

PLANNING COMMITTEE B

Date of Meeting: **THURSDAY, 21 DECEMBER 2017 TIME 7.30 PM**

PLACE: **COMMITTEE ROOMS 1 & 2 - CIVIC SUITE**

Members of the Committee are summoned to attend this meeting:

**Membership
Councillors:**

Joan Reid (Chair)
Olurotimi Ogunbadewa (Vice-Chair)
Mark Ingleby
Jim Mallory
Hilary Moore
John Muldoon
Gareth Siddorn
Susan Wise
Sophie McGeevor
Maja Hilton

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.

Janet Senior
Acting Chief Executive
Lewisham Town Hall
London SE6 4RU
Date: Tuesday, 12 December
2017

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Committee	PLANNING COMMITTEE (B)	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 21 DECEMBER 2017

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 :-

- (a) Disclosable pecuniary interests
- (b) Other registerable interests
- (c) 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 no 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 (B)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date: 21 DECEMBER 2017

MINUTES

To approve the minutes of the meeting of Planning Committee (B) held on the 9TH November 2017.

LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the PLANNING COMMITTEE (B) held in ROOMS 1 & 2, CIVIC SUITE, CATFORD SE6 on 9th November 2017 at 7:30PM.

PRESENT: Councillors: Reid (Chair), Ogunbadewa (Vice-Chair), Ingleby, Mallory, Moore, Muldoon, Wise, Hilton.

OFFICERS: Richard McEllistrum - Planning Service, Paul Clough - Legal Services, Andrew Harris - Committee Co-ordinator.

APOLOGIES: Councillors: Siddorn, McGeevor

1. DECLARATION OF INTERESTS

None.

2. MINUTES

The minutes of the meeting of Planning Committee (B) held 28th September 2017 need amendments and will be agreed and signed at the next meeting subject to changes.

3. UNIT 3, STOCKHOLM ROAD, LONDON, SE16 3LH

The Planning Officer Richard McEllistrum outlined the details of the case to Members.

Councillor Mallory arrived at 19:35.

Questions from members followed, including clarification regarding the objection concerning the Australian Police, why the application was not determined under delegated powers and whether the objections concerning noise were relevant. The Planning Officer Richard McEllistrum confirmed that the case had been taken to committee as it had received three objections, that the Australian Police had investigated the operation of the church in another

country, and that it was not possible to determine the source of the noise and its origin which those objecting to this application were actually experiencing.

The committee then received verbal representation from Ms Paula Corney (Agent) and Mr Phil Kyel (Applicant), who presented the scheme and responded to Members questions. They outlined that two noise complaints had been received, but that these did not correlate to any events held on the site. They also outlined that they had been in collaboration with Millwall regarding parking and had increased their membership from 400-500 to approximately 1,200.

There were no objectors present.

Following further deliberation by Members, Councillor Hilton moved a motion to accept the Officer's recommendation, subject to conditions. It was seconded by Councillor Moore.

Members voted as follows:

FOR: Reid (Chair), Ogunbadewa (Vice-Chair), Moore, Muldoon, Mallory, Hilton, Wise, Ingleby.

RESOLVED: That planning permission be granted in respect of application No. DC/17/102988 subject to the conditions outlined in the report.

4. 46 Bromley Road, SE6 2TP

The Planning Officer Richard McEllistrum outlined the details of the case to members.

Councillor Reid (Chair) asked whether the previous application had been refused under delegated powers or by committee, to which the Planning Officer Richard McEllistrum confirmed it had been via committee and that the issues had now been addressed. Councillor Muldoon then asked if there were alternate transport methods, such as bus stops in close proximity to the site, to which the Planning Officer Richard McEllistrum confirmed there was.

The committee then received verbal representation from Mr Kingsley Smith (Agent). Mr Smith outlined to Members that the scheme had previously been refused, but that all issues had now been addressed. He also stated that the site had been ready for use for some time and that there was a long waiting list for places. He also requested that conditions three and seven be amended to remove the 'prior to first use/occupation' elements, providing alternative wording of the conditions to members.

There were no objectors present.

Further deliberation took place between members regarding traffic concerns and transportation methods which parents were likely to use. Councillor Reid (Chair) then asked the committee if everyone was happy with the principle of the development, to which all members agreed that they were.

The Planning Officer Richard McEllistrum then outlined to members that the alternative conditions put forward by the applicant were not acceptable, and that while he appreciated that need to not unreasonably delay the implementation of the proposed use (should members approve the application), that the existing proposed conditions within the report were there to provide necessary safeguards.

Further discussion took place between members regarding the process of discharging the conditions. Councillor Reid (Chair) then noted that members would be extremely disappointed if the applications for discharge of conditions were delayed, and that the any application should be treated with priority. She also advised the applicant to contact their Ward Councillors if there were any issues moving forward.

Councillor Ingleby asked whether it was possible to attach an informative stating that the approval of details applications should be dealt with quickly and sensibly, to which Paul Clough (Legal Services) stated it was.

Councillor Ingleby then moved a motion to accept the Officer's recommendation, subject to conditions and with the additional informative regarding the future approval of details applications. It was seconded by Councillor Hilton.

Members voted as follows:

FOR: Reid (Chair), Ogunbadewa (Vice-Chair), Moore, Muldoon, Mallory, Hilton, Wise, Ingleby.

RESOLVED: That planning permission be granted in respect of application No. DC/17/102817 subject to the conditions outlined in the report and with an additional informative regarding future discharge of condition applications.

The additional informative shall read as follows:

B. The applicant is advised that the Local Planning Authority will look to assess any matters which are the subject of conditions attached to this planning permission in an efficient and timely manner.

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Committee	PLANNING COMMITTEE B	
Report Title	13 CALMONT ROAD, BROMLEY, BR1 4BY	
Ward	Downham	
Contributors	Andrew Harris	
Class	PART 1	21 st December 2017

<u>Reg. Nos.</u>	DC/17/103830
<u>Application dated</u>	28.09.17
<u>Applicant</u>	Mr Corcoran
<u>Proposal</u>	The construction of a single storey building on land at Ambleside (rear of 13 Calmont Road BR1), to provide a children's nursery.
<u>Applicant's Plan Nos.</u>	100 rev P1; 109 rev P1; 110 rev P1; 111 revP1; 112 rev P1; 113 rev P1; Site location plan; Transport Statement
<u>Background Papers</u>	(1) Case File LE/264/13/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	Existing Use – C3

1.0 Property/Site Description

- 1.1 The site is located at the rear of 13 Calmont Road, with a frontage to Ambleside. Prior to being partitioned and sold off, the site formed part of the rear garden of 13 Calmont Road. Currently it is overgrown with weeds and the site is surrounded by a high fence.
- 1.2 The site is roughly rectangular in shape and measures approximately 12m deep and 15m wide. It backs on to the rear gardens of 13 and 15 Calmont Road, as well as 41-44 Ambleside, which are flats. The balconies of 41-44 Ambleside directly overlook the site.
- 1.3 The property is located near the Millwall sports club training fields. The area is residential in character and consists of two storey semi-detached dwellings, with the exception of the property known as "The Acorns" located at the rear of 7 Calmont Road, which is a single storey residential unit and was granted planning permission by the Council in 2011.
- 1.4 The subject property is located within a suburban housing perimeter block typology as defined in the Lewisham Character Study. The site has a public transport accessibility level (PTAL) rating of 1a/1b, on a scale of 1-6b, with 6b being the most accessible. The property is not located in a Conservation Area and is not subject to any Article (4) Directions. It is not a listed building, nor is it in the vicinity of one.

2.0 Planning History

- 2.1 **DC/06/062122** - The construction of an extension at first floor level to the rear of 13 Calmont. **Granted**, 20/09/2006.
- 2.2 **DC/14/090379** - The construction of a two bedroom (3 person), single storey dwelling together with a parking space and a rear amenity area to the rear of 13 Calmont. **Refused** on the 14th April 2015 under delegated powers.

The development of back gardens for separate dwellings in perimeter form residential typologies identified in the Lewisham Character Study is not acceptable and contrary to DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (2014).

The design of the proposed dwelling is of a poor quality and would be in direct contrast to the established pattern of development, appearing as a highly incongruous addition to the streetscene and contrary to Policy 15 High quality design for Lewisham of the Core Strategy (2011), DM Policy 30 Urban design and local character, DM Policy 32 Housing design, layout and space standards and DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development management local Plan (2014) and Policy 3.4 of the London Plan (2015).

- 2.3 **DC/15/092547** - The construction of a two bedroom, single storey dwelling house at the rear of 13 Calmont Road BR1, together with associated boundary treatment and the provision of 1 car parking space with access onto Ambleside BR1. **Refused** on the 10th September 2015 by Committee B.

The proposed development, involving the back garden of a traditional terrace (as originally designed) is considered unacceptable in principle due to the harmful effect to the urban perimeter block typology in which the site is located. The proposal is considered an incongruous form of development, unacceptable in principle and harmful to the character and appearance of the wider locality, contrary to the NPPF, Spatial Policy 5 Areas of Stability and Managed Change, Policy 15: High Quality Design for Lewisham in the Core Strategy (2011) and DM Policy 30 Urban design and local character, and, particularly, DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (2014).

- 2.4 **DC/16/098248** - The construction of a two bedroom, single storey dwelling house on land to the rear of 13 Calmont Road BR1 fronting Ambleside, together with the provision of 1 car parking space with access onto Ambleside. Refused on the 15th December 2016 by Committee B.

The proposed development, involving the back garden of a traditional terrace (as originally designed) is considered unacceptable in principle due to the harmful effect to the urban perimeter block typology in which the site is located. The proposal is considered an incongruous form of development, unacceptable in principle and harmful to the character and appearance of the wider locality, contrary to the NPPF, Spatial Policy 5 Areas of Stability and Managed Change, Policy 15: High Quality Design for Lewisham in the Core Strategy (2011) and DM Policy 30 Urban design and local character, and,

particularly, DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (2014).

- 2.5 **APP/C5690/W/16/3164610** – Appeal regarding the above refusal (DC/16/098248). The appeal was **dismissed** 27th April 2017 due to the proposal conflicting with the Council's Development Plan Policies. The Inspector observed that there was no permission to sub-divide the back garden to No.13, where the dwelling proposed would be harmfully out of keeping with the prevailing residential character of the area.
- 2.6 **DC/17/102096** - The construction of a single storey building on land at Ambleside (rear of 13 Calmont Road BR1), to provide a children's crèche. **Refused** on the 26th September 2017 under delegated powers.

The proposed development of the back garden of a house in perimeter block typology is unacceptable in principle and harmful to the character and appearance of the local area, contrary to the NPPF, Spatial Policy 5 Areas of Stability and Managed Change, Policy 15: High Quality Design for Lewisham in the Core Strategy (2011) and DM Policy 30 Urban design and local character, and, particularly, DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (2014).

By reason of a lack of information provided regarding noise, transport plan, proposed number of children using the creche, opening times of the building and type of activities when used as a community space, it is not possible to comprehensively assess the impact of the proposal on neighbouring amenity in accordance with requirements set out in Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 26 Noise and Vibration, DM Policy 30 Urban design and local character, DM Policy 41 Innovative community facility provision and DM Policy 42 Nurseries and childcare of the Development Management Local Plan (November 2014).

3.0 Current Planning Application

- 3.1 The current application is for the construction of a single storey building on land at Ambleside (rear of 13 Calmont Road BR1), to provide a children's nursery.
- 3.2 The proposal is a resubmission following the last refusal on the site.
- 3.3 The proposed building would operate as a children's crèche Monday to Friday, between the hours of 8am and 3:30 pm. It is noted that the submitted planning statement outlines that the proposed unit would operate solely as a crèche and would not be open on Saturdays, Sundays or Bank Holidays. However, the submitted Transport Statement outlines that the building would function primarily as a niche day children's crèche to serve the local area between Monday to Friday, whilst at the weekend additional community use would be available subject to hire and demand. It is therefore unclear whether the provision of a community centre is included within the current proposal.
- 3.4 The building would front onto Ambleside, measuring 14.5m in length, 7.5 m wide on the southern boundary, 6.9m wide of the northern boundary with a gross internal floor area of approximately 100sqm. The building would be set back from

the public footpath by 0.8m on the front western corner, deepening to 1m at the front eastern corner. The building would have a flat green roof that would measure 3.2m high from ground level. Three solar panels would be sited on top of the roof. The front elevation would be nearly completely glazed, including and glazed front door and incorporating coloured glass panels to one side, where the proposed office would be situated. The side and rear elevations would be in white painted render and the rear elevation would contain a set of quadruple paned sliding doors and a set of bi-folding doors, along with three single windows.

3.5 The building would be rectangular in shape. The main rear amenity garden would measure 61.5sqm and would face southeast. The depth of the garden from the rear elevation to the rear boundary would be 4m. The garden would be enclosed to the sides and rear by a 2m high fence.

3.6 The existing vehicle crossover would be retained although there would be no provision for parking on site.

3.7 The building would have double-glazed powder coated grey aluminium framed windows.

4.0 Consultation

4.1 A site notice was displayed. Local neighbours and Ward Councillors were notified, as were the Council's Children and Young People and Highways departments. Six letters of objection and a petition in support of the application were received. The letters of objection raised the following relevant planning concerns:

- Increased parking stress and highways issues
- Existing crèche in close proximity on Old Bromley Road
- Increased noise pollution from the proposed use in a residential area
- Failure to erect a site notice
- Building would be out of keeping with the Ambleside cul-de-sac and the wider area
- Potential for increase in anti-social behaviour as a result on the highways issues

4.2 Several of the objections also raised concerns with the proposal of hiring out the building during the weekends as a community centre. However, it is unclear from the submitted documents whether permission for this element of the proposal is still being sought.

4.3 The petition in favour of the application comprised of 55 signatures.

4.4 The Council's Highways Officer provided the following comments:

Insufficient Detail

There is insufficient detail provided to determine if this application is acceptable or not in terms of transport.

Details of usage for weekend use are also needed.

A travel plan is missing many details. The applicant is recommended to visit TfL's website for all the necessary content to be included in the travel plan, which can

be found at <https://tfl.gov.uk/info-for/urban-planning-and-construction/travel-plans/travel-plan-content>.

There are no details of cycle/buggy storage, which will need to be provided.

The site has a PTAL rating of 1a, which means it has the poorest accessibility to public transport. This means it is more than likely the main method of transport will be via car. It is not enough information to state “The application is for a local niche community facility which would serve the local populous. With this in mind, car usage would be very low to negligible.” Evidence of this would be helpful.

Lastly, a parking survey is necessary to show the proposal would not impact the neighbouring community in a negative way.

In conclusion, more details are needed to determine if this proposal is acceptable or not in transport terms.

4.5 The Council’s Children and Young People’s (CYP) department provided the following comments:

Our Childcare Sufficiency Assessment indicates a further drop in the 0 – 4yr old population for 2018, following a 1.% drop in 2017 and 4.4% drop in 2016.

*If it is a crèche as the application seems to indicate, they would not be delivering any free entitlement places (ie contributing to the LAs sufficiency of childcare) and may not even have to register with Ofsted. This would mean they could potentially operate under any childcare radar. However, they **do** have to inform Ofsted if planning is granted to run a crèche in which:*

- *Any individual child aged 7 or younger will be there for more than 4 hours (if parents are on the premises), or*
- *Any individual child aged 7 or younger will be there for more than 2 hours (if parents are not on the premises).*
- *Ofsted does not need to be informed if the crèche is for children aged 8 or over only*

This means that provision for the local community would be very limited alongside which we would always advocate for a good sized outside area to be available as it is fundamental to good EYFS provision.

4.6 CYP also highlighted concerns regarding the small size of the external play area which would be provided and with the toilets for pupil use not being directly accessible to children from either the classroom or outside play area.

Pre-Application Consultation

4.7 No pre-application advice has been sought on this, or any previous applications.

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.

A local finance consideration means:

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)
- 5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, the Development Management Local Plan, the Site Allocations Local Plan and the Lewisham Town Centre Local Plan, and the London Plan. The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

- 5.3 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 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. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.
- 5.4 Officers have reviewed the Core Strategy 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, and 215 of the NPPF.

Other National Guidance

On 6 March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents.

London Plan (March 2016)

5.5 The London Plan policies relevant to this application are:

Policy 3.5 Quality and design of housing developments
Policy 3.9 Mixed and balanced communities
Policy 3.16 Protection and enhancement of social infrastructure
Policy 3.18 Education facilities
Policy 6.9 Cycling
Policy 6.10 Walking
Policy 6.13 Parking
Policy 7.2 An inclusive environment
Policy 7.4 Local character
Policy 7.6 Architecture
Policy 7.15 Reducing noise and enhancing soundscapes

London Plan Supplementary Planning Guidance (SPG)

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

Sustainable Design and Construction (2006)

Core Strategy

5.7 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Development Management Local Plan and the London 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
Core Strategy Policy 14 Sustainable movement and transport
Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 19 Provision and maintenance of community and recreational facilities

Development Management Local Plan

5.8 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core Strategy and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Development Management Local Plan as they relate to this application:

5.9 The following policies are considered to be relevant to this application:

DM Policy 1	Presumption in favour of sustainable development
DM Policy 2	Prevention of loss of existing housing
DM Policy 22	Sustainable design and construction

DM Policy 26	Noise and vibration
DM Policy 29	Car parking
DM Policy 30	Urban design and local character
DM Policy 31	Alterations/extensions to existing buildings
DM Policy 33	Development on infill sites, backland sites, back gardens and amenity areas
DM Policy 41	Innovative community facility provision
DM Policy 42	Nurseries and childcare

6.0 Planning Considerations

6.1 The issues to be considered in respect of this application are:

- a) Principle of Development
- b) Design
- c) Highways and Traffic Issues
- d) Noise
- e) Impact on Adjoining Properties

Principle of Development

6.2 In this instance, the principle of development is related to the development of garden land and provision of a nursery in this location.

Principle of Development in relation to DM Policy 33: Development on infill sites, backland sites, back gardens and amenity areas

6.3 The NPPF amended the definition of previously developed land to exclude residential back gardens and advised at paragraph 53 that:

“Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area”.

6.4 Back gardens are defined in the Development Management Local Plan 2014 (DMLP) as, *“private amenity areas that were the entire back garden to the rear of a dwelling or dwellings as originally designed.”* It is considered that the application site falls within this definition. The Planning Inspector further corroborates this opinion in paragraph 8 of his appeal decision dated 27 February 2017 for development on this site, where he states, *“The fact that the appeal site has been fenced in and sold separately to No.13 does not alter its planning status as garden land in my view.”*

6.5 The principle of development on back gardens is addressed in Paragraph C of DM Policy 33 - Development on infill sites, backland sites, back gardens and amenity areas which states:

*“The development of back gardens for separate dwellings in perimeter form residential typologies identified in the Lewisham Character Study **will not be granted planning permission.**”*

6.6 Although the proposal is not for a separate dwelling, the general principles of DM Policy 33 (Development on infill sites, backland sites, back gardens and amenity areas) apply. These state:

1. *Depending on the character of the area and the urban design function a space fulfils in the streetscape, some sites will not be considered suitable for development and planning permission will not be granted.*
2. *If a site is considered suitable for development, planning permission will not be granted unless the proposed development is of the highest design quality and relates successfully and is sensitive to the existing design quality of the streetscape, and is sensitive to the setting of heritage assets. This includes the spaces between buildings which may be as important as the character of the buildings themselves, and the size and proportions of adjacent buildings.*
3. *Development on these sites must meet the policy requirements of DM Policy 30 (Urban design and local character), DM Policy 32 (Housing design, layout and space standards) and DM Policy 25 (Landscaping and trees).*
4. *Development on these sites should retain existing formal or informal pedestrian through routes.*

6.7 The London Plan also states that advises that *boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified* within Policy 3.5, paragraph A.

6.8 The Council's adopted policy, in line with corresponding policies at national and regional levels, is that back garden development is generally unacceptable in principle. In this instance, the proposed development of this rear garden is considered unacceptable due to the negative impact on the character of the area, which is discussed in detail in the design section of this report.

Principle of development in relation to DM Policy 42: Nurseries and childcare

6.9 DM Policy 42 provides guidance on the appropriate provision of nurseries and childcare facilities within the borough. It states:

The Council will require applicants for day nurseries and facilities for the care, recreation and education of children to consider:

- a. *The acceptability of the loss of the existing use*
- b. *Traffic volumes and the effect on congestion*
- c. *Accessibility by walking, cycling and public transport*
- d. *Access, egress, cross-site movement and parking/drop off areas, including for disabled users*
- e. *The impact on local residential amenity, including noise*
- f. *The need for suitable space for outside play areas*

- 6.10 With regard to point A, the principle of the loss of the existing use of the land has already been assessed and considered as unacceptable.
- 6.11 Furthermore, the justification for Policy DM42 states:
- The Childcare Sufficiency Assessment, 2008, for Lewisham identifies a number of wards with a deficiency in the amount of childcare places available. These are Blackheath, Lee Green, Rushey Green, Forest Hill and Sydenham. DM Policy 42 will support an increased level of provision in these areas, or the appropriate areas as highlighted by any further assessment of provision.*
- 6.12 Downham was not identified in 2008 as a ward with a deficiency in the amount of childcare places available, with one of the submitted objections also highlighting the existence of an existing nursery approximately a seven minute walk from the application site. It is therefore not considered appropriate that the principles of DM Policy 33 be waved in this instance. This is supported by the comments received from the Council's CYP service in 2017, which outline that Lewisham's 'Childcare Sufficiency Assessment' indicates a drop in the 0 – 4yr old population for 2018, following a 1.% drop in 2017 and 4.4% drop in 2016.
- 6.13 The justification for DM Policy 42 goes on to state that:
- Applicants should seek to find the most appropriate location for new nursery provision in an area. Existing vacant D uses are considered most appropriate and only after this should existing C3 uses be considered.*
- 6.14 With this in mind, the applicant has put forward no supporting evidence to demonstrate that alternative sites have been sought, and/or are not available.
- 6.15 Finally, DM Policy 42 also states that nurseries and facilities for the care, recreation and education of children should have suitable space for outside play areas. The Council's CYP service has also raised concerns with this aspect of the proposal, noting that the proposed external play area is 'very small', though it is noted that there are no standards in planning policy that can be applied to this assessment.
- 6.16 Notwithstanding the unacceptability of the principle of development, the remaining planning considerations still require due consideration

Design

- 6.17 The relevant policy is guided by the London Plan and the Development Management Local Plan. Policy 7.4 of the London Plan 2016 sets the high level policy direction for this proposal. It states that boroughs should take into account local context and character as well as urban design principles.
- 6.18 The matters for specific local scrutiny relate to how the proposal fits within the wider context of the neighbourhood as guided by the relevant policies. DM Policies 30 and 33 are specifically applicable to this proposal. The DM Policy 33 raises issues with developments with regard to disruption to the urban form and achieving a good design fit with neighbouring developments.
- 6.19 DM Policy 30 requires all development proposals to attain a high standard of design where applications must demonstrate the required site specific design

response to create a positive relationship to the existing surroundings, taking all available opportunities for enhancement.

- 6.20 DM Policy 33 paragraph 2 states that [even] if a site is considered to be suitable for development, permission will not be granted unless the proposed development is of the highest design quality and relates successfully and is sensitive to the existing design quality of the streetscape. This includes spaces between buildings and the size and proportion of the buildings.
- 6.21 The proposal introduces a largely incongruous building into the streetscene in terms of its scale, siting, shape, roof form, boundary treatments, excessive use of glazing, cladding and site size. The proposal is capable of providing satisfactory levels of natural day light into the property.
- 6.22 The development of a commercial building in what is still in planning terms part of the rear garden of 13 Calmont Road would be inconsistent with the traditional plot layout of this neighbourhood. The Acorns, which is a single storey residential development opposite the subject site on Ambleside, through its form, materiality, and disregard for the existing building line, appears incongruent within the streetscene, failing to relate to the predominant form of development in the area. The current proposal, which is considerably larger, would sit equally uncomfortably within the traditional urban form of the area and likewise fail to respect or relate to the predominate form of the surrounding development. Officers therefore, while acknowledging the presence of The Acorns, assert that its presence demonstrates the harm which such types of development can have on the appearance of an area, and that the construction of similar additional structures would serve only to further degrade and harm the appearance of the streetscene from what is already experienced.
- 6.23 The development of this back garden site would result in a cramped and incongruous built form, bearing no relationship with, and detracting from, the openness between the semi-detached house along Calmont Road and the higher density housing in Ambleside. Furthermore, it would serve to compound the harm caused to the character and appearance of the area caused by the existing unsympathetic development. The proposal would therefore be contrary to NPPF paragraph 55, London Plan Policies 3.5 and 7.4, and DM Policy 33, which specifically seek to prevent such harm.

Highways and Traffic Issues

- 6.24 The site has a PTAL rating of 1a/1b, indicating that access to public transport in the area is very poor. This conflicts with paragraph 5.11 in the submitted Design and Access Statement which states "The site is in close proximity to public transport". Officers undertook a desktop assessment of nearest public transport which revealed that Ravensbourne Station is located approximately an 11 minute walk from the site, being the nearest train station. Beckenham Hill Station, which would be the second closest station, is located approximately a 19 minute walk away. Bus stops are located within a 10 minute walk on Bromley Hill Road to the north-east, as well as Farnaby Road to the south-west.
- 6.25 The width of the Ambleside highway is 5.62m. Whilst on a site visit, Officers noted that both sides of Ambleside were in use for on-street parking. Parking standards state that an average size car requires 2.4 metres x 4.8 metres of standing space

and a Light Van 2.4 metres x 5.5 metres. These dimensions do not take account of access, manoeuvring space or space required for loading/unloading. The cul-de-sac has limited existing parking availability, coupled with no parking restrictions. The proposal has the potential to generate significantly more traffic stress and pressure on parking than already exists. The proposal would see a significant increase in the number of vehicles entering and exiting Ambleside. It is likely that these would be concentrated at certain times of the morning and late afternoon, which is likely to cause a major increase in congestion in and around the site at these times. This would also have the potential to hinder access onto Ambleside from Calmont Road during these times, contrary to DM Policy 29 (Car Parking). Furthermore, Ambleside has no through access which will result in vehicles having to drive further into the cul-de-sac to enable drivers to perform reverse manoeuvres to facilitate safe forward access back on to Calmont Road. The proposal includes retaining the existing crossover, however, no off-street car parking would be provided on site. The applicant has provided no details regarding parking/drop off areas for users or more specifically for disabled users.

- 6.26 The proposal also has the potential to generate significantly more traffic stress and pressure on parking on weekends, if the community space were to be incorporated, as the users would be expected to park in close proximity around the site. As stated earlier, the submitted Planning and Transport statements contradict one another, with the Planning Statement outlining that the proposed unit would operate solely as a crèche during the weekdays, while the Transport Statement outlines that the building would also function for additional community use on the weekends, subject to hire and demand. It is therefore unclear how the unit would operate on weekends and Bank Holidays. Had the scheme been otherwise acceptable, Officers would have sought to clarify this with the applicant.
- 6.27 Lastly, it is noted that the previous application was refused based on the lack of information provided regarding the Transport Statement. Although this has been updated since the previous iteration, the Council's Highways Officer has maintained their objection, as the plan still omits key components such as the lack of a parking survey.
- 6.28 For the above reasons, access and parking is considered unacceptable for the nature of the development proposed.

Cycle Parking

- 6.29 Cycle storage for four bicycles would be provided to the front of the site which is considered acceptable. However no details have been provided regarding the storage being dry and secure. Had the application otherwise been acceptable, a condition would have been added regarding submission of further details.

Refuse

- 6.30 The applicant proposes bin storage at the front of the property. Officers consider the siting to be appropriate and the size of the bin storage area to be adequate.

Impact on Adjoining Properties

- 6.31 Given the disparities between the submitted Transport and Planning Statements, it is unclear whether the proposed building would be in use during the weekends as a community space. Additionally, while the applicant has now indicated that the

crèche will facilitate up to 15 children, they are still vague about the use of the rear amenity area, stating that the onsite amenity space will only be used occasionally for up to 30 minute intervals, but without clarifying exactly how often occasionally constitutes.

- 6.32 As a consequence, Officers are mindful that there could be noise generating activity from the building and so Officers would expect the applicant to provide a Noise Impact Assessment Report, which would enable the Council to consider the potential impact that the new noise generating development would have on the local area. This was outlined during the previous Officer's report and detailed advice given on what the report should include. Unfortunately however, the applicant has failed to submit any such type of assessment.
- 6.33 Furthermore, Ambleside is a quiet residential cul-de-sac. The construction of a commercial building and its potential for the proposed activities to create unacceptable levels of noise on a near daily/daily basis, especially when the outdoor space is in use, would significantly change the quiet residential atmosphere currently enjoyed by residents. No supporting evidence has been submitted outlining why the applicant considers the site to be appropriate for the proposed uses. As such, officers do not consider the site appropriate for this type of development.
- 6.34 The proposed amenity space is accessible from the large classroom area. It is considered to be secure and has usable space that could allow children's play. Nevertheless, the Council's CYP service noted that the space was undersized for a unit proposing ten children. Given the development is proposing 15 children, Officers would assert that the size of the amenity space is inadequate. However, DM Policy 42 makes no reference to the standard of facilities which would be provided for nurseries and childcare facilities, meaning Officers are unable to recommend refusing the application on these grounds.
- 6.35 As a result of this proposal, the amount of rear garden left for the original 13 Calmont Street property would be 13m long. As the Council's Residential Standards SPD requires 9m minimum rear gardens, the reduction is considered acceptable.
- 6.36 The proposal does not materially affect the level of residential amenity on the neighbouring properties given that it is a single storey building and does not overlook any property. Officers consider that given the single storey design, there will be no loss of daylight, overlooking or loss privacy imposed on the neighbouring properties as a result of this application.
- 6.37 Consequently, it is considered that the proposal would not result in significant harm to the amenity of the adjoining properties with regard to privacy, overbearing impact and loss of light/overshadowing. The overlooking occurring onto the application site *from* adjoining properties is likely to be significant. However, again the Council holds no policies with regard to privacy of nurseries and childcare facilities, meaning a refusal on these ground would be unsustainable.

7.0 Prevention of Crime and Disorder

- 7.1 S.17 of the Crime and Disorder Act 1998 provides that it shall be the duty of the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and need to do all that it reasonably can to prevent (in

summary) crime and disorder in its area. It is not considered that this application will result in any crime and disorder issues.

8.0 Human Rights Act

8.1 Under the Human Rights Act 1998, the Council must not act in any way which is incompatible with the rights referred to in the Act. Officers do not consider there to be any Human Rights Act implications arising.

9.0 Conclusion

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

9.2 Given the clear policy direction provided by the NPPF (paragraph 53) and DM Policy 33, together with the outcome of the previous appeal decision (*APP/C5690/W/16/3164610*), Officers consider that the proposed development is contrary to policy and of detriment to the existing urban form and development pattern in the surrounding area. Additionally, due to the disparity between the different submitted statements, the insufficient information within the transport statement and the lack of a Noise Impact Assessment Report, Officers are unable to satisfactorily determine whether the proposal would have a detrimental impact on the amenity of local residents with regards to increased traffic volumes, congestion, lack of parking and increased noise.

9.3 It is therefore recommended that members refuse the application.

10.0 RECOMMENDATION: REFUSE PERMISSSION, for the following reasons:

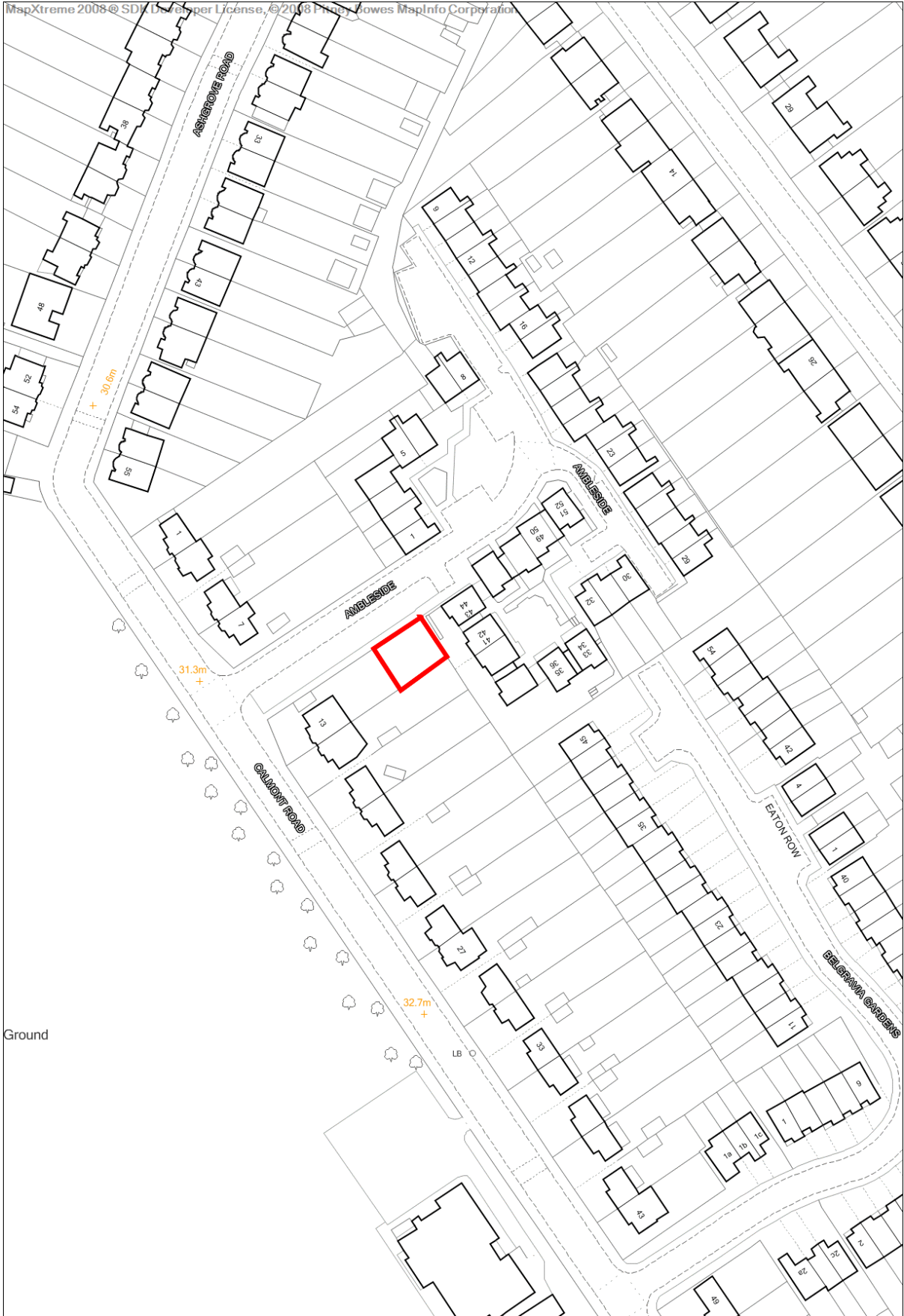
1. The proposed development of the back garden of a house in perimeter block typology is unacceptable in principle and harmful to the character and appearance of the local area, contrary to paragraph 53 of the NPPF, Policies 3.5 Quality and design of housing developments and 7.4 Local Character of the London Plan (2016), Spatial Policy 5 Areas of Stability and Managed Change, Policy 15: High Quality Design for Lewisham of the Core Strategy (2011), and DM Policy 30 Urban design and local character, and, particularly, DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (2014).

2. By reason of the insufficient information provided within the submitted Transport Statement, the lack of any information regarding potential noise impacts, together with the disparities between the submitted reports regarding the use of the building during weekends, it has not been demonstrated that the proposal would not give rise to an unacceptable impact on neighbouring amenity, contrary to the requirements of Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 26 Noise and Vibration, DM Policy 30 Urban design and local character, DM Policy 41 Innovative community facility provision and DM Policy 42 Nurseries and childcare of the Development Management Local Plan (November 2014).

INFORMATIVES

- 10.1 The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, no pre-application advice was sought before the application was submitted. As the proposal was clearly contrary to the provisions of the Development Plan, it was considered that further discussions would be unnecessary and costly for all parties.
- 10.2 The applicant is advised to visit TFL's website for all the necessary content to be included in the travel plan, which can be found at <https://tfl.gov.uk/info-for/urban-planning-and-construction/travel-plans/travel-plan-content>.
- 10.3 The applicant is advised that any future submissions should include both a parking survey as part of the travel plan, in addition to a noise impact assessment report.

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Committee	PLANNING COMMITTEE B	
Report Title	8 Eliot Park, SE13 7EG	
Ward	Blackheath	
Contributors	Simon Vivers	
Class	PART 1	21 December 2017

Reg. Nos. DC/17/102680

Application dated 21 July 2017

Applicant Apex Architecture

Proposal Application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of Condition 2 of planning permission DC/14/86806 granted 3 September 2014 (amended by s.73 planning permission DC/15/93126 granted 11 November 2015) for the erection of a two storey and basement single dwelling house in the rear/side garden of 8 Eliot Park SE13, together with removal of trees and changes to the boundary wall to provide a new vehicle access to the site **in order to: revise landscaping plans to show the proposed removal of a Mulberry tree (subject to a Tree Preservation Order) and inclusion of a replacement Horse Chestnut tree.**

Applicant's Plan Nos. AAA/64 (received 31 August 2017), L180EP – 101 Rev A (received 18 October 2017), L180EP – 102 Rev A (received 30 October 2017)

Background Papers

- (1) Case File LE/135/8/TP
- (2) Core Strategy (2011) Development Management Local Plan (2014)
- (3) Local Development Framework Documents
- (4) The London Plan

Designation Blackheath Conservation Area

1.0 Property/Site Description

- 1.1 The application site forms part of the grounds of 8 Eliot Park (also known as Barton House), which is a substantial detached three storey and basement residential property converted into 2 maisonette flats. The property and surrounding land occupy a large plot of 1400m² on the west side of Eliot Park opposite the junctions of Eliot Park with St Austell Road and Oakcroft Road. The house at 8 Eliot Park is located towards the north west boundary and the remainder of the plot is predominantly open garden area. The site has a frontage of over 65m to Eliot Park, with the boundary to the street being formed by a brick wall.
- 1.2 The site is within the designated Blackheath Conservation Area but is not adjacent to any locally or statutory listed buildings.
- 1.3 The garden land associated with 8 Eliot Park has now been divided, with the land associated with the current application fenced off from the remaining garden area. The

application site is 520m² in area, is rectangular in shape and has a frontage of 13.5m to Eliot Park to the south east. To the north west are the rear gardens of 6 Eliot Park.

- 1.4 The land levels change across the site, as they do visibly when approaching the site from the south. Coming from the south along Eliot Park, the land rises so that the application site is at a lower level than 8 Eliot Park, yet slightly higher than the neighbouring site to the south. Within the site the land is also at a higher level to the front than the rear.
- 1.5 The site has a long frontage to Eliot Park to the east. To the south west is a three storey post war block of flats at 9-11 Eliot Park. There is an electricity sub-station located on the boundary.
- 1.6 The site has been cleared of vegetation in conjunction with the commencement of existing planning approval DC/15/93126 with exception of a Mulberry tree towards the front which is to be retained under existing planning approval.
- 1.7 The Mulberry tree is part of a wider Tree Preservation Order (TPO) granted 8 July 2010 which covers eleven trees over the original 8 Eliot Park site. The Mulberry is the single tree within the TPO, which sits within in the subdivided part of the land. The other trees under the TPO comprise consist of 3 x Ash, 3 x Horse Chestnut, 2 x Sycamore and 1 x Walnut, and are situated on the bend as Eliot Park rises and curves towards the entrance of Barton House.

2.0 Relevant Planning History

- 2.1 **DC/14/86806** – The erection of a two storey and basement single dwelling house in the rear/side garden of 8 Eliot Park SE13 together with removal of trees and changes to the boundary wall to provide a new vehicle access to the site

Planning permission granted 3 September 2014.

- 2.2 **DC/15/93126** - Section 73 application - Variation of conditions (2), (6), (12) & (13) of planning permission DC/14/86806 in order to allow:

- Removal of rear cantilever at first floor level;
- Removal of front projection at ground floor level;
- Removal of a window and sliding doors from south west elevation;
- Removal of a window from the north east elevation;
- Increase in footprint of basement together with the construction of a lightwell;
- Inclusion of additional roof planters together with alteration to the height of the roof;
- Relocation of roof lights;
- Widening of the ground floor at the north east elevation to match the overhang above;
- Installation of granite pavers to roof in lieu of timber panelling;
- Installation of sliding doors to the front elevation.
- Installation of a “clear storey” glazed element separating ground and first floor levels;
- Installation of an additional gate and the relocation of the existing vehicular access to the site;
- Installation of a timber deck at the front elevation; and
- Minor alterations to landscaping and site layout at the front of the property.

Planning permission granted 11 November 2015.

- 2.3 **DC/16/96303** – Section 73 application – Variation of condition (2) of planning permission DC/14/86806 (as amended by planning permission DC/15/93126) in order to allow:

- addition of a rear extension

Withdrawn by applicant 21 June 2016 following advice of recommendation of refusal.

- 2.4 **DC/16/095627** - Approval of details submitted in compliance with Conditions 3, 4(a), 4(b), 5(a), 6, 7(a), 7(b), 8(a) and 11(a) of planning permission DC/15/93126.

Details approved 6 June 2017. Conditions outlined as follows:

Condition 3	Construction Management Plan
Condition 4(a), 4(b)	Code for Sustainable Homes Rating Level 4
Condition 5(a)	Schedule and specification of windows, reveals and external doors
Condition 6	Detailed drawings and sections through principal features of facades
Condition 7(a), 7(b)	Detailed schedule, specification and samples of all external materials and features
Condition 8(a)	Proposals for the storage of refuse and recycling facilities)
Condition 11(a)	Details of the proposed boundary treatments

- 2.5 **DC/17/102766** - Approval of details submitted in compliance with Condition 9 (Tree Protection) of planning permission DC/15/93126. Details approved 1 September 2017.

- 2.6 It is noted that there has been no attempt to discharge conditions of the original planning permission. Approval of details applications have only been made in relation to the amended scheme granted under DC/15/93126.

3.0 Current Planning Application

The Proposal

- 3.1 The application seeks approval of a further s.73 application for a Minor Material Amendment of planning permission DC/15/93126.
- 3.2 The amendment would consist of a Variation of Condition 2 (approved plans) of planning permission DC/15/93126, in order to allow the submission of a replacement landscaping plan showing the proposed removal of the existing Mulberry and provision of a replacement Horse Chestnut.
- 3.3 Existing planning permissions over the site show the construction of a single dwelling with retention of the subject Mulberry. It is noted however, that the removal of several other trees (not subject to the TPO) in the general footprint of the proposed building are captured under the existing planning permissions.

Supporting Documents

- 3.4 Ground Investigation Report prepared by Oakley Soils and Concrete Engineering Ltd, dated March 2016.

4.0 Consultation

External

- 4.1 Adjoining occupiers, Ward Councillors and The Blackheath Society were notified. In addition, a site notice was displayed at the property boundary and a press notice was run. Four objections were received from occupiers located at 1 and 8 Eliot Park.

Grounds of objection are summarised as follows:

- Destruction of the limited remaining vegetation within the site further reducing habitat and foraging opportunity for bats;
- Lack of evidence of contamination;
- Replacement of (mature) Mulberry with a species which is not native;

- Lack of enforcement action regarding previous damage to the Mulberry together with such works occurring prior to approval of tree protection details; and
- Compensatory planting should be required in relation to all trees removed from the site.

Internal

4.2 The Council's Conservation, Trees and Environmental Protection officers were consulted

Conservation:

- o No Response

Environmental Protection:

- o Recommendation that full remediation of soil take precedence over tree retention, subject to further testing to determine the source and extent of the contamination;
- o Additional testing should also include all contaminants with emphasis of testing in proposed private/landscaped garden areas. Testing should also include ground gases, asbestos and Poly-Chlorinated Bi-Phenyls (PCBs)
- o Concern for safety of end users of the site should remediation not properly occur.

Tree Officer

- o Requested further details of contamination to justify loss of Mulberry;
- o Subject to contamination being demonstrated and remediation necessary, replacement tree should be a Walnut, Liquidambar, Horse Chestnut, Beech, Evergreen Oak, London Plane (including Cut leaf Plane), Zelkova, Lime. Tree to be pot grown and have a girth of 12cm – 16cm.

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.

A local finance consideration means:

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), the Development Management Local Plan (November 2014) and policies in

the London Plan (2016). The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

- 5.3 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 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. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.
- 5.4 Officers have reviewed the Core Strategy and Development Management 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, and 215 of the NPPF.

Other National Guidance

- 5.5 The other relevant national guidance is:
- Climate change
 - Conserving and enhancing the historic environment
 - Tree Preservation Orders and trees in conservation areas
 - Use of Planning Conditions

London Plan (2016)

- 5.6 The London Plan policies relevant to this application are:
- Policy 3.5 Quality and design of housing developments
 - Policy 7.4 Local character
 - Policy 7.6 Architecture
 - Policy 7.8 Heritage assets and archaeology

London Plan Supplementary Planning Guidance (SPG)

- 5.7 The London Plan SPG's relevant to this application are:
- N/A

Core Strategy

- 5.8 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, Development Management Local Plan, the Lewisham Town Centre Local Plan and the London 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:

Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

Development Management Local Plan

5.9 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core Strategy and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Development Management Local Plan as they relate to this application:

5.10 The following policies are considered to be relevant to this application:

DM Policy 1	Presumption in favour of sustainable development
DM Policy 25	Landscaping and Trees
DM Policy 28	Contaminated Land
DM Policy 30	Urban design and local character
DM Policy 33	Development on infill sites, backland sites, back gardens and amenity areas
DM Policy 36	New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens

Blackheath Conservation Area Character Appraisal

5.11 The site is located within Character Area 6: Granville Park, Oakcroft Road, St Austell Road, Walerand Road and The Knoll. The appraisal notes that rigid building lines with houses set back off the street with boundary walls formalise the townscape of this character area and also contributes to tying the groups of houses together along streets. While 8 Eliot Park is identified as a building making a positive contribution to the conservation area, several properties surrounding the site to the west and south are not identified as making a positive contribution to the conservation area.

6.0 Planning Considerations

6.1 The main issues to be considered in respect of this application are:

- a) Principle
- b) Design & Conservation
- c) Contamination & Remediation

Presumption in favour of sustainable development

6.2 The National Planning Policy Framework (NPPF) sets out in paragraph 14 a presumption in favour of sustainable development. In terms of decision-making, the document states that where a development accords with a local plan, applications should be approved without delay. Where a plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.

6.3 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements.

6.4 New issues may arise after planning permission has been granted, which require modification of the approved proposals and where these modifications are fundamental or substantial, a new planning application will need to be submitted. Where less substantial changes are proposed the applicant can apply for either a non-material amendment (under section 96a of the Town and Country Planning Act) or a minor material amendment (under section 73 of the Town and Country Planning Act). The grant of a s73 permission results in a new planning permission.

- 6.5 There is no statutory definition of 'non-material' or 'minor material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. A minor material amendment is considered an amendment where the development's scale and/or nature results in a development, which is not substantially different from the one that has been approved.
- 6.6 It is further considered that the authorised development which the application under s.73 seeks to replace will by definition have been judged acceptable in principle by the LPA at an earlier date. Consequently, the extent of the material planning considerations are somewhat restricted and only the changes being applied for should normally be considered when considering a s.73 application, depending upon whether there have been any significant planning policy changes. Having said that, when determining the application the LPA will have to consider the application in the light of current policy. The local planning authority therefore has to make a decision focusing on national or local policies which may have changed significantly since the original grant of planning permission as well as the merits of the changes sought. In this case, there has been no relevant shift in planning policy given the current Local Development Framework was given significant weight when determining the original application.
- 6.7 Although welcomed, the status of the Mulberry (through its TPO) and its retention is not considered a key or overarching factor in determining factor for the principle of the original development (for the construction of a dwelling). Further, the change would not result in a substantially different development should replacement tree planting be provided. The change sought is therefore appropriate for consideration under a s.73 amendment.

Design, Conservation & Justification

- 6.8 Core Strategy Policy 16 (Conservation areas, heritage assets and the historic environment states) that new development should be of high quality design and should preserve the historic environment and sense of place. Development Management Policy 36 (New Development, changes of use and alterations affecting designated heritage asset and their setting) states that where the significance of an asset may be harmed or lost through physical alteration or destruction, or development within its setting, the Council will require clear and convincing justification. Additionally, the Council will not grant approval to development, which in isolation would lead to less than substantial harm to the building or area, but cumulatively would adversely affect the character and appearance of the conservation area
- 6.9 Development Management Policy 25 (landscaping and trees) states that where there is a Tree Preservation Order in place, applicants will be required to retain existing trees for the most part and in the event of tree removal being required, replacement planting will normally be required. New and replacement tree planting must use an appropriate species that reflects the existing biodiversity in the borough.
- 6.10 Development Management Policy 28 (contaminated land) states that the Council will ensure that contaminated land is fully investigated and remediated, to minimise and mitigate any harmful effects to human health and the environment. This is applicable wherever development is proposed on contaminated land, land suspected of being contaminated, or if a sensitive use is proposed, to ensure contamination is properly addressed.
- 6.11 In order to provide justification for the loss of the tree, the applicant has submitted a Ground Investigation Report prepared by Oakley Soils and Concrete Engineering Ltd, dated March 2016. The ground investigation was carried out at the instruction of the applicants consulting engineers (AECOM), to determine the nature and stratification of the subsoils and to investigate and record details of the existing foundations to assist the structural design of the proposed building.

- 6.12 Testing is stated to have included the sinking of two boreholes to depths of 6.0m and 15.0m. The boreholes are located centrally within the site (borehole 1 towards the rear of the proposed building and borehole 2 towards its front, and approximately 2.0m in front of the Mulberry).
- 6.13 The testing found that all metals, except lead were within acceptable limits (within the General Assessment Criteria) for Category 4 screening. Category 4 is a low or no risk contamination level, with category 1 being the highest and indicating a high probability of significant harm would occur if no action taken. A category 4 screening level is therefore appropriate when considering residential development.
- 6.14 The samples analysed from the two boreholes (BH1 @ 0.1-0.2m and BH2 @ 0.5-0.6m) recorded values of 600 mg/kg and 1300 mg/kg, both which are well in excess of the General Assessment Criteria of 200 mg/kg. The report states that further investigation and analysis will be required to determine if the two areas are localised hot spots or if the lead concentrations are indicative of the site, however regardless, the higher concentration falls in close proximity to the Mulberry Tree.
- 6.15 As outlined in the referral response, the Council's Environmental Protection Officer has reviewed the Ground Investigation Report, and has recommended that full remediation be paramount and take precedence over tree protection given the residential status of the site; however, this would be subject to further testing to determine the source and extent of the contamination. Further recommendations include for additional testing to include all contaminants with emphasis of testing in proposed private/landscaped garden areas. Testing should also include ground gases, asbestos and Poly-Chlorinated Bi-Phenyls. Currently, there is concern for the safety of end users of the site (use of the site for residential purposes) should remediation not properly occur, for example through food growing.
- 6.16 Notwithstanding that further testing has not occurred at this point, the concentration of lead in both samples (and in particular, that from borehole 2 in close vicinity to the Mulberry) is excessive, with levels of lead concentration recorded at being at between 400 – 1,100 mg/kg above the 200 mg/kg General Assessment Criteria for a Category 4 screening. It is reasonable to establish that effective remediation would be unable to occur with the tree and its surrounding topsoil retained. While regrettable, the loss of the Mulberry tree is considered adequately justified, as required by DM Policy 25 in context of the need for remediation of the site.
- 6.17 As also required by DM Policy 25, replacement tree planting must use an appropriate species which reflects the existing biodiversity in the borough. The applicant originally proposed a Silver Birch replacement tree (located in the north eastern corner of the site). The Council's Tree Officer raised objection, and accordingly negotiations occurred to secure the planting of a Horse Chestnut, which is in keeping with the local area, and is one of the main trees under the 8 Eliot Park TPO. Additionally, plans have been annotated to secure that the tree is pot grown (not bare rooted) and has a girth of 12cm – 16cm which would add instant visual maturity in the garden as opposite to a new undeveloped tree.
- 6.18 It is noted that Condition 10 of planning permission DC/15/93126 would require further details of the replacement tree including its maintenance and replacement if diseased. This would continue to be relevant.
- 6.19 It is therefore considered that the proposed loss of the Mulberry is justified, and the replacement tree would be appropriate for the site, and reflects the existing character of Eliot Park and wider Blackheath Conservation Area.
- 6.20 As required by DM Policy 28, and also in line with the comments provided by Council's Environmental Health Officer, a comprehensive condition is recommended to be applied

which requires detailed site investigation and remediation of all contamination prior to any further development (including the submission of a closure report prior).

- 6.21 Removal of certain permitted development rights
- 6.22 Officers recommend that if this application is approved conditions are imposed to remove certain permitted development rights in respect of the site. Paragraph 017 of that part of the Planning Practice Guidance that is concerned with the use of planning conditions states that “conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances”. Officers in this case consider that exceptional circumstances exist to justify the limited removal of the permitted development rights in draft conditions 14 – 17 for the reasons stated therein.

7.0 Local Finance Considerations

- 7.1 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:
- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).
- 7.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 7.3 The Mayor of London's CIL is therefore a material consideration. CIL is payable on this application and the applicant has completed the relevant form.

8.0 Prevention of crime and disorder

- 8.1 S.17 of the Crime and Disorder Act 1998 provides that it shall be the duty of the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder etc in its area. However, Officers do not consider this application raises any crime and disorder implications.

9.0 Human Rights Act

- 9.1 Officers consider that this application does not raise any Human Rights Act issues that need to be considered

10.0 Equalities Considerations

- 10.1 Section 149 of the Equality Act 2010 (“the Act”) imposes a duty that the Council must, in the exercise of its functions, have due regard to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2 The protected characteristics under the Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The duty is a “have regard duty” and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality. In this matter there is minimal/no impact on equality

11.0 Conclusion

- 11.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 11.2 While the loss of the Mulberry is regrettable, its loss has been adequately justified and the replacement tree is considered acceptable in line with Core Strategy Policy 16 and Development Management Policies 25 and 36, and as conditioned, contamination rectified in line with Development Management Policy 28.

12.0 RECOMMENDATION GRANT PERMISSION subject to the following conditions:

Conditions

1. The development to which this permission relates must be begun no later than **3 September 2017**.

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

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

Still relevant original drawings/ documents previously approved under reference DC/14/86806:

TCP-01 (2 April 2014)

Still relevant original drawings/ documents previously approved under reference DC/15/93126:

1808 P 001, 002, 003, 004, 005, 006, 007, 008, 013, 015, 016, 017 (received 29 July 2015), 1808 P 100 (received 26 October 2015)

Submitted under application DC/17/102680:

L170cs 102 Rev A (received 30 October 2017)

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

- 3.
4.
 - (a) The buildings hereby approved shall achieve a minimum Code for Sustainable Homes Rating Level 4.
 - (b) No development shall commence until a Design Stage Certificate for each residential unit (prepared by a Code for Sustainable Homes qualified Assessor) has been submitted to and approved in writing by the local planning authority to demonstrate compliance with part (a).

- (c) Within 3 months of occupation of any of the residential units, evidence shall be submitted in the form of a Post Construction Certificate (prepared by a Code for Sustainable Homes qualified Assessor) to demonstrate full compliance with part (a) for that specific unit.

Reason: To comply with Policies 5.1 Climate change and mitigation, 5.2 Minimising carbon dioxide emissions, 5.3 Sustainable design and construction, 5.7 Renewable energy, 5.15 Water use and supplies in the London Plan (2011) and Core Strategy Policy 7 Climate change and adapting to the effects, Core Strategy Policy 8 Sustainable design and construction and energy efficiency (2011).

- 5. (a) Notwithstanding the details hereby approved, no development shall commence until a detailed schedule and specification of all windows, reveals and external doors including detailed plans and sections at a scale of 1:10 have been submitted to and approved in writing by the local planning authority.
- (b) The development shall be carried out in accordance with the approved details.

Reason: In order that the local planning authority may be satisfied as to the detailed treatment of the proposal and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Saved Policy URB 3 Urban Design in the Unitary Development Plan (July 2004).

- 6. Prior to the commencement of development, detailed drawings and sections at a scale of 1:5 through all principal features of the facades, including:
 - a) Roof edges/eaves, roof openings;
 - b) Junctions of different facing and roofing materials including the living roof elements shown on Drawings **L170cs 102** and 1808 P 013 hereby approved;
 - c) Heads, cills and jambs of all openings;
 - d) Details of the living roof

shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out otherwise than in accordance with any such approval given.

Reason: To ensure that the design is of a necessary high standard and detailing and delivers the standard of architecture detailed in the plans and rendered images and design and access statement in accordance with policies 15 High quality design for Lewisham and 16 Conservation Areas, heritage assets and the historic environment of the adopted Core Strategy (June 2011) and Saved Policies URB 3 Urban Design and URB16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the adopted Unitary Development Plan (July 2004).

- 7. (a) Notwithstanding the drawings and information hereby approved no development shall commence on site until a detailed schedule and specification and samples of all external materials and finishes to be used on the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- (b) Notwithstanding part a) above, a sample panel of a minimum size 1m² of the proposed brickwork, showing details of bonding mortar and pointing shall be constructed on site and approved by the local planning authority prior to

commencement; the development shall not be carried out otherwise than in accordance with any such approval given.

Reason: To ensure that the design is of the necessary high standard and detailing, and delivers the standard of architecture detailed in the plans, rendered images and design and access statement in accordance with policies 15 High quality design for Lewisham and 16 Conservation areas, heritage assets and the historic environment of the adopted Core Strategy (June 2011) and Policies URB 3 Urban Design and URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas in the adopted Unitary Development Plan (July 2004).

8. (a) No development shall commence on site until details of proposals for the storage of refuse and recycling facilities for the residential unit hereby approved, have been submitted to and approved in writing by the local planning authority.
- (b) The facilities as approved under part (a) shall be provided in full prior to occupation of the development and shall thereafter be permanently retained and maintained.

Reason: In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with Saved Policies URB 3 Urban Design and HSG4 Residential Amenity in the Unitary Development Plan (July 2004) and Core Strategy Policy 13 Addressing Lewisham waste management requirements (2011).

9.

10. (a) A scheme of hard and soft landscaping (including details of paving works, any trees or hedges to be retained and proposed plant numbers, species, location and size of trees and tree pits) and details of the management and maintenance of the landscaping for a period of five years shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works.
- (b) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any trees or plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development, shall be replaced in the next planting season with others of similar size and species.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Core Strategy Policy 12 Open space and environmental assets, Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Saved Policies URB 3 Urban Design, URB 12 Landscape and Development and URB 13 Trees in the Unitary Development Plan (July 2004).

11. (a) Details of the proposed boundary treatments including any gates, walls or fences shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works.
- (b) The approved boundary treatments shall be implemented prior to occupation of the buildings and retained in perpetuity.

Reason: To ensure that the boundary treatment is of adequate design in the interests of visual and residential amenity and to comply with Saved Policies URB 3 Urban Design and URB Residential Amenity in the Unitary Development Plan (July 2004) and Policy 15 High quality design for Lewisham of the Core Strategy (June 2011).

12. (a) The development shall be constructed with a biodiversity living roof laid out in accordance with plan no. 1808 P 013 hereby approved and maintained thereafter.
- (b) The living roofs shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.
- (c) Evidence that the roof has been installed in accordance with (a) shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved.

Reason: To comply with Policies 5.10 Urban greening, 5.11 Green roofs and development site environs, 5.12 Flood risk management, 5.13 Sustainable Drainage and 7.19 Biodiversity and access to nature conservation in the London Plan (2011) and Core Strategy Policy 10 managing and reducing flood risk and Core Strategy Policy 12 Open space and environmental assets.

13. The dwelling shall meet Lifetime Home Standards (in accordance with the 2010 (Revised) document) as shown on drawing nos. 1808 P 006 and 1808 P 007 hereby approved.

Reason: In order to ensure an adequate supply of accessible housing in the Borough in accordance with Saved Policy HSG 5 Layout and Design of New Residential Development in the Unitary Development Plan (July 2004) and Core Strategy Policy 1 Housing provision, mix and affordability and Core Strategy Policy 15 High quality design for Lewisham (June 2011).

14. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no satellite dishes shall be installed on the elevations or the roof of the building.

Reason: In order that the local planning authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Saved Policy URB 3 Urban Design in the Unitary Development Plan (July 2004).

15. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no plumbing or pipes, other than rainwater pipes, shall be fixed on the external front or side elevation of the building.

Reason: It is considered that such plumbing or pipes would seriously detract from the appearance of the building(s) and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Saved Policy URB 3 Urban Design in the Unitary Development Plan (July 2004).

16. No extensions or alterations to the building hereby approved, whether or not permitted under Article 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) of that Order, shall be carried out without the prior written permission of the local planning authority.

Reason: In order that, in view of the nature of the development hereby permitted, the local planning authority may have the opportunity of assessing the impact of any further development and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011).

17. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roof areas of the building hereby approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Saved Policy HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).

18. (a) No further development (including any above ground building work) shall proceed until each of the following have been complied with:-
- (i) A desk top study and site assessment to survey and characterise the nature and extent of contamination and its effect (whether on or off-site) and a conceptual site model have been submitted to and approved in writing by the local planning authority.
 - (ii) A site investigation report to characterise and risk assess the site which shall include the gas, hydrological and contamination status, specifying rationale; and recommendations for treatment for contamination encountered (whether by remedial works or not) has been submitted to and approved in writing by the Council.
 - (iii) The required remediation scheme implemented in full.
- (b) If during any further works on the site, contamination is encountered which has not previously been identified (“the new contamination”) the Council shall be notified immediately and the terms of paragraph (a), shall apply to the new contamination. No further works shall take place on that part of the site or adjacent areas affected, until the requirements of paragraph (a) have been complied with in relation to the new contamination.
- (c) The development shall not be occupied until a closure report has been submitted to and approved in writing by the Council.

This shall include verification of all measures, or treatments as required in (Section (a) i & ii) and relevant correspondence (including other regulating authorities and stakeholders involved with the remediation works) to verify compliance requirements, necessary for the remediation of the site have been implemented in full.

The closure report shall include verification details of both the remediation and post-remediation sampling/works, carried out (including waste materials removed from the site); and before placement of any soil/materials is undertaken on site, all imported or reused soil material must conform to current soil quality requirements as agreed by the authority. Inherent to the above, is the provision of any required documentation, certification and

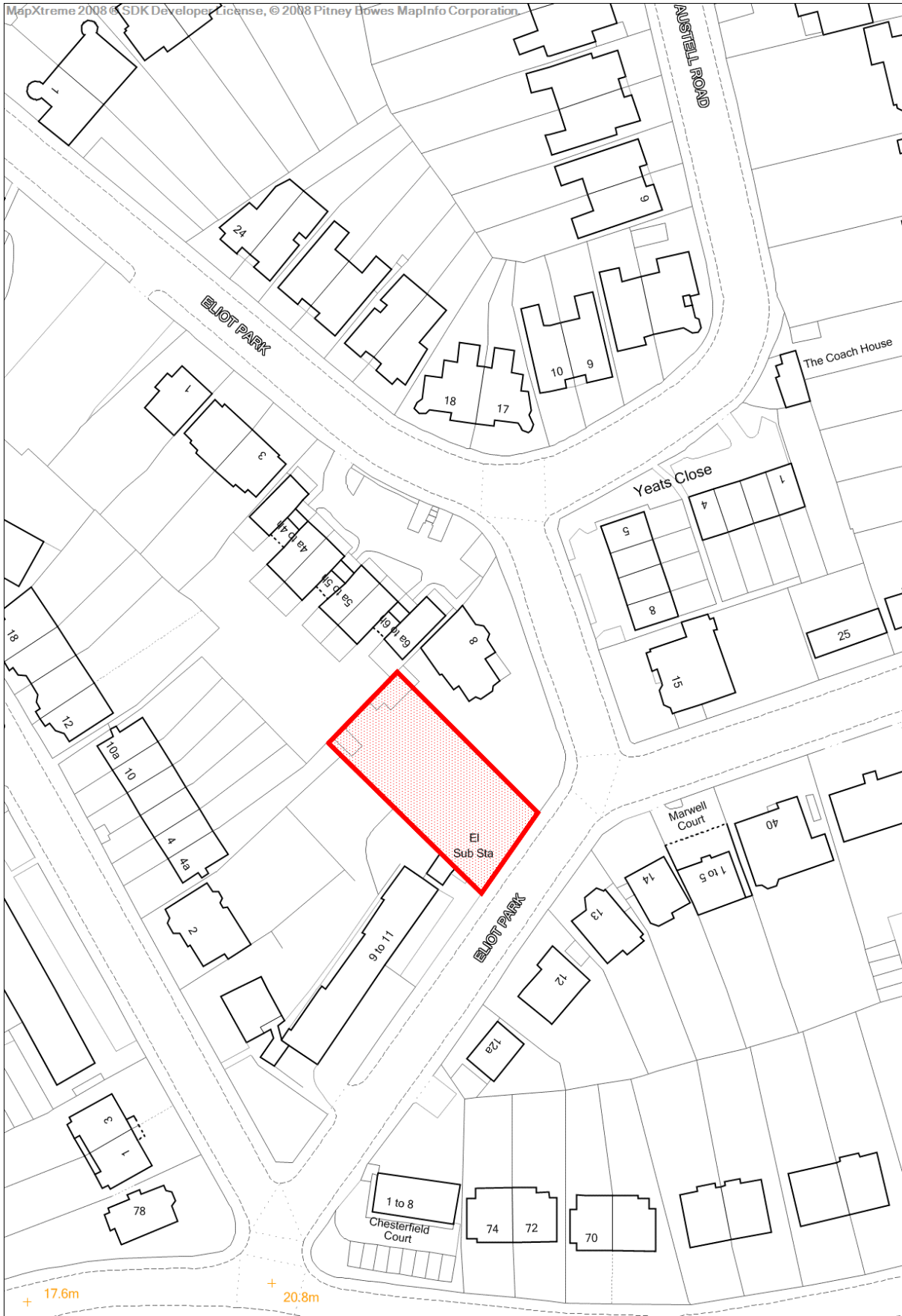
monitoring, to facilitate condition requirements.

Reason: To ensure that the local planning authority may be satisfied that potential site contamination is identified and remedied in view of the historical use(s) of the site and to comply with DM Policy 28 Contaminated Land of the Development Management Local Plan (November 2014).

Informatives

- A. The applicant is advised that the following conditions attached to application DC/15/93126 remain outstanding:
- (10a): Landscaping
 - (12c): Living Roof
 - (18): Contamination
- B. The applicant is advised that the following conditions attached to application DC/15/93126 have been partially discharged as required:
- (4[a], 4[b]) Code for Sustainable Homes Rating Level 4
 - (5[a]) Schedule and specification of windows, reveals and external doors
 - (6) Detailed drawings and sections through principal features of facades
 - (7[a], 7[b]) Detailed schedule, specification and samples of all external materials and features
 - (8[a]) Proposals for the storage of refuse and recycling facilities)
 - (11[a]) Details of the proposed boundary treatments
- C. The applicant is advised that the following conditions attached to application DC/15/93126 have been fully discharged:
- (3): Construction Management Plan
 - (9): Tree Protection Plan
- D. The applicant is advised that the following conditions attached to application DC/14/86806 remain outstanding:
- (3): Construction Management Plan
 - (4[a], 4[b]) Code for Sustainable Homes Rating Level 4
 - (5[a]) Schedule and specification of windows, reveals and external doors
 - (6) Detailed drawings and sections through principal features of facades
 - (7[a], 7[b]) Detailed schedule, specification and samples of all external materials and features
 - (8[a]) Proposals for the storage of refuse and recycling facilities)
 - (9) Tree Protection Plan
 - (11[a]) Details of the proposed boundary treatments
 - (10a): Landscaping
 - (12c): Living Roof

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Committee	PLANNING COMMITTEE B	
Report Title	81 Canonbie Road, London, SE23.	
Ward	Forest Hill	
Contributors	Shikha Dasani	
Q18	PART 1	21 December 2017

<u>Reg. Nos.</u>	DC/17/103509
<u>Application dated</u>	07/09/2017
<u>Applicant</u>	WEA (Agent) on behalf of Mrs Sarah Dyce (Applicant)
<u>Proposal</u>	Demolition of the existing dwelling for the construction of a two storey dwelling including a roof terrace, together with a single storey side extension, construction of a garage (with an internal mezzanine floor level) to front and associated external alterations at 81 Canonbie Road, SE23.
<u>Applicant's Plan Nos.</u>	1006-07_EX_002; 1408-04_PL_001; 1408-04_PL_003; 1408-04_PL_004; 1408-04_PL_005; 1408-04_PL_006; 1408-04_PL_007; 1408-04_PL_008; 1408-04_PL_101 Rev G; 1408-04_PL_102 Rev F; 1408-04_PL_103 Rev F; 1408-04_PL_104 Rev E; 1408-04_PL_105 Rev F; 1408-04_PL_106 Rev F; 1408-04_PL_107 Rev G; 1408-04_PL_108 Rev E; 1408-04_PL_109 Rev D; Design and Access Statement; Planning Statement (Received on 8 th September 2017); 1708-04_PL_000 Rev A (Received on 20 th November 2017); 1408-04_PL100_Rev A (Received on 22 nd November 2017); Email from agent dated 22 nd November 2017.
<u>Background Papers</u>	(1) Case File LE/50/81/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	None
<u>Screening</u>	N/A

1.0 Property/Site Description

- 1.1 The subject site contains a single storey detached bungalow situated on the north-eastern side of Canonbie Road, SE23. The property sits amongst two storey

dwellinghouses, which form part of a varied streetscape including changes in land levels between each property.

- 1.2 There is a considerable variety of property styles along Canonbie Road, including pairs of inter-war semis, detached houses and bungalows.
- 1.3 Immediately to the south-east of the application site is an access driveway (named Manor Way) which leads into the flatted development on the site of 'The Manor'. The road gradient declines going from west to east of the site and from south to north across the site the gradient declines. The adjoining property to the south east, 83 Canonbie Road, is sited on higher ground and is separated from the application property by Manor Way. The adjoining property to the north west is 79 Canonbie Road, which is sited on lower ground.
- 1.4 The proposed site has a site area of approximately 600 m² with the dwellinghouse being proposed of approximately 264 m² gross floor area.
- 1.5 The area is not a Conservation Area and the property is not listed, nor is it within the setting of any listed buildings. There is no Article 4 Direction on the site.
- 1.6 The PTAL for the site is 1b, which indicates a low level of transport accessibility (0 being the worst, and 6b being the best).

2.0 Planning History

- 2.1 There has been some relevant planning history already on this site, where planning permission for a first floor extension to the existing bungalow has been granted and subsequently a minor material amendment in connection with this planning permission was also approved. Below is a list of the site's history in date order.
- 2.2 DC/11/78561 - The construction of an additional storey at the first floor level including a roof terrace, together with the construction of a new garage in the front garden of 81 Canonbie Road SE23. Granted on 23 January 2012. (This permission has had work commenced with a letter to the applicant from the Council confirming this.)
- 2.3 DC/13/082430 - Certificate of Lawful Development (Proposed) in respect of the construction of a single storey timber building in the rear garden of 81 Canonbie Road SE23, to provide a garden office. Granted on 25 March 2013 and has been implemented.
- 2.4 DC/15/093340 - An application submitted under S73 of the Town and Country Planning Act 1990 for a minor material amendment to vary standard Condition (2) in connection with the planning permission (DC/11/78561) dated 23 January 2012 for the construction of an additional storey at the first floor level including a roof terrace, together with the construction of a new garage in the front garden of 81 Canonbie Road SE23, in order to allow the following changes:-
 1. An extension between the garage and house;
 2. The ground floor infill extension of the south-east corner;
 3. Alterations to the south-eastern elevation at first floor level;
 4. The relocation of the front entrance;
 5. New door to the north-east elevation and alterations to the approved north-east elevation doors at ground floor level;

6. New windows in the south-west elevation, the side of the south-west elevation and the south-east elevation of the garage, together with an alteration to the opening style of the approved window in the south-west elevation, at ground floor level;
7. Retention of the existing ground floor window in the north-west elevation;
8. Reduction in obscure glazing to the south-east side elevation;
9. Alterations to the glazing panel on the south-west elevation at first floor level;
10. New rooflight in the single storey section and roof window to the side roofslope of the garage;
11. Addition of an external staircase to the roof terrace to the rear; and,
12. Alterations to the front landscaping to allow vehicle maneuvering.

This was granted on 05 November 2015.

3.0 Current Planning Application

3.1 The Proposal

- 3.2 The application seeks approval for the demolition of the existing single storey bungalow and for the construction of a replacement, two-storey detached dwelling, together with first floor terrace and associated enclosed bin storage. A separate garage with an internal mezzanine floor is proposed to be sited to the front of the application site.
- 3.3 The applicant has confirmed in writing that the mezzanine floor within the garage would be used for storage.
- 3.4 The scheme is a revision of the existing planning permission DC/11/78561 (as amended by DC/15/093340). As DC/15/093340 had been granted by the Council under s73 of the 1990 Act, a wholly new planning permission was created and which is the benchmark planning permission against which the current application must be considered. Planning permission DC/11/78561 still exists and could still be implemented.
- 3.5 The general scale and massing of the scheme has not changed from the previously approved s73 planning permission DC/15/093340. The aspects of the current application, which have been altered from the previously approved submissions are as follows:
 - The full demolition of the property itself.
 - The installation of a painted steel rather than glazed balustrade to the first floor terrace area.
 - The addition of an external staircase to be used for accessing the terrace area sited on the south eastern corner. (Previously a spiral staircase sited within the footprint of the dwellinghouse at the south eastern corner)
 - Material changes to the front elevation of the garage and dwelling house, including smaller glass windows on the front elevation of the garage and an additional rooflight. Larger windows on the front of the dwellinghouse with a different mix of materials.
 - Minor alterations to the position and scale of the windows and doors.

3.6 All proposed materials include render, fibre cement roof tiles, laminated timber frames, opaque glass, glass, fibre cement cladding panels, timber cladding, timber decking, powder coated aluminium profile for the roof and painted steel balustrade.

3.7 Supporting Documents:

- Design & Access Statement
- Planning Statement

4.0 Consultation

4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

External

4.2 Adjoining occupiers, Ward Councillors and the Forest Hill Society were notified. In addition, a site notice was displayed at the property boundary. Three objections were received within the statutory 21-day consultation period. Objections were received from one adjoining occupier and two from local nearby residents.

4.3 Grounds of objection are as follows:

- Size/height of some of the elevations.
- Due to the positioning of the balcony, concerns over overlooking to the garden/property.
- This site is near the top of the hill, with houses set back behind generous front gardens giving a sense of openness appreciated by residents, and the visitors coming to see the city views. This scheme is too bulky and out of keeping with its surroundings.
- The garage wing is 2-storeys tall, as large as a separate house, and projects from the building line almost to the pavement. The sense of openness will be lost. This sets a dangerous precedent for other forward extensions aimed at claiming the view. Looks completely out of proportion with the rest of the buildings on the street. Creates a sense of enclosure to the neighbouring properties, as the garage will transgress the current building line of the street.
- The garage looks bulky and large with dimensions of a second home on the property.
- Neighbours will also lose the proportionate sense of space if the two-storey construction on both the home and the garage go ahead. The construction of the garage should be largely limited to the current footprint without a second storey.
- Whilst the applicant has suggested that the mezzanine floor will be used as storage, this space can be used as whatever the applicant wants, once permission is granted.
- Too much glazing to front resulting to overlooking from those passers-by.

4.4 In summary neighbours have raised concerns with the size of the proposed dwellinghouse, overlooking issues as a result of the proposed balcony, the scale and siting of the garage causing harm to the existing streetscene coupled with potential overlooking onto the public highway and internally changing the use of the garage.

Internal

4.4 The Council's Highways Officer provided the following comments:

Highways: Whilst there are no objections from the highways department, the applicant should be advised that it is not best practice for the vehicle to be reversing out on to the highway. There could be an informative to ensure the applicants reverse on to the site. No cycle parking has been provided. The proposal would require at least 2 covered, secure and fully enclosed cycle parking spaces. As the crossover will be widened from roughly 2.8m to 4m, the applicant will have to contact highways.

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.

A local finance consideration means:

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, the Development Management Local Plan, the Site Allocations Local Plan and the Lewisham Town Centre Local Plan, and the London Plan. The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

5.3 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 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. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that ‘...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)’.

- 5.4 Officers have reviewed the Core Strategy for consistency with the NPPF and consider there is not an issue of conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, and 215 of the NPPF.

Other National Guidance

- 5.5 The DCLG launched the National Planning Practice Guidance (NPPG) resource on the 6th March 2014. This replaced a number of planning practice guidance documents.

London Plan (March 2016)

- 5.6 The London Plan policies relevant to this application are:

- Policy 3.14 Existing Housing
- Policy 3.5 Quality and design of housing developments
- Policy 5.3 Sustainable design and construction
- Policy 6.9 Cycling
- Policy 7.4 Local character
- Policy 7.5 Public realm
- Policy 7.6 Architecture

London Plan Supplementary Planning Guidance (SPG)

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

- Housing (2016)

Other National Guidance

- 5.8 Technical Housing Standards (March 2015)

Core Strategy (2011)

- 5.9 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Development Management Local Plan and the London 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 5 Areas of Stability and Managed Change
- Core Strategy Policy 15 High quality design for Lewisham

Development Management Local Plan (2014)

5.10 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core Strategy and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Development Management Local Plan as they relate to this application:

5.11 The following policies are considered to be relevant to this application:

- DM Policy 1 Presumption in favour of sustainable development
- DM Policy 2 Prevention of loss of existing housing
- DM Policy 22 Sustainable design and construction
- DM Policy 30 Urban design and local character
- DM Policy 32 Housing design, layout and space standards

Residential Standards Supplementary Planning Document (May 2012)

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, and materials.

6.0 Planning Considerations

6.1 The main issues to be considered in respect of this application are:

- Principle
- Design
- Standard of accommodation
- Highways and Traffic Issues
- Impact on Adjoining Properties
- Sustainability and Energy

Principle

Loss of the existing dwelling

6.1 The proposal is for the demolition of the existing bungalow and its replacement with a two storey detached dwelling. The existing is a three bed 4 person house. The proposed would be a five bed 9 person house.

6.2 Whilst DM Policy 2 resists the loss of housing, considering that the replacement of a new dwellinghouse would not result in the net loss of new housing and the existing property is not under any particular designation the loss in this instance is considered acceptable. Moreover, there would be no loss of a family unit. The design and scale of the new dwelling has been established under planning permission DC/11/078561/FT. The s73 planning permission DC/15/093340 has had works commenced and therefore is partially implemented, consequently making this a material planning consideration against which the current application should be assessed.

Design, Scale and Impact on the streetscene

Proposed dwelling

- 6.3 Urban design is a key consideration in the planning process. The NPPF (paragraph 56) makes it clear that national government places great importance on the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF (paragraph 57) states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
- 6.4 Paragraph 63 of the NPPF states that in determining applications, great weight should be given to outstanding or innovative designs, which help raise the standard of design more generally in the area. In addition to this, paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 6.5 In relation to Lewisham, Core Strategy Policy 15 outlines how the Council will apply national and regional policy and 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, is sensitive to the local context, and responds to local character.
- 6.6 DM Policy 30 supports the Core Strategy, as it requires planning applications to demonstrate a site-specific response which creates a positive relationship with the existing townscape whereby the height, scale and mass of the proposed development relates to the urban typology of the area and requires developments to be of a high design quality.
- 6.7 Notwithstanding the proposed alterations set out under paragraph 3.5 of this report, the design and scale of the dwelling has been established under planning permission DC/11/078561/FT and the subsequent s73 permission DC/15/093340. The layout and proportions of the original property would effectively be the same as the previous approvals.
- 6.8 The proposed building would appear as a modern two-storey dwelling of similar scale and massing to the neighbouring properties.
- 6.9 On the front elevation, the proposed building would be constructed in render and glass panels with large windows surrounded with timber and cladding panels. The roof would be constructed from fibre cement material with the insertion of two rooflights. High-quality materials including laminated timber for the new framework and fibre cement tiles on the exterior of the dwellinghouse have been proposed. Planting boxes have been proposed to be sited either side of the dwelling at first floor level. An enclosed bin storage area would be sited at the front sited within the dwellinghouse.
- 6.10 Although the proposed roof design is unusual, considering the variation of styles within the streetscene, it is considered that it would be an interesting architectural feature which would not result in detrimental harm to the character and appearance of the host property or the street scene.

- 6.11 The proposal includes a terrace at first floor on the south eastern side elevation adjacent to Manor Way, which would be accessed by an external staircase. The previous application included a glass balustrade around the terrace on the south eastern side with a spiral staircase sited within the footprint of the dwellinghouse. This application includes a painted vertical steel balustrade which would be a more visually prominent material to the previously approved glass balustrade. However, the siting of the balustrade on the roof terrace would be towards the rear of the house, sited approximately 9 metres away from the front elevation and 16 metres from the front boundary, with a width of 2.39 metres. These distances would be sufficient to prevent this part of the scheme appearing visually prominent and intrusive when viewed from the streetscene (Canonbie Road). These distances are identical to those in planning permission DC/15/093340.
- 6.12 The siting of the staircase would be external to the footprint of the property. It would not be visible from Canonbie Road as it would be located to the south east (rear) of the dwellinghouse. The spiral staircase would have a height of 4.1 metres and would be at least 9 metres away from the boundaries of neighbouring properties namely Fairlawn Primary School and The Manor. Therefore, there are no concerns regarding the visual amenity impact of this spiral staircase.
- 6.13 The scheme demonstrates an innovative design of a contemporary dwellinghouse, which is surrounded by a varied mix of different styled properties. High quality materials have been proposed which are consistent with the previous approved planning permissions for the property. It has also been noted that the scale and massing of the proposal (and that of the previous approved planning permissions for the property) is similar to the adjoining properties. Taking into account all material considerations, the proposal is acceptable in terms of terms of design and scale and the impact it would have upon the character and appearance of the area.
- 6.14 With regards to the comments raised by the objectors on the scale and siting of the garage and its subsequent harm to the existing built form of the streetscene, it is noted that this element is consistent with the previous planning permissions DC/11/07861/FT and s73 DC/15/093340. The proposed garage would sit forward of the building line, however, it has an asymmetrical roof which slopes down on the right-hand side to be not much higher than the adjoining boundary wall. In fact, this lower right-hand side of the garage would be the same height as the brick pier on the right of the Manor Way access road. The garage roof slopes up from 3 metres high on the lower side (west), to just over five metres on the higher side. In design terms, the garage would be constructed using similar materials to the main house. Because of the change in angle of the road at the brow of the hill, the proposed garage will be seen against the larger bulk of the two-storey house at 79 Canonbie Road, rather than blocking distant views, when seen from most angles and other properties on the south-west side of the road, e.g. Barr Beacon.
- 6.15 The garage in this proposal is the same as the previously approved by the s73 planning permission DC/15/093340 scheme, in terms of siting, scale and massing. The changes subsequent to this previous approval only relate to smaller glass panels on the front elevation, side windows facing into the site and an additional rooflight. These changes are considered to be of a minor nature, which would not result in visual harm to the character and appearance of the area. Therefore, overall, the design is considered acceptable.

- 6.16 An objector has raised concerns regarding the storage area (in the garage) being converted in the future to a residential use. It is proposed that a condition be attached requiring the use of the garage remains ancillary to the dwelling. Overall the proposed dwellinghouse and garage are considered to be of a high quality design.

Standard of Residential Accommodation

- 6.17 DM Policy 32 'Housing design, layout and space standards' and Policy 3.5 'Quality and design of housing developments' of London Plan (March 2016) set out the requirements with regards to housing design, seeking to ensure that new residential units are designed to a high quality, ensuring the long term sustainability of the new housing provision. The London Mayors Housing SPG (March 2016) provides guidance on how to implement the housing policies in the 2016 London Plan and further internal standards.
- 6.18 The proposed dwelling would have a larger floor area when compared to the existing single bungalow (going from 127 m² to 264 m²). By virtue of the proposal maintaining the approved scale and form of planning permissions DC/11/07856/FT and DC/15/093340, the proposal comfortably exceeds the required standards for a 5-bedroom dwelling in terms of gross internal area, (124m² for a two storey 5 bed 9 person unit) bedroom sizes and dimensions, floor to ceiling height and other elements such as outlook, daylight/sunlight, privacy and amenity space.

Highways and Transport

- 6.19 The NPPF (paragraph 29) recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Plans and decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site. Safe and suitable access to the site should be achieved for all people. The NPPF (paragraph 32) clearly states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.20 Core Strategy Policy 14 'Sustainable movement and transport' supports this policy approach and promotes more sustainable transport choices through walking, cycling and public transport. It adopts a restricted approach on parking to aid the promotion of sustainable transport and ensuring all new and existing developments of a certain size have travel plans. Core Strategy Policy 7 'Climate change and adapting to the effects' and Core Strategy Policy 9 'Improving local air quality' further promote sustainable transport.
- 6.21 Policy 6.9 'Cycling' of the London Plan states that developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards set out in Table 6.3. Table 6.3 outlines that all new dwellings that have two or more bedrooms must provide two cycle parking spaces each.
- 6.22 The Council's Highways Officer has been consulted, and has no objection to the application, subject to two fully enclosed and secure cycling spaces being provided. Given the size of the garage is 25 m², there is ample provision to have two cycle spaces sited inside of the garage, ensuring they are secure and dry as well.
- 6.23 The applicant was requested to show a visibility splay for the access so that an assessment could be made on highway and pedestrian safety. The applicant

subsequently submitted a plan outlining the visibility splay. The details have now overcome highway safety concerns associated with the siting of the garage and access coming in and out of the site. The Council's Highways Officer is satisfied that the details provided do not result in highway or pedestrian safety concerns.

- 6.24 In light of the above, the proposal is considered acceptable with regards to highways and traffic impacts.

Impact on Adjoining Properties

- 6.25 Core Strategy Policy 15 'High quality design for Lewisham' seeks to ensure that proposed development is sensitive to the local context. Officers therefore expect proposed developments to be designed in a way that will not give rise to significant impacts upon the amenities of existing neighbours and future occupiers. Development Management Policy 32 'Housing design, layout and space standards' supports CS Core Strategy policy 15, and requires that proposals provide a satisfactory level of privacy, outlook and natural lighting both for its future residents and its neighbours.
- 6.26 The changes proposed with this application include the addition of an external staircase to the roof terrace to the south east (rear) of the building. In the previous approvals, the staircase was within the footprint of the dwellinghouse, however, it has been proposed to be sited on the south-eastern corner of the dwelling in this application
- 6.27 The material of the balustrade has changed from glass panels to painted steel railings with associated first floor side vents allowing access onto the terrace floor area.
- 6.28 The siting of the south eastern side terrace area with railings would not be visible to the occupiers living at 79 Canonbie Road, therefore this change would not cause harm to this neighbours residential amenity. Whilst the siting of the staircase is now external, it is considered that with there being a 10 metre distance to the shared boundary with this neighbour and the staircase only being one storey in height, any loss of privacy due to overlooking would be negligible.
- 6.29 Manor Way forms an access to the flats at The Manor. The access road (Manor Way) is sited between 81 and 83 Canonbie Road and was excavated to reduce land levels when the new housing block on the site of The Manor was constructed. This resulted in the construction of new brick retaining walls either side of Manor Way, so that this roadway in itself is sunken in relation to the side garden of 81 Canonbie Road. Manor Way has been being excavated so the brick retaining walls result to a height of 4.6 metres in total.
- 6.30 The neighbour at 83 Canonbie Road is sited 10 metres away to the east from the side-shared boundary closest to the proposed south eastern side terrace area and which is separated from 79 Canonbie Road by Manor Way. 83 Canonbie Road is situated on higher ground than 79 Canonbie Road.
- 6.31 Due to the level changes on site the south eastern side terrace and railings would sit lower than the boundary wall of 83 Canonbie Road. The closest part of the side terrace is 10 metres from the boundary wall of 83 Canonbie Road. This would avoid any overlooking and prevent loss of privacy to this neighbour's amenity. As a result of

the distance, land levels and boundary treatment, harm to this neighbour's residential amenity would be avoided.

6.32 Flats at The Manor (sited east) and Fairlawn Primary School (sited north-west) lie at a considerable distance (over 50 metres) to the site therefore there would be no overlooking concerns for these properties.

6.33 Taking into account these considerations, the proposal is acceptable in terms of amenity of adjoining occupiers.

Sustainability and Energy

6.34 The NPPF (paragraph 95) requires Local Planning Authorities to adopt proactive strategies to mitigate and adapt to climate change. The NPPF requires planning policies to be consistent with the Government's zero carbon buildings policy and adopt nationally described standards.

6.35 The London Plan and the Core Strategy Policies advocate the need for sustainable development. All new development should address climate change and reduce carbon emissions.

6.36 For schemes of this scale, sustainability requirements have been absorbed into Building Regulations.

7.0 Removal of permitted development rights

7.1 Officers recommend that if this application is approved conditions be imposed to remove certain permitted development rights in respect of the site. Paragraph 0.17 of that part of the Planning Practice Guidance that is concerned with the use of planning conditions states that "conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances". Officers in this case consider that exceptional circumstances exist to justify the limited removal of certain permitted development rights as set out in draft conditions 3, 5 and 6 for the reasons stated therein.

8.0 Prevention of Crime and Disorder

8.1 S.17 of the Crime and Disorder Act 1998 provides that it shall be the duty of the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and need to do all that it reasonably can to prevent (in summary) crime and disorder in its area. It is not considered that this application will result in any crime and disorder issues.

9.0 Human Rights Act

9.1 Under the Human Rights Act 1998, the Council must not act in any way which is incompatible with the rights referred to in the Act. Officers do not consider there to be any Human Rights Act implications arising from this application.

10.0 Local Finance Considerations

10.1 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

10.2 The weight to be attached to a local finance consideration remains a matter for the decision maker. 10.3 London Borough Lewisham CIL and The Mayor of London's CIL are therefore a material consideration. CIL is payable on this application and the applicant has completed the relevant form.

11.0 Community Infrastructure Levy

11.1 On 1st April 2015 the Council introduced its Local CIL to be implemented along with the existing Mayoral CIL. The charge will replace a number of financial contributions previously required through Section 106 Agreements.

11.2 CIL is chargeable on the net additional floorspace (gross internal area) of all new development. Under the CIL charging schedule, the amount of CIL payable for the SE26 postcode is £70/m² of new development. The Mayoral CIL is charged at £35/m² of new development. It is the Local Planning Authority's responsibility to collect CIL payments from new development.

12.0 Conclusion

12.1 This application has been considered in the light of the policies set out in the development plan and other material considerations including the previous permissions granted.

12.2 The principle of the demolition of the existing dwelling and proposed redevelopment of the site is considered acceptable, as there is no net loss of housing.

12.3 It is considered that the proposal would exhibit high quality design, whilst also avoiding harm to neighbouring amenities. Therefore in light of the above, the proposed development is considered acceptable and is recommended for approval.

RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

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

1006-07_EX_002; 1408-04_PL_001; 1408-04_PL_003; 1408-04_PL_004; 1408-04_PL_005; 1408-04_PL_006; 1408-04_PL_007; 1408-04_PL_008; 1408-04_PL_101 Rev G; 1408-04_PL_102 Rev F; 1408-04_PL_103 Rev F; 1408-04_PL_104 Rev E; 1408-04_PL_105 Rev F; 1408-04_PL_106 Rev F; 1408-04_PL_107 Rev G; 1408-04_PL_108 Rev E; 1408-04_PL_109 Rev D (Received on 8th September 2017); 1708-04_PL_000 Rev A (Received on 20th November 2017);

1408-04_PL100_Rev A (Received on 22nd November 2017); Email from agent dated 22nd November 2017.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

3. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order), no plumbing or pipes, other than rainwater pipes, shall be fixed on the front elevation of the building.

Reason: In order that the local planning authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

4. No development (with the exception of demolition) shall commence on site until samples and a detailed schedule/ specification of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the local planning authority may be satisfied as to the external appearance of the building and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

5. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roofs on the building hereby approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

6. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order), no satellite dishes shall be installed on the north and west elevations of the building.

Reason: In order that the local planning authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

7. (a) No above ground level works shall commence on site until drawings showing hard landscaping of any part of the site not occupied by buildings (including details

of the permeability of hard surfaces) have been submitted to and approved in writing by the local planning authority.

(b) All hard landscaping works, which form part of the approved scheme under part (a), shall be completed prior to occupation of the development.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies 5.12 Flood risk management and 5.13 Sustainable Drainage in the London Plan (2016), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

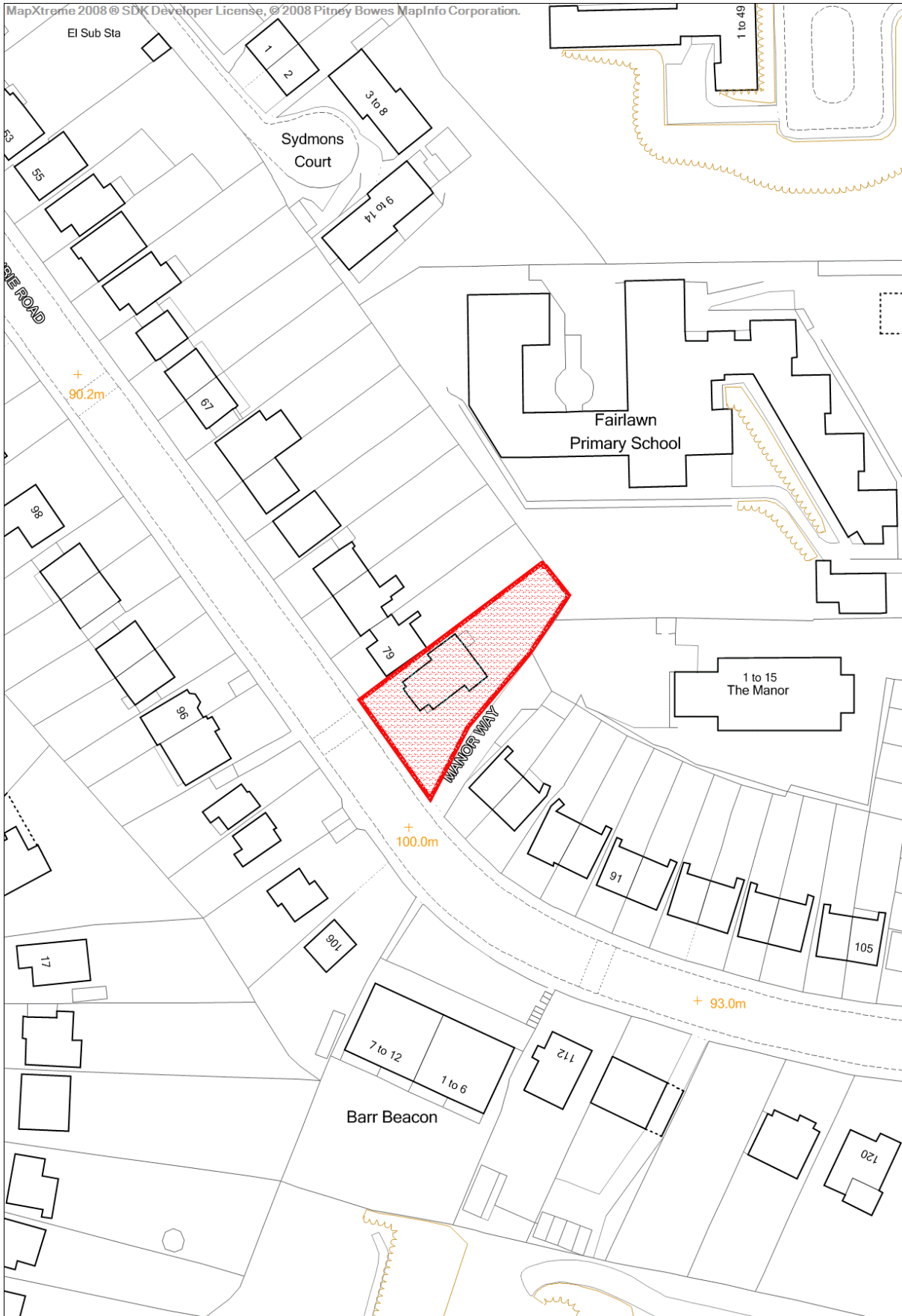
8. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the garage(s) shall be used for the garaging or storage of private motor vehicles only or for purposes ancillary to the residential use of the dwelling known as 81 Canonbie Road and shall not be used as living accommodation and no trade or business shall be carried on therefrom.

Reason: To ensure the garage is for domestic use for the dwellinghouse only. The application has been assessed only in terms of this restricted use and any other use may have an adverse affect on the character and amenity of the area and amenity for future occupiers contrary to relevant Polices in the London Plan (2015), Core Strategy (2011) and the Development Management Local Plan (November 2014).

Informatives:

- (a) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.
- (b) As you are aware the approved development is liable to pay the Community Infrastructure Levy (CIL) which will be payable on commencement of the development. An '**assumption of liability form**' must be completed and before development commences you must submit a '**CIL Commencement Notice form**' to the council. You should note that any claims for relief, where they apply, must be submitted and determined prior to commencement of the development. Failure to follow the CIL payment process may result in penalties. More information on CIL is available at: - <http://www.lewisham.gov.uk/myservices/planning/apply-for-planning-permission/application-process/Pages/Community-Infrastructure-Levy.aspx>
- (c) You are advised that all construction work should be undertaken in accordance with the "London Borough of Lewisham Code of Practice for Control of Pollution and Noise from Demolition and Construction Sites" available on the Lewisham web page.

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Committee	PLANNING COMMITTEE B	
Report Title	79 Pepys Road, SE14	
Ward	Telegraph Hill	
Contributors	Monique Wallace	
Class	PART 1	21 December 2017

<u>Reg. Nos.</u>	DC/16/97741
<u>Application dated</u>	01.08.2016 as revised on 17.10.2017
<u>Applicant</u>	Mr Paul Bottomley of Town Planning Bureau on behalf of Mr. Savio
<u>Proposal</u>	The change of use and conversion of 79 Pepys Road, SE14 from a House of Multiple Occupation (use class sui-generis) comprising 9 rooms into 1 x 3 bed, 1 x 1 bed and 1 x 2 bed self-contained flats (use class C3), together with the construction of a single storey extension to the rear.
<u>Applicant's Plan Nos.</u>	E.101, E.102, E.103, E.104, Site Location Plan, Block Plan, Planning, Design and Access Statement, Heritage, Planning, Design and Access Statement, Sustainability Statement received 2/8/16; P.101 Rev B; P.102 Rev B; P.111 Rev B; P.112 Rev B received 17/10/17; HMO Licence letter dated 31 January 2007; copy of licence register, received 29/11/17.
<u>Background Papers</u>	(1) DE/48/79/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	Area of Stability and Managed Change Telegraph Hill Conservation Area

1.0 Property/Site Description

- 1.1 The subject site is located on the eastern side of Pepys Road, approximately 60 metres south of the intersection of Ommaney Road and Pepys Road.
- 1.2 The property contains a two storey plus basement level/lower ground floor, semi-detached dwelling which is currently in use as a House of Multiple Occupation (HMO).
- 1.3 The property is located within the Telegraph Hill Conservation Area but is not a Listed Building, nor is it within the setting of any Listed Buildings.

2.0 Planning History

- 2.1 The site is currently in use as a House of Multiple Occupation which has been evidenced by the case officer's site visit on 11 October 2017 and a letter from the Council's HMO Licencing team registering the property as a 9 person HMO on 31 January 2007. On this basis, officers are satisfied that the site has been used as a HMO continuously for 10 years and consider that the use as a HMO would be immune from planning enforcement action.
- 2.2 Permission was refused under reference DC/05/60453, on 29 December 2005 for the conversion of the 3 storey semi-detached house into 4 self-contained flats. The four flats were to be made up of a studio unit, 1 one bedroom and 2 two bedroom self-contained flats. The appeal was dismissed on 29 June 2006. The Inspector's decision is summarised below.
- 2.3 Paragraph 1: The inspector considered the main planning considerations to be the dwelling mix, standard of accommodation and the impact upon the Telegraph Hill Conservation area.
- 2.4 Paragraph 2: The proposal did not provide a 3 bed family unit and therefore was contrary to UDP (expired and replaced by the Core Strategy and Development Management Local Plan) policy HSG 9 Conversion of Residential property which necessitated the provision of a family-sized unit in conversions.
- 2.5 Paragraph 7: The proposed studio unit would provide accommodation for smaller households and therefore would be in accordance with HSG 9 Conversion of Residential property.
- 2.6 Paragraph 9: The proposed alterations to the front staircase would neither preserve nor enhance the Telegraph Conservation Area.
- 2.7 The Inspector concluded (paragraph 10) that whilst the standards of accommodation for future occupiers would have been acceptable, the dwelling mix and the proposed alterations to the building (steps to the front) would be contrary to policies and would neither preserve, nor enhance the appearance of the Telegraph Hill Conservation Area.

3.0 Current Planning Application

The Proposals

- 3.1 This planning application has been revised since submission and now proposes the alteration and conversion of 79 Pepys Road to provide one 3 bed, 4 person family sized flat, one 1 bed, 2 person flat and one 2 bed, 3 person flat. Previously one studio, 1 person flat, one 1 bed, 2 person flat and one 2 bed, 3 person flat were proposed.
- 3.2 The lower ground floor unit would be accessed via an existing door at lower ground floor level, whilst the upper floor flats would share the existing/original main entrance. Both entrances would be accessed directly from Pepys Road.
- 3.3 The proposals also referred to the replacement of the roof with slate tiles. The existing roof already benefits from a slate roof, and the agent advised in his email

received 30 November 2017 that the replacement of the roof covering is no longer proposed.

- 3.4 The proposal would not involve any changes to the front elevation, but a single storey extension to the rear is proposed in order to create more space for the family sized unit at lower ground floor level.
- 3.5 The rear extension would project 2.1m from the rear elevation, and have a width almost the same as the original two storey projection at 3.8m. It would have a flat roof at 3m in height. The materials are proposed to match those of the existing, namely brick.
- 3.6 The proposed conversion would result in a unit on each floor; the family unit would be located at lower ground floor level with direct and sole access to the rear garden, while the 1 bed would be located at ground floor, and the 2 bed at first floor.
- 3.7 Bin and cycle stores for all units would be located in the front garden, shielded from the street by landscaping.

4.0 Consultation

- 4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 Site notices were displayed and letters were sent to residents in the surrounding area and the relevant ward Councillors.
- 4.3 No letters of objections were received from neighbouring occupiers.

Telegraph Hill Society

- 4.4 Objections were raised to the proposals on the grounds of the principle of development. DM Policy 3 is cited as being applicable which prohibits the conversion of a single family dwelling house into self-contained flats.
- 4.5 Further objections were raised to principle setting a precedent for further HMO's in the Conservation Area and that similar applications have been refused by the Council.
- 4.6 Overdevelopment is also cited as a reason for objecting to the proposals, on the grounds that a family sized unit would not be provided in the scheme, and the development results in poor stacking of rooms.
- 4.7 The letter is concluded by suggesting that if permission is granted, the opportunity to replace unsympathetic boundary treatment, roof ornamentation and upvc windows should be a condition of the approval.
- 4.8 Following the submission of revised plans the Telegraph Hill Society responded further, with the following objections and comments;
 - 1. The change of use from HMO to flats should be considered contrary to DM3 and therefore not supported;

2. HMOs should be preferred to flats as they can more easily be converted back into single dwellings in the future;
3. Poor design quality of the proposed extension and insufficient information about the materials to be used and of the details provided they proposed an inappropriate choice of materials contrary to policy;
4. Object to the bicycle store in the front garden due to materials and siting;
5. Concern about how 'preserves and enhances' the conservation area has been applied in the assessment of this application

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.

A local finance consideration means:

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

- 5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, the Development Management Local Plan, the Site Allocations Local Plan and the Lewisham Town Centre Local Plan, and the London Plan. The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

- 5.3 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 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. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to

relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

- 5.4 Officers have reviewed the Core Strategy 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, and 215 of the NPPF.

Other National Guidance

- 5.5 On 6 March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents.

London Plan 2016

- 5.6 The policies relevant to this application are:

Policy 3.3 Increasing housing supply
Policy 3.4 Optimising housing potential
Policy 3.5 Quality and design of housing developments
Policy 3.9 Mixed and balanced communities
Policy 3.14 Existing housing
Policy 6.9 Cycling
Policy 6.13 Parking
Policy 7.4 Local character
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology

London Plan Supplementary Planning Guidance (SPG)

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

Housing (2016)

Core Strategy

- 5.8 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Development Management Local Plan and the London 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 5 Areas of Stability and Managed Change
Core Strategy Policy 1 Housing provision, mix and affordability
Core Strategy Policy 14 Sustainable movement and transport)
Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

Development Management Local Plan

5.9 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core Strategy and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Development Management Local Plan as they relate to this application:

5.10 The following policies are considered to be relevant to this application:

DM Policy 1	Presumption in favour of sustainable development
DM Policy 2	Prevention of loss of existing housing
DM Policy 3	Conversion of a single dwelling to two or more dwellings
DM Policy 6	Houses in multiple occupation (HMO)
DM Policy 22	Sustainable design and construction
DM Policy 29	Car parking
DM Policy 30	Urban design and local character
DM Policy 31	Alterations/extensions to existing buildings
DM Policy 32	Housing design, layout and space standards
DM Policy 36	New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens

Residential Standards Supplementary Planning Document (2012)

5.11 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, accessibility and materials.

5.12 Paragraph 6.2 (Rear Extensions) states that when considering applications for extensions the Council will look at these main issues:

- How the extension relates to the house;
- The effect on the character of the area - the street scene and the wider area;
- The physical impact on the host building, and the amenity of occupiers of neighbouring properties;
- A suitably sized garden should be maintained.

5.13 Paragraph 6.3 (Materials) states that in much of the borough, the predominant materials used to construct the original buildings were brick (yellow stocks, with trimmings often in red brick), blue Welsh slates, painted joinery and stucco (smooth render painted finish). Bricks and roofing material used to construct an extension should match those used in the original building. Quality clay brick and

slate are the most acceptable building materials. The Council will also support the use of modern materials in appropriate circumstances.

- 5.14 Paragraph 6.4 (bulk and size) advises that extensions should be smaller and less bulky than the original building and reflect its form and shape. Traditionally, extensions to buildings are subsidiary to the main structure. Over-dominant extensions may destroy the architectural integrity of existing buildings and may be out of character with adjacent buildings.
- 5.15 Paragraph 7.1 (Building materials) states that to ensure the external appearance of development is of a satisfactory standard, a sample of external materials to be used (e.g. facing bricks, tiles, fencing materials etc.), will be required for approval before the development is started. These should normally be of a type, which matches or blends with the local materials. High quality, durable materials should be chosen and consideration given to their future maintenance, to ensure a long life span. Environmentally-friendly materials are preferred.

6.0 Planning Considerations

- 6.1 The relevant planning considerations are the principle of development, the impact of the proposal on the character and appearance of the existing building, the Telegraph Hill Conservation Area, the amenities of neighbouring occupiers and on highways as well as the proposed standard of accommodation.

Principle of development

- 6.2 Housing is a priority issue for all London boroughs and the Core Strategy welcomes the provision of additional housing.
- 6.3 Development Management Policy 3 refers to the conversion of single-family dwellings, but as this property is currently arranged and established as a 9 unit House of Multiple Occupation (HMO), the policy does not apply.
- 6.4 However Development Management Policy 6 Houses in multiple occupation (HMO) is directly applicable to the case and states that the Council will resist the loss of good quality HMOs. However, the supporting text to the policy at paragraph 2.40 states that HMOs are generally not suitable for Areas of Stability and Managed Change due to the increased stress on local infrastructure.
- 6.5 The application site is within an Area of Stability and Managed Change and holds the character of a more suburban typology. Whilst the site benefits from an excellent Public Transport Accessibility Level (PTAL 6a), where 0 is poor access to public transport, and 6b is best, the predominant character of the area is that of housing, surrounded by parks; the area does not benefit from the immediate access to amenities, such as shops, dry cleaning, gyms etc., as would be found in and immediately around town and district centres.
- 6.6 The HMO is of a relatively good quality in that communal and private spaces are clearly defined, fire escapes are clearly labelled and fire extinguishers are in place; the bathroom observed by officers was clean and functional (kitchen unseen).

- 6.7 However, in accordance with DM Policy 6, officers consider the loss of the HMO to be acceptable due to the site being in an Area of Stability of Managed Change and the lack of amenities in the immediate vicinity.
- 6.8 The issue of this application (if granted) of creating a precedent in respect of future / similar planning applications has been raised by the Telegraph Hill Society. However, the Council would have to consider such planning applications on their individual merits in accordance with the consistency principle.

Design and conservation

- 6.9 Paragraph 17 of the NPPF details within its core planning principles that new development should seek to enhance and improve the health and wellbeing of the places in which people live their lives. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that (in summary) with respect to any buildings or other land in a conservation area, the Council is required to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. Paragraph 17 (Core planning principles) of the NPPF states that (in summary) heritage assets should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 6.10 Part 12 of the NPPF ("Part 12") contains detailed guidance on conserving and enhancing the historic environment. The principles and policies set out in Part 12 apply to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-taking. Consequently as the application site is situated in the Telegraph Hill Conservation Area, the contents of Part 12 have to be considered by the Council in determining this application.
- 6.11 Paragraph 131 of Part 12 states that "In determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness".
- 6.12 Paragraph 132 of Part 12 states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification". Paragraph 133 of Part 12 states that (in part) "Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent....".

- 6.13 Officers consider that the current proposal would not lead to substantial harm to the Telegraph Hill Conservation Area.
- 6.14 Paragraph 134 of Part 12 states that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use".
- 6.15 Officers consider that the current proposal would lead to less than substantial harm to the Telegraph Hill Conservation Area.
- 6.16 Paragraph 135 of Part 12 states that "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.17 London Plan Policy 7.4 (Local character) requires development to have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Policy 7.6 (Architecture) seeks the highest quality materials and design appropriate to its context. It also advises that buildings and structures should be of the highest architectural quality and comprise details and materials that complement the local architectural character.
- 6.18 DM Policy 36 (New development, changes of use and alterations affecting designated heritage assets and their setting...) requires all planning applications for proposals affecting heritage assets to provide a statement setting out the impact to the significance of that asset and any harm or loss to that asset should be robustly justified. In particular, the policy continues to advise that planning permission would not be granted for developments or alterations and extensions to existing buildings that is deemed incompatible with the special characteristics of the area, its buildings, spaces, settings and plot coverage, scale, form and materials.
- 6.19 Pepys Road is mentioned often in the Telegraph Hill Conservation Area Character Appraisal. The properties therein are exemplars of the grand architecture which is seen throughout the Telegraph Hill Conservation Area. In fact, photographs of 71 and 73 Pepys Road, which are only 3 doors away from the application site and are of a similar design, are shown in the Appraisal as good examples of the housing typology within Pepys Road.
- 6.20 In this instance, no external alterations are proposed to the front elevation of the application property. However, due to the prominent location of the front garden, details of the structures and alterations necessary in order to provide acceptable refuse and cycle storage will be secured by conditions.
- 6.21 The upper floor units would be accessed via steps up to a communal front door. The ground floor family sized unit would be accessed via the existing door at lower ground floor level. This door was formed from the alteration and extension of a front bay window, which has been in place since at least 2005, as evidenced by photographs taken by the case officer during the consideration of the application dismissed at appeal, referenced DC/05/060453. As the door to the

lower ground floor has been in place for more than 4 years, officers consider it established and immune from enforcement action.

- 6.22 In the 2005 appeal proposal, officers and the Inspector considered that alterations to the front garden to improve the access to the lower ground floor level would be unsympathetic to the appearance of the Conservation Area, and whilst the access is somewhat constrained, especially for a family sized unit, on balance, the requirement to preserve the appearance of the Conservation Area, outweighs the requirement to provide an improved access to the lower ground floor unit.
- 6.23 A single storey extension is proposed to the rear and would abut the boundary with 81 Pepys Road.
- 6.24 Again, Pepys Road is mentioned in the Telegraph Hill Conservation Area Character Appraisal as one of the roads which comprises properties with exceptionally deep rear gardens. Officers consider that the modest 2.5m depth, combined with the 3m height of the proposed extension, its flat roof and the intention to match the existing brickwork, would result in a modest, and inoffensive scale and design, appropriate for the application building and its setting.
- 6.25 Further, the entire garden would be accessed by and would be for the sole use of the basement 3 bed family unit, and therefore would not be segregated as often seen with conversions, thus maintaining the characteristic deep length.
- 6.26 Objections were raised by the Telegraph Hill Society regarding the replacement of the existing upvc windows with timber missing roof ornamentation restored and uncharacteristic front boundary wall replaced, for which the works should be secured by condition if planning permission were to be granted.
- 6.27 The application of planning conditions are governed by 6 tests set out in the National Planning Policy Framework (NPPF). Paragraph 203 of the NPPF states that conditions should be applied in order to render an otherwise unacceptable scheme, acceptable. To justify the imposition of a condition, it would have to be:
- necessary;
 - relevant to planning and;
 - to the development to be permitted;
 - enforceable;
 - precise and;
 - reasonable in all other respects.”
- 6.28 Whilst officers agree that it would be desirable to improve the roof, windows and front boundary wall, no part of the proposals render the improvement of the roof, windows or wall to be necessary in order to make the application acceptable. For this reason, officers do not consider it to be reasonable to request that the windows are changed, roof improved or the wall replaced in order to recommend that the conversion is granted planning permission. That said, the acceptability of the proposed rear extension is subject to the use of matching brickwork which is to be secured via a condition.

6.29 In light of the above, no objections are raised to the proposal on the grounds of design or conservation and officers consider that that the proposal preserves the character and appearance of the Telegraph Hill Conservation Area.

Housing

6.30 London Plan Policy 3.5 Quality and design of housing developments of the London Plan states that housing developments should be of the highest quality internally, externally and in relation to their context. It also states the minimum internal floorspace required for residential units on the basis of the level of occupancy that could be reasonably expected within each unit.

a) Size of Residential Accommodation

	Overall	Policy	Bed 1	Policy	Bed 2	Policy	Bed 3	Policy
Lower Ground floor, 3 bed 4 person	86m ²	74m ²	17.5m ²	11.5m ²	10m ²	7.5m ²	8.2m ²	7.5m ²
Upper ground floor 2 2 bed, 3 p (2 storey)	65m ²	50m ²	18.2m ²	11.5m ²	N/A	N/A	N/A	N/A
First floor 2 bed, 3 person	63.5m ²	61m ²	14.7m ²	11.5m ²	8m ²	7.5m ²	N/A	N/A

b) Standard of Residential Accommodation

6.31 All three dwellings would have overall and room floor areas, floor to ceiling heights, storage and levels of outlook which accord with National Technical standards, London Plan and local policy. However, the upper floor units would not benefit from private amenity space as required by the London Plan Housing SPG (2016).

6.32 Given that the proposed units would be derived from the conversion of an existing building, officers are satisfied that the provision of private amenity space for all units would be impractical. Further, the units comfortably exceed the minimum floor areas and therefore the additional space goes some way to mitigate for the lack of private external space. Lastly, the application site is directly opposite public open space, which again helps to mitigate against the lack of private amenity space provision.

- 6.33 Without the single storey extension, the proposed lower ground floor family sized unit would not be policy compliant in terms of the proposed floor areas. It is therefore imperative that the extension is built, prior to the occupation of this unit. For the above reason, the full completion of the extension, so that it is fit for habitation, prior to occupation of the lower ground floor flat will be secured by condition.
- 6.34 In light of the above, officers are satisfied that the proposed standards of accommodation for future occupiers would be acceptable, subject to conditions.

Neighbour amenity

- 6.35 DM Policy 31 states that residential development should result in no significant loss of privacy and amenity (including sunlight and daylight) to adjoining houses and their back gardens.
- 6.36 The proposal involves the construction of a single storey extension to the rear which would abut the boundary with 81 Pepys Road. The extension would be 3m in height, but the impact of the height would be reduced by virtue of 81 Pepys being sited on land approximately 0.9m above the land levels of the application site. In addition, the relatively modest 2.1m in depth would further minimise any impact to neighbour amenity.
- 6.37 In addition to the above, glazed double doors are proposed in the rear elevation, of the lower ground 3 bed flat, facing into the rear garden area of 79 Pepys Road.
- 6.38 The extension would however have a flat roof, and any formation of a door to create a terrace on the flat roof of the extension in this location would result in significant overlooking to the lower ground floor flat at 81 Pepys Road. For this reason, officers consider it necessary to place a condition on the decision notice prohibiting the formation of access and/or the use of the flat roof of the rear extension for amenity purposes.
- 6.39 Officers raise no objections on the grounds of noise and disturbance from the change of use given that the same amount of occupiers are proposed, and the building would retain its domestic use.
- 6.40 Subject to conditions, officers consider that the impact to neighbour amenity would be acceptable.

Highways, cycling and refuse

- 6.41 The NPPF recognises that sustainable transport has an important role to play in facilitating sustainable development but also contributing to wider health objectives. In particular it offers encouragement to developments which support reductions in greenhouse gas emissions and those which reduce congestion. It is also expected that new development will not give rise to the creation of conflicts between vehicular traffic and pedestrians.
- 6.42 London Plan Policy 6.9 (Cycling) as reinforced by the London Plan Housing SPG and Lewisham's Core Strategy Policy 14 (Sustainable movement and transport), requires that all residential development provide dedicated, integrated storage space for cycles at 1 per one bed unit, and 2 for all other dwellings. Policy 6.13 (Parking) seeks to ensure a balance is struck to prevent excessive car parking

provision that can undermine cycling, walking and public transport use and through the use of well-considered travel plans aim to reduce reliance on private means of transport. Table 6.2 Car parking standards in the London Plan states that all residential developments in areas of good public transport accessibility should aim for significantly less than 1 space per unit. Core Strategy Policy 14 states that the Council will take a restrained approach to parking provision.

- 6.43 The application property is in a location which benefits from a Public Transport Accessibility Level of 6a, which is best. The proposed development would result in an equal amount of occupiers to that currently existing; 9 person HMO versus 1 x 1 bed 2 person, 1 x 2 bed, 3 person and 1 x 3 bed, 4 person units (9 people).
- 6.44 Officers consider that the change in the dwelling mix would not give rise to any significant highways impacts, in terms of parking or servicing and deliveries given that the proposed tenure make up would probably result in less car users being on site and the excellent PTAL.
- 6.45 A refuse storage area, surrounded by a dwarf brick wall, is proposed at the front of the building at pavement level that could comfortably accommodate wheelie bins. However, the proposal could be improved by creating a low profile enclosure. This requirement can be secured by condition.
- 6.46 In terms of cycle storage, spaces are proposed to be provided for all units in the front garden which should be secured by condition to be provided, prior to occupation of the converted property.
- 6.47 Given the above, the application is considered by officers to be acceptable in terms of its impact on highways subject to the imposition of suitable conditions.

Prevention of crime and disorder

- 6.48 S.17 of the Crime and Disorder Act 1998 provides that it shall be the duty of the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment).
- 6.49 Officers are of the view that the proposals would not have any crime and disorder implications.

Human Rights Act

- 6.50 Under the Human Rights Act 1998, the Council must not act in a way which is incompatible with the rights referred to in the Act. There is an exception to this, in that the Council will not be acting unlawfully if Acts of Parliament mean that it cannot act in any other way. The relevant human rights in this instance are considered to be:
- the right to respect for the home, under Article 8; and
 - the right to peaceful enjoyment of possessions, under Article 1 of Protocol 1.

- 6.51 However, these rights are not absolute, and may lawfully be infringed in certain defined circumstances. Where infringement is permissible, it must occur in accordance with, or subject to the conditions provided for by the law. It must also be proportionate; i.e., it must achieve a fair balance between competing interests and not go beyond what is strictly necessary to achieve the purpose involved.
- 6.52 In the case of Article 8, permitted infringements include those necessary for the protection of the rights and freedoms of others. With regard to Article 1 of Protocol 1, controls over the use of property are permissible where they are in the public interest. The right of a person to undertake changes to their properties, in reliance on permitted development rights, is covered by the exceptions to these two Articles.
- 6.53 Whilst the current application (in particular by the rear extension being proposed to be built so as to abut the boundary with 81 Pepys Road) officers do not consider the proposal will unduly affect the owner / occupiers of 81 Pepys Road. (It should also be noted that no objections have been received from the owner / occupiers of 81 Pepys Road). Consequently officers consider this application does not have any Human Rights Act implications

7.0 Local Finance Considerations

- 7.1 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:
- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).
- 7.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 7.3 The Mayor of London's CIL is therefore a material consideration.
- 7.4 The above development is not CIL liable.

8.0 Equalities Considerations

- 8.1 Section 149 of the Equality Act 2010 ("the Act") imposes a duty that the Council must, in the exercise of its functions, have due regard to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 The protected characteristics under the Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 8.3 The duty is a “have regard duty” and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.
- 8.4 Development management Policy 6 Houses in Multiple Occupation seeks to protect HMOs which are of a good standard and in a suitable location. As set out above, the application site is within an Area of Stability and Managed Change which are considered to be less suitable for such dwelling typologies.
- 8.5 Officers are satisfied that the borough, through larger scale developments in the district and town centres adequately provides for the smaller low cost housing typologies for which there is demand.
- 8.6 In light of this, officers do not consider that the proposed development in any way would be in breach of Section 149 of the Equalities Act 2010.

9.0 Conclusion

- 9.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 9.2 Officers consider that the change of use from a House of Multiple Occupation for 9 occupiers to three self-contained flats would be in accordance with planning policies as listed within this report and is therefore considered acceptable.

10.0 RECOMMENDATION

10.1 GRANT PERMISSION subject to the following conditions:-

1. The construction of the single storey extension and the conversion into flats and associated works to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

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

E.101, E.102, E.103, E.104, Site Location Plan, Block Plan, Planning, Design and Access Statement, Heritage, Planning, Design and Access Statement, Sustainability Statement received 2/8/16; P.101 Rev B; P.102 Rev B; P.111 Rev B; P.112 Rev B received 17/10/17; HMO Licence letter dated 31 January 2007; copy of licence register, received 29/11/17.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

3. No new external finishes, including works of making good, shall be carried out other than in brickwork and materials to match the existing.

Reason: To ensure that the high design quality demonstrated in the plans and submission is delivered so that local planning authority may be satisfied as to the external appearance of the building and to comply with Policy 15 High quality design for Lewisham and Policy 16 Conservation areas, heritage assets and the historic environment of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character and DM Policy

36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens.

4. (a) No development shall commence on site until details of proposals for the storage of refuse and recycling facilities for each residential unit hereby approved, have been submitted to and approved in writing by the local planning authority.
- (b) The facilities as approved under part (a) shall be provided in full prior to occupation of the development and shall thereafter be permanently retained and maintained.

Reason: In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with Development Management Local Plan (November 2014) Policy 30 Urban design and local character and Policy 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens and Core Strategy Policy 13 Addressing Lewisham waste management requirements and Policy 16 Conservation areas, heritage assets and the historic environment (2011).

5. (a) A minimum of 3 secure and dry cycle parking spaces shall be provided within the development as indicated on drawing number P.101 Rev B.
- (b) No development shall commence on site until the full details of the cycle parking facilities have been submitted to and approved in writing by the local planning authority.
- (c) Notwithstanding the approved drawings, the cycle store shall be of a low profile and low quality materials complementary to the character of the host building.
- (d) All cycle parking spaces shall be provided and made available for use prior to occupation of the development and maintained thereafter.

Reason: In order to ensure adequate provision for cycle parking and to comply with Policy 14: Sustainable movement and transport of the Core Strategy (2011).

6. The single storey rear extension hereby approved shall be completed in full and fit for habitation, prior to the occupation of the lower ground floor flat.

Reason: To ensure that the unit provides the standards of accommodation required by DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

7. The use of the flat roofed extension hereby approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 31 Alterations and extensions to existing buildings including residential extensions and DM Policy 32 Housing design,

layout and space standards of the Development Management Local Plan (November 2014).

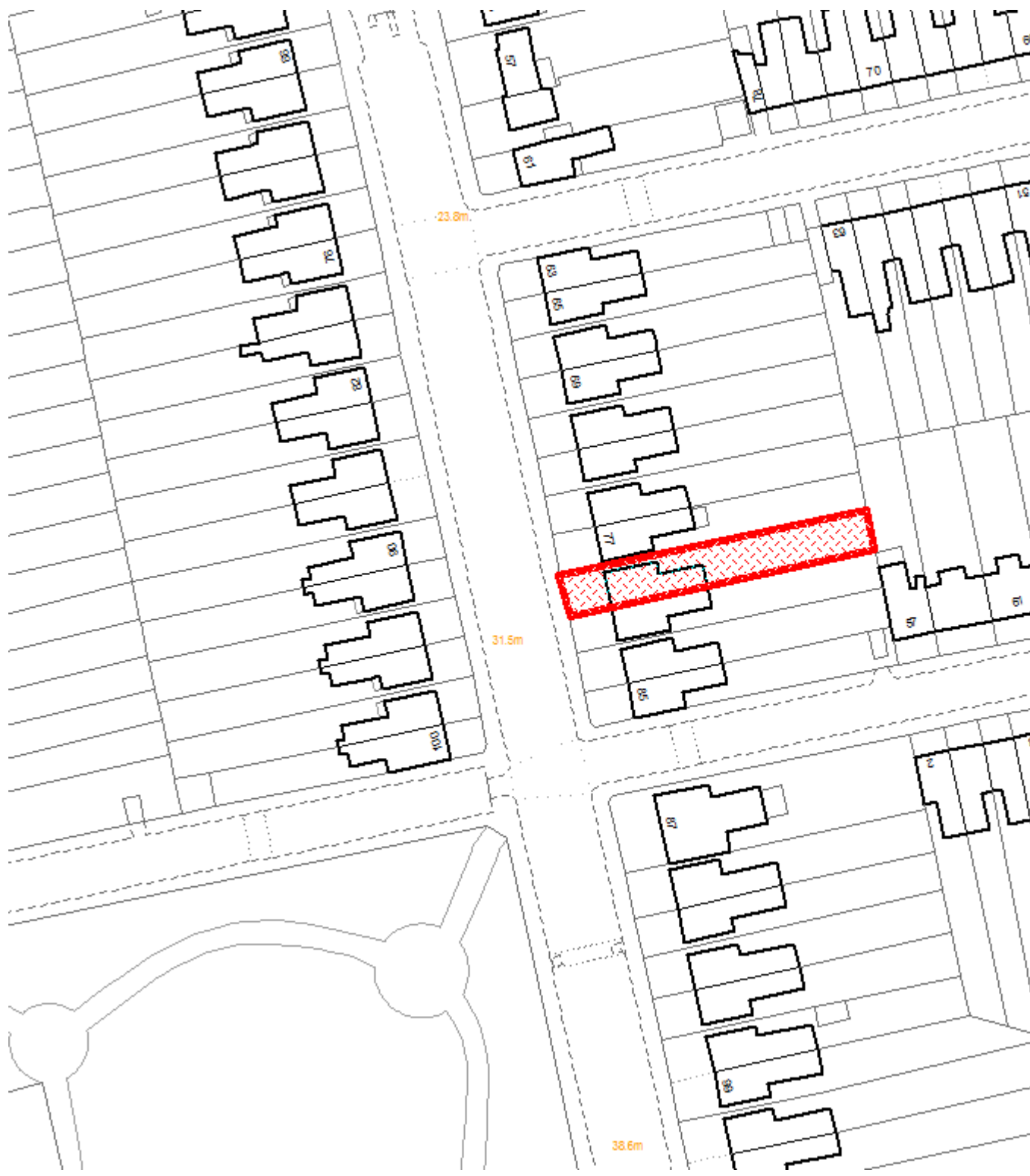
INFORMATIVES

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

- B. The applicant is advised that any works associated with the implementation of this permission (including the demolition of any existing buildings or structures) will constitute commencement of development. Further, all pre commencement conditions attached to this permission must be discharged, by way of a written approval in the form of an application to the Planning Authority, before any such works of demolition take place.

- C. The applicant be advised that the implementation of the proposal will require approval by the Council of a Street naming & Numbering application. Application forms are available on the Council's web site.

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Committee	PLANNING COMMITTEE B	
Report Title	150 Jerningham Road, London, SE14 5NL	
Ward	Telegraph Hill	
Contributors	Joe Higgins	
Class	PART 1	21 December 2017

<u>Reg. Nos.</u>	DC/17/103282
<u>Application dated</u>	24/08/2017 revised 29/11/2017
<u>Applicant</u>	Mr Mitchell Turner of Keegans
<u>Proposal</u>	Replacement of windows and doors in timber on the front elevation and in uPVC on the rear and side elevations at 150 Jerningham Road SE13.
<u>Applicant's Plan Nos.</u>	GA/070 Rev K; Site location plan; Design and access statement; Heritage statement received 31/08/2017; PD110; PD112; PD113; GA/700 Rev A received 09/10/2017; 0195.25a REV E; 0195.25b REV E; 0195.25c REV E received 24/10/2017; Horn detail style C received 07/11/2017; 0195.25d REV G received 08/11/2017; GA\646 received 17/11/2017; Sliding sash spiral balance window received 30/11/2017.
<u>Background Papers</u>	(1) Case File DE/57/150/TW (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	Existing C3 (Residential) Use

1.0 Property/Site Description

- 1.1 The application relates to a two storey plus basement semi-detached house on the northern side of Jerningham Road; the property has been converted into flats. The building is Victorian in appearance with timber sliding sash windows and timber doors with glazing. The surrounding area consists of terraced houses, similar in appearance to the application property with timber sash windows and timber doors.
- 1.2 The property is located within the Telegraph Hill Conservation Area. There is an Article 4(2) Direction in force across the conservation area. The property is not a listed building nor is it located near a listed building.

2.0 Planning History

- 2.1 No relevant planning history.

3.0 Current Planning Applications

The Proposals

- 3.1 The application is for the replacement of the existing timber windows and doors on the front, side and rear elevations. The front elevation windows and doors would be replaced as timber sash windows and timber doors to match existing. On the rear and side elevations, windows would be replaced as uPVC sash and casements to match existing opening styles, and the doors would be replaced in uPVC.
- 3.2 Initially the proposed glazing patterns did not match the existing windows, however following negotiations with the applicant; the proposal has been amended to match the glazing patterns of the existing windows.
- 3.3 The sash window horns on the front elevation windows will be replaced in a style that has a different horn profile which is less rounded than those of the existing windows. Officers queried whether a style more similar to the existing horns could be achieved, however the applicant stated that the current proposed style is the closest they can match to the existing horns.
- 3.4 Initially the timber front entrance door was to be replaced in a style that was significantly different to the existing door. The lower half of the existing door features a single square timber panel, while the proposed doors featured double timber panels. Officers successfully negotiated with the applicant to amend the door style to feature a single square timber panel in the lower half of the door.

4.0 Consultation

- 4.1 This section outlines the consultation carried out by Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 A site notice was displayed and letters were sent to properties in the surrounding area, as well as the amenity society, The Telegraph Hill Society.
- 4.3 The consultation resulted in two letters of objection from the Telegraph Hill Society.
- 4.4 The Telegraph Hill Society objected to the glazing patterns and sash horns of the proposed front elevation windows, which they felt did not match the existing windows on no 150, nor other properties on Jerningham Road. The glazing patterns of the front windows have since been amended to match the existing windows, with revised drawings sent to The Telegraph Hill Society.
- 4.5 The objections to the proposed sash horn style, relate specifically to the horn profile, which is less rounded than the horn profile on the existing sash horns.
- 4.6 The Telegraph Hill Society also objected to the style of the proposed timber front door because it did not match the existing door, nor other properties on the road. The door style has been amended to be a closer match to the existing door, and

amended drawings were sent to the Telegraph Hill Society for review, however no further comments from The Telegraph Hill Society were received.

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.

A local finance consideration means:

- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
- (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)

5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, the Development Management Local Plan, the Site Allocations Local Plan and the Lewisham Town Centre Local Plan, and the London Plan. The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

5.3 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 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. As the NPPF is now more than 12 months old paragraph 215 comes into effect. This states in part that '...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

5.4 Officers have reviewed the Core Strategy 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, and 215 of the NPPF.

Other National Guidance

- 5.5 On 6 March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents.

London Plan (March 2016)

- 5.6 The policies relevant to this application are:

Policy 7.4 Local character
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology

Core Strategy

- 5.7 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Development Management Local Plan and the London 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:

Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

Development Management Local Plan

- 5.8 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core Strategy and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Development Management Local Plan as they relate to this application:

- 5.9 The following policies are considered to be relevant to this application:

- 5.10 DM Policy 1 Presumption in favour of sustainable development
DM Policy 30 Urban design and local character
DM Policy 31 Alterations/extensions to existing buildings
DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens.

- 5.11 Telegraph Hill Conservation Area Character Appraisal (2008)

The Telegraph Hill Conservation Area has a hillside location on the slopes of Telegraph Hill. The conservation area encloses a well preserved planned development of late 19th century terraces and pairs of houses. The heritage features of these houses include vertical sliding sash timber windows, robust part-glazed front doors, two-storey canted bays, recessed front

doors, pitched slate roofs and decorative brickwork. Jerningham Road features a wide tree lined carriageway and many of the heritage features of the conservation area are well preserved in the road's terraced houses.

Residential Standards Supplementary Planning Document (Updated May 2012)

- 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, and materials.

6.0 Planning Considerations

- 6.1 The main issues to be considered in respect of this application are:

- a) Design and impact on this part of the Telegraph Hill Conservation Area
- b) Impact on Adjoining Properties

Design

- 6.2 Paragraph 17 of the NPPF details within its core planning principles that new development should seek to enhance and improve the health and wellbeing of the places in which people live their lives.
- 6.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that (in summary) with respect to any buildings or other land in a conservation area, the Council is required to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. Paragraph 17 (Core planning principles) of the NPPF states that (in summary) heritage assets should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 6.4 Part 12 of the NPPF ("Part 12") contains detailed guidance on conserving and enhancing the historic environment. The principles and policies set out in Part 12 apply to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-taking. Consequently as the application site is situated in the Telegraph Hill Conservation Area, the contents of Part 12 have to be considered by the Council in determining this application.
- 6.5 Paragraph 131 of Part 12 states that "In determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

- the desirability of new development making a positive contribution to local character and distinctiveness".

- 6.6 Paragraph 132 of Part 12 states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification". Paragraph 133 of Part 12 states that (in part) "Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent....".
- 6.7 Officers consider that the current proposal would not lead to substantial harm to the Telegraph Hill Conservation Area.
- 6.8 Paragraph 134 of Part 12 states that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use".
- 6.9 Paragraph 135 of Part 12 states that "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.10 The property is located in a prominent position on Jerningham Road, and it is noted that the existing sash windows (and their horns) and timber doors on the front elevation make a positive contribution to the character of the road and conservation area.
- 6.11 It is regrettable that timber windows and doors will not be maintained on the rear and side elevations, however these elevations are not visible from the public realm and therefore their replacement in uPVC will have limited impact on the conservation area, in accordance with DM Policy 36. Furthermore, the proposed rear and side windows and doors will match the existing windows in terms of opening style, and will therefore not cause unacceptable harm to the host building, further limiting any impact on the conservation area; in accordance with DM Policy 30.
- 6.12 The proposed timber sash windows on the front elevation will match the existing windows in terms of material and design at 150 Jerningham Road. The style of the proposed sash horns would be different to the existing windows; more specifically the profile, which would be less rounded than the existing horns. The proposed horn dimensions are length: 60mm and width: 50mm, which is approximately the same as the existing horns.
- 6.13 While it is regrettable that the proposed sash horns will not exactly match the existing horns, Officers consider the difference in design to be minor and not easily perceptible within the streetscene because the front elevation of No. 150 is set back approximately 7m from Jerningham Road with a low fence along the front

boundary. Officers are therefore satisfied that the proposed windows are sympathetic to the host building and also pass the test under DM Policy 36 to preserve the character of the conservation area.

- 6.14 The proposed timber doors on the front elevation will match the existing doors in terms of material and design. Officers note that there is a consistent style of timber front door on Jerningham Road. It is considered that the design of the proposed front door sufficiently replicates the features of the existing door, to preserve the character of the host property and conservation area; in accordance with DM Policy 30 and DM Policy 36.
- 6.15 It is noted that the proposal does not replicate exactly some minor detailing of the existing front elevation windows and doors, however, nor would it be reasonable to mandate so under the current development management policies. In light of the above, no objections are raised by the Conservation Officer, and Officers consider that the proposal will not cause harm to the host building character and appearance of the Telegraph Hill Conservation Area. The proposal is therefore acceptable under DM Policy 30 and DM Policy 36.

Impact on Adjoining Properties

- 6.16 There are no amenity considerations for this proposal as the existing opening sizes and glazing types will be maintained. Condition 3 has been added to ensure that obscured glazing is maintained on one window on the side elevation, to maintain privacy for neighbours and the occupiers of no 150.

7.0 Equalities Considerations

- 7.1 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.2 In summary, the Council must, in the exercise of its function, have due regard to the need to:
- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - (b) advance equality of opportunity between people who share a protected characteristic and those who do not;
 - (c) Foster good relations between people who share a protected characteristic and persons who do not share it.
- 7.3 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 7.4 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities

should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

- 7.5 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
 2. Meeting the equality duty in policy and decision-making
 3. Engagement and the equality duty
 4. Equality objectives and the equality duty
 5. Equality information and the equality duty

- 7.6 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

- 7.7 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

8.0 Prevention of Crime and Disorder

- 8.1 S.17 of the Crime and Disorder Act 1998 provides that it shall be the duty of the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and need to do all that it reasonably can to prevent (in summary) crime and disorder in its area. It is not considered that this application will result in any crime and disorder issues.

9.0 Human Rights Act

- 9.1 Under the Human Rights Act 1998, the Council must not act in any way which is incompatible with the rights referred to in the Act. Officers do not consider there to be any Human Rights Act implications arising.

10.0 Conclusion

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

- 10.2 Officers consider the proposal to be in line with the stated policies and is therefore considered acceptable.

RECOMMENDATION

GRANT PERMISSION subject to the following conditions:-

Conditions

- 1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

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

GA/070 Rev K; Site location plan received 31/08/2017. PD110; PD112; PD113; GA/700 Rev A received 09/10/2017. 0195.25a REV E; 0195.25b REV E; 0195.25c REV E received 24/10/2017. Horn detail style C received 07/11/2017. 0195.25d REV G received 08/11/2017. GA\646 received 17/11/2017. Sliding sash spiral balance window received 30/11/2017.

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

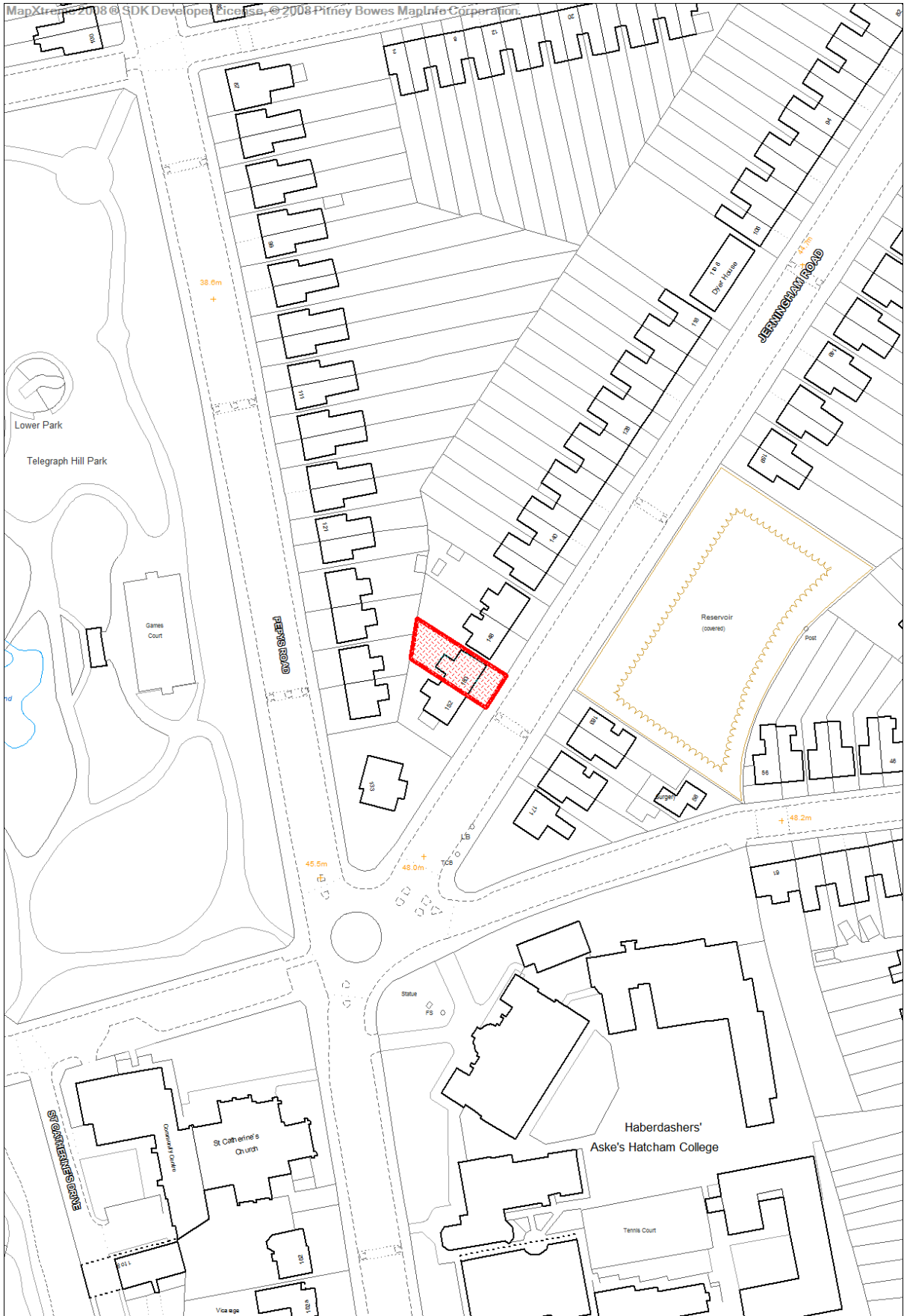
- 3 The replacement window labelled W6B on the ground floor side elevation, as illustrated on drawings 0195.25d Rev G and 0195.25b Rev E, hereby approved shall be fitted as obscured glazed and retained in perpetuity.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with DM Policy 31 Alterations and extensions to existing buildings including residential extensions of the Development Management Local Plan (November 2014).

Informatives

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

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