene and character of the area. Accordingly it is considered expedient to serve an Enforcement Notice to remedy the breach of planning control.

9.2 The unauthorised development is contrary to Policies 3.3 Increasing housing supply, 3.4 Optimising housing potential, 3.5 Quality and design of housing developments, 6.9 Cycling, 7.1 Building London’s neighbourhoods and communities, 7.2 An inclusive environment, 7.4 Local character, 7.5 Public realm and 7.6 Architecture in the London Plan (2011), Policies URB 3 Urban Design, URB 6 Alterations and Extensions, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development and HSG 10 Conversion of Office and other Commercial Space to Residential Accommodation in the Unitary Development Plan (2004), Objective 1: Physical and socio-economic benefits, Objective 2: Housing provision and distribution, Objective 3: Local housing needs, Objective 5: Climate change, Objective 10: Protect and enhance Lewisham’s character, Spatial Policy 1: Lewisham Spatial Strategy, Spatial Policy 5: Areas of Stability and Managed Change, Policy 1: Housing provision, mix and affordability, Policy 7: Climate change and adapting to the effects, Policy 8: Sustainable design and construction and energy efficiency, Policy 14: Sustainable movement and transport and Policy 15: High quality design for Lewisham in the Core Strategy (2011) and Residential Standards SPD (2006).

10.0 Requirements of Enforcement Notices-

10.1 To cease the residential use of the premises and to secure the reinstatement of the shop front which comprises a stallriser with large glazed panels above and central access door as shown on the attached plan.

10.2 In order to ensure that the breaches of planning control are properly resolved it will be necessary to:

- Cease residential use of the premises
- Remove the bathtub, macerator toilet and all fittings and fixtures associated with their installation.

- Remove the internal partitions that divide the shop unit into two rooms and separate bathroom to reinstate a single commercial space in accordance with plan entitled ' Existing Ground Floor Plan' and 'Existing First Floor Plan' attached as Appendix C.
- Remove the household appliances, namely the cooker and washing machine from the upper level, and all fixtures and fittings associated with their installation.
- Remove the 2 UPVc windows and UPVc residential door in the front elevation of the building and reinstate a shopfront in accordance with the plan entitled 'Existing Front Elevation' attached as Appendix A;
- Remove the existing UPVc window and UPVc residential door in the front elevation of the main building (upper floor level) and reinstate a timber window and door to match those in the photograph attached as Appendix B;

11.0 RECOMMENDATION

AUTHORISE THE HEAD OF LAW to take all necessary action to cease the residential use of the premises and to secure the reinstatement of the shop front which comprises a stallriser with large glazed panels above and central access door as set out in in 9.1 and 9.2 above for the following reasons:-

- 11.1 The conversion of this building to residential use is an unacceptable form of development by virtue of the poor standard of accommodation provided in terms of unit size, layout, provision of natural light and ventilation, internal access arrangements and lack of refuse, recycling and cycle storage facilities. The accommodation would adversely affect the amenity for future occupiers contrary to Policies 3.3 Increasing housing supply, 3.4 Optimising housing potential, 3.5 Quality and design of housing developments, 6.9 Cycling, 7.1 Building London's neighbourhoods and communities and 7.2 An inclusive environment, in the London Plan (2011), Policies HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development and HSG 10 Conversion of office and other Commercial Space to Residential Accommodation in the Unitary Development Plan (2004), Objective 1: Physical and socio-economic benefits, Objective 2: Housing provision and distribution, Objective 3: Local housing need, Objective 5: Climate change, Spatial Policy 1: Lewisham Spatial Strategy, Spatial Policy 5: Areas of Stability and Managed Change, Policy 1: Housing provision, mix and affordability, Policy 7: Climate change and adapting to the effects, Policy 8: Sustainable design and construction and energy efficiency, Policy 14: Sustainable movement and transport and Policy 15: High quality design for Lewisham in the Core Strategy (2011) and Residential Standards SPD (2006).
- 11.2 The external alterations fail to reflect the lawful function of the building as a commercial premises and by virtue of detailed design and materials have an adverse visual impact on the character and appearance of the host building particularly when read against the backdrop of the main building on the site, which is detrimental to the visual amenity of the streetscene and character of the area. Consequently the development is contrary to Policies 7.1 Building London's neighbourhoods and communities, 7.4 Local character, 7.5 Public realm and 7.6 Architecture in the London Plan (2011), Policies URB 3 Urban Design and URB 6 Alterations and Extensions Unitary Development Plan (2004), Objective 1:

Physical and socio-economic benefits, Objective 10: Protect and enhance Lewisham's character, Spatial Policy 1: Lewisham Spatial Policy, Spatial Policy 5: Areas of Stability and Managed Change and Policy 15: High quality design for Lewisham in the Core Strategy (2011).

11.3 Period for Compliance: 3 months

Appendix A



21 Loampit Hill: Existing Front Elevation

PLANNING APPLICATION

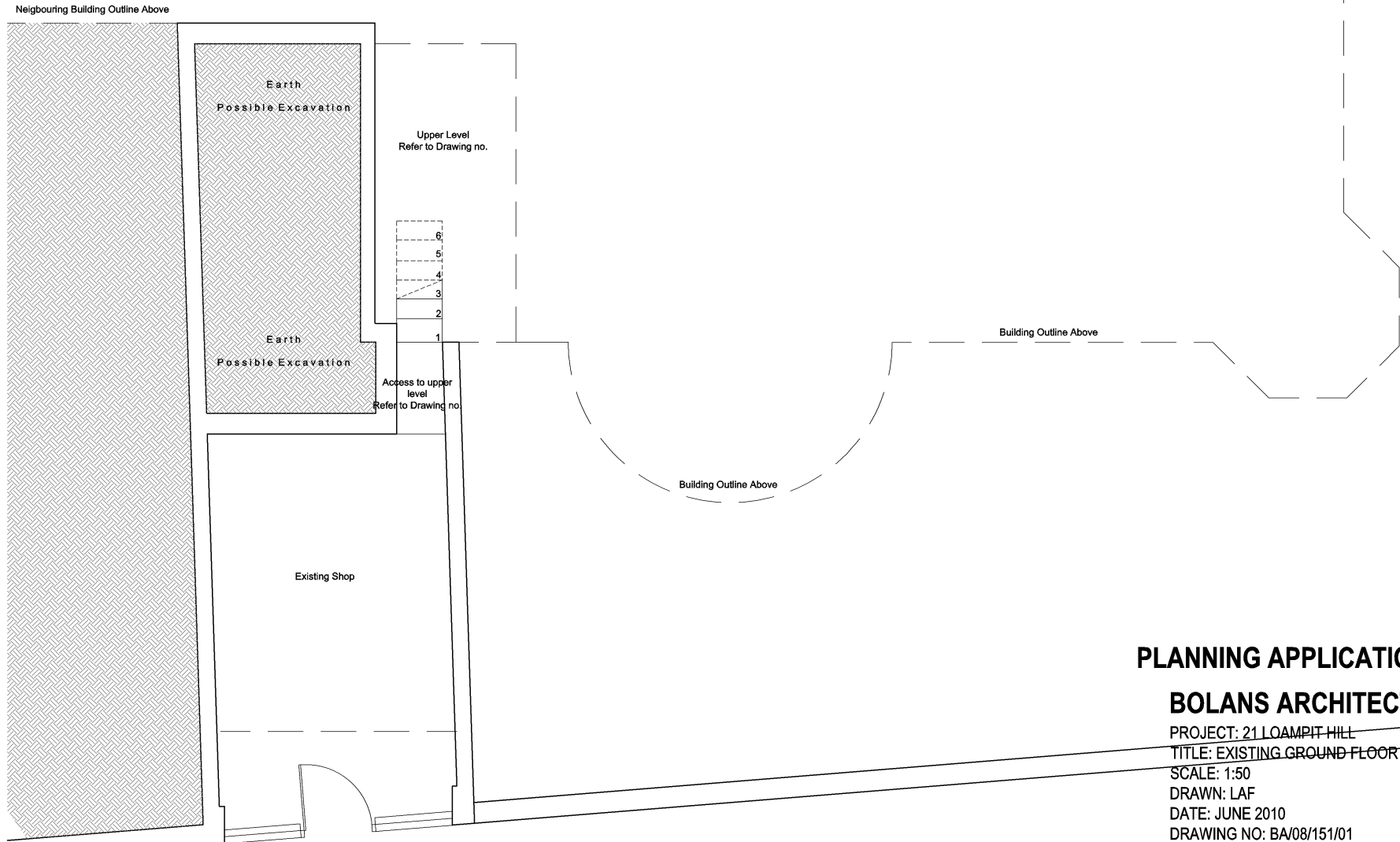
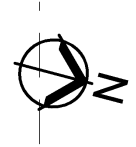
BOLANS ARCHITECTS

PROJECT: 21 LOAMPIT HILL
TITLE: EXISTING FRONT ELEVATION
SCALE: 1:100 @ A3
DRAWN: LAF
DATE: JUNE 2010
DRAWING NO: BA/08/151/08
REV:

Appendix B



Appendic C

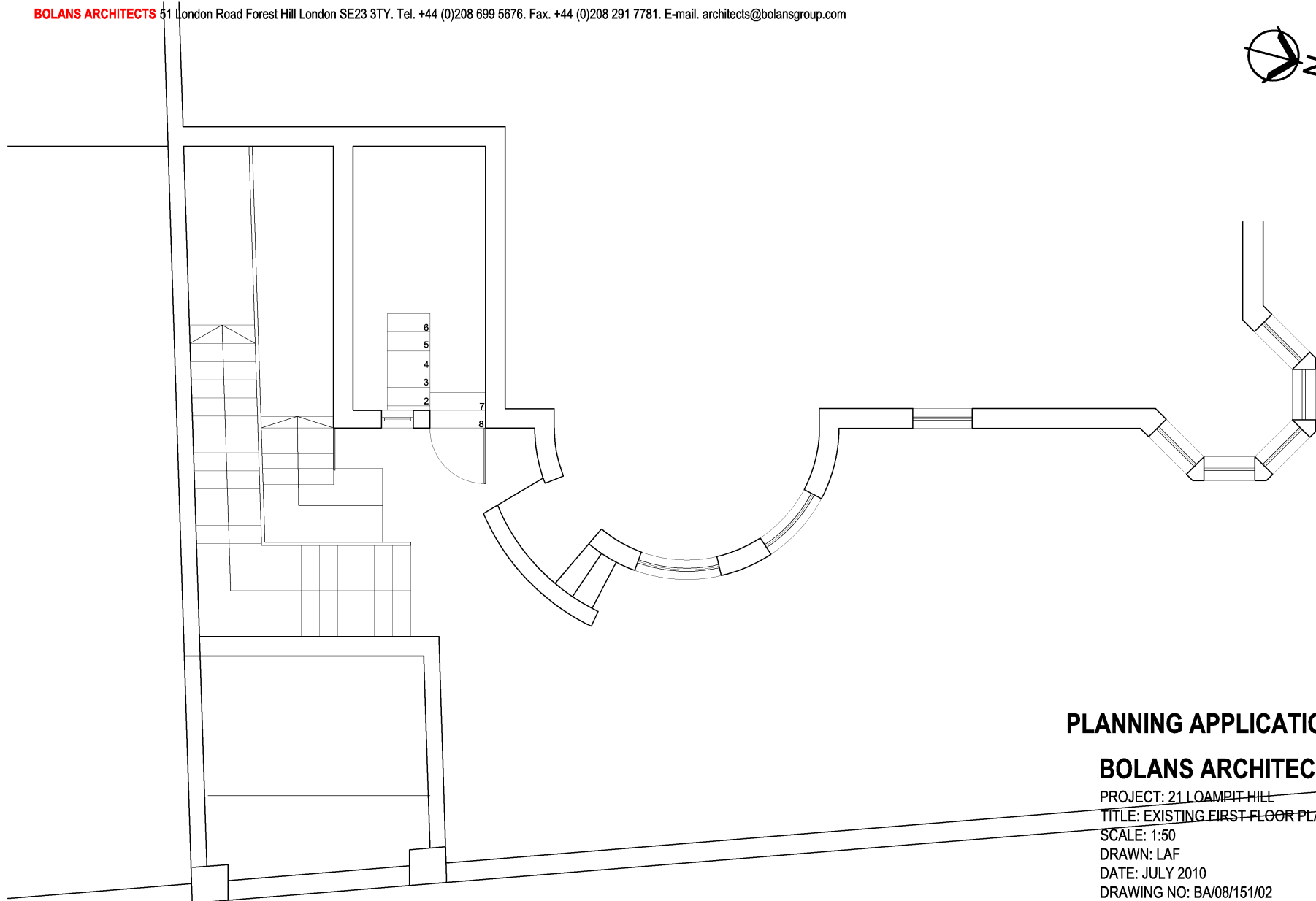


21 Loampit Hill: Existing Ground Floor Plan

PLANNING APPLICATION

BOLANS ARCHITECTS

PROJECT: 21 LOAMPIT HILL
TITLE: EXISTING GROUND FLOOR PLAN
SCALE: 1:50
DRAWN: LAF
DATE: JUNE 2010
DRAWING NO: BA/08/151/01
REV:



PLANNING APPLICATION

BOLANS ARCHITECTS

PROJECT: 21 LOAMPIT HILL
TITLE: EXISTING FIRST FLOOR PLAN
SCALE: 1:50
DRAWN: LAF
DATE: JULY 2010
DRAWING NO: BA/08/151/02
REV:

21 Loampit Hill: Existing First Floor Plan

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21 Loampit Hill SE13



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Committee	PLANNING COMMITTEE A	
Report Title	171 NEW CROSS ROAD, LONDON, SE14 - REQUEST FOR ENFORCEMENT ACTION	
Ward	New Cross	
Contributors	R Lockett	
Class	PART 1	Date: 30 AUGUST 2012

Background Papers

- (1) Case File - DE/414/171/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) Local Development Framework (June 2011)
- (4) The London Plan (July 2011)
- (5) Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006)
- (6) National Planning Policy Framework (March 2012)
Paragraph 207: Enforcement

Designation

Adopted UDP - Existing Use

1.0 Introduction

This report deals with a breach of planning control at 171 New Cross Road regarding the construction of a timber shed structure on a flat roof area at first floor level to the rear of the site and whether it is expedient for the Council to instigate formal enforcement action in order to rectify the breach

2.0 Property/Site Description

- 2.1 The application site is a three storey mid terrace property on the east side of New Cross Road, between the junctions with Queens Road and Hatcham Park Road. At ground floor level the premises are used as a retail shop with the floors above being used for residential purposes.
- 2.2 The ground floor has previously been extended at the rear to the boundary of the site, which bounds the rear garden area of a residential block known as Smikle Court, which has frontages to Hatcham Park Road and Hatcham Park Mews to the rear. The extended ground floor has a flat roof which appears to serve as a roof terrace for the first floor accommodation and a balustrade of pieced concrete blocks has been constructed on top of the parapet. There is an existing conservatory structure at first floor level, which appears to have been constructed several years ago.
- 2.3 The property is within the Hatcham Conservation Area but it is not a listed building.

3.0 Planning History

- 3.1 In 1989 planning permission was granted for the erection of a single storey extension at the rear of 171 New Cross Road.
- 3.2 In December 1990 planning permission was refused for the erection of two extensions to provide a conservatory and an additional bedroom separated by a roof terrace at first floor level to the rear of 171 New Cross

- 3.3 In 2004, two planning applications were granted for new signage and alterations to the shopfront at ground floor level to the front.

4.0 Policy Context

Introduction

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the exercise of statutory planning duties must be carried out in accordance with the development plan unless material considerations indicate otherwise. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The NPPF does not change the legal status of the development plan.

National Planning Policy Framework (March 2012)

- 4.2 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation and states, in paragraph 211, that policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215, guidance is given on the weight to be given to policies in the development plan. In summary, this states that for a period of 12 months from publication of the NPPF, decision takers can give full weight to policies adopted since 2004, even if there is limited conflict with the NPPF. Following this period, weight should be given to existing policies according to their consistency with the NPPF.
- 4.3 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process, in accordance with paragraphs 211, 214 and 215 of the NPPF.
- 4.4 With regard to enforcement Paragraph 207 of the NPPF states:-
- "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning decisions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."*
- 4.5 In addition, Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) is relevant.

London Plan (July 2011)

- 4.6 The London Plan policies relevant to this application are Policy 7.4 Local Character and Policy 7.6 Architecture.

Local Development Framework - Core Strategy (June 2011)

- 4.7 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, form the borough's statutory development plan. Relevant objectives and policies in the Core Strategy include Core Strategy Objective 10: Protect and enhance Lewisham's character, Policy 15: High quality design for Lewisham and Policy 16: Conservation areas, heritage assets, and the historic environment.

Adopted Unitary Development Plan (July 2004)

- 4.8 The saved policies of the UDP relevant to this application include URB 3 Urban Design, URB 6 Alterations and Extensions, HSG 4 Residential Amenity, HSG 12 Residential Extensions and URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas.

5.0 Consideration of Enforcement Action

- 5.1 The main issue for consideration is whether it is appropriate and expedient for the Council to serve an Enforcement Notice, under the Town and Country Planning Act 1990 (as amended) on those who have a legal interest in the land which is the subject of this report.

Breach of Planning Control

- 5.2 In 2011 it came to the Council's attention that a timber shed had been constructed on the flat roof of the existing rear extension. Planning permission has not been sought. The Council has confirmed by way of a site inspection that a timber structure has been constructed on the flat roof area at first floor level at the rear of the property.
- 5.3 The shed structure is approximately 2.5m long, 1.5m wide and 2.m high and has a flat roof. To date no retrospective application for the retention of the structure has been submitted.

Planning and Enforcement Considerations

- 5.4 The main considerations in this case are the impact of the structure on the character and appearance of the existing building, the Hatcham Conservation Area and any impact on the amenities of neighbouring occupiers.
- 5.5 The Planning (Listed Building and Conservation Areas) Act 1990 states that local authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

- 5.6 Core Strategy Policy 15 states that the Council will apply policy guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment which is sustainable, accessible to all, optimises the potential of sites and is sensitive to local context. Core Strategy Policy 16 states that the Council will ensure that the value and significance of the borough's heritage assets and their settings, conservation areas, listed buildings, archaeological remains, registered historic parks and gardens and other non designated assets such as locally listed buildings, will continue to be monitored, reviewed, enhanced and conserved according to the requirements of government planning policy guidance, the London Plan policies, local policy and English Heritage best practice.
- 5.7 The shed structure is unsightly and is considered to be totally out of keeping with the surrounding area. The shed has been constructed from timber panels and is of makeshift appearance. The roof is covered with sheets of felt, which have been roughly draped over the structure.
- 5.8 This part of New Cross Road forms part of a shopping parade and the ground floor shop premises has been extended over the entire site. At first floor level over the substantial ground floor extension, the shed is at an elevated level and the structure appears obtrusive and incongruous. Such structures are not a traditional feature to upper floors and for this reason, the eye is drawn to it.
- 5.9 The height and location of the structure at the rear of the site means that it dominates the views along the rear of the terrace, and it can be seen from a large number of residential properties in New Cross Road and Hatcham Mews. It is directly opposite the rear of properties in Smikle Court, the rear elevation of which is approximately 10m from the structure. While several properties in this part of New Cross Road have single storey rear extensions at ground floor level, these are less visible, being enclosed by boundary walls and fences. The large timber framed shed at first floor level appears completely out of character.
- 5.10 A complaint has been received from a nearby resident who stated that the design and siting of the structure is out of keeping with the surroundings. These concerns are shared by the Council. The shed is inappropriate in this elevated location and is harmful to the character and appearance of the conservation area and its retention is considered unacceptable.
- 5.11 The shed, which is of poor design and construction, with a makeshift roof covering, is of generous proportions and is situated at first floor level and is considered to be harmful to visual amenity and overbearing, especially when viewed from the residential block to the rear and from the upper floors of adjacent properties.
- 5.12 The shed is considered to be out of character with the existing building and its surroundings, to the extent that it draws the eye and is obtrusive and unsightly.
- 5.13 Despite several attempts to gain access to the premises to inspect the interior, it has not been possible to gain access to the first floor of the building or to the flat roof, however the structure can be clearly seen from outside the site. It is not considered that any measures could be taken to improve its appearance to the extent that it would be appropriate to suggest submission of a retrospective application for the retention of the structure.
- 5.13 For these reasons, it is considered appropriate to take enforcement action to secure removal of the unauthorised timber shed.

6.0 Legal Implications

- 6.1 Government Policy advice to local planning authorities on the use of their enforcement powers is set out in The National Planning Policy Framework (2012). They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.
- 6.2 The Local Government Ombudsman can make a finding of "maladministration" if a Council fails to take enforcement action when it is plainly necessary to do so.
- 6.3 For the planning system to be robust and to fully achieve its objectives, local planning authorities should take a proportionate approach to enforcement. Where developers or individuals have proceeded without due regard to the planning process, resulting in unacceptable impacts on the local community, local planning authorities should take appropriate action.
- 6.4 Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

7.0 Equal Opportunities and Human Rights Implications

- 7.1 Implications in relation to the Human Rights Act 1998 (HRA) have been identified in regards to the alleged breach. Action will therefore be relevant to the occupiers' Article 8 rights and potentially their Article 1 rights under the first protocol of the HRA, as set out below:

Schedule 1, Part I - The Convention

Article 8 Right to Respect for Private and Family Life

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of his right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Schedule 1, Part II - The First Protocol

Article 1 Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

8.0 Conclusion

- 8.1 The unauthorised shed is unacceptable as it is considered harmful to the character and appearance of the street scene and the host building. Accordingly, it is considered expedient to serve an Enforcement Notice to remedy this breach of planning control.
- 8.2 The shed is considered to be out of keeping with its surroundings due to its elevated position and design. It is over bearing and out of keeping with neighbouring properties which results in loss of amenity by reason of overlooking and visual intrusion, contrary to Policies URB 3 Urban Design , URB 6 Alterations and Extensions, HSG 4 Residential Amenity and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004) and Policy 15 High quality design for Lewisham of the Core Strategy (June 2011)

9.0 Requirements of Enforcement Notice

- 9.1 To secure the removal of the timber shed at first floor level to the rear of the property.

10.0 RECOMMENDATION

AUTHORISE THE HEAD OF LAW to take all necessary action to secure the removal of the unauthorised wooden shed at first floor level to the rear of 171 New Cross Road, SE14 for the following reason:-

- 10.1 The shed is considered to be unsightly, visually intrusive and out of keeping with its surroundings due to its elevated position and appearance. It is harmful to the visual amenity of nearby residents and to the character and appearance of the Hatcham Conservation Area and is thereby contrary to Policies URB 3 Urban Design, URB 6 Alterations and Extensions, HSG 4 Residential Amenity, HSG 12 Residential Extensions and URB 16 New Development, Changes of Use and Alteration to Buildings in Conservation Areas in the adopted Unitary Development Plan (July 2004) and Policy 15 High quality design for Lewisham and 16 Conservation Areas, heritage assets and the historic environment of the Core Strategy (June 2011).

Period for Compliance: 3 months

171 New Cross Road SE14



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