

## PLANNING COMMITTEE C

Date of Meeting: **THURSDAY, 18 OCTOBER 2018 TIME 7.30 PM**

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

Members of the Committee are summoned to attend this meeting:

### Membership

#### Councillors:

**Olurotimi Ogunbadewa (Chair)**

**Stephen Penfold (Vice-Chair)**

**Bill Brown**

**Aisling Gallagher**

**Leo Gibbons**

**Louise Krupski**

**Jim Mallory**

**Hilary Moore**

**Sakina Sheikh**

**Alan Smith**

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.

**Ian Thomas**  
Chief Executive  
Lewisham Town Hall  
London SE6 4RU  
Date: Tuesday, 9 October 2018

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Committee	PLANNING COMMITTEE (C)	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 18 OCTOBER 2018

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 (C)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date: 18 OCTOBER 2018

## MINUTES

To approve the minutes of the meeting of Planning Committee (C) held on the 11<sup>th</sup> September 2018.

### LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the PLANNING COMMITTEE (C) held in ROOMS 1 & 2, CIVIC SUITE, LEWISHAM TOWN HALL, CATFORD, SE6 4RU on 11<sup>th</sup> September 2018 at 19:30.

PRESENT: Councillors Ogunbadwa (Chair) (CO), Brown (CB), Gibbons (CG), Smith (CS), Mallory (CM), Sheikh (CSH)

OFFICERS: Richard McEllistrum (RM) – Planning Service, Paula Young (PY) – Legal Services and Samuel James – Committee Co-ordinator, John Greirson – Shadow Co-ordinator

APOLOGIES: Councillor Penfold, Gallagher, Krupski, Mallory (lateness), Sheikh (lateness)

#### 1. DECLARATION OF INTERESTS

There were no declaration of interests.

#### 2. MINUTES

Meeting Commenced at 19:40. The minutes of the meeting Planning Committee (C) held on the 2<sup>nd</sup> August were approved.

Councillor Ogunbadwa (CO) welcomed all attendees, and announced that the order of Items as set out in the agenda would be amended.

#### 3. Pavement at the Intersection of Sydenham Road & Queensthorpe Road SE26

The presenting officer (RM) outlined the facts of the case for the retrospective application for planning permission and advertisement consent for a free-standing solar-powered Smart Bench with advertisement panels on the Pavement at Intersection of Sydenham Road & Queensthorpe Road, SE26. They noted that the applicant had been given advice that the bench was permitted development, however, it was later discovered that planning permission was required.

The applicants were invited to speak in support of the application. The founder of Strawberry Energy, and their agent introduced themselves and gave a brief overview of the smart benches and their functionality, and stated that 8 of 10 applications in the borough had already been approved.

No questions from members followed, and the objector was invited to speak against the proposal.

Annabel McClaren, the chair of the Sydenham Society argued that the bench was harmful to the conservation area, and that the TfL bench that has been replaced by the smart bench was of a better quality and more inclusive of those with disabilities – as it had a back and arm rest. It was also claimed that local residents had not been adequately consulted. Before and after photos were tabled for Councillors.

Councillor Smith (CS) expressed sympathy for the objectors concerns, particularly with regard to the unsuitability of the smart bench for those with disabilities, however, he stated that there were other available, more standard, benches within close proximity. He stated that some of the existing shop fronts and adverts, and even parked vehicles were more of an eyesore than the bench, and did not think the harm to the conservation area would be sufficient to warrant refusal.

CS motioned to accept the officer's recommendation and was seconded by Councillor Brown (CB).

*Members voted as follows:*

FOR: Councillors Ogunbadwa (Chair), Gibbons, Brown, Smith.

AGAINST: None

**RESOLVED: Unanimous vote to accept officer's recommendation to grant planning permission and advertisement consent for DC/18/105750 and DC/18/105751**

4. Pavement in front of 317-319 Evelyn Street, SE8 5RA

The presenting officer outlined the details of the case, as very similar to the previous item (item 3), but in a different location. The applicant is the same, and the nature of objections similar.

The applicant stated that adequate consultations had been carried out with highways and local residents, and that he considered the benches to be a public benefit.

No objectors spoke against the scheme.

CS made similar comments as he did during the previous item, around the fact that adverts on shop fronts in the immediate vicinity were more harmful than the advertisement on the benches.

He acknowledged that some objectors were against the specifics of what the benches were advertising and that this could not be materially considered, especially considering that is likely to change.

CS motioned to accept the officer's recommendation, which was seconded by Councillor Gibbons (CG).

Members voted as follows:

For: Councillors Brown, Ogunbadwa (Chair), Smith and Gibbons.

Against: None

**RESOLVED: Unanimous vote to accept officer's recommendation to grant planning permission and advertisement consent for DC/18/105689 and DC/18/105720**

5. Sydenham Gas Holders, Bell Green, SE26 4PX

The presenting officer outlined that this item was an information update for members to note regarding refused application for planning permission (DC/17/100680), which has subsequently been appealed by the applicant.

It was stated that the Council have sought Counsel on defending the refusal reasons put forward by this committee, and it has been agreed that only reason 1 and 2 will be defended. Reasons 3 and 4 are considered to be indefensible as the evidence for them cannot be substantiated, for the reasons outlined in the report in the agenda.

A statement of case in effect of this has been sent to the Inspectorate, and an inquiry is due to be held in 2019.

Councillors noted the update.

**RESOLVED: Noted by councillors**

At 20:08 Councillor Sheikh (CSh) arrived and took a seat at the member's table, shortly followed by Councillor Mallory (CM).

6. 86-92 Bell Green, SE26, 4PZ

Councillor Ogunbadwa (Chair) (CO) reminded members that they had previously deferred this item, and that the main issues to be considered are the air quality within the proposed flats, and the viability report and subsequent lack of affordable housing proposed.

The presenting officer outlined the additional information that had been received since the previous deferral, including an elevational alteration to the entrance which removed a 'pinch point' in the pavement, and an alteration to the proposed ventilation system which would draw air from the 'cleaner' side of the building.

He also introduced James Mercer (JM), the Planning Departments viability consultant from Urban Delivery, who would be able to answer more specific questions on the viability report assessment. It was iterated that no amendments had been made to the viability report, and that JM was present only to answer member's queries.

Members were then invited to ask questions of the presenting officer. CS asked whether the air quality in the application area was any worse than the rest of the trunk road network in Lewisham.

RM replied that the application site's air pollution readings were towards the higher end of all readings in the borough, but that there had been readings as bad or worse at other locations.

Councillor Gibbons (CG) stated that initially officers had disagreed with the viability report, but eventually came to the conclusion that it was acceptable, and asked what this initial objection was.

JM stated that the disagreement regarded the developer's calculation of the benchmark land value, residual land value, and initial construction costs, which were £250,000 lower than the Council's estimation. However, based on the 17.5% profit margin for the developer it was concluded that the site would be unviable if the proposal included affordable housing.

The applicants were then invited to speak in support of the proposal. Present were the applicant, their agent and specialist consultants.

They stated that the proposal would regenerate the site, included 3 bedroom family homes, a £350,000 financial contribution to the borough, and had received 32 letters of support.

They stated that a mechanical ventilation system would be installed to alleviate the air quality concerns, future residents would therefore be afforded better air quality than those in the existing buildings, and that the CIL contributions could be utilised by the Council to improve air quality in the borough.

They also stated that without minimum levels of return for developers then the housing crisis would only be exacerbated.

Finally the stated that the pinch point in the pavement found in the previous revision of the plans had been amended.

CO then invited members to ask questions of the applicants.

CS stated that he had previously met with the developers, in order to see the design of the proposal, and asked them what market testing had been done, and what measures would be utilised to ensure the ground floor units were let commercially, acknowledging recent trends in retail, which may make the units difficult to let.

The applicant stated that the ground floor commercial provision had been supported by officer since the pre application stage, and that it was in the developer's own financial interest to let the units out.

Councillor Sheikh (CSh) asked whether the mechanical ventilation equipment had been proven to reduce air quality impacts in other cases.

The applicant's air quality expert stated that mechanical ventilation is commonly utilised practice, where air is taken from nearer the top, or the cleaner side if the building and drawn into the homes inside, but that there was no real testing regime in place, due to other factors such as internal sources of pollution.

CG questioned the suitability of communal gardens for the 5 proposed 3 bedroom (family sized) units, with regard to children's safety. The applicant replied that it was part of building control regulations to ensure a suitable enclosure, and also that children would not be expected to use the communal garden unsupervised.

The objectors were invited to speak. Francis Bernstein (FB), a resident of Crystal Palace stated that the air pollution values at the site were comparable to more central

locations such as Catford and Brixton, and that the traffic volumes in this location were comparable to those at Elephant and Castle.

He went on to explain why the Council's method of testing air quality is insufficient to give a full assessment of the air quality in any given area, because the diffusion method currently used is only able to give a single average reading over a period of a year. He stated that automatic electronic methods were much more accurate and precise and can give a fuller picture of the air quality over short and long term periods, over which the air quality would significantly fluctuate. He urged members to invest in accurate automatic systems.

Julia Webb (JW), a local objector then spoke against the scheme. Firstly she stated that she felt Bell Green had been left as a dumping ground, that the proposed design did not reflect the local character, and that there was no provision of affordable housing. Julia stated that community provision was lacking in the local area, and that the infrastructure couldn't deal with the people already living in the area, let alone in the additional homes proposed here. She wanted to see community provision in the ground floor commercial unit, so local people could have a stake in the development. Concern was raised that the design of the proposal was disappointing, and that the redevelopment should be tied in to the redevelopment of the health centre to allow for provision of affordable housing.

Members were given the opportunity to ask questions of the objectors.

CSh noted that the objectors were different at this committee to the last, and asked what organisation had happened at the local level to deliver the community services that the objector stated should be provided to them.

JW raised issues of gang violence, difficulty securing doctors' appointments, and securing children's places at local schools. She stated that the issues were for decision makers to resolve, not the community and that face-to-face consultations between residents and councillors should be carried out so that the real effects on people's lives can be fully considered.

CS asked whether the community would rent the commercial unit, and JW responded by saying yes, but they would be unlikely to afford it.

CM, following up on CSh's earlier question, expressed concern about 100% private housing development not including any community benefits, and asked whether this had been considered at an earlier stage.

JW stated that Bell Green has massive potential to deliver a large amount of affordable housing, due to all the land-banked land. She stated that a master plan needs to be developed and delivered in the area, so that large buildings could be clustered and not spread about.

CG asked the objector whether this proposal would be likely to have a significant impact on traffic and pollution in the area, as it is only for 23 units, and surely the impact of that would not be significant in the grand scheme.

FB stated that the traffic in this area is worse than the south circular, and the pollution is currently so bad that the applicant's needed to revise their proposal with the addition of mechanical ventilation to alleviate this. He recommended automatic air monitoring equipment be installed as soon as possible so that the hourly air quality values can be determined. He stated that this is particularly important as poor air quality can have a disabling effect on people's lives, so it is only fair that they know the levels of pollution.

CS acknowledged the issue raised regarding the air quality monitoring and agreed that the Council needs to do more monitoring in this respect, however, he stated that it was not a matter for this committee as it was irrelevant to the decision at hand. FB rebutted, and stated that it is relevant, because there is insufficient evidence on the local air quality to determine whether it would be acceptable or not.

CM agreed that he thought it was relevant to this decision, as the application was previously deferred on the grounds of the information regarding the air quality and questioned what discussions had gone on with the community regarding the use of the GF commercial units.

The presenting officer (RM) stated that all policies had been complied with, and there were no policies prescribing community usage on the ground floor of housing developments, and it was therefore not possible for planning to force developers to consider this. He stated that master planning is being considered for Bell Green currently, but that is not a reason to refuse the current application, as the application has demonstrated that it would not undermine the master plan. He stated that the planning department had done all that was required regarding the air quality evidence, but agreed that the Council should be doing more to monitor this.

CSH reminded members of the recent tragic death of a girl, due to poor air quality, meaning the air quality issues are more relevant than ever. She also raised concern over the big issue of gentrification, which this application would exacerbate by way of not delivering any affordable housing, and forcing local people out of the area. What consideration was given by the applicant for community use of the ground floor?

She reminded members that the Mayor's manifesto pledges 50% affordable housing, and this application was a clear departure from that. She then raised questions over the ownership of the land (and suggested that it may be Lewisham Homes) – to which the Chair stated that land ownership is not a planning consideration in this case.

RM stated that he carried out a site visit, as he was curious as to where the rumours the land was owned by Lewisham Homes had come from, as this was not the case. Whilst there he saw a sign on one of the doors with Lewisham Homes branding, and stated that the door was different to others on the building and appeared to have been fitted as a replacement, possibly from a building that was owned by Lewisham Homes at some point.

RM then stated that the Mayor's manifesto pledge of 50% affordable housing was not a material planning consideration, and that the Local Plan policy calls for the maximum possible provision of affordable homes, with which the application complies.

Councillor Jacques Paschoud (CP), then approached the member's table to speak under standing orders. She clarified that the proposal was in Bellingham Ward and not Sydenham. She stated that firstly, she disagreed with the language ('dumping ground') used by the objector.

She also stated that the people in existing housing on the opposite side of the road are breathing the same air, and therefore air quality needs to be improved instead of development being rejected.

She went on to state that currently the site is an eyesore, and needs redevelopment, and that she felt the design would be in keeping with the estate to the rear of the site. Concern was raised towards the 0% provision of affordable housing.

On the lack of community facilities claim, CP stated that in the surrounding area, including Bellingham centre, there are plenty of facilities including Home Park, the Library, the leisure centre, churches, and that these can be used to facilitate community schemes. She stated that the best way to overcome the issues of crime are to have more people living in the area, which would be achieved by this application.

CP stated that the proposed development would not have significant impact in making the air quality any worse, and finished by agreeing that the air quality needs to be improved, but this needs to be done alongside development so the area can also be improved.

CSh said that even a marginal increase in pollution should be considered an issue. CP responded by agreeing, but stated that the increase would be tiny compared to any scheme to reduce the number of car journeys to and from the Sainsbury's close by, by improving walking routes. She stated that we need to change people's driving habits, and not make no-go high pollution areas.

CM thanked Councillor Paschoud and stated that her comments had been useful, as had the answers surrounding the viability. He motioned to accept the officer's recommendation, but there was no seconder.

CS said to the developer that he did not appreciate being lobbied by developers. He went on to appraise the design of the building but raised concern that the ground floor retail unit may not generate sufficient interest from a retail occupier.

He went on to reiterate the air quality concerns, and noted that this was an issue that was failing to be talked nationally and not just locally, which is a disgrace. He raised concern that if this application was rejected due to poor air quality, then no other proposal could be accepted here.

He raised major concern over the viability report and the internal layout and over-density of the scheme. He stated that the viability report was based on a worst case scenario, and that a more pragmatic approach should be taken. On the basis of his personal calculations, he considered the application should be refused.

RM stated that all rooms meet the minimum requirements, and that building control would cover issues of noise attenuation between units. He reiterated that the

Council's professional opinion was that affordable housing was not viable on this scheme. JM stated that even with 0% affordable housing, there is still a profit deficit so the provision of any affordable housing is not viable. The permission would be subject to 2 review mechanisms, and the council would see a large cut of any profits made over the developer's calculations.

CS stated that he had used values at nearby sites in his calculations, and he considered the developer's viability report to be insufficient. He stated that developers never initially say that the scheme would be viable with affordable housing provision. He raised concern over the definition in the report of 45% of market value for affordable housing, and stated that this should not have been used.

JM stated that the figure has been based on the evidence available at the time the report was written, and that the location next to the main trunk road was potentially not comparable to the properties used in Councillor Smith's calculations. He stated that all the information had been reviewed and the conclusions in the viability report were reasonable.

RM reiterated that there would be review mechanisms in place to recoup any additional profits from the developer in a 60:40 split in favour of the Council, in accordance with the Mayor of London's Housing SPG.

CM expressed concern over the limits of the planning system, and asked the presenting officer and legal officer of whether CS had a point, and whether they should consider refusing or deferring the application again.

The legal officer (PY) stated that the current application is all that can be considered, and if thinking of refusal then clear and justifiable refusal reasons would be required.

Further deliberations regarding the viability, and standard of accommodation between members occurred, and CS moved to refuse the proposal on that basis, which was seconded by CSh. However, there were no robust reasons, so the Chair invited the applicants to answer some additional questions.

The applicant reiterate that it was not viable to provide affordable housing as part of this scheme. CS stated that 80% of market value definition of affordable housing should have been used, not 45%, as this was a ridiculous value. The applicant responded that even if at 100% of market value, the scheme would technically still be unviable based on the normal tests.

CS asked the applicant to clarify the profit deficit. The applicant responded that the profit margin was predicted at 10-14.5% where 17.5% is the usually accepted value.

Further deliberation regarding the lack of wheelchair units, and the rationale of the internal layout continued.

The presenting officer summarised the debate: the viability report has been assessed by the council's independent advisor as acceptable, and the scheme is technically unviable even if affordable units were at 100% of market value, so they cannot be considered. He stated that if the proposal was refused on viability grounds, then the

inspector would have the same information as our independent advisor, and could even use a higher profit margin value than 17.5%.

He stated that there would be difficulty finding a registered provider for a single affordable unit in the proposal, if just one were proposed. He stated that any refusal based on the viability information would be very difficult to defend at appeal, as evidenced by a recent appeal.

CS stated that this was a very difficult decision, and asked when the review mechanism would kick in. RM stated that it was after 75% of sales or lets.

Further deliberations regarding previously mentioned points continued until CS withdrew his previous refusal motion.

CSh stated that the proposal should be refused because good quality affordable family housing is required, and the 3 bed units did not include wheelchair accessibility provisions. She stated that the air quality issues persist, and that she did not agree with the applicants answers. CSh raised a motion to refuse the application on this basis, but this was not seconded.

CS stated that any refusal responses would need to be defensible, and that the information provided in the application now appeared to all stack up. He stated that appeals are an expensive procedure for the council, and on a balance the Council would be likely to lose.

Councillor Smith, with sympathies to Cllr Sheikh's and Mallory's concerns, moved to accept the officer's recommendation and approve planning permission. As an aside he said that the developers should amend the internal layout.

Councillor Mallory seconded.

Members voted as follows:

For: Councillors Brown, Ogunbadwa (Chair), Smith, Gibbons and Mallory.

Against: Councillor Sheikh

**RESOLVED: Vote to accept officer's recommendation to grant planning permission and advertisement consent for DC/17/102792**

The meeting ended at 22.20, 11<sup>th</sup> September 2018.

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Committee	PLANNING COMMITTEE C	
Report Title	10 BOWMAN's LEA	
Ward	Forest Hill	
Contributors	Catriona Morgan	
Class	PART 1	18 October 2018

<u>Reg. Nos.</u>	DC/18/106334
<u>Application dated</u>	15 March 2018 as revised 9 August 2018
<u>Applicant</u>	Mr O'Callaghan on behalf of Mr Nolan
<u>Proposal</u>	The construction of a single storey side and rear extension at 10 Bowman's Lea, SE23 together with the conversion of the garage into a habitable space, replacement of the front garage door with a window, replacement of first floor front elevation windows and alterations to the external landscaping.
<u>Applicant's Plan Nos.</u>	1706-PL-200; Design And Access Statement (NimTim Architects, 27th February 2018) received 4 <sup>th</sup> April 2018; 1706-PL-090 Rev D; 1706-PL-210 received 9th April 2018; 1706-PL-001 B; 1706-PL-100 B; 1706-PL-101 B; 1706-PL-102 B; 1706-PL-103 B; 1706-PL-300 B; 1706-PL-301 B; 1706-PL-302 B received 9 <sup>th</sup> August 2018.
<u>Background Papers</u>	(1) Case File LE/1064/10/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	PTAL 3 Not located in a Conservation Area No Article 4(2) Direction
<u>Screening</u>	N/A

## 1.0 Summary

1.1 This report sets out officer's recommendation in regard to the above proposal. The report has been brought before members for a decision as:

- Permission is recommended to be approved and:
  - there are 3 or more valid planning objections;
  - there are objections from recognised residents' association or community/amenity groups;

## **2.0 Property/Site Description**

- 2.1 The application site comprises a three storey, end-terrace single family dwellinghouse located on the northern side of Bowman's Lea.
- 2.2 Bowman's Lea is a cul-de-sac located to the rear of Hengrave Road and Dunoon Road, with access off Dunoon Road. The cul-de-sac comprises ten terraced, three storey, single-family dwellinghouses with the external ground level of the site sloping downwards from No.1 to No.10. Each house within the cul-de-sac was originally built with a ground floor garage and vehicular door located on the front elevation of the building, and first floor Juliet balconies. The dwellinghouses are largely a mixture of yellow stock brick and timber cladding.
- 2.3 The subject site has a rear garden measuring approximately 22 metres in depth, which narrows towards the rear boundary of the plot. The external ground level in the rear garden significantly decreases from the flank wall of the application property towards Haredon Close, located to the south-east of the application site, and as such the application property sits approximately 2.7 metres higher than the three storey dwelling at No.1 Haredon Close.
- 2.4 The site has a PTAL rating of 3, based on a scale of 0-6b with 6b having the highest degree of accessibility to public transport. The site is not subject to any other particular designations.

## **3.0 Planning History**

- 3.1 DC/18/106086 - A Lawful development Certificate (proposed) in respect to the conversion of the existing integral garage to a study, bricking up of the garage opening and the installation of a casement window in its place and the removal of two windows in the first floor rear elevation and their replacement with a large picture/casement window and the installation of a replacement window in the first floor front elevation at 10 Bowman's Lea, SE6 – Granted 25/04/2018.
- 3.2 DC/18/106081 - Lawful development Certificate (proposed) in respect to the construction of a single-storey ground floor rear extension and a side extension at 10 Bowman's Lea, SE6 – Granted 25/04/2018.
- 3.3 DC/17/104520 - The construction of a single storey side and rear extension at 10 Bowman's Lea, SE23, together with the conversion of the garage into a habitable space, replacement of the front garage door with a window, replacement of first floor juliet balcony with windows, replacement of first floor rear windows with one window and insertion of a ground floor window in the flank elevation – Refused 22/01/2018.
- 3.4 The application was refused for the following reasons:
- The proposed single storey rear extension, by reason of its siting, height and materials, would constitute an incongruous and overdominant form of development that would be detrimental to the character of the host dwelling and would not appear as a subordinate addition, contrary to Policy 15 High quality design for Lewisham of the Core Strategy (June 2011), DM Policy 30 Urban design and local character and DM Policy 31 Alterations/extensions to existing buildings of the Development Management Local Plan (November 2014) and Lewisham's Residential Standards SPD (updated May 2012).

- The proposed single storey rear extension, by reason of its overall height and scale, would result in unacceptable overbearing impact and increased sense of enclosure on the amenities of No.9 Bowman's Lea and, to a lesser extent, No.1 Haredon Close, contrary to 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 of the Development Management Local Plan (November 2014) and the Residential Standards Supplementary Planning Document (August 2006 updated May 2012).
- The proposed first floor front and rear fenestration alterations, by reason of their detailed design, would constitute an incongruous form of development that would be detrimental to the character of the host dwelling and surrounding area, contrary to Policy 15 High quality design for Lewisham of the Core Strategy (June 2011), DM Policy 30 Urban design and local character and DM Policy 31 Alterations/extensions to existing buildings of the Development Management Local Plan (November 2014) and Lewisham's Residential Standards SPD (updated May 2012).

3.5 The subsequent appeal to the Planning Inspectorate was dismissed, although the Inspector acknowledges in Paragraph 11 that,

3.6 *“The extension would be appropriately subordinate to the host dwelling as a whole and second, subject to the imposition of a planning condition in relation to the (rentention of the) Juliette balcony on a potential planning permission, the proposed changes in fenestration would not unacceptably harm the character or appearance of the host dwelling or the terrace of properties.”*

3.7 Notwithstanding the above, the Inspector considered in Paragraph 6 that, *“The proposal would be detrimental to the outlook from No.9’s ground floor openings and from the rear garden closest to the dwelling. There would be an undue sense of enclosure.”* Furthermore in Paragraph 7, the Inspector considered that, *“There would be an unacceptable loss of privacy for the occupants of both No.s 1 and 2 (and to a lesser extent No.3) Haredon Close owing to views from the proposed side elevation window in the proposed extension.”*

#### **4.0 Current Planning Applications**

##### The Proposal

4.1 This application relates to the construction of a single storey side and rear extension, together with the conversion of the garage into a habitable space, replacement of the front garage door with a window, replacement of the first floor front elevation windows, and alterations to the external landscaping.

4.2 The side and rear extension would measure approximately 5.76 metres in depth, to incorporate a 3 metre projection from the rear elevation. The development would extend approximately 2.6 metres from the flank elevation of the property, and would extend a maximum 7.67 metres in width at the rear. The extension would have a flat roof measuring approximately 2.97 metres in height. A parapet wall would surround the extension measuring approximately 0.2 metres in height. The extension would have glazed patio doors and two full length windows in the rear elevation, and a door in the front elevation. The walls of the extension would be render with a sedum roof.

- 4.3 On the front elevation of the application property, the replacement of the front garage door with a window would comprise bricks to match existing and a window similar in appearance to the existing. The windows would be aluminium framed.
- 4.4 The application also proposes to level off the part of the ground level of the rear garden, so that it is increased by approximately 0.2 metres in height.

#### Additional Information

- 4.5 The application initially proposed a window on the flank elevation of the building, and a window in the flank elevation of the extension. However, revised drawings were submitted detailing that these windows have now been removed from the proposal. The applicants have also confirmed that the proposed extension would be no greater than 3 metres in height from the proposed external ground level.

### **5.0 Consultation**

- 5.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. Following the submission of the amended documents, a further neighbour consultation was carried out, the responses are also summarised below. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 5.2 A site notice was displayed and letters were sent to nine residents and business in the surrounding area, as well as the relevant ward Councillors in Forest Hill.
- 5.3 Five neighbouring properties initially raised objection to the proposal.

#### Written Responses received from Local Residents Following Post-Submission Consultation

- 5.4 The planning concerns raised by neighbouring residents are summarised below:
- The proposed extension would have a serious impact upon daylight and sunlight to neighbouring residents;
  - The close proximity and height of the proposed extension would create a sense of enclosure to immediately neighbouring homes and gardens;
  - The first floor front elevation replacement windows will be an untidy mix of clear and frosted glass necessitated because of the siting of a bathroom at the front of the house, and as a result will compromise the architectural integrity and attractiveness of the whole terrace;
  - The loss of visual amenity to houses in the immediate vicinity created by the compromising of the relatively open character of the area at the lower end of Bowman's Lea;
  - The green roof proposed is completely out of character with the design of the buildings in this area;
  - The proposed windows and door on the side elevation of the application property and extension would create intrusive overlooking of the properties in Haredon Close.

5.5 Following the submission of amended drawings and re-consultation, four neighbouring properties raised objection to the proposal.

#### Written Responses received from Local Residents Following Submission of Amended Plans

5.6 The planning concerns raised by neighbouring residents are summarised below:

- The proposed extension would have a serious impact upon daylight and sunlight to neighbouring residents;
- The close proximity and height of the proposed extension would create a sense of enclosure to immediately neighbouring homes and gardens;
- The first floor front elevation replacement windows will be an untidy mix of clear and frosted glass necessitated because of the siting of a bathroom at the front of the house, and as a result will compromise the architectural integrity and attractiveness of the whole terrace;
- The loss of visual amenity to houses in the immediate vicinity created by the compromising of the relatively open character of the area at the lower end of Bowman's Lea, and the rear extension will also be over dominant and greatly out of character with all other adjacent properties;
- The proposed door on the front elevation of the extension would create intrusive overlooking of the properties in Haredon Close.

## **6.0 Policy Context**

### Introduction

6.1 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.

6.2 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 (NPPF) 2018

6.3 The revised NPPF, originally published in 2012, was published on 24th July 2018 and is a material consideration in the determination of planning and related applications.

- 6.4 It contains at paragraph 11, a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on its implementation. In summary, this states in paragraph 213, 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 and in regard to existing local policies, that '...due weight should be given to them, 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)'.
- 6.5 Officers have reviewed the Core Strategy and Development Management Local Plan 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

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

#### The Development Plan

- 6.7 The London Plan, Lewisham's Core Strategy, together with the Site Allocations DPD, the Lewisham Town Centre Local Plan and the Development Management Local Plan and together constitute the borough's Development Plan.

#### London Plan (March 2016)

- 6.8 The London Plan was updated on the 14 March 2016 to incorporate Housing Standards and Parking Standards Minor Alterations to the London Plan (2015). The new, draft London Plan was published by the Mayor of London for public consultation on 29 November 2017 (until 2 March 2018). However, given the very early stage in this process, this document has very limited weight as a material consideration when determining planning applications, and does not warrant a departure from the existing policies of the development plan in this instance and is therefore not referred to in this report. The policies in the current adopted London Plan (2016) relevant to this application are:

Policy 7.4 Local character  
Policy 7.6 Architecture

#### Core Strategy (June 2011)

- 6.9 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

#### Development Management Local Plan (November 2014)

- 6.10 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:

DM Policy 30	Urban design and local character
DM Policy 31	Alterations/extensions to existing buildings

Residential Standards Supplementary Planning Document (2006, updated 2012)

- 6.11 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, Lifetime Homes and accessibility, and materials.
- 6.12 Paragraph 6.2 (Rear Extensions) of the SPD 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.
- 6.13 Paragraph 6.3 (Materials) states that bricks and roofing material used to construct an extension should match those in the original building. However, the use of modern materials is supported where appropriate.
- 6.14 Paragraph 6.4 (Bulk and size) states that extensions should be smaller and less bulky than the original building and reflect its form and shape. It states that traditionally, extensions to buildings are subsidiary to the main structure and that over-dominant extensions may destroy the architectural integrity of existing buildings.
- 6.15 Paragraph 6.5 (Side Extensions) of the SPD states that in order to ensure that a side extension appears subsidiary to the main building a set back may be used which should be followed through to the roof which should be similarly set back. The set back should be at least 300mm, but the depth might need to vary considerably dependent of the nature of the urban form of the street. The depth of the set back will depend on how prominent the building is, its location, the design of the surrounding buildings, and the character and rhythm of the street as set by distances between buildings.

**7.0 Planning Considerations**

- 7.1 The main issues to be considered in respect of this application are design and impact of the proposal upon neighbouring residential amenity.

Design

- 7.2 Urban design is a key consideration in the planning process. The NPPF 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 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.

- 7.3 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.
- 7.4 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 and is sensitive to the local context and responds to local character.
- 7.5 DM Policy 30 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.
- 7.6 DM Policy 31 requires development proposals for alterations to be of a high, site specific and sensitive design quality and to respect and/or compliment the form, setting period, architectural characteristics and detailing of the original building, including external features such as chimneys and porches. High quality matching or complimentary materials should be usedm appropriately and sensitively in relation to context.

#### *Single Storey Side and Rear Extension*

- 7.7 The subject site has a rear garden measuring approximately 22 metres in depth, which narrows towards the rear boundary of the plot. The extension would project 3 metres further than the existing rear elevation of the property. Therefore it is considered that the rear garden can absorb the impact of the proposed extension whilst maintaining adequate amenity space for the occupants. The extension would be set back from the front elevation of the application property by approximately 5.92 metres and the footprint of the proposed development is considered to be proportionate to the host dwelling.
- 7.8 It is acknowledged that the Residential Standards SPD states that extensions should be smaller and less bulky than the original building. The height of the proposal has been reduced by approximately 0.2 metres from the previous submission and in the decision notice for the dismissed appeal of that application, the Planning Inspectorate considered that, *“The extension would be appropriately subordinate to the host dwelling as a whole”*. On balance, and given the proportions of the existing property as a three-storey building, the scale of the extension is considered to be acceptable.

- 7.9 The application proposes that the walls of the extension would be a textured render, and the development would have a sedum roof. These details are considered to be acceptable.

*Replacement of Front Garage Door With Window*

- 7.10 The proposed ground floor window in the front elevation of the property would replace an existing garage door. The window would be similar in appearance to those in the existing property, and the rest of the opening will be infilled with bricks to match the existing. As such, this alteration is considered to be acceptable.

*Replacement of First Floor Front Elevation Windows*

- 7.11 The proposed first floor windows in the front elevation of the property would replace existing French doors. One of these first floor windows would serve an ensuite, however the proposed front elevation indicates that the window would not be obscurely glazed. The proposed replacement windows are considered to be acceptable.
- 7.12 In light of the above the proposed single storey side and rear extension and alterations to the fenestration are considered to be acceptable with regard to design, and would be in accordance with Policies DM 30 and DM 31 of the Development Management Plan.

Impact on Adjoining Properties

- 7.13 Core Strategy Policy 15 states that new development should be designed in a way that is sensitive to the local context. More specific to this, DM Policy 31 seeks to ensure that residential alterations should result in no significant loss of privacy and amenity to adjoining houses and their back gardens. It must therefore be demonstrated that proposed alterations are neighbourly and that significant harm will not arise with respect to overbearing impact, overshadowing, and loss of light, loss of outlook or general noise and disturbance.
- 7.14 The main properties to consider in an assessment of the impacts of the proposal upon residential amenities are No.9 Bowman's Lea, and No.1 and No.2 Haredon Close.

*No.9 Bowman's Lea*

- 7.15 The proposed extension would be built up to the shared boundary with No.9 Bowman's Lea and would project 3 metres further than the rear elevation of the neighbouring property. The extension would have a flat roof with parapet surround measuring approximately 3 metres in height from the external ground level at No.9. There are double doors in the rear elevation of No.9, which lead out to the relatively narrow rear garden. The rear elevation of No.9 is also set back from the rear elevation of adjoining No.7 Bowman's Lea.
- 7.16 A Lawful Development Certificate was approved on 25<sup>th</sup> April 2018 (ref. 18/106081) for the construction of a single storey rear extension, and a single storey side extension at the application site. The single storey rear extension proposed in this application is of a similar height and depth to the current proposal, and can be constructed under permitted development and without

planning permission. This is taken as the fallback development and is a material consideration in the assessment of the current application.

- 7.17 In the appeal decision of dismissed application DC/17/104520, where the proposed rear extension was of a similar depth to the current proposal but measured 3.2 metres in height, the Inspector states that, *“I have borne in mind that the fallback development would be a similar height and depth but, with regard to height in particular, it would be lower and even though the difference is small it is an important margin given the characteristics of the current outlook from no.9.”*
- 7.18 With regards to overshadowing from the development to the neighbouring property, No.9, Officers have carried out all conclusive tests and sequential sunlight/daylight assessments in accordance with BRE guidance. The proposed development would not result in any material loss of natural light. The impact of overshadowing is therefore considered de minimis.

Officers need advise members, that the development proposal does partially benefit from a fallback position of previously having approval for a development proposal, this is with reference to projected depth and height which are identical, the width however differs which is why planning permission is required. The development proposal abuts the boundary wall of No.9, notwithstanding this by virtue of its projected height, depth and siting there is no overbearing impact against the primary/habitable windows served by No.9.

#### *No. 1 and No.2 Haredon Close*

- 7.19 The proposed extension would be set back from the shared boundary with No.1 Haredon Close by approximately 1.16 metres, and would be set back from the rear elevations of No.1 and No.2 Haredon Close by at least 9 metres. The external ground level significantly decreases from Bowman’s Lea towards Haredon Close, and as such the application property sits considerably higher than the neighbouring three storey dwellings. The current proposal is set away from the neighbouring boundary fence by approximately 2 metres
- 7.20 In the appeal decision of dismissed application DC/17/104520, the Inspector considered that the proposal would be sufficiently distant to not cause a sense of enclosure to the occupants of No.1 and No.2. Given the differing ground levels between the two properties and the height of the proposed extension, Officers consider that the development would not be overbearing or result in an increased sense of enclosure for the occupants of No.1 and No.2 Haredon Close.
- 7.21 The application originally proposed a window on the flank elevation of the building, and a window in the flank elevation of the extension. However, revised drawings were submitted detailing that these windows have now been removed from the proposal. The application proposes a glazed door in the front elevation of the extension. This door would not directly face into the rear garden of No.1 Haredon Close and as such, is not considered to result in overlooking or a loss of privacy to the neighbouring occupants.
- 7.22 In light of the above the proposed single storey side and rear extension is not considered to harm the living conditions of the occupants of No.9 Bowman’s Lea or No.s 1 and 2 Haredon Close, and would be in accordance with Policy DM 31 of the Development Management Plan.

## Highways

- 7.23 In light of the impact on the existing parking provisions of the site, the proposed site layout would still retain parking facilities for one vehicle with no overhang, therefore the proposal adheres to Core Strategy Policy 14.

## **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 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 Human Rights Implications**

- 8.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:
- Right to a fair trial
  - Respect for your private and family life, home and correspondence
  - Freedom of expression
  - Freedom of thought, belief and religion
  - Freedom of expression
  - Freedom of assembly and association
- 8.2 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.
- 8.3 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with Article 8 rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority’s powers and duties. Any

interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

- 8.4 This application has the legitimate aim of providing a new residential extension. The rights potentially engaged by this application, including including respect for your private and family life, home and correspondence are not considered to be unlawfully interfered with by this proposal.

## **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, and it is considered that the application complies with all such policies.
- 9.2 The proposed extension is considered to be acceptable in terms of design, and would project no significant harmful impacts upon the host property or wider area. Moreover it would not harm the amenities of adjoining and neighbouring occupiers.

## **10.0 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:

**1706-PL-200; Design And Access Statement (NimTim Architects, 27th February 2018) received 4<sup>th</sup> April 2018;**

**1706-PL-090 Rev D; 1706-PL-210 received 9th April 2018;**

**1706-PL-001 B; 1706-PL-100 B; 1706-PL-101 B; 1706-PL-102 B; 1706-PL-103 B; 1706-PL-300 B; 1706-PL-301 B; 1706-PL-302 B received 9<sup>th</sup> August 2018.**

**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 extensions or alterations to the building(s) 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).

- 4 The flat roofed areas from the proposed single storey side/rear extension hereby permitted shall at no time be used as a terrace or walking platform.

**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).

- 5 No development shall commence on site until a detailed schedule and specification/samples of all external materials and finishes to be used on the extension hereby approved 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(s) 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.

### **Informatives**

- A. You are advised that this permission relates only to the proposed construction of an extension to the existing dwellinghouse and that any sub-division of the dwellinghouse would require planning permission.
- B. 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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10 BOWMAN'S LEA, LONDON, SE23 3TL Site Map



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Committee	PLANNING COMMITTEE C	
Report Title	WASTDALE MEWS, WASTDALE ROAD, SE23	
Ward	Crofton Park	
Contributors	Catriona Morgan	
Class	PART 1	18 October 2018

<u>Reg. Nos.</u>	DC/17/105072
<u>Application dated</u>	19.12.2017
<u>Applicant</u>	NoP Ltd on behalf of Blaxill Estates
<u>Proposal</u>	Retrospective application for the demolition of existing buildings at Wastdale Mews, Wastdale Road SE23 and the part-retrospective construction of a part one/part two storey building to provide studio's/workshop's (B1/B8 use).
<u>Applicant's Plan Nos.</u>	100; 101; 102; 103; 104; Site Location Plan; Design & Access Statement (NoP Ltd, 15th November 2017) received 20th December 2017; SK98; SK99 received 10 <sup>th</sup> April 2018; SK97 Rev A received 18 <sup>th</sup> May 2018.
<u>Background Papers</u>	(1) Case File LE/638/A/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	Local Employment Location Hopcroft Neighbourhood Forum PTAL 2 Existing B1 Use
<u>Screening</u>	N/A

## 1.0 Summary

1.1 This report sets out officer's recommendation in regard to the above proposal. The report has been brought before members for a decision as:

- Permission is recommended to be approved and:
  - there are 3 or more valid planning objections;
  - there are objections from recognised residents' association or community/amenity groups;

## **2.0 Property/Site Description**

- 2.1 The application relates to a large, L-shaped plot of land located to the rear of No.s 1 – 9 Wastdale Road and No.s 133 – 141 Stanstead Road. The site is approximately 439m<sup>2</sup>. The plot of land is surrounded by residential properties on its eastern, southern and western boundaries. To the north of the site lies Integrated Services, a supply chain company. The site is accessed via an underpass at No.5 Wastdale Road.
- 2.2 The site previously accommodated a group of four single storey and two storey buildings, however these have been demolished without planning permission. Some works have also been undertaken to re-build the buildings however all works have ceased on site pending the outcome of this planning application and related enforcement investigation.
- 2.3 Officers have carried out a planning history search of the site, and were unable to locate any consents with reference to the use of on-site structures. Officers have also carried out searches with other relevant departments within the Council to establish previous uses and been unsuccessful. In light of the aforementioned, the applicant has stated in their Design and Access Statement that the original buildings comprised of 12 units which were used for a variety of commercial and light industrial uses, falling within the lawful B1/B8 Use Class, nonetheless no evidence was submitted.
- 2.4 The site is located within a Local Employment Location (LEL) and is in close proximity to Malham Road Industrial Estate, a light industrial and trade estate with 23 units, as well as a number of other industrial commercial businesses. The site has a PTAL rating of 2, based on a scale of 0-6b with 6b having the highest degree of accessibility to public transport.

## **3.0 Planning History**

- 3.1 DC/17/101945 – The demolition of existing buildings at Wastdale Mews, Wastdale Road SE23 and the construction of a part one/part two storey building to provide studio's/workshop's (B1/B8 use), together with the provision of bike storage – Refused 11/09/2017.
- 3.2 The application was refused for the following reasons:
- The proposal would result in the over-intensive development of this backland site for employment purposes and while located in a Local Employment Location (LEL), the applicant has failed to demonstrate that this would not have a detrimental impact on the amenities of adjoining residential occupiers as a result of noise and disturbance arising from the increased activity taking place at the site as well as the additional comings and goings to and from the site, by occupiers of the proposed units as well as visitors and suppliers, contrary to Policy 4.4 Managing Industrial Land and Premises of the London Plan 2015 (as amended), Policy 3 Strategic Industrial Locations and Local Employment Locations of the Core Strategy (June 2011) and DM Policy 10 Other employment locations of the Development Management Local Plan (November 2014).
  - The introduction of external staircases, walkways and terraces would result in overlooking and loss of privacy to neighbouring residential occupiers, contrary to Policy 15 High quality design for Lewisham of the Core Strategy (June 2011)

and 10 Local Employment Locations of the Development Management Local Plan (November 2014).

- 3.3 ENF/17/00096 – Active enforcement investigation into the demolition of the existing buildings and construction of a part one/part two storey building without planning permission.

#### **4.0 Current Planning Applications**

##### The Proposal

- 4.1 This application relates to the demolition of the existing buildings and the construction of a part one/part two storey building to provide studio's/workshop's (B1/B8 use).
- 4.2 However following the enforcement investigation and Officers site visit as part of this application, it has been established that the existing buildings have been demolished and the proposed building partially constructed. Therefore, the proposal is part-retrospective.
- 4.3 The proposed building would largely cover the same footprint of the buildings that were recently demolished, albeit that the proposal would incorporate two units into the previous enclosed yard. The proposed building would have flat and sloping roofs and would measure between 2.7 metres and 6.5 metres in height, similar to the height and roof form of the buildings that were recently demolished. The building would be constructed from yellow multistock facing brickwork and blockwork, painted white to match the previous building. The roof would be constructed from felt and corrugated metal. The building would have an internal floor area of approximately 390sqm.
- 4.4 The building would have a window, sliding doors and an entrance door at ground floor level, and four windows at first floor facing the eastern boundary of the site. The building would have two doors at ground floor level, and two windows at first floor facing the southern boundary of the site. The building would have no openings on the northern or western elevations. The windows would be metal framed and the doors would be timber.
- 4.5 The building would comprise 12 B1/B8 units, to be used as studio's/workshop's for small businesses.

##### Supporting Documents

- 4.6 During the application process, the applicant submitted additional information detailing that the existing entrance gate to the site would be retained. The applicant also provided further information regarding cycle parking and bin storage.
- 4.7 The application proposes 6 x cycle parking spaces using Sheffield Stands. The proposed bin store would measure approximately 1.31 metres in depth and approximately 2.7 metres in width, and would have a flat roof measuring approximately 2.1 metres in height. The bin store would be constructed from timber.

## **5.0 Consultation**

- 5.1 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.
- 5.2 A site notice was displayed and letters were sent to forty-four residents and business in the surrounding area, as well as the ward Councillors in Crofton Park and the Hopcroft Neighbourhood Forum. The Council's Highways department, Environmental Health department and planning enforcement were also consulted.
- 5.3 Five neighbouring residents and two Councillors have raised objection to the proposal. A Local Meeting was held on 22<sup>nd</sup> February 2018 where neighbouring residents were able to discuss their concerns with the applicant.

### Written Responses received from Local Residents

- 5.4 The planning concerns raised by neighbouring residents are summarised below:
- Concern has been raised that the application does not include any information regarding the proposed opening hours and frequency of use of the site.
  - Concern has been raised that the application includes little information regarding what the studio's/workshops would actually be used for.
  - A more intensive use of the site and unrestricted hours of operation could give rise to increased noise disturbance, particularly when people are accessing the site through the underpass.
  - The proposed development will result in a loss of privacy and overlooking to neighbouring residents, owing to the fact that some openings which were doors in the original buildings will be replaced with clear glazed windows, and the site is quite constrained.
  - The proposed development will result in increased light pollution to neighbouring residents.
  - Wastdale Road is quite a busy residential road with limited parking spaces and problems with deliveries. The proposed development could exacerbate this problem, and neighbouring residents are concerned particularly given the lack of information regarding the number of people that would use the site.
  - The proposed use of the site is not practical, given the constrained nature of the site and its proximity to neighbouring properties; the only access to the site is under and past residents' doors and windows.
- 5.5 Some of the concerns raised which are not planning considerations relevant to the proposal include:
- The position where the site notice was displayed makes it hard for anyone to notice or read, and has very little detail to where it refers to. However, it was subsequently moved by the applicants to a more prominent location.

- The original buildings were never used as studio's, and for a number of recent years the application site was used by one person for car works and storage with very little use to the upper floors of the buildings. The site was vacant from 2015 before the buildings were demolished, and has never been used to the scale now proposed.
- The Design and Access Statement includes photos of the 'existing' site, however the buildings started being demolished in October 2016.
- The application states that the footprint of the building will remain unchanged, however the original courtyard area which was partially covered with corrugated strips and supported by scaffolding is proposed within the footprint of the new building.

#### Written Responses received from Councillors

5.6 The planning concerns raised by councillors are summarised below:

- The principle of the proposal could be welcomed, as it would bring back into use a derelict site and provide workshop and studio space, that would be a very positive development in this area.
- Access to the site is via an underpass beneath No.5 Wastdale Road. There is concern regarding the scale, timing and frequency of vehicle use to the site, including deliveries.
- The proposal should provide assurances to neighbouring residents regarding use, noise, waste disposal and parking.
- Concerns regarding the scale of the proposed use of the site.

5.7 Some of the concerns raised by councillors which are not planning considerations relevant to the proposal include:

- Previous work on the site has caused distress to local residents in terms of noise nuisance and obstructing access to their properties.
- The original buildings were never used as studio's.
- The application includes 'demolition' however the original buildings have already been demolished.

#### Written Responses received from Statutory Agencies

##### Highways and Transportation

The Council's Highways Officer initially considered that insufficient information had been submitted with regards to cycle parking, waste management, and activity associated with demolition/construction of the proposal. Additional information was sought with this regard.

##### *Cycle Parking*

The London Plan requires that a B1 use with a gross floorspace of approximately 390sqm would require 5 cycle parking spaces (4 long stay, 1 short stay); whilst a

B8 use with a gross floorspace of approximately 390sqm would require 2 cycle parking spaces (1 long stay, 1 short stay). The cycle parking should be covered, secure and fully enclosed.

The applicant proposes 14 cycle parking spaces that would be covered, secure and fully enclosed. The cycle parking details are considered acceptable.

#### *Construction Method Statement*

As the site has restricted access, a Construction Method Statement should be provided, including details of the demolition phase. Should the scheme be approved, this could be secured as a condition.

#### *Waste Management*

It should be shown on a plan where bins are to be stored.

The applicant has submitted a plan detailing that the refuse store would be located to the north of the entrance to the site. The refuse details are considered acceptable.

#### Environmental Health

- 5.8 The Council's Environmental Health Officer considers that when looking at the previous use of the space, which included car repair, the proposal of small office spaces is likely to have less impact on the surrounding residential premises. The Environmental Health Officer also suggests some standard conditions that could be attached to any permission.

### **6.0 Policy Context**

#### Introduction

- 6.1 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)
- 6.2 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

- 6.3 The revised NPPF, originally published in 2012, was published on 24<sup>th</sup> July 2018 and is a material consideration in the determination of planning and related applications.
- 6.4 It contains at paragraph 11, a '*presumption in favour of sustainable development*'. Annex 1 of the NPPF provides guidance on its implementation. In summary, this states in paragraph 213, 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 and in regard to existing local policies, that '*...due weight should be given to them, 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)*'.
- 6.5 Officers have reviewed the Core Strategy and Development Management Local Plan for consistency with the NPPF and consider there are no significant issues of conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraph 213 of the NPPF.

#### Other National Guidance

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

#### London Plan (March 2016)

- 6.7 The London Plan was updated on the 14 March 2016 to incorporate Housing Standards and Parking Standards Minor Alterations to the London Plan (2015). The new, draft London Plan was published by the Mayor of London for public consultation on 29 November 2017 (until 2 March 2018). However, given the very early stage in this process, this document has very limited weight as a material consideration when determining planning applications, and does not warrant a departure from the existing policies of the development plan in this instance and is therefore not referred to in this report. The policies in the current adopted London Plan (2016) relevant to this application are:

Policy 5.3 Sustainable design and construction

Policy 6.9 Cycling

Policy 6.10 Walking

Policy 7.4 Local character

Policy 7.6 Architecture

#### Core Strategy

- 6.8 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:

Core Strategy Policy 3 Strategic Industrial Locations and Local Employment Locations

Core Strategy Policy 8 Sustainable design and construction and energy efficiency  
Core Strategy Policy 13 Addressing Lewisham's waste management requirements  
Core Strategy Policy 14 Sustainable movement and transport  
Core Strategy Policy 15 High quality design for Lewisham

#### Development Management Local Plan

6.9 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:

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

DM Policy 1	Presumption in favour of sustainable development
DM Policy 10	Local Employment Locations (LEL)
DM Policy 22	Sustainable design and construction
DM Policy 26	Noise and vibration
DM Policy 27	Lighting
DM Policy 30	Urban design and local character

### **7.0 Planning Considerations**

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

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

#### Principle of Development

7.2 DM Policy 10 states that, "*The Council will support uses within the B Use Class and appropriate sui generis uses, within a Local Employment Location, subject to:*

- a. *The use being appropriate in the location in relation to the surrounding built context*
- b. *The intensity of the use and*
- c. *The new use meeting the aims in the Core Strategy Policy 3".*

- 7.3 Core Strategy Policy 3 states that the Council will protect Local Employment Locations for a range of uses within the B Use Class to support the functioning of the local economy.
- 7.4 Aside from the planning application that was refused in 2017 (ref. DC/17/101945), there is limited planning history pertaining to the site and it is unclear what the lawful use of the site was prior to the buildings being demolished. Planning Officers have spoken with the Business Rates department who confirmed that whilst the owners of the site are not paying business rates at the minute, when previously paying business rates the site was registered as workshops. In the submitted Design and Access Statement, the applicant states that the site originally accommodated 12 commercial leases where a variety of commercial and light industrial uses were carried out. However, the applicant goes on to state that as the buildings deteriorated the site was occupied by a single tenant from 1996-2015 for car repairs and spraying. The site was then vacant and the original buildings were demolished without planning permission.
- 7.5 Notwithstanding the above, the lawful use of the site in planning terms is unclear. As such, the application will be assessed as to whether the proposed use is suitable in this location and if it complies with Policy 3 of the Core Strategy and Policy 10 of the Development Management Plan.
- 7.6 The previous scheme proposed eighteen studio's/workshops at the application site. This application was refused as Officers considered that the proposal would result in an over-intensive development of the site, which is bordered on three sides by residential properties.
- 7.7 The current revised application proposes twelve studio's/workshops at the application site. During consideration of the application the applicant confirmed that there would be a maximum of thirteen people using the site as studio's/workshops for small businesses e.g. photographer, artist. The applicant has confirmed that they would be willing to accept a condition on any permission restricting the hours of operation after 11pm and not before 6am.
- 7.8 The proposed development would see the existing vacant site being redeveloped, with the possibility of accommodating twelve small business and employing up to thirteen people. The site lies within a Local Employment Location and the proposed use would remain within the B Use Class.
- 7.9 With regards compliance with part (a) of DM Policy 10, given the number of units proposed and the proposed use of the studio's/workshops for small business ventures within a Local Employment Location, Officers consider that the use would be appropriate in this location and in relation to the surrounding built context.
- 7.10 Officers note concerns raised by neighbouring residents and councillors with regards noise and disturbance from the proposed development. These will be addressed later in the report.
- 7.11 With regards part (b) of DM Policy 10, it appears that there has been limited use of the site in recent years and its intensity has been low. The proposed hours of operation of the current development would be 6am – 11pm, and a maximum thirteen people would use the site. It is considered that some occupants of the studio's/workshops may use the space for hobbies or activities surplus to their

main job, and as such would only employ the site at evenings/weekends. Additionally, it can be reasonably argued that the application site would not be fully occupied at all times and whilst the units may increase, general footfall would not be excessive given that people will most likely be coming and going at different times of the day. Officers do not consider that the use would be over-intensive given the size of the application site and nature of the use intended.

- 7.12 It is considered that the proposal would therefore comply with the aims of Core Strategy Policy 3 and DM Policy 10 and is acceptable in principle.

### Design

- 7.13 Urban design is a key consideration in the planning process. Part 10 of the NPPF 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.
- 7.14 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 and is sensitive to the local context and responds to local character.
- 7.15 DM Policy 30 carries through the principle of high quality design which complements the existing typology. Under part 5 the policy also includes detailed design principles, which states that proposals should demonstrate the creation of a positive relationship to the existing townscape to preserve and/or create an urban form which contributes to local distinctiveness such as plot widths, building features and uses, taking all available opportunities for enhancement.
- 7.16 In the Design and Access Statement, the applicant provides photographs of the original buildings on site. This is reflected by the existing floor plans and elevations drawings.
- 7.17 The proposed development would not be visible from the public realm. The proposed scale, massing, design and architectural detailing of the proposed building would closely match the buildings which previously stood on site, albeit the proposal would enclose the sheltered yard which had a covered roof but was not enclosed. Officers consider that given the proposed built form would not be out of keeping with the application site or surrounding area.
- 7.18 Aspects of identical features from the proposed development include a first floor door on the eastern elevation of the building and one first floor door on the northern elevation of the building. Having said this, the glass panes will now be clear instead of obscured and full-height windows. Additionally, a set of sliding doors on the ground floor of the eastern elevation of the building is proposed which is a like-for-like feature to that previously demolished. All aspects of the clear glazing are considered acceptable on their planning merits as Officers have scoped the impact of privacy intrusion to nearby residential premises.
- 7.19 Whilst the application form and proposed drawings state that the proposed materials would match the existing, Officers consider that it is necessary for the applicant to demonstrate the materials used would be of a high quality. Should the

scheme be approved, details of the materials to be used in the building could be secured by condition.

- 7.20 In light of the above, the proposal is considered to be an appropriate development for the application site and would have a limited impact on the surrounding area, and therefore is considered to be in accordance with Core Strategy Policy 15 and DM Policy 30.

#### Highways and Traffic Issues

- 7.21 Core Strategy Policy 14 'Sustainable movement and transport' 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.
- 7.22 The application site has a PTAL rating of 2 (poor).

#### *Car Parking*

- 7.23 The application does not propose any off-street parking within the proposed development, or within the site. With this regard, Officers are mindful that the London Plan requires proposals for B1/B8 uses in Inner London should provide 1 car parking space per 600-1000sqm of gross floorspace and cross-referenced against the proposed development of approximately 390sqm would require zero parking provisions.
- 7.24 Officers have considered comments raised by objectors, specifically with regards to parking stress, however, the proposal is policy compliant and therefore refusal on such grounds is unjustified. Additionally, Officers have also factored in the potential of increased vehicular activity as point of pick/drop off and considered no detrimental affect would arise given the intended use of the units, bearing in mind that the previous operational use of the site was more intensive than that proposed here. Therefore, any vehicular traffic associated with the development would not adversely affect the safety and convenience of other highway users.
- 7.25 Comments received by the Highways Authority, stating insufficient information was primarily aimed at cycle parking, waste and construction management. The Highways Officer did not have any expressed concern with regards to parking, namely as there was no policy contradiction given the proposed uses, this extends to loading/unloading of goods and visitors to the site. Officers have considered imposing conditions aligned with the comments made, notwithstanding this the measures associated with a construction management plan condition is rendered unenforceable given that this aspect of the proposal has been carried out.

#### *Servicing*

- 7.26 The proposed use of the building as twelve studio's/workshops is not considered to give rise to a need for regular or large scale deliveries to the site.

#### *Cycle Parking*

7.27 Policy 6.9 of the London Plan maintains that development should provide secure, integrated and accessible cycle parking facilities. The London Plan requires that a B1 use with a gross floorspace of approximately 390sqm would require 5 cycle parking spaces (4 long stay, 1 short stay); whilst a B8 use with a gross floorspace of approximately 390sqm would require 2 cycle parking spaces (1 long stay, 1 short stay). The cycle parking should be covered, secure and fully enclosed.

7.28 The application proposes 14 cycle parking spaces that would be located within the yard of the application site using Sheffield stands. These spaces would be covered, secure and fully enclosed. As such the proposed cycle parking is considered acceptable.

#### *Refuse*

7.29 The applicant has submitted a plan detailing that the refuse store would be located to the north of the entrance to the site. This is considered acceptable.

#### Impact on Adjoining Properties

7.30 Core Strategy Policy 15 'High quality design in Lewisham' seeks to ensure that proposed development is sensitive to the local context. Officers therefore expect proposed development to be designed in a way that will not give rise to significant impacts upon the amenities of existing neighbours and future occupiers.

7.31 The main properties to consider in an assessment of the impacts of the proposal upon residential amenities are No.s 1 – 9 Wastdale Road and No.s 133 – 141 Stanstead Road.

#### *Lighting*

7.32 DM Policy 27 deals specifically with lighting and requires applicants to protect local character, residential amenity and the wider public, biodiversity and wildlife from light pollution and nuisance, by taking appropriate measures in lighting design and installation in line with the Institute of Lighting Professionals' Guidance Notes for the Reduction of Obstructive Light (2011) to control the level of illumination, glare, spillage of light, angle and hours of operation.

7.33 Concerns were raised during the consultation process by residents that if the hours of operation of the units were unrestricted, this could result in light pollution from the first floor windows, to neighbouring residents.

7.34 Should the scheme be approved, Officers consider it is reasonable that the opening hours of the premises are as follows:

Days	Opening Hours
Monday – Saturday	06:00 – 23:00
Sundays and public holidays	10:00 – 22:00

- 7.35 There would be one first floor window on the proposed building which faces the rear of the buildings on Stanstead Road. There would be six first floor windows on the proposed building which face the rear of the buildings on Wastdale Road.
- 7.36 The applicants have suggested that all first floor windows could be fitted with blackout blinds in order to reduce light pollution. However, Officers do not consider that this would be something that could be enforced if attached as a condition should the scheme be approved.
- 7.37 Rather, Officers consider that the proposed hours of operation of 6am – 11pm Monday – Saturday, and 10am – 10pm on Sundays and public holidays are sufficient in ensuring that the use of the building would not result in light pollution and nuisance to neighbouring residents.

#### *Noise*

- 7.38 Concern has also been raised through the consultation process with regard to noise generated by the operation of the facilities.
- 7.39 DM Policy 26 relates to noise generating or sensitive development. Although aimed primarily at industrial noise creating activities, the principles may be applied to other types of development where noise is a potential issue. The policy requires that a noise assessment, prepared by a qualified acoustician, is submitted in support of applications for such developments and states that, where development is permitted, conditions may be attached to ensure effective mitigation.
- 7.40 The Council's Environmental Health Officer considers that when looking at the previous use of the space, which included car repair, the proposal of small office spaces is likely to have less impact on the surrounding residential premises. The Environmental Health Officer also suggests some standard conditions that could be attached to any permission.

#### *Loss of Privacy/Overlooking*

- 7.41 The previous refused application (ref. DC/17/101945) proposed external staircases, walkways and terraces leading to the first floor of the proposed building. Officers considered that these elements would result in overlooking and a loss of privacy to neighbouring residential occupiers.
- 7.42 The current revised application proposes internal staircases to access the first floor of the building, and there would be no access from the first floor to the flat roofs of the single storey elements.
- 7.43 There would be one first floor window on the proposed building which faces the rear of the buildings on Stanstead Road, and there would be six first floor windows on the proposed building which face the rear of the buildings on Wastdale Road. These proposed windows are in similar locations to first floor doors and windows on the original buildings. As such, Officers do not consider that the proposed first floor windows would not result in a significant level of overlooking and loss of privacy to neighbouring residents.

### *Loss of Daylight/Sunlight*

7.44 The scale and massing of the proposed development would be similar to that of the buildings which previously stood on site and as such, Officers do not consider that there would be a significant impact on the provision of daylight and sunlight to neighbouring residents.

## **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 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.

## **9.0 Human Rights Implications**

9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Right to a fair trial
- Respect for your private and family life, home and correspondence
- Freedom of expression
- Freedom of thought, belief and religion
- Freedom of expression
- Freedom of assembly and association

9.2 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

9.3 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with Article 8 rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

9.4 This application has the legitimate aim of providing a new residential extension. The rights potentially engaged by this application, including including respect for your private and family life, home and correspondence are not considered to be unlawfully interfered with by this proposal.

## **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 proposed development to be acceptable in principle, of no significant harm to the character of the application site or surrounding area, or to residential amenity. The scheme is therefore considered acceptable.

**11.0 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:

100; 101; 102; 103; 104; Site Location Plan; Design & Access Statement (NoP Ltd, 15th November 2017) received 20th December 2017.

SK97 Rev A received 18th May 2018.

**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. (a) The rating level of the business operational noise (including any fixed plant) emitted from the site shall be 5dB below the existing background level at any time. The noise levels shall be determined at the façade of any noise sensitive property. The measurements and assessments shall be made according to BS4142:1997.

(b) No development above ground shall be commenced until details of a scheme complying with paragraph (a) of this condition have been submitted to and approved in writing by the local planning authority.

(c) The development shall not be occupied until the scheme approved pursuant to paragraph (b) of this condition has been implemented in its entirety. Thereafter the scheme shall be maintained in perpetuity.

**Reason:** To safeguard the amenities of the adjoining premises and the area generally and to comply with DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

4. No development above ground shall be commenced unless and until a schedule of materials and samples of such materials and finishes and colours to be used for the external construction of all building(s) are submitted to and approved by the Local Planning Authority in writing and all materials used shall conform to those approved and thereafter the development shall be constructed with the approved materials. In respect of the brickwork, full sample panels of the brickwork including colour, texture, face bond and pointing shall be provided.

**Reason:** Insufficient information has been supplied with the application to judge the appropriateness of the materials to be used. Submission of samples prior to commencement will ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and 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. Prior to any development above ground level a scheme for any external lighting that is to be installed at the site, including measures to prevent light spillage shall be submitted to and approved in writing by the local planning authority. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

**Reason:** In order that the local planning authority may be satisfied that the lighting is installed and maintained in a manner which will minimise possible light pollution to the night sky and neighbouring properties and to comply with Paragraphs 58 and 69 from the "NPPF" 2012, Policy 7.3 of the 'London Plan' 2016 DM Policy 27 Lighting of the Development Management Local Plan (November 2014).

6. (a) Prior to any development above ground level a scheme for surface water management, including specifications of the surface treatments and sustainable urban drainage solutions, has been submitted to and approved in writing by the local planning authority.

(b) The development shall be carried out in accordance with the approved scheme and thereafter the approved scheme is to be retained in accordance with the details approved therein.

**Reason:** To prevent the increased risk of flooding and to improve water quality in accordance with Policies 5.12 Flood risk management and 5.13 Sustainable drainage in the London Plan (July 2011) and Objective 6: Flood risk reduction and

water management and Core Strategy Policy 10:Managing and reducing the risk of flooding (2011).

7. The premises shall not be open to trade or business except between the hours of **06:00 and 23:00 Monday – Saturday**, and **10:00 and 22:00 on Sundays and Public Holidays**. No vehicles, plant or machinery shall be operated or any processes carried out and deliveries taken or dispatched from the site outside the above hours.

**Reason:** In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014).

8. A minimum of **5** secure and dry cycle parking spaces shall be provided within the development as indicated on drawing no. **SK97 Rev A**. 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).

9. The refuse storage shall be retained as shown on drawing no. **SK97 Rev A**.

**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) DM Policy 30 Urban design and local character and Core Strategy Policy 13 Addressing Lewisham waste management requirements (2011).

10. No repairs or mechanical operations shall take place outside of the buildings shown on drawings nos. **101, 102, 103 and 104**.

**Reason:** To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

11. No process shall be carried on nor machinery installed which could not be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

**Reason:** To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

12. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the premises shall be used for B1 – Business/B8 – Storage and for no other purpose (including any other purpose in Class B of the Schedule to the Town

and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

**Reason:** In order to safeguard the amenities of adjoining occupants and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011).

13. 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 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).

14. All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.

**Reason:** In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

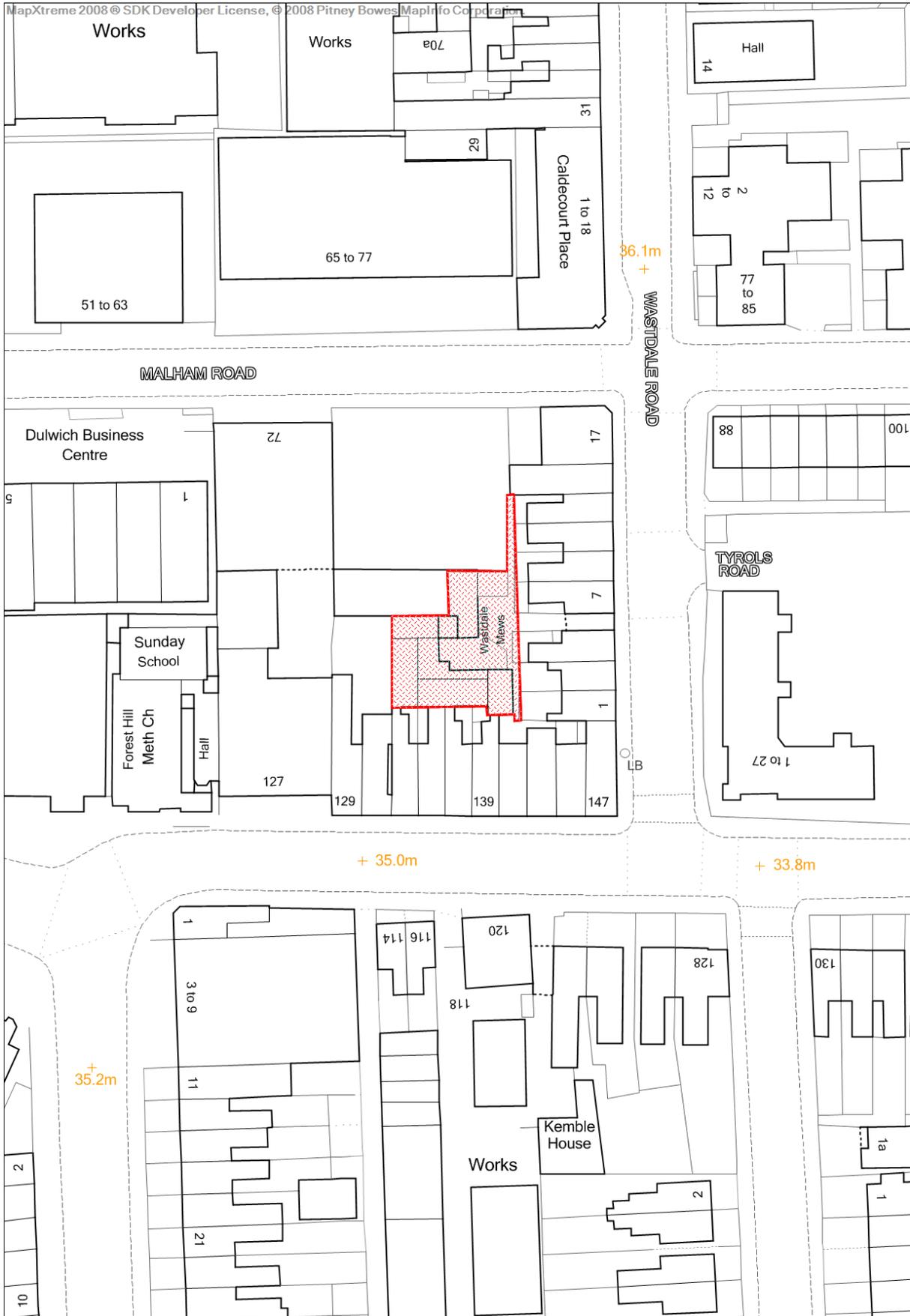
### **INFORMATIVES**

- A. The developer (including their representatives and contractors) is advised that planning consent does not discharge the requirements of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004. Formal notifications and approval will be needed for any highway works (including temporary works of any nature) required during the construction of the development. Please note that unauthorised works on the highway is an offence.
- B. The developer is advised that if construction materials are proposed to be kept on the highway during construction works then they will need to apply for a license from the Council. If the developer requires scaffolding, hoarding or mobile cranes to be used on the highway, a license is required and Streetcare should be contacted to make the necessary arrangements. Please note that unauthorised works on the highway is an offence.
- C. The developer is advised that surface water from the development in both its temporary and permanent states should not be discharged onto the highway. Failure to prevent such is an offence.

- D. **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, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.

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WASTDALE MEWS, WASTDALE ROAD, LONDON, SE23 1HN Site Map



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Committee	PLANNING COMMITTEE C	
Report Title	Retrospective application for planning permission for the construction of a raised platform (terrace) and new stairs down to rear garden space at 16 Shell Road, SE13.	
Ward	Ladywell	
Contributors	Vincent Murphy	
Class	PART 1	18 October 2018

<u>Reg. Nos.</u>	DC/17/106734
<u>Application dated</u>	13.04.18
<u>Applicant</u>	Mr Krackowizer
<u>Proposal</u>	Retrospective application for planning permission for the construction of a raised platform (terrace) and new stairs down to rear garden space at 16 Shell Road, SE13.
<u>Background Papers</u>	(1) Case File LE/116/16/TP (2) Local Development Framework Documents (3) The London Plan (2016 as amended) (4) NPPF (2018)
<u>Designation</u>	Core Strategy – Areas for Stability and Managed Change PTAL 5 Local Open Space Deficiency Not in a Conservation Area Not a Listed Building Road Unclassified

## 1.0 Summary

This report sets out officer's recommendation in regard to the above proposal. The report has been brought before members for a decision as:

- Permission is recommended to be approved and:
  - there are 3 or more valid planning objections;
  - there are objections from recognised residents' association or community/amenity groups;

## 2.0 Property/Site Description

- 2.1 This application relates to a mid-terrace building at 16 Shell Road, SE13 which is located on the western side of the road. The building is used as a small House in Multiple Occupation (C4 use), and has private open space to the rear of the site. This is terraced open space with one wall dividing the garden into two areas of grassed space.
- 2.2 The property is not located in a Conservation Area, and it is not subject to any Article 4 direction.
- 2.3 Surrounding properties are predominantly residential in use, being similarly-constructed terrace dwellings and flats. The underlying topography slopes moderately downwards from east to west, as well as from south to north through the site.

**3.0 Planning and Enforcement History**

3.1 There is no relevant planning history at this site.

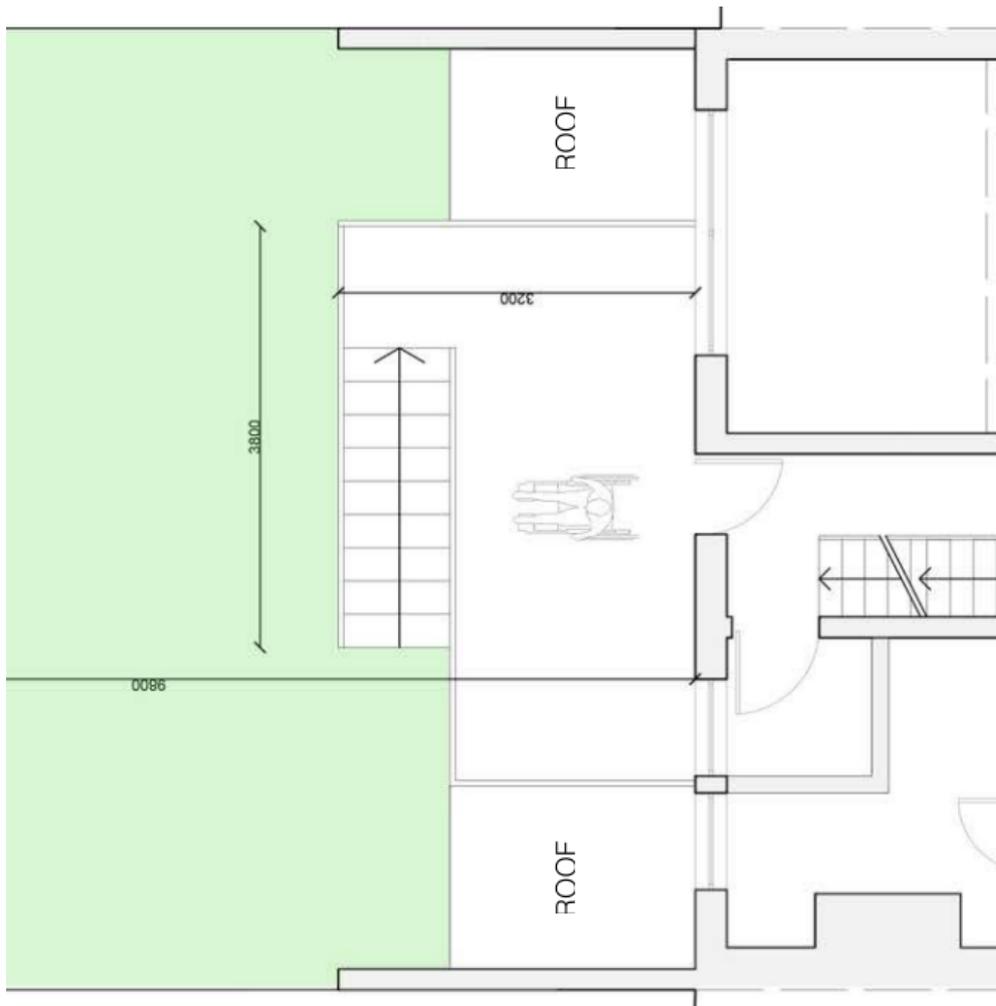
3.2 EN/16/00258 - Alleged unauthorised construction of raised garden terrace. Decision pending, partially relative to outcome of subject planning permission.

**4.0 Current Planning Application**

The Proposal

4.1 The proposal concerns a retrospective application for the construction of a raised platform (terrace) and new stairs down to rear garden space at 16 Shell Road, SE13. The terrace measures 2.2m in depth and 5m in width. The exception to this is the stair landing to the north of the terrace structure, where the depth increases to 3.2m, as per the images and drawing extract below.

4.2 The northern side of the terrace has a trellis edge with planters in front of it on the terrace surface, facing 14 Shell Road; the southern edge of the terrace has a solid timber screen facing 18 Shell Road.





## **5.0 Consultation**

- 5.1 Neighbour Letters and Site Notice – Four submissions received, all in objection, concerning noise disturbance, security, privacy, and the appearance and structural stability of a wall at the property.
- 5.2 Ladywell Ward Councillors – No submissions received

## **6.0 Policy Context**

### Introduction

- 6.1 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.
- 6.2 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 (NPPF) 2018

- 6.3 The NPPF, originally published in 2012, was revised on 24th July 2018 and is a material consideration in the determination of planning and related applications.
- 6.4 It contains at paragraph 11, a 'presumption in favour of sustainable development'. Annex 1 of the revised NPPF provides guidance on its implementation. In summary, this states in paragraph 213, 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 and in regard to existing local policies, that '...due weight should be given to them, 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)'.
- 6.5 Officers have reviewed the Core Strategy and Development Management Local Plan for consistency with the revised 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 revised NPPF.

National Planning Practice Guidance 'NPPG' (2014 onwards)

- 6.6 On 6th March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents, and is subject to continuous periodical updates in difference subject areas

The Development Plan

- 6.7 The London Plan, Lewisham's Core Strategy, together with the Site Allocations DPD, the Lewisham Town Centre Local Plan and the Development Management Local Plan and together constitute the borough's Development Plan. The site is not within the Lewisham Town Centre designation however.

London Plan (March 2016)

- 6.8 The London Plan was updated on the 14 March 2016 to incorporate Housing Standards and Parking Standards Minor Alterations to the London Plan (2015).

The new, draft London Plan was published by the Mayor of London for public consultation on 29 November 2017 (until 2 March 2018). A revision to this draft showing Minor Suggested Changes has been released by the Mayor of London following a review of consultation responses. Given the early stage in this process, this document has some weight as a material consideration when determining planning applications. The draft London Plan however is not considered to change the substance of planning policy as it relates to this site and proposal. As such, a weighting exercise considering the consistency of the proposal with the current London Plan and the draft London Plan is not necessary in this instance.

The policies in the current adopted London Plan (2016) relevant to this application are:

- Policy 3.5 Quality of design of housing developments
- Policy 7.4 Local character
- Policy 7.6 Architecture

London Plan – Supplementary Planning Guidance

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

Housing Supplementary Planning Guidance 2016

Core Strategy (June 2011)

6.10 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 (November 2014)

6.11 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:

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

Site Allocations Local Plan (June 2013)

6.12 There are no relevant Site Allocations relating to this application site.

Residential Standards Supplementary Planning Document (2006, updated 2012)

6.13 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. Whilst the proposal does not constitute residential development, this SPD is relevant to neighbouring amenity, which is a relevant impact to consider in terms of impacts upon neighbouring amenity as a result of the proposed scheme.

**7.0 Planning Considerations**

7.1 The pertinent planning considerations are considered to relate to the principle of the development, neighbourhood character impacts and design quality, neighbouring amenity impacts, and standard of accommodation provided.

Principle of development

7.2 Core Strategy Spatial Policy 5 Areas of Stability and Managed Change, and Policy 15 High quality design for Lewisham, are considered to be directly relevant to the issue of the principle of this type of development in this location.

- 7.3 The construction and use of the terrace is for residential purposes. Residential accommodation is established at the site and at surrounding sites. As such, the nature of expected use of the terrace (as part of residential occupation of the site) is not considered to generate a principle-based issue in terms of being incompatible with surrounding land use types (also residential).
- 7.4 Terraces are not in-principle unacceptable at residential sites. This conclusion is made based on terraces and balconies being relatively common at residential sites, a review of recent planning history for Shell Road, as well as considering the lack of express policy direction against terrace and balcony development. Two residential terraces, of varying designs, have been granted planning permission along Shell Road in the last five years.
- 7.5 The design of any terrace is very important with respect to ensuring reasonable privacy is preserved between properties, as well as not creating any other adverse impacts. These impacts are considered later in this report. However fundamentally the development is not considered to be objectionable in principle.

Neighbourhood character, design quality

- 7.6 Development Management Policies 30 Urban design and local character and 31 Alterations and extensions to existing buildings, including residential extensions, are considered to be directly relevant to the issue of whether or not the development is appropriate considering the character of the surrounding neighbourhood.
- 7.7 The terrace is not visible from the public realm and only visible from immediately adjoining neighbouring properties. The terrace balustrades are comprised of timber posts with a rope mesh surrounding the edge of the balcony. The side balustrades, perpendicular to the rear facade of the dwelling, will be conditioned to be solid timber - currently one side is solid timber whilst the other side is a trellis with planting in front. The design however is considered to be visually lightweight and subservient to the form and materials of the existing dwelling.
- 7.8 The terrace has been constructed in a manner compatible with surrounding development patterns - the usable outdoor space being close to the existing dwelling, and not resulting in an uncharacteristic degree of plot coverage with built form. It is noted that a wall which in part serves to retain land at the rear of the sloping garden also has timber features which have a degree of visual similarity to the balustrade detailing of the terrace. As such, the design of the terrace is considered to be suitably high quality and compatible with the character of the surrounding neighbourhood.
- 7.9 For the above reasons, any impacts on neighbourhood character are therefore considered to be acceptable, and the proposal is considered to be consistent with the relevant character and design quality provisions of DM Policies 30 and 31.

Neighbouring amenity

- 7.10 Development Management Policies 31 Alterations and extensions to existing buildings, including residential extensions and 32 Housing design, layout and space standards, are considered to be directly relevant to the issue of neighbouring amenity impacts of the design of the terrace.
- 7.11 As a terrace, there is the inherent potential for overlooking and loss of privacy to neighbouring properties. There is also the potential for overbearing/sense of enclosure, impacts on outlook, shading and loss of ambient daylight due to balustrade design.

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- 7.12 Four objections have been received which are premised primarily on residential amenity concerns. Loss of privacy, noise disturbance, and increased security risks generated by the construction and use of the terrace are repeated themes raised in submissions. It is noted that the stability and appearance of the wall which in part retains eastern part of the site (the subject site slopes downwards from east to west) is raised in submissions. That is an existing wall which is not changed by the proposal (retrospective construction of a terrace) and has not been erected to facilitate this proposal, and as such consideration of these matters is outside of the scope of the appropriate planning assessment.

*Property to the rear - 7 Undercliff Road*

- 7.13 Separation distances between any structures at existing back-to-back terrace developments are inherently constrained by existing separation distances. In this case, compliance with the 21m set-back referred to in DM Policy 32 is not possible - the existing separation distance between the backs of 16 Shell Road and the main rear elevation of 7 Undercliff Road is approximately 20.5m.

There is a minimum separation distance of approximately 16m from the edge of the terrace (at its mid-point adjacent to the majority of the usable area) to the closest rear wall of the neighbouring property to the rear at 7 Undercliff Road (10m to the rear boundary of the site at the same point). It is noted that this closest wall is a rear addition, and the distance to the main rear elevation of the dwelling at 7 Undercliff Road is a minimum of 18m. Whilst not achieving the 21m set-back referred to in DM Policy 32 (which primarily relates to new housing developments, as opposed to alterations to existing housing), it is considered to be a reasonable and adequate separation distance created by the design considering the relatively small size of the terrace.

- 7.14 The design has been kept to a relatively narrow usable terrace space of 2.2m (for the most part - upper stair landing excluded, which is a further 1m wide), and is considered to represent a genuine effort to provide usable outdoor space to the owner of the dwelling whilst respecting the privacy of neighbouring occupants to the rear.
- 7.15 The terrace has a usable width of predominantly 2.2m (excluding stair landing), with a total usable area of 11.8 square metres (including stair landing). The relatively small space provided, combined with the dwelling being used as a HMO, is considered to render intense use of the terrace limited in duration and frequency, as the dwelling is made up of multiple 1-person sublet tenancies as opposed to a single household occupying the dwelling.
- 7.16 Mitigation of the shortcomings of the separation distance provided is achieved fundamentally by the sloping topography towards, and lower elevation of, 7 Undercliff Road. The line of sight from the terrace to the ground floor spaces of these properties is obscured due to the lower ground level of these properties, the staggered elevation of land and a wall between the terrace and these properties, and vegetation when in leaf. As such, only the first floor and higher windows (typically bedroom/bathroom spaces along this street, confirmed by review of Council records of dwelling design as documented in historical planning permission applications) of these properties are visible from the terrace. Use of these spaces, and privacy when using them, is inherently provided as required by the user and by design i.e. frosted windows to bathrooms. This is in contrast to an indoor or outdoor living or kitchen space, which are important collective amenity spaces for dwelling occupants and visitors, and thus are more sensitive to overlooking and loss of privacy. To be clear, privacy to bedroom/bathroom spaces is important, however the separation distance provided combined with the small size of the terrace, likely limited use, and relatively narrow sizes of the upper-level windows at 7 Shell Road is considered to ensure reasonable and adequate privacy to these upper-level windows remains with the terrace in place.

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- 7.17 It is further noted that dwellings along this western side of Shell Road routinely have usable open spaces at ground floor level in a similar if not closer proximity to rear neighbouring properties on the eastern side of Undercliff Road. Whilst an important difference is the height of the terrace, the privacy context for this area is one where some degree of overlooking occurs due to the location of outdoor amenity spaces, which is common for Lewisham. In other words, absolute privacy is not reasonable nor characteristic of terrace dwellings as observed in this context.
- 7.18 Use of the staircase is transient and brief in duration, and as such the use of the external stairs from the terrace to the ground garden at the rear of the subject property is not considered to generate material adverse overlooking effects to the degree that refusal of planning permission is warranted.
- 7.19 The design of the terrace is considered to be consistent with Standard 28 of the London Plan Housing Supplementary Planning Guidance 2016, which acknowledges previous planning 'yardsticks' of 18-21m between back-to-back terraces but explicitly does not advocate for rigid adherence to these distances.
- 7.20 The windows underneath the terrace which face 7 Undercliff Road serve a storage space, and admit light to that space. Given the use of this space, no adverse overlooking impacts are considered to be facilitated by the windows that have been inserted to this space below the terrace which has been constructed.
- 7.21 For the reasons as stated above, the loss of privacy to be facilitated by the subject terrace upon the occupants of 7 Undercliff Road or any other properties on Undercliff Road is not considered to be significant. The degree of privacy provided to Undercliff Road properties is considered to be reasonable for this residential context and therefore acceptable.
- 7.22 The design, explicitly separation distance and transparency of balustrades which are opposite this property, is considered to suitably mitigate any outlook, shading, ambient daylight loss, and overbearing/sense of enclosure impacts of the terrace upon the occupants of 7 Undercliff Road and any other properties on Undercliff Road.

*Properties to the side - 14 and 18 Shell Road*

- 7.23 Privacy to the side properties is considered to be adequately preserved by the inclusion of timber screens along the sides of the terrace, to be maintained in perpetuity. This is to be secured by way of a recommended condition of planning permission.
- 7.24 The predominant or natural outlook from the terrace is to the rear of the property, whereas the screens prevent a direct line of sight to the rear of the dwellings at 14 and 18 Shell Road. The content of the submissions on this point has been noted, however screens result in any overlooking being restricted to the rear portions of the back yards of these properties. It is further noted that due to the reduction in topography east to west through the location of these properties, this further reduces the directness of any line of sight to the rear corners of the back yards of these properties.
- 7.25 For the same reasons discussed above, use of the stairs is not considered to facilitate overlooking effects to the degree that refusal of planning permission is warranted.
- 7.26 For the same reason as discussed above, overlooking impacts are not considered to be facilitated through the windows that have been inserted below the terrace. It is further noted that boundary fences adequately screen the line of sight from these windows, in any case.

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- 7.27 The height of the side screens (1.7m, as required by the recommended condition) are of a height that will suitably eliminate the ability for overlooking towards either property when seated or standing. There is also a minimum separation distance of 1.7m to the closest windows at 14 and 18 Shell Road. As such, the proposal is not considered to generate unacceptable loss of sunlight or ambient daylight, outlook, overbearing or sense of enclosure impacts upon the amenity of neighbours occupying 14 and 18 Shell Road.

*Noise and security*

- 7.28 Concerns premised on noise and security concerns have been expressed in submissions received. The full-width side screens to the terrace are considered to generate a considerable hindrance to accessing neighbouring windows. This is considered to provide for reasonable security in a terraced residential environment. The likelihood of HMO tenants being a greater security threat than any other neighbour which is alluded to in submissions, is not appropriate or relevant as a planning consideration.
- 7.29 There is no evidence to suggest noise generated by use of the terrace by virtue of it serving a House in Multiple Occupation is legitimately materially greater than typical noise generated by residential use of a terrace by a single-household family and their visitors. Rather, it is conceivable that it would be used less intensely, as a collection of individuals occupy the building rather than a larger social unit (family) with a larger and more connected social circle. In any case, some noise from the use of the terrace can be reasonably generated in conjunction with residential occupation of a dwelling, and there is no firm reason to suggest use of this terrace will regularly emit unreasonable noise.

*Other properties*

- 7.30 Due to separation distances, no other persons occupying any neighbouring properties are considered to be materially impacted with respect to amenity factors.

*Conclusion - Neighbouring Amenity*

- 7.31 For the reasons as discussed above, the proposal is therefore also considered to be acceptable with respect to neighbouring amenity impacts, and consistent with the relevant amenity provisions of DM Policies 30, 31 and 32.

*Standard of accommodation provided*

- 7.32 The proposal will result in the provision of a usable terrace space flush with the kitchen and living spaces interior to the dwelling. This is considered to be a general improvement to the on-site amenity available to the occupants of the dwelling.
- 7.33 The terrace meets the minimum dimension and area requirements for terrace spaces relative to the number of dwelling occupants as recommended in the London Plan Housing Supplementary Planning Guidance.
- 7.34 For these reasons, the terrace is considered to represent an appropriate-quality improvement in on-site amenity for current and future residents of the dwelling at 16 Shell Road. The proposal is therefore considered to be acceptable with respect to DM Policy 32 and London Plan Policy 3.5.

## **8.0 Local Finance Considerations**

- 8.1 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 would or could be, provided to a relevant authority by a Minister of the Crown; or
  - (b) sums that a relevant authority has received, or would or could receive, in payment of Community Infrastructure Levy (CIL).
- 8.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 8.3 The Mayor of London's CIL is therefore a material consideration. CIL would not be payable on this application.

## **9.0 Equalities Considerations**

- 9.1 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.
- 9.2 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.
- 9.3 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.
- 9.4 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: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>
- 9.5 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

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- 4. Equality objectives and the equality duty
- 5. Equality information and the equality duty

- 9.6 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: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>
- 9.7 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, with the exception of disabled access which is provided for in the design, and therefore it has been concluded that there is no impact on equality to any person.

## **10.0 Human Rights Implications**

- 10.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Peaceful enjoyment of property
- Right to a fair trial
- Right to respect for private and family life

- 10.2 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.
- 10.3 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with convention rights would be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the local planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest. This application has the legitimate aim of improving amenity at the site. The rights potentially engaged by this application, are not considered to be unlawfully interfered with by this proposal.

## **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 The proposed development is considered by Officers to be acceptable with regards to the principle of development, and impacts upon neighbourhood character and neighbouring amenity, as well as providing an acceptable standard of accommodation, and is considered to be consistent with relevant DM Policies 30, 31 and 32 and the relevant provisions of applicable higher planning instruments.

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## 12.0 **RECOMMENDATION**

**GRANT PERMISSION** subject to the following conditions:-

### **Conditions**

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

'Existing and Proposed Plans', received 01.10.18.

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

2. Within four months of the date of planning permission being issued, solid fencing to the northern and southern edges of the terrace reaching 1.7m high above the finished surface level of the terrace must be erected. The details of the fencing, specifically materials, dimensions and exact location, are to be first submitted to and approved in writing by the Local Planning Authority prior to the erection of the said fencing. Thereafter the fencing to the terrace shall be retained in perpetuity in accordance with the approved details.

**Reason:** To ensure reasonable and adequate privacy to the occupants of 14 and 18 Shell Road, in accordance with Policy 31 Extensions and alterations to existing buildings, including residential extensions of the Development Management Local Plan (2014) which relates to neighbouring amenity, within the Lewisham Development Framework.

### **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, no pre-application advice was sought. However, as the proposal was in accordance with the Development Plan, permission could be granted with only minimal discussion regarding further privacy measure to be secured by way of condition of planning permission.
- B. The applicant is advised that a change from a C4 HMO use to Sui Generis HMO use (i.e. an HMO with more than 6 residents) requires planning permission.



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Committee	PLANNING COMMITTEE C	
Report Title	Flat 2, Summerhill, 41 London Road, SE23	
Ward	Forest Hill	
Contributors	Zahra Rad	
Class	PART 1	18 October 2018

<u>Reg. Nos.</u>	DC/18/107541
<u>Application dated</u>	31/05/2018
<u>Applicant</u>	Mr Rayfield
<u>Proposal</u>	Construction of a single storey extension to the rear of Flat 2, Summerhill, 41 London Road, SE23.
<u>Applicant's Plan Nos.</u>	ES180085-1, ES180085-2, ES180085-3, ES180085-4, Site Location, Block Plan (received 11 <sup>th</sup> June 2018); Stratus Thermal Lantern Roof details and Sunbright Ecoenergy window details (received 5 <sup>th</sup> October 2018).
<u>Background Papers</u>	(1) Case File LE/344/41/TW (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	PTAL 4, Major District Centre, Forest Hill Article 4 (2) Direction
<u>Screening</u>	N/A

## 1.0 **Summary**

- 1.1 This report sets out officer's recommendation in regard to the above proposal. The report has been brought before members for a decision as:
- Permission is recommended to be approved and there are 3 or more valid planning objections

## 2.0 **Property/Site Description**

- 2.1 This application relates to Flat 2 (two bedroom) located in the ground floor of a three storey detached building (Summerhill) located within Forest Hill Conservation Area. The existing detached property is split into 4 flats.
- 2.2 The property is located to the south of London Road and is accessed via a shared pathway (approximately 30m long) off London Road. Though the property is on

higher ground along the pathway compared to London Road, there is limited visibility from London Road or any other surrounding roads. However, the property is visible to the adjoining properties to the west and south.

2.3 The immediate surrounding context is residential, though it is located within the Forest Hill District Centre boundary.

2.4 The property is located within the Forest Hill Conservation Area and as such is subject to the Forest Hill Conservation Area Article 4(2) Direction. The property is Edwardian, built in the later part of the 19th century.

2.1 The property rear and side elevation are London stock brick. The existing windows in the building are timber casement and sliding sash.

2.2 The property is not listed, nor is it in the vicinity of any listed buildings.

### **3.0 Planning History**

3.1 No record of previous planning application.

### **4.0 Current Planning Applications**

4.1 This application proposes the construction of a single storey extension to the rear of Flat 2. The extension would infill the southwest corner of the property.

4.2 The extension would be 3.44m in depth, 2.76m in width and have a height of 2.8m, which would rise to 3.30m at the top of the lantern roof.

4.3 The rear elevation of the extension would be faced in brick, which would match the material used on the existing building. Three white uPVC casement windows with clear glass would be installed in the south elevation and a white uPVC door with clear toughened glass would be installed on the western elevation of the proposed extension. The roof would be EPDM (Rubberbond EPDM flat roof) and the lantern would be of a grey aluminium frame.

### **5.0 Consultation**

5.1 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 met those required by the Council's adopted Statement of Community Involvement.

5.2 A site notice was displayed outside the property and letters were sent to 40 adjoining residents in the surrounding area. The ward councillors for Forest Hill and the Forest Hill society were also consulted.

5.3 Three neighbours have raised objection to the proposal. No comment has been received from the Forest Hill society.

5.4 The objections are summarised below:

- Extension obstructs view, especially because of the height of the lantern roof.
- The extension would have an adverse impact on the value of the property.
- Accesses for maintenance of upper floor windows would be restricted.

- Additional stress to the building by construction of this extension due to previous subsidence and damages
- Noise pollution during the construction period.
- Affecting a tree in the garden of No 32 Forestholme Close.
- Any construction will reduce open spaces and will lead to further construction.
- The possible excavation may cause subsidence (this point has been raised by 2 people).
- Concern about possible overlooking as a result of new windows.

5.5 Comments raised with regard to the proposed extension impacting property values, views (other than outlook), access for maintenance and stress to the building are not relevant planning considerations.

## **6.0 Policy Context**

### Introduction

6.1 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.

6.2 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 (NPPF) 2018

6.3 The NPPF, originally published in 2012, was revised on 24th July 2018 and is a material consideration in the determination of planning and related applications.

6.4 It contains at paragraph 11, a 'presumption in favour of sustainable development'. Annex 1 of the revised NPPF provides guidance on its implementation. In summary, this states in paragraph 213 that policies in the development, plan should not be considered out of date just because they were adopted prior to the publication of the revised NPPF and in regard to existing local policies, that '...due weight should be given to them, 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)'.

6.5 Officers have reviewed the Core Strategy and Development Management Local Plan 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 213 of the revised NPPF.

#### National Planning Practice Guidance 'NPPG' (2014 onwards)

- 6.6 On 6th March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents, and is subject to continuous periodical updates.

#### The Development Plan

- 6.7 The London Plan, Lewisham's Core Strategy, together with the Site Allocations DPD, the Lewisham Town Centre Local Plan and the Development Management Local Plan constitute the borough's Development Plan.

#### London Plan (March 2016) (alterations 2017)

- 6.8 On the March 2016, the London Plan (consolidated with alterations since 2011) was adopted. The new, draft London Plan was published by the Mayor of London for public consultation on 29 November 2017 (until 2 March 2018). Proposed modifications were released by the Mayor of London in August 2018 following review of consultation responses. Although still an early stage in this process, the draft with modifications has some weight as a material consideration when determining planning applications. Where the policies of the draft plan differ from the adopted plan and are relevant to the subject application, they will be referred to in this report.
- 6.9 The London Plan 2016 policies relevant to this application are:

Policy 7.4 Local character  
Policy 7.6 Architecture

#### Core Strategy

- 6.10 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 8 Sustainable design and construction and energy efficiency  
Core Strategy Policy 15 High quality design for Lewisham

#### Development Management Local Plan (November 2014)

- 6.11 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:
- 6.12 The following policies are considered to be relevant to this application:

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 32	Housing design, layout and space standards

Residential Standards Supplementary Planning Document (2006, updated 2012)

- 6.13 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.

**7.0 Planning Considerations**

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

- a) Design and impact on the character and appearance of the host building and the Forest Hill Conservation Area.
- b) Impact on the amenity of surrounding properties

Design and conservation

- 7.2 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. Chapter 16 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.
- 7.3 Urban design is a key consideration in the planning process. The revised NPPF makes it clear that national government places great importance on the design of the built environment. Paragraph 131 of the revised NPPF outlines 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 revised NPPF 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.
- 7.4 Paragraph 131 of the revised 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 130 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.

- 7.5 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.
- 7.6 Core Strategy Policy 15, DM Policy 30, 31 and 32 seek to ensure that a high standard of design is upheld; proposals must complement the existing development, townscape and character.
- 7.7 The Residential Standards SPD states in section 6.4 that extensions should be smaller and less bulky than the original building and reflect its form and shape. It states that traditionally, extensions to buildings are subsidiary to the main structure and that over-dominant extensions may destroy the architectural integrity of existing buildings.
- 7.8 The proposed rear extension would add 9.55m<sup>2</sup> (12% of the total flat area) to the footprint of the flat. The surrounding garden currently measures 995m<sup>2</sup> and therefore over 50% of the surrounding garden would remain because of the extension.
- 7.9 The height of the single storey flat roof rear extension would be 2.8m, which is visibly lower than the first floor windowsill to the west elevation of the host building. The maximum height including the lantern would be 3.30m, which still is lower than the first floor windowsill.
- 7.10 The proposed materials on the elevations of the extension would be facing brick, which would match the existing building.
- 7.11 The proposed windows to the rear and side would be white uPVC with clear glass. The proposed door would be white uPVC with clear toughened glass, and the roof would be EPDM roof with aluminium frame lantern. Although the proposed window material is not characteristic of the building or conservation area, as the extension would be single storey in height, located to the rear of the property and given the relatively tall boundary fencing and mature planting surrounding the site, it would not be visible from the public realm. Accordingly, no harm would arise to the conservation area.
- 7.12 The extension would therefore appear subservient to the host building and would be complementary in terms of its appearance. As such, the proposals would preserve the character and appearance of the conservation area.

#### Impact on Adjoining Properties

- 7.13 It is stated in DM Policy 31 that residential extensions adjacent to dwellings should result in no significant loss of privacy and amenity, (including sunlight and daylight) to adjoining houses and their back gardens.
- 7.14 Due to the position of the proposed extension, the only neighbouring occupants potentially affected would be No No 33 Foresthill Close, to the south, and Nos. 7 and 8 Highgate Walk, to the west.
- 7.15 The west elevation of the proposed extension would be 7.5m away from the neighbouring boundary with No7 and No8 Highgate Walk and 23m and 14m away

from the rear elevations of the buildings at No 7 and No 8 respectively. The new extension would be 2m away from the boundary of No 33 Forestholme Close to the south. The rear elevation of the proposed extension would have a distance of 13m from the rear elevation of No 33. Given the single storey nature of the proposal and the intervening boundary treatments, it is not considered that the proposal would have any impacts on neighbouring amenity in terms of outlook, overbearing relationship or privacy.

- 7.16 Concern has been raised about disruption to local residents arising from construction works. A condition has been specified limiting working hours to reasonable times in order to address these concerns, although it is inevitable that some disruption would occur during construction.

#### Other considerations

- 7.17 A concern has been raised in relation to the impact of the proposal on a tree in the rear garden of No 32 Forestholme Close. Given the position of the proposed extension, the separation distance between the properties and the fact that the extension would be no closer to the tree than the existing south elevation of 41 London Road, it is not considered that the tree would be affected.

### **8.0 Local Finance Considerations**

- 8.1 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).
- 8.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 8.3 The Mayor of London's CIL together with Lewisham council CIL are therefore a material consideration though are not payable in regard to this application as the increased floorspace is below the 100sqm threshold.

### **9.0 Equalities Considerations**

- 9.1 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.
- 9.2 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.

- 9.3 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.
- 9.4 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: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>
- 9.5 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
- 9.6 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: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>
- 9.7 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.

## **10.0 Human Rights Implications**

- 10.1 In determining this application the Council is required to have regard to the revisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including
- Right to a fair trial
  - Respect for your private and family life, home and correspondence

- 10.2 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.
- 10.3 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with Convention rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 10.4 This application has the legitimate aim of providing new residential floorspace to an existing dwelling. The rights potentially engaged by this application are not considered to be unlawfully interfered with by this proposal.

### **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 Officers consider that the design and appearance of the proposal is acceptable, and there would be no materially harmful impacts to the host building, conservation area or neighbouring occupiers. The scheme is therefore considered to be acceptable.

### **12.0 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: ES180085-1, ES180085-2, ES180085-3, ES180085-4, Site Location, Block Plan (received 11th June 2018); Stratus Thermal Lantern Roof details and Sunbright Ecoenergy window details (received 5th October 2018).

**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 deliveries in connection with construction works shall be taken at or despatched from the site other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on

Sundays or Public Holidays.

No work shall take place on the site other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

**Reason:** In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

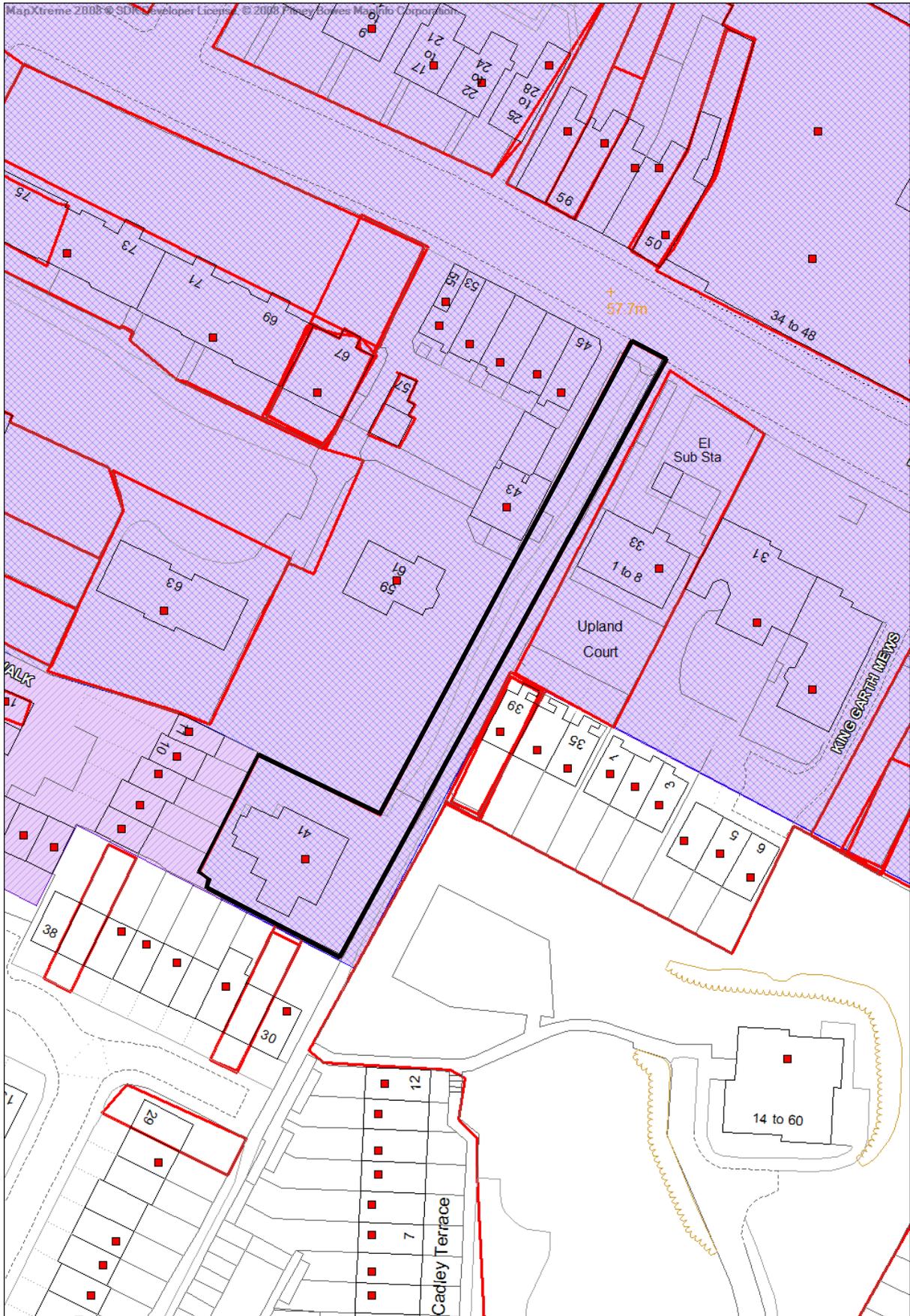
4. The development shall be constructed in brickwork to match the existing building.

**Reason:** To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 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.

## **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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