

PLANNING COMMITTEE C

Date of Meeting: **THURSDAY, 27 SEPTEMBER 2012 TIME 7.30 PM**

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

Members of the Committee are summoned to attend this meeting:

**Membership
Councillors:**

**Paul Bell (Chair)
Pauline Beck
Liam Curran
Alexander Feakes
Peggy Fitzsimmons
Joseph Folorunso
Helen Gibson
Alan Hall
Madeliene Long
John Paschoud**

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

**Barry Quirk
Chief Executive
Lewisham Town Hall
London SE6 4RU
Date: Tuesday, 18 September 2012**

For further information please contact:

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Committee	PLANNING COMMITTEE C	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	27 September 2012

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

1 Personal interests

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

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

2 Disclosable pecuniary interests are defined by regulation as:-

- (1) Employment, trade, profession or vocation of a relevant person* for profit or gain
- (2) 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).
- (3) 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.
- (4) Beneficial interests in land in the borough.
- (5) Licence to occupy land in the borough for one month or more.
- (6) 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.
- (7) 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:-

- (1) Membership or position of control or management in a body to which you were appointed or nominated by the Council;
- (2) 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;
- (3) 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	
Class	PART 1	27 September 2012

MINUTES

To approve the minutes of the meetings of Planning Committee C held on 24 MAY 2012 and 16 AUGUST 2012.

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Committee	PLANNING COMMITTEE C	
Report Title	9 Independents Road SE3	
Ward	Blackheath	
Contributors	Louise Holland	
Class	PART 1	27 SEPTEMBER 2012
<u>Reg. Nos.</u>	(A) DC/10/76229 (B) DC/10/76230	
<u>Application dated</u>	23 December 2010	
<u>Applicant</u>	BPTW Partnership on behalf of Borago Global Limited	
<u>Proposal</u>	(A) The demolition of 9 Independents Road SE3 and the construction of a part five/part six storey building to provide 10 one bedroom, 4 two bedroom and 2 three bedroom flats together with the provision of cycle storage, refuse store and associated landscaping. (B) Conservation area consent for the demolition of the existing building.	
<u>Applicant's Plan Nos.</u>	Drawing Nos: AE-032-00L Rev A, 00S Rev A, DEM-032-00G Rev A, 101 Rev A, 102 Rev A, 103 Rev A, 104 Rev A, 105, AL-032-00L, 00S Rev A, 00S-200, 0LG Rev G, 00G Rev G, 001 Rev G, 002 Rev G, 003 Rev G, 004 Rev F, 00R Rev F, 101 Rev C, 101-100 Rev A, 102 Rev B, 102-100 Rev A, 103 Rev B, 103-100 Rev A, 104 Rev A, 104-100, 105 Rev A, 105-100, 106 Rev B, 106-100 Rev A, 107, 107-100, 108, 108-100, 109, 109-100, 110 Planning Statement (BPTW, December 2010), Design and Access Statement (Emoli Petroschka, December 2010), Community and Leisure Facilities Assessment (BPTW, December 2010), Transportation Statement (Stilwell, December 2010), Environmental Desk Study (Glanville, December 2009), Heritage Statement (Purcell Miller Triton, December 2010), Report on Sunlight, Daylight and Overshadowing (BLDA, December 2010), Noise and Vibration Assessment (Stilwell, April 2010), Air Quality Assessment (RSK Group, December 2010), Sustainable Energy Assessment (Stilwell, November 2011), Building Condition Survey (McBains Cooper, October 2009), Arboricultural Survey (BLA, October 2009), Arboricultural Method Statement (BLA 2012), Phase 1 Ecological Walkover and Initial Bat Survey Report (December 2010), Drainage Statement (April 2010), Code for Sustainable Homes Pre-Assessment (Darren Evans Assessments Ltd) & Materials and Components Specification.	
<u>Background Papers</u>	(1) Case File LE/407/A/TP (2) Local Plan specifically the Core Strategy (June 2011) (3) Adopted Unitary Development Plan (July 2004) (4) The London Plan (5) Town and Country Planning (Environmental Impact	

	Assessment) Regulations 2011 (6) National Planning Policy Framework 2012
<u>Designation</u>	PTAL 5, Blackheath Conservation Area, Not Listed.
<u>Screening</u>	The Council has issued a Screening Opinion pursuant to Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (the Regulations) confirming that the proposals are not EIA development.

1.0 Property/Site Description

- 1.1 The Independents Day Centre at 9 Independents Road is a vacant two storey building on the north side of the street (site area 0.0565ha). Independents Road is a cul-de-sac and is a private road in the ownership of Blackheath Hospital. There is a footpath and marked car parking bays on the north side of the street in front of Winchester House, the application site and no.10 The Watts Building (also in use by Blackheath Hospital). There is no footpath on the south side of the carriageway in Independents Road.
- 1.2 The level of the application site falls steeply downhill from south to north, so that only the upper storey of the front elevation of the existing building is visible in many views from Independents Road and Lawn Terrace. The front elevation is set 3.8 metres away from the back of the pavement, and is finished with white-painted render. Other elevations are mainly in red brick. The main pitched roof is covered with corrugated material. A timber door (the main entrance) and metal framed windows face the street.
- 1.3 The existing building occupies most of the application site. A narrow strip of land (not in the ownership of the applicant) runs between the application site and the railway embankment to the north.
- 1.4 The existing building is highly visible in views from Independents Road and from many locations in Lawn Terrace. It can be glimpsed from Blackheath Village to the east and Blackheath railway station platforms to the north, although this visibility is reduced in summer when trees are in leaf. The existing building can also be seen in longer views from buildings to the north, but is not prominent in these views.
- 1.5 The area surrounding the application site has a mix of uses. Directly adjacent to the east is Winchester House, currently in use as part of Blackheath Hospital. Within the curtilage of Winchester House, adjacent to the common boundary shared with the application site, is a caged refuse/goods lift. Beyond Winchester House, fronting Blackheath Village is The Railway public house. To the north are railway lines, Blackheath railway station and the station car park. To the west are an electricity substation and a car park used by the Blackheath Hospital, beyond which (further west) is another Blackheath Hospital building ("Number 10 Watts Building"), the Blackheath Montessori Centre a pre-school nursery and Friends Meeting House. Number 10 Watts Building" has been converted from the former Blackheath Congregational Church; the church was badly damaged during World War II and in 1957, a new building was erected within the stonewalls of the old church. To the south, Lawn Terrace runs parallel with Independents Road on higher land, separated from Independents Road by trees and vegetation. Lawn

Terrace has 2-storey houses (some with basement-level integral garages beneath) and a building in use as a restaurant facing the application site on the south side of the road. There is a pedestrian route via a flight of steps from Lawn Terrace to the western end of Independents Road.

- 1.6 The application site is within the Blackheath Conservation Area and the Blackheath District Town Centre (but is not within the Shopping Core or Shopping Non-Core Areas). The adjacent Winchester House is a locally listed building.

2.0 Planning History

- 2.1 Ordnance Survey maps of Blackheath indicate that the application site was formerly part of the grounds of the adjacent Missionary School (now Winchester House). The 1949 map shows a building occupying much of the application site and annotated "Electrical Factory". The 1954/1956 map shows the building annotated "Southvale Works", and the 1960/1972 map shows the building annotated "Works". Later maps annotate the site as being in use as a day centre.

- 2.2 31/12/1959 – Permission granted for the erection of an extension to South Vale Works. Ref: 5198.

- 2.3 25/04/1963 – Permission granted for the erection of an extension to South Vale Works. Ref: 25596.

- 2.4 26/06/1963 – Permission granted for alterations to the front elevation at South Vale Works. Ref: 5297.

- 2.5 02/08/1966 – Permission granted for the reconstruction and extension of existing mezzanine floors with a new flat roof replacing the existing pitched roof at Southvale Works. Ref: 01225.

- 2.6 25/02/2010 - Applications for planning permission (for the erection of a part 5-, part 6-storey building accommodating 20 residential units) and conservation area consent (for the demolition of the existing building), refs DC/10/73421 and DC/10/73528, withdrawn due to incorrect land ownership information being submitted with the applications.

- 2.7 DC/10/74092 – Planning permission was refused under delegated powers for the demolition of 9 Independents Road and the construction of a three to six storey building to provide 2, three bedroom maisonettes, 11, one bedroom and 7, two bedroom flats. The reason for refusal is as follows:

The proposed development, due to its elevational treatment, detailing, location, height, massing and visibility, would not be of a high quality design appropriate for this site, would poorly relate to the adjacent locally listed building, Winchester House, and would harm its setting, and would neither preserve nor enhance the character and appearance of the Blackheath Conservation Area. The proposed development is therefore contrary to Policies URB 1 Development Sites and Key Development Sites, URB 3 Urban Design, URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas and URB 20 Locally Listed Buildings in the adopted Unitary Development Plan (July 2004).

- 2.8 DC/10/74093 - Conservation Area Consent was refused for the demolition of 9 Independents Road. The refusal reason stated: "The replacement building

proposed under planning application reference DC/10/74092 would not be of a high quality design, would poorly relate to the adjacent building Winchester House, and would neither preserve nor enhance the character and appearance of the Blackheath Conservation Area. There is therefore no justification to carry out demolition which would result in an empty site and a streetscape gap that would cause harm to the character and appearance of the Blackheath Conservation Area. The demolition of the existing building would be contrary to Policies URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas and URB 17 Demolition in Conservation Areas in the adopted Unitary Development Plan (July 2004)”.

3.0 Current Planning Applications

3.1 The Proposals

- 3.2 The application proposes the demolition of the existing day centre building, and the erection of a part-5, part-6 storey building, up to 16.9m in height overall, comprising lower ground floor, ground and first to fourth floors. The building would comprise 16 flats and would be composed of four ‘block’ elements, connected by a circulation core. The southeastern block would be of six storeys and would be set 1.8m back from the back edge of the footway, aligning with the main frontage of Winchester House facing Independents Road. The adjacent southwestern block would be set 1.35m further back and would be five storeys in height. Towards the rear, the northeastern block element would have five storeys and would be set 2.8m from the rear site boundary while the northwestern element would have six storeys and would be closer to the rear boundary. Each of the four block elements would be similarly articulated to the sides. To each façade of the building, the circulation core would be set back from the main facades of the four ‘block’ elements. The two upper storeys of each block element would be contained within a steeply pitched gable roof. The lowest floor is below street level and as a result, the building will appear as four to five storeys from Independents Road. The proposed development would accommodate 2x3-bedroom duplex units, 4x2-bedroom duplex flats and 10x1-bedroom flats.
- 3.3 All the flats would be accessed from a single centrally located entrance at ground floor level. The communal core would have a lift and staircase providing access to all units.
- 3.4 A communal cycle store is proposed at ground floor level. No off-street car parking is proposed.
- 3.5 Elevations would be finished mostly in grey brickwork and those to the front and rear would have extensive glazing. The front and rear elevations would be characterised by a brick framework with deeply recessed glazing panels, while the side elevations would have limited window openings. There would be steep pitched roofs with a horizontal element at the ridge, incorporating a strip of flat roof lights and solar panels. The roof elements, which would extend over two storeys, would be clad in standing seam zinc and would have timber brise soleil to the south elevation. There would be recessed balconies to front and rear elevations. Timber framed windows with structurally glazed outer panes are proposed.
- 3.6 The building would occupy much of the site, however there would be small terrace gardens to front and rear.

- 3.7 There is a concurrent application for conservation area consent for the demolition of the existing building.

Supporting Documents

- 3.8 The following documents were submitted in support of the application:

Design and Access Statement

- 3.9 The statement sets out the wider context in which the site lies, including the local context and history of buildings in Independents Road. It explains the way in which the site context has informed the development of the design.

Transportation Statement

- 3.10 The statement considers access to the site and cycle parking within the scheme, in relation to its level of public transport accessibility (PTAL 5). It considers the impact of the proposals on the highway network and notes that a servicing management plan will be required. It concludes that there would be no highway impact from vehicle trips. It confirms willingness to restrict residents from obtaining parking permits within the CPZ.

Planning Statement

- 3.11 The Planning Statement describes the site and the proposed development and sets out the extent to which, in the applicant's view, the proposals comply with planning policy. It describes the proposed residential accommodation and extent of affordable housing and also sets out the Heads of Terms of a S106 Agreement.

Community and Leisure Facilities Assessment (BPTW)

- 3.12 The report assesses the prospects of the property being occupied for a continued community or leisure use. It concludes that there is no realistic prospect of the re-use of the premises for community purposes.

Environmental Desk Study

- 3.13 The assessment considers the extent of potential contamination within the site and identifies sources of potential contamination of the land including the historic electrical instrument works on the site and the adjacent railway. The report contains an outline conceptual model and recommends an intrusive site investigation.

Heritage Statement (titled PPS5 Justification)

- 3.14 The statement identifies the Heritage Assets in the vicinity of the site, their significance and the impact of the proposals on them, including impacts on views. It states that though there will be some minor impacts on views of the west façade of Winchester House, the design uses mitigation measures to reduce the massing of the new building and reduce the impact. It concludes that with a high specification of finishes a quality design can successfully integrate into the Character Area of Blackheath Village.

Daylight and Sunlight Report

- 3.15 The study considers the impact of the proposals on the daylight and sunlight available to properties in the vicinity of the site. It also considers the sunlight and daylight levels within the proposed dwellings. It concludes that the neighbouring properties would retain good levels of daylight and would meet and exceed the BRE criteria for daylight. In relation to sunlight, all windows to existing residential properties which could potentially be affected face within 90 degrees of due north and the report notes that there is no sunlight requirement at these locations. In relation to the proposed dwellings, all habitable rooms at lower ground, ground and first floor levels would meet the BRE criteria for daylight and 77% of windows would receive some sunlight.

Noise and Vibration Assessment

- 3.16 The assessment determines that the site falls within Noise Exposure Category B, mainly as a result of railway noise. It concludes that in addition to the façade and window performance being of the necessary standard, an alternative means of ventilation to some openable windows would be required.

Air Quality Assessment

- 3.17 The air quality assessment considers the existing air quality at the site and the impact of construction activities. It recommends a formalised Code of Construction Practice (CoCP) to ensure mitigation of dust emissions.

Sustainable Energy Assessment

- 3.18 The statement explains how the proposals meet the London Mayor's energy hierarchy. It confirms that the most suitable means of providing heat and power is by gas-fired CHP combined with solar hot water heating and that the Mayor's policy for total carbon savings can be met.

Building Condition Survey

- 3.19 The report describes a survey of the condition of the existing building; it includes an audit of the requirements of the Disability Discrimination Act 2001. The report notes no major structural problems, it states there is significant deterioration of the internal fabric due to some water ingress and concludes that the property is in a poor state of repair with significant repair works needed to rectify a lack of maintenance and prevent further deterioration.

Arboricultural Survey (BLA Oct 2009)

- 3.20 The survey and addendum notes that there are no trees within the application site and identifies a number of trees on the adjacent car park land to the west of the site. It suggests that limited crown reduction may be needed in respect of a mature sycamore tree close to the site boundary subject to the owners consent.

Arboricultural Method Statement (BLA July 2012)

- 3.21 The Method Statement considers the implications of the development in relation to a mature sycamore tree 3.9m from the boundary, whose canopy overhangs the site. The Statement proposes tree protection measures and some pruning of the

crown which would be carried out under supervision of an Arboricultural consultant.

Phase 1 and Initial Bat Survey Report

- 3.22 The survey identified no evidence of protected species. It recommends a method statement for demolition and a mitigation strategy.

Drainage Statement

- 3.23 The statement describes the conclusions of preliminary investigations in relation to existing drainage serving the site. The report notes that at detailed design stage, the drainage scheme will be forwarded to both Building Control and Thames Water for approval and that it is considered that there will be no issues with regard to capacity for connection with the existing sewer system, subject to further investigation.

Affordable Housing Viability Assessment (BNP Paribas May 2012)

- 3.24 The viability assessment shows how the expected return for the scheme is derived. It sets out that the applicant is prepared to provide four of the units as affordable housing, though this is technically unviable.

Construction Management Plan

- 3.25 The report considers how the development would be serviced during the construction phase and how safe access for premises in Independents Road would be maintained. It sets out measures to enable and manage construction deliveries.

4.0 Consultation

- 4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 Site notices were displayed around the site and the development was advertised in the press.
- 4.3 Letters were sent to local residents in the immediate surrounding area, the Blackheath Society and relevant ward Councillors.

Written Responses received from Local Residents and Organisations

- 4.4 23 letters of objection/comments sheets have been received from occupiers of 5, 7, 9, 11, 15, 17, 23, 31, Lawn Terrace, 55, 57, 59 Lee Terrace, 24 The Lawns, Blackheath Hospital and Blackheath Montessori Centre. The following objections were raised:
- Objection to change of use of site, use should be of benefit to the community.
 - Noise, severe disruption and disturbance during the construction period.

- Concern about capacity of drains; there have been on-going problems with blocked drain at corner of Lawn Terrace, the manhole is sited in Independents Road.
- Objection to scale of proposal; will dwarf residential properties in Lawn Terrace.
- Loss of privacy to residential properties opposite in Lawn Terrace.
- Overlooking of garden and upper floor rooms of properties in Lee Terrace.
- The building is neither appropriate dimensionally or in keeping with aesthetics of surrounding buildings. Not in keeping with leafy, quiet road that contributes to Blackheath heritage.
- No objection to demolition of 9 Independents Road as a well-designed building of suitable height and mass would be a welcome replacement for the present unsightly structure; however, the proposed building is too high, of too great a mass, poorly detailed and ill suited to the site.
- Seen from a distance, areas defining character is that of a tree-lined valley with railway at its bottom, and this should be defended.
- Proposed design is a humdrum affair unworthy of its position.
- Height of Winchester House should not be taken as precedent.
- Proposed building would be ugly and unprepossessing.
- Building is too high, will spoil view and skyline.
- Proposed balconies would result in loss of privacy and their use would cause disturbance.
- Increased hazard, risk of accident, congestion and obstruction at Independents Road, Blackheath Village and Lawn Terrace and these junctions. Problems already occur when vehicles enter and leave Independents Road. At busy times there is frequently a queue of traffic trying to gain entry and exit. Independents Road is privately owned, and mainly used by commuters, schoolchildren and elderly residents. Only vehicle access is via barrier entry.
- There are already delivery issues along Independents Road, due to its narrow width.
- Doubtful that a residential or indeed any other development of the scale envisaged could be adequately or safely accessed and serviced.
- Highway in Independents Road only allows movement of traffic in 1 direction, there is limited turning space, larger service vehicles have to reverse out. Any delay in emergency vehicles reaching the Blackheath Montessori Centre may have serious consequences. A “no-vehicle” covenant for residents will not exclude vehicular access for visitors and tradesmen.
- Heavy flows of pedestrians cross entrances to Independents Road and Lawn Terrace to access railway station. Pavement space between Independents Road and Lawn Terrace is insufficient for waiting pedestrians, and pedestrian sight lines are poor. Development will need to be visited by delivery and service vehicles. Lawn Terrace is 1-way, but drivers regularly ignore “no entry” signs and this will worsen.

- Concerned how new residents will be prevented from having residents parking permits.
- Loss of view from properties in Lawn Terrace. Trees between Independents Road and Lawn Terrace only provide partial screening in summer and none in winter.
- Will overlook garden in Lee Terrace and there will be overlooking to first and second floor rooms; will severely compromise amenity.
- Due to low-rise residential properties opposite, only a low-rise development (up to two storeys) will be appropriate for this site.
- Noise issues for the hospital and nursery in Independents Road.
- Concerns about construction traffic and conflict with other road users, including parents walking with children to the Montessori Centre.
- Loss of light to residential properties in Lawn Terrace.
- Lack of provision for car parking; Lawn Terrace is already overloaded with cars and residents have difficulty in finding residents parking bays due to shoppers and evening users, additional flats will inevitably worsen the situation.
- The proposed building is architecturally unsympathetic to surrounding buildings.
- Design is a pastiche of the neighbouring property.
- Elevation (southeast) not shown correctly, gives artificial impression of scale.
- BMI Healthcare own Independents Road and have granted access rights to the Friends Meeting House and Montessori Centre, we operate a private CPZ; have serious concerns regarding parking and access, particularly during construction period and also as a result of deliveries and visitors. Access to Winchester House is required at all times in case of clinical emergency, including access to the turning and parking area adjacent to No. 9. Development will exacerbate an already dangerous and congested junction.
- Concerns about laying services and other issues relating to the proposed construction, could affect operational capability of Winchester House clinical facility.
- Size of building will affect setting of Winchester House and reduce natural light to the offices along west side of the building, which serve consulting rooms and offices.
- Concern regarding privacy infringement, both for users of Winchester House and occupiers of proposed flats.
- Independents Road serves purely business and public buildings, with heavy pedestrian and vehicular traffic, residential development is inappropriate.
- Design does not develop and enhance local character; it is of significant size and will overwhelm the Watts Building, Montessori Centre and Friends Meeting House.
- Telecommunication networks are already at capacity.
- Rush hour train services from Blackheath are overcrowded.

- Blackheath Montessori – Access concerns - Independents Road is often blocked by visitors to Winchester House, who park inconsiderately.
- Density is excessive.
- Blackheath Montessori Centre revenue may be harmed as prospective parents will be discouraged from sending children to a nursery close to a building site.
- Ownership of the developer is not clear. Company is not listed at Companies House. Ownership of the site should be made clear in order that there are no conflicts of interest with other local businesses.

The letters are available to members.

Blackheath Society

- 4.5 No objection to demolition of the existing building which makes a poor contribution to the character and appearance of the Conservation Area.
- 4.6 Scale of building still too big. Northwest elevation presents a sheer cliff like height of 20 metres above station platform in public domain of the Conservation Area. Main eaves line of Winchester House is only 18 metres and then slopes away from the station platform.
- 4.7 Though the frontage to Independents Road is no longer as monolithic as in previous scheme, still over-dominant and the environment of Independents Road and the view of the west elevation of Winchester House are not enhanced.

Local Meeting

- 4.8 In response to the local interest in the development and in accordance with the requirements of the Council's Statement of Community Involvement, a local meeting was held on 24 November 2011 at the Friends Meeting House, Independents Road. The notes of the meeting are appended to this report.

Written Responses received from Statutory Agencies

Thames Water

- 4.9 No objection to the planning application with regard to sewerage or water infrastructure. With regard to surface water drainage, it is the responsibility of a developer to make proper provision for drainage to ground, watercourses or a suitable sewer. In respect of surface water, it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

Design Panel

- 4.10 21.9.2010 (pre-application) - Pre-application presentation of new scheme by Emoli Petroschka Architects. In arriving at the preferred option presented, the Panel considered that insufficient consideration had been given to the following in influencing the design process:- The contrasting climate effects particularly solar

gain of north and south facing units; whether sufficient daylight will penetrate the deep plan of the units; maximizing accessibility (wheelchair and Lifetime Homes). Although the architecture represented an improvement over the previous scheme, the scale was considered excessive for its context (the Panel questioned whether it was not actually higher than the previous scheme), because it obscured views of the locally listed Winchester House, it lacked subsidiarity to Winchester House and it failed to manage the transition between the tall Winchester House on one side with the ground level car park on the other side. Little attempt was made to justify the proposed roof form within the Blackheath context.

- 4.11 8.3.2011 - The Panel welcomed the changes made to the proposal which address some of the concerns raised at the last meeting regarding accessibility and daylight/sunlight. The Panel raised concern regarding the heights of the different 'towers' and how they are indicated in the Design and Access Statement. It was felt that some images were misleading and do not show the true height from Lawn Terrace, with the building behind not illustrated, or only dotted in. It was considered key that all materials and detailing are conditioned as these are crucial to the success of the design.

Amenity Societies Panel

- 4.12 Objection. The Panel considers the scale of the building too high which would subsequently obstruct the view on to the west elevation of Winchester House. The Panel considers that the new building should not compete with the scale and landmark quality of Winchester House. Opinions of Panel members were divided regarding the proposed roof shape which some considered as dominant, if not 'brutal'.

Highways

- 4.13 Unobjectionable in principle. Initial concerns about refuse collection arrangements have been resolved. It is considered essential to require submission and approval of a detailed construction management and logistics plan.

Environmental Health

- 4.14 Standard land contamination condition requested.

Environmental Sustainability

- 4.15 The Code Assessment should be subject to a condition to ensure compliance with a minimum of Code Level 4. In relation to the energy strategy, a condition is also suggested regarding CO2 reduction compliance.

5.0 Policy Context

Introduction

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:

(a) The provisions of the development plan, so far as material to the application,

- (b) Any local finance considerations, so far as material to the application, and
- (c) Any other material considerations.

5.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

5.3 The development plan for Lewisham comprises the Core Strategy, Development Plan Document (DPD) (adopted in June 2011), those saved policies in the adopted Lewisham UDP (July 2004) that have not been replaced by the Core Strategy and policies in the London Plan (July 2011). The National Planning Policy Framework does not change the legal status of the development plan.

National Planning Policy Framework (NPPF)

5.4 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary, this states that (paragraph 211), policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. In summary, this states, that for a period of 12 months from publication of the NPPF decision takers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period weight should be given to existing policies according to their consistency with the NPPF.

5.5 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, 214 and 215 of the NPPF.

Ministerial Statement: Planning for Growth (23 March 2011)

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

Other National Guidance

5.7 The other relevant national guidance is:

By Design: Urban Design in the Planning System - Towards Better Practice (CABE/DETR 2000)

Planning and Access for Disabled People: A Good Practice Guide (ODPM, March 2003)

Safer Places: The Planning System and Crime Prevention (ODPM, April 2004)

London Plan (July 2011)

5.8 The London Plan policies relevant to this application are:

Policy 1.1 Delivering the strategic vision and objectives for London

Policy 2.1 London in its global, European and United Kingdom context

Policy 2.2 London and the wider metropolitan area

Policy 2.6 Outer London: vision and strategy

Policy 2.7 Outer London: Economy

Policy 2.8 Outer London: transport

Policy 2.15 Town Centres

Policy 3.3 Increasing Housing Supply.

Policy 3.4 Optimising Housing Potential

Policy 3.5 Quality and Design of Housing Developments

Policy 3.8 Housing Choice

Policy 3.9 Mixed and Balanced Communities

Policy 4.1 Developing London's economy

Policy 4.12 Improving opportunities for all

Policy 5.1 Climate change mitigation

Policy 5.2 Minimising carbon dioxide emissions

Policy 5.3 Sustainable design and construction

Policy 5.6 Decentralised energy in development proposals

Policy 5.7 Renewable energy

Policy 5.9 Overheating and cooling

Policy 5.10 Urban greening

Policy 5.11 Green roofs and development site environs

Policy 5.12 Flood risk management

Policy 5.13 Sustainable drainage

Policy 5.14 Water quality and wastewater Infrastructure

Policy 5.15 Water use and supplies

Policy 5.16 Waste self-sufficiency

Policy 5.17 Waste capacity

Policy 5.18 Construction, excavation and demolition waste

Policy 5.21 Contaminated land

Policy 6.3 Assessing effects of development on transport capacity

Policy 6.5 Funding Crossrail and other strategically important transport infrastructure

Policy 6.9 Cycling

Policy 6.10 Walking

Policy 6.11 Smoothing traffic flow and tackling congestion

Policy 6.12 Road network capacity

Policy 6.13 Parking

Policy 7.1 Building London's neighbourhoods and communities

Policy 7.2 An inclusive environment

Policy 7.3 Designing out crime

Policy 7.4 Local character
Policy 7.5 Public realm
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology
Policy 7.12 Trees and woodland
Policy 7.14 Improving air quality
Policy 7.15 Reducing noise and enhancing soundscapes
Policy 7.19 Biodiversity and access to nature
Policy 8.2 Planning obligations
Policy 8.3 Community infrastructure levy

London Plan Supplementary Planning Guidance (SPG)

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

Housing: Draft Supplementary Planning Guidance (December 2011)
Sustainable Design
Planning for Equality
Accessible London: Achieving an Inclusive Environment (2004)

London Plan Best Practice Guidance

5.10 The London Plan Best Practice Guidance relevant to this application is:

Development Plan Policies for Biodiversity (2005)
Control of dust and emissions from construction and demolition (2006)

Core Strategy

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

Objective 1: Physical and socio-economic benefits
Objective 2: Housing Provision
Objective 3: Local housing need.
Objective 5: Climate change
Objective 6: Flood risk reduction and water management
Objective 7: Open spaces and environmental assets
Objective 8: Waste management
Objective 9: Transport and accessibility
Objective 10: Protect and enhance Lewisham's character
Spatial Policy 1 Lewisham spatial strategy
Spatial Policy 4 Local hubs
Spatial Policy 5 Areas of Stability and Managed Change
Core Strategy Policy 1 Housing provision, mix and affordability
Core Strategy Policy 7 Climate change and adapting to the effects

Core Strategy Policy 8 Sustainable design and construction and energy efficiency
Core Strategy Policy 9 Improving local air quality
Core Strategy Policy 10 Managing and reducing the risk of flooding
Core Strategy Policy 14 Sustainable movement and transport
Core Strategy Policy 15 High quality design for Lewisham
Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment
Core Strategy Policy 17 The protected vistas, the London panorama and local views, landmarks and panoramas
Core Strategy Policy 19 Provision and Maintenance of community and recreational facilities
Core Strategy Policy 21 Planning obligations

Unitary Development Plan (2004)

- 5.12 The saved policies of the UDP relevant to this application are:
- STR URB 1 The Built Environment
 - STR ENV PRO 3 Energy and Natural Resource Conservation
 - URB 3 Urban Design
 - URB 12 Landscape and Development
 - URB 13 Trees
 - URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas
 - URB 20 Locally Listed Buildings
 - HSG 4 Residential Amenity
 - HSG 5 Layout and Design of New Residential Development
 - HSG 7 Gardens
 - ENV.PRO 10 Contaminated Land
 - ENV.PRO 11 Noise Generating Development
 - ENV.PRO 12 Light Generating Development
 - LCE 1 Location of New and Improved Leisure, Community and Education Facilities
 - LCE 2 Existing Leisure and Community Facilities

Residential Development Standards Supplementary Planning Document

- 5.13 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, backland development, 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.

Blackheath Conservation Area Character Appraisal and Supplementary Planning Document (adopted March 2007)

- 5.14 This document provides a description and analysis of the conservation area, its history, appearance and characteristics.
- 5.15 Areas of distinct character are identified in chapter 8, Area 9 (The Village), includes Independents Road. The description of this character area focuses mainly on the main road and topography at the very centre of Blackheath. It is noted that "This character area has surprisingly few listed buildings but almost all buildings make a positive contribution towards the character and appearance of the conservation area. Buildings are generally in good repair and have a high degree of historic detailing remaining".
- 5.16 The document's Designations Map identifies Winchester House as a building that makes a positive contribution to the conservation area. On the document's Townscape map, Winchester House is identified as a landmark.
- 5.17 The appraisal is appended by a Supplementary Planning Document for the conservation area. This document states that development will only be considered if it would preserve or enhance the character of the conservation area.

Planning Obligations Supplementary Planning Document (January 2011)

- 5.18 This document sets out guidance and standards relating to the provision of affordable housing within the Borough and provides detailed guidance on the likely type and quantum of financial obligations necessary to mitigate the impacts of different types of development.

6.0 Planning Considerations

- 6.1 The main issues to be considered in respect of this application are:
- a) Principle of development
 - b) Design and conservation
 - c) Housing issues including affordable housing
 - d) Transport and highways issues
 - e) Impact on neighbouring properties
 - f) Sustainability and energy
 - g) Planning obligations

Principle of Development

- 6.2 The building that currently occupies the site was formerly owned by the Council and was most recently used as a day centre for adults with mental health needs, run by the Community Opportunities Service (a partnership between LB Lewisham and the South London and Maudsley NHS Foundation Trust). It is understood this use ceased in December 2005. The building was sold at auction in 2009.
- 6.3 The property lies within Blackheath District Town Centre. The Core Strategy identifies Blackheath as a district hub, the heart of which is the District Town Centre. Spatial Policy 3 District Hubs states that District Hubs will be reinforced as places which will contain a diversity of uses and activities appropriate to each hub's function and location. District Hubs are key places which support the

development of a sustainable borough, capitalising on the availability of services, facilities and public transport. Comprising a District Town centre and its surrounding residential neighbourhoods, the focus will be to build and maximise the uniqueness and potential of each place. The District Hubs will be managed so as to facilitate change that contributes to the economic vitality and viability of each District town centre.

- 6.4 Paragraph 70 of the NPPF states that Councils should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Retained UDP Policy LCE 2 states that the Council will not grant planning permission for the change of use or the loss of valuable existing facilities for leisure and community uses except where certain criteria are met.
- 6.5 The applicant has submitted a Community and Leisure Facilities Assessment report (January 2010) and Building Condition Survey (October 2009) to address the criteria of LCE 2. The report addresses the issues as follows:
- a) *Proven lack of local need for such facilities* – The report states that the previous use of the building ceased over 3 years ago, that the site was advertised internally by the Council and has been marketed by a commercial agent. The report lists local community and leisure facilities in the area, including schools, day-care facilities, community centres, medical and dental facilities, arts facilities, sports facilities and gymnasia, places of worship, and hotels and tourist related activity.
 - b) *Locational requirements for the facilities are not met* – The report states that there is no car parking available at the site, and that there is limited opportunity for the turning of vehicles in Independents Road. The report adds that the site has no external amenity space, and provides no opportunities for expansion. In conclusion, the applicant states that “the site is inappropriately located for a community or leisure centre use”.
 - c) *The buildings need updating and this cannot be achieved at reasonable cost* – The applicant has submitted a report comprising a building condition survey and a Disability Discrimination Act access audit with construction cost estimates to bring the building to a specification level suitable for letting to potential occupiers for continued D1 use. Although the building's structure was found to be generally sound, extensive repair works are needed. The report costs these works at £221,236. A further £31,400 is estimated as the total cost of access improvement works, with the largest element within this total being a £10,000 spend to bring the decommissioned lift back into use.
 - d) *The buildings are not ancillary to and essential for the operation of a facility covered by the terms of Policy LCE 2* – It is noted that the previous use always operated independently of any other similar facility.
 - e) *Alternative provision of equivalent benefit to the community is made* – The applicant states that the existing building is of no benefit to the local community, being in poor condition and unusable, and due to its appearance, detrimental to the character of the surrounding area. The applicant points out that the proposed development would bring community benefits through the provision of housing (including affordable housing), an improvement to the appearance of the site, the provision of funding (secured through a Section 106 Agreement) for facilities for community use, and the creation of construction jobs.

- 6.6 It is necessary for the Council to take a realistic view as to the need for a community facility at Independents Road, and the likelihood of such a facility being provided in this location, as well as a balanced view as to whether the loss of a building previously in community use would cause demonstrable harm. Significant to the consideration of these matters is:
- The presence of a nursery, optician, dentist, doctor's surgery, arts/music venue and the Age Exchange older people's centre within walking distance of the site, and the general levels of provision of leisure and community facilities in the Borough.
 - The site being too small for use as a school or for a large medical facility, unsuitable for most sports uses, and less likely to be attractive to church groups, facilities used by older and disabled people, and for medical uses due to the lack of car parking facilities and vehicle turning space.
 - The cost of bringing the existing building into a useable condition, which will render it less attractive to potential community uses.
 - The fact that the Council, who previously owned the site, disposed of it.
 - The community benefit achieved by the provision of 4 affordable housing units at the site.
- 6.7 Balanced against the loss of an existing building that could potentially be re-used for community use e.g. a community centre, which is considered the most likely to be possible at this site, it is considered that the above matters outweigh this concern, and on balance it is considered that it is not necessary to retain a community use (or a building previously in community use) at this site, that the provision, continuation or development of a leisure or community facility at this site is unlikely to occur, and that the loss of the existing building and use would not cause demonstrable harm.
- 6.8 London Plan Policy 3.16 states that "proposals which would result in a loss of social infrastructure in areas of defined need for that type of infrastructure without realistic proposals for re-provision should be resisted. However, given the conclusions made above regarding the likelihood of future community use of the site, and the absence of demonstrable harm (relating to community facility provision) caused by the proposals, it is considered that London Plan policies do not prevent the Council from accepting the loss of a community use at this site.
- 6.9 The Core Strategy states that for Blackheath the stated objective is to ensure the preservation or enhancement of the village's historic character and significance, and that of the surrounding residential areas, through conservation area status.
- 6.10 Retained UDP Policy STC 6 sets out a more flexible approach to the introduction of non retail uses outside the Core and Non Core Shopping Areas of District Centres, provided that the development does not harm the amenity of adjoining properties, the character, attractiveness, vitality and viability of the centre as a whole and the frontage for shoppers is not unreasonably interrupted.
- 6.11 As the proposed development at Independents Road does not involve the loss of an A1 unit, Policy STC 6 does not strictly apply. However, it is appropriate to consider whether the proposed development has implications in terms of the function of the District Centre. Independents Road has no shops or other town centre uses and the premises do not form part of a shopping frontage.

Accordingly, it is not considered that the proposed development would harm the vitality and viability of this District Centre.

- 6.12 London Plan Policy 2.15 Town Centres would not preclude a residential redevelopment of the land. With the principle of the loss of a community use accepted, it is considered that residential use would be an appropriate alternative use of the site. It is therefore recommended that the proposed change of use of the site to residential be accepted in principle.

Design and Conservation Issues

- 6.13 The NPPF states that good design is indivisible from good planning and that design is a key aspect of sustainable development. In determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 6.14 Policy 7.4 in the London Plan states that buildings, streets and open spaces should provide a high quality design response that, among other things, has regard to existing spaces and streets in scale, proportion and mass, is human in scale and is informed by the surrounding historic environment.
- 6.15 Core Strategy Policy 15 states that the Council will apply policy guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to local context. Within Blackheath, it requires that new development preserves or enhances the historic character and significance, and that of the surrounding residential areas. Core Strategy Policy 16 states that the Council will ensure that the value and significance of the borough's heritage assets and their settings, conservation areas, listed buildings, archaeological remains, registered historic parks and gardens and other non designated assets such as locally listed buildings, will continue to be monitored, reviewed, enhanced and conserved according to the requirements of government planning policy guidance, the London Plan policies, local policy and English Heritage best practice.
- 6.16 New developments should contribute towards improved safety and security and new buildings must be fully accessible. When critiquing design, local planning authorities must take a proportionate approach to the type of development proposed and its context.
- 6.17 The applicant's Design and Access Statement provides an analysis of the site and its context. It explains the evolution of the design and the key influences and constraints, including the surrounding conservation area, the variety of buildings of different designs, ages and heights nearby, the orientation and relationship to nearby buildings, particularly Winchester House. The Statement then illustrates the consideration of options in the development of the design.
- 6.18 It describes the design and explains that the proposal seeks to provide a carefully considered scheme that aims to create an attractive building of appropriate scale and grain, while minimising any negative effect it may have on neighbouring properties.

- 6.19 The building's design is contemporary and uses a mix of traditional and contemporary materials. The Council has held detailed discussion with the applicant in relation to the design of the building. The building would be parallel to the street and to Winchester House to the front and to the railway station platform to the rear; in both cases with set back elements to provide articulation and a better relationship to Winchester House. The building would be composed of four articulated elements or 'blocks', connected by a circulation core which would be further set back from each block element on all four main elevations. The lowest floor is below street level and as a result, the building will appear as four to five storeys when seen from Independents Road. From pavement level in Independents Road the six storey block would be 14m high to the apex of the roof (8.9m to the top of the brickwork element), stepping down to 11m (6m to top of brickwork). The upper floors (levels five and six) are contained within steeply pitched roofs, which help to reduce the mass of the upper storeys and create a more varied roofline that would reflect the variation in building heights and rooflines in the surrounding area.
- 6.20 The proposed building would be of a scale that is significantly greater than the low-rise building that currently occupies the site and which appears single storey from street level. When viewed from Independents Road the building would appear 4/5 storeys. The Design and Access Statement notes the presence of larger residential buildings close to the site as well as Winchester House. The building would sit within the wider context of 4 and 5 storey buildings at Selwyn Court, The Lawns, and blocks to the west in Lawn Terrace. These buildings have tall elevations highly visible from public vantage points, and do not have the same changes in levels of the site, surrounding trees, and gable feature of the proposed building. Closer to the site, while the buildings in Lawn Terrace are lower and have a finer grain, the change in levels between Lawn Terrace and Independents Road and the space and landscaping between the two parallel streets, would help to ensure that the height and massing of the building would not appear overwhelming in relation to those properties on the south side of Lawn Terrace 21m opposite. Long sections through the site and those in the vicinity have been submitted illustrating this relationship. Similarly, the east-west section demonstrates an acceptable height relationship with the Watts Building (former Congregational Church) the Blackheath Montessori Centre and Friends Meeting House and the nearest block of flats in Lawn Terrace to the west. The full height of the building would mainly be evident from Blackheath Station platforms. The reduction in the height of the building from pre-application stage is welcomed, as is the approach to providing articulation which is felt to be important in reducing the perception of mass and bulk and is considered to be successful. The scale and massing of the proposed building is considered to be generally acceptable.
- 6.21 In terms of detailed design, the building reflects features of neighbouring buildings. The form and massing of the building would resemble a cluster of four blocks of varying heights grouped together. This arrangement of mass, and the building's varying roof line, would assist in giving the building a vertical emphasis that would reflect the rhythm and verticality of Winchester House, without resulting in a pastiche. The proposed massing would result in a varied roofline, and would add enclosure and interest to the street scene. The set backs of the facades and the inset balconies would add relief and interest to the elevations, as would the angled window openings of the side and north elevations and the use of textured brickwork. The main north and south elevations are characterised by recessed balconies and large window openings within a brickwork frame above which are two storeys within the steeply pitched, gabled roof form. The flank elevations are

principally of brick, punctuated by smaller openings. The roof element is distinctly different with deeply recessed glazed gables with brise soleil of slatted timber. The strongly vertical gables of the 'block' concept is considered to provide an appropriate design response specific to the location.

- 6.22 In relation to building finishes, specifications and samples of materials and external building elements have been provided. The elevations would be finished in two types of brick, both in a similar warm grey tone; however, one brick has a smooth surface, while the other is heavily textured. It is intended to use the contrasting brick surfaces to add texture to the elevations, particularly the side elevations, which have smaller window openings where the two contrasting textures would be laid in bands (to side elevations) with the textured brick also proposed within splayed external reveals. In addition, the inner faces of recessed balconies would have bricks laid 'proud' of the face to form a pattern, adding further texture. The facing bricks have been selected to reflect the materials of the former Congregational Church building (Watts Building) and Friends Meeting House, which is finished in shuttered concrete, providing an element of contrast to, while being compatible with Winchester House. The standing seam zinc roof would be in a warm tone. It is considered the selected materials would be compatible with both Winchester House and other buildings in Independents Road, and the colour palette would add subtle variety in colour and shade, without jarring.
- 6.23 The quality and use of materials is considered to be extremely important and samples of the proposed facing materials have been provided together with details of their use. The selection of materials is considered to enhance the proposed development, and as identified by the Design Panel, are important to the success of the building. It is proposed to secure the selected materials, building elements and their use through conditions, together with details of brick bond, mortar and pointing, with sample panels provided on site.
- 6.24 While the scale approaches that of Winchester House, though stepping down both at ridge and eaves heights, the building is considered to be of design merit and to sit well within the varied architectural styles evident in Independents Road and its environs.
- 6.25 The Planning (Listed Building and Conservation Areas) Act 1990 confirms that local authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 6.26 Retained UDP Policy URB 20 states that the Council will use its powers where possible to protect the character and setting of locally listed buildings. As Winchester House is an undesignated heritage asset which contributes positively to the character and appearance of the Blackheath Conservation Area, any development of the site must be assessed in terms of its impact on the heritage asset of the Conservation Area and the locally listed Winchester House.
- 6.27 Computer generated images (CGI) have been provided to assist in assessing the impact of the scheme on Winchester House and various other points within Blackheath village. Winchester House is identified as a Local Landmark in the Townscape Map attached to the Blackheath Conservation Area Character Appraisal and as a building that makes a positive contribution to the conservation area in the Designation Map. Winchester House is highly visible in street level views from Independents Road and Lawn Terrace, and from the platforms and car

park of Blackheath Station. It is also visible in views from Blackheath Village, from Collins Street, and in longer views from north of the site e.g. down Montpelier Vale. Its prominent location adjacent to the station announces Blackheath to rail passengers and as such it serves an important role in the legibility of Blackheath.

- 6.28 In views directly from the north and south, no screening of Winchester House would occur, while in views from the southeast and northeast, Winchester House would be in the foreground of views and would therefore not be obscured. A view from Collins Street indicates that much of the west facing façade that is currently visible would remain so. The most significant impact would be on views of the west elevation of Winchester House, which is a main elevation that originally faced the school playground. The design seeks to mitigate the effect of the proposed scheme by setting the northeast pavilion block back from the site boundary and by its lower height. In addition the form of the building, with the steeply pitched roof reduces the mass of the building at the upper levels and slopes away from Winchester House so that the four storey north western gable element as well as the north elevation, would still be visible e.g. from the platforms of the station.
- 6.29 It is acknowledged that the building will impact to a degree on the landmark quality of Winchester House. In considering the impact on Winchester House it must be noted that any development of the site of a scale greater than the existing building is likely to reduce views of Winchester House to some extent. The applicants have produced views from various points, as it is also necessary to assess the impact of the building on the wider townscape and views. From the north part of Montpelier Vale the upper part of the proposed building would be visible alongside Winchester House, however it would appear subservient to Winchester House and would not entirely obscure views of trees in the background. On balance, the impact on views of Winchester House is considered acceptable.
- 6.30 The arrangement of mass with the varying roofline would help in integrating the proposed building into the street scene in Independents Road where existing buildings are of a variety of architectural styles and into the wider environs. The selected materials would provide a subtle contrast with the older buildings, be compatible with both Winchester House and other buildings in Independents Road, add attractive variety in texture and shade, resulting in an interesting building that would not be overly striking. The design, including the selected materials is considered to provide a complementary contrast to Winchester House and would bring enclosure and definition to the street scene.
- 6.31 Overall, it is considered the design would enhance the site and its setting and achieve satisfactory integration into Independents Road and this part of the Blackheath Conservation Area.

Conservation Area Consent

- 6.32 The present building that occupies that site is of undistinguished, utilitarian appearance and has, at best, a neutral impact on this part of the conservation area. Accordingly there is no objection in principle to its demolition, subject to a suitable replacement building. It is considered that Conservation Area Consent should not be granted in isolation. A condition is recommended to prevent demolition of the building prior to confirmation that a replacement development would proceed.

Housing Issues

- 6.33 At national level the NPPF recognises the need to develop socially inclusive communities, creating a suitable mix of housing, both market and affordable. The London Plan seeks mixed and balanced communities (Policy 3.9). Communities should be mixed and balanced by tenure and household income, supported by effective and attractive design, adequate infrastructure and an enhanced environment. Policy 3.11 of the Plan confirms that boroughs should maximise affordable housing provision. Though the Plan does not set percentage targets for provision at Borough level, it sets a strategic target of 13,200 more affordable homes per year across London as a whole and confirms that Boroughs should set their own targets according to the Strategy of the London Plan. The Policy also refers to a strong and diverse intermediate sector, in that 60% of provision should be for social rent and 40% should be for intermediate rent or sale and priority should be accorded to the provision of affordable family housing.
- 6.34 Core Strategy Policy 1 confirms that the maximum level of affordable housing will be sought by the Council, with a strategic target of 50%, as a starting point for negotiations and subject to an assessment of viability. The Policy also seeks provision at 70% social rented and 30% intermediate housing and family housing (3+ bedrooms) in development of more than 10 units and where existing areas have a high concentration of social rented housing, different proportions of affordable housing will be sought.

Housing Provision, Size and Tenure

- 6.35 The proposed development would provide 16 dwellings including 4 affordable units, two of which would be for social rent and two would be shared ownership units. The two three bedroom units are proposed for social rent and two of the one bedroom units are proposed for shared ownership. Based on this mix, the development would comprise 25% affordable units (33% by habitable room). The figures fall short of the affordable housing target figure set out in Policy 1 of the Core Strategy. The applicant has submitted a confidential financial viability assessment that has enabled the Council, advised by specialist consultants, to assess the overall viability of the scheme and its ability, in financial terms, to meet policy in terms of affordable housing provision. In summary, the financial appraisal demonstrates that the proposed development provides the maximum viable amount of affordable housing at this time. While it is accepted by officers that the provision of a larger proportion of affordable housing is not possible at this time, it is appropriate that the level of provision is kept under review. Accordingly, a mechanism would be incorporated as part of the Section 106 Agreement to consider securing a financial contribution toward affordable housing provision off-site should values increase to a level where this would be financially viable.
- 6.36 The provision of the two three bedroom duplex units as social rent meets the 70% social rented/30% intermediate split for housing set out in Core Strategy Policy 1 on a habitable room basis.
- 6.37 The proposed size mix includes 2 units as family-sized accommodation, 4 units as 2-bed units and the remaining 10 units as 1-bed units. The two three bedroom family units are welcomed. In the circumstance, officers consider the proposed size and tenure mix is acceptable.

Standard of Residential Accommodation

- 6.38 Policy 3.5 of the London Plan Quality and Design of Housing Developments states the minimum internal floorspace required for residential units on the basis of the level of occupancy that could be reasonably expected within each unit. This details, in Table 3.3, that one bedroom (two-person) flats should achieve a gross internal floorspace of 50sqm, two-bedroom (four-person) flats a gross internal floorspace of 70sqm and three-bedroom (five-person) flats a gross internal floorspace of 86sqm. The Council's Adopted Residential Standards SPD originally adopted in 2006 has been revised to take account of the improved dwelling size standards of the London Plan.
- 6.39 Retained Policy HSG 5 Layout and Design of New Residential Development in the adopted UDP states that the Council expects all new residential development to meet the functional requirements of future residents and that the Council will only permit new residential development that provides physical accessibility for all members of the community including people with disabilities. Where appropriate, the Council will seek the provision of new homes designed, or capable of adaptation, to housing for long-term needs. Core Strategy Policy 1 states that all new housing is to be built to Lifetime Homes Standards and that 10% of new housing is to be wheelchair accessible or easily adaptable for residents who are wheelchair users.
- 6.40 The practical application of the Lifetime Homes Standard is to apply the criteria where relevant as many sites will not lend themselves to all of the criteria and some flexibility in their application is required. The applicant has confirmed that the residential units have been designed to Lifetime Homes Standard, where 16 criteria are applicable. In this case, criteria 1a (on-plot car parking) would not apply, as no car parking is proposed. However, the general approach to Lifetime Homes is considered acceptable. All units are proposed as easily wheelchair adaptable, including the affordable family sized units and two one-bedroom units are capable of being adapted to SELHP wheelchair standard.
- 6.41 Each of the dwellings satisfies the London Plan dwelling size requirement. The three bedroom units are on two levels with bedrooms at lower ground floor level; each of these would have a terrace area to the front.
- 6.42 Rooms have sufficient light and outlook and are of a configuration that enables a flexible standard of furniture layout. As such, an acceptable standard of accommodation is considered to be provided for all the flats.
- 6.43 Each of the proposed units would be provided with a terrace or balcony and all units would be double or triple aspect. The terraces/balconies would range in size between 7m² and 10m². While the building footprint would occupy most of the site area, it is within a town centre location and cannot reasonably be expected to have a large amount of outside space.
- 6.44 Overall, it is considered that the proposed development would provide a good standard of accommodation for future occupiers.

Density

- 6.45 Policy 3.4 of the London Plan seeks to ensure that development proposals optimise housing output for different types of location compatible with local

context, design principles and public transport capacity. Table 3.2 in the London Plan identifies appropriate residential density ranges related to a site's setting (assessed in terms of its location, prevalent building form and massing) and public transport accessibility (PTAL).

- 6.46 The site is in an 'urban' setting and has a PTAL rating of 5 giving a London Plan indicative density range of 70-260 units per hectare (dependent on the unit size mix). The proposal is for 281 units per hectare / 737 habitable rooms per hectare, and therefore exceeds the density range of the Plan.
- 6.47 The Core Strategy states that residential areas immediately surrounding each District town centre will be potential locations for intensification of the development pattern where opportunities exist and relate to public transport accessibility. Density will be in accordance with local context and London Plan policy. These areas will form a transition between the District town centre, where a greater intensity of development would be expected and appropriate and the wider residential neighbourhood. Conservation areas will continue to be protected and development will need to preserve or enhance their quality and character.
- 6.48 Core Strategy Objective 2 sets out that 3190 new dwellings are required over the plan period in the remainder of the Borough outside of Lewisham and Catford Major Town Centres and Deptford and New Cross.
- 6.49 The supporting text of London Plan Policy 3.4 notes that it is not appropriate to apply Table 3.2 mechanistically and that in taking account of other factors relevant to optimising housing potential, local context, design and transport capacity are particularly important. In this case, the site is in an urban setting, very close to Blackheath station, bus services and is within the Blackheath District Centre with the amenities and shopping facilities of Blackheath Village within very close proximity. In terms of the surrounding context, there are a variety of residential typologies and densities in the vicinity, ranging from the five-storey block of Selwyn Court to two-storey houses in Lawn Terrace. The details of the proposed development must also be considered when assessing appropriate density, and the scale, design, massing and quality of the proposed building are given detailed consideration elsewhere in this report. Although somewhat exceeding the upper range of density, given the above considerations and the number of flats involved, in this highly accessible location it is not considered that the density of the scheme proposed in this case would result in adverse impacts that would indicate that the amount of development is unacceptable.

Amenity Impact

- 6.50 Policy HSG 4 of the UDP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, potential overbearing impact, loss of privacy and general noise and disturbance.
- 6.51 An assessment of daylight and sunlight has been carried out for the development in accordance with the Building Research Establishment's good practice guide "Site Layout Planning for Daylight and Sunlight". This allows the Council to consider the impact of the proposal on the extent of daylight/sunlight received in the windows of neighbouring properties.

- 6.52 The assessment considers properties falling within the influence of the building. Other buildings in the vicinity were not tested as the proposal would not affect their daylight/sunlight falling within a 25-degree plane of light to their windows and are excluded under the BRE guidance as not being impacted by the proposed building.
- 6.53 In assessing existing and proposed levels of daylight and probable sunlight hours to rooms, the assessment shows that the proposal has no effect on the closest residential buildings.
- 6.54 A shadowing analysis has also been undertaken. Such analysis is useful in considering the impact of the scheme on sunlight in open spaces. The assessment shows that there would be no shadowing effect to gardens of nearby properties.
- 6.55 Given that the application site is flanked by railways lines and platforms to the north and a private car park to the west, the proposed development raises no concerns in terms of neighbour amenity impacts in these directions.
- 6.56 To the east, Winchester House is used by the Blackheath Hospital as an outpatients' centre. In addition, a walk-in, minor injuries service is offered for paying members of the public Monday to Friday 7am to 8pm and Saturday 7am to 5pm. It is understood that no overnight care is provided at Winchester House. As such, it is considered that this neighbouring building does not have the same amenity sensitivity as a residential property or hospital (in-patient) would have. Given this limited sensitivity, and the distances that would be maintained between the proposed development and Winchester House, it is considered that this adjacent building would not be significantly and unacceptably affected in terms of loss of natural light, privacy and outlook.
- 6.57 To the south, the proposed development would face residential properties on the south side of Lawn Terrace. Distances of approximately 23 metres would be maintained between the front habitable room windows of these properties and those of the proposed development, in excess of the 21-metre minimum distance referred to at paragraph 2.13 of the Residential Standards SPD. It should be noted that the 21m separation distance applies to windows of habitable rooms in rear elevations where a greater level of privacy would be expected. It is considered that this distance would ensure adequate levels of privacy would be maintained for these existing neighbouring residents. The privacy concerns raised by residents of properties further to the south on Lee Terrace – some 70 metres away and on higher land – are not shared by officers, for the same reasons.
- 6.58 In terms of outlook, while the proposed development would be taller than these properties to the south (as demonstrated in the north-south sectional drawing submitted), due to the distance to be maintained between buildings, the changes in levels and the intervening vegetation, it is considered that the new building would not loom over these existing properties, and that they would maintain a satisfactory level of outlook. Although it is noted that the upper floors of properties on Lawn Terrace are currently likely to benefit from long views of Blackheath, it is considered that these properties would retain satisfactory outlook and that the proposed building would not result in an unacceptable sense of enclosure.

- 6.59 Although direct sight of the sky may be reduced from some vantage points, daylight and sunlight reaching the north-facing windows of residential properties on Lawn Terrace would not be significantly affected by the proposed development, due to the aspect of these windows, the distance to be maintained between buildings, the changes in levels and the intervening vegetation. The submitted Sunlight, Daylight and Overshadowing report states that “there would be no failure to meet the BRE minimum daylight VSC level to all of the tested rooms within existing residential properties”). A shadow path analysis contained in the report shows that on 21 March no shadow would fall on residential properties in Lawn Terrace opposite the site.
- 6.60 No external plant is proposed, and there is no reason to believe that residents of the development – through their everyday activities – would bring unacceptable levels of noise to Independents Road and Lawn Terrace. If noise disturbance does in fact occur as a result of the development, the Council has powers under environmental health legislation to require perpetrators to cease or mitigate nuisances.
- 6.61 Noise generated during building works would similarly be subject to environmental health legislation and noise controls. Appropriate conditions relating to construction impacts have been recommended. Subject to mitigation measures (which will be controlled by conditions), it is not considered that unacceptable harm to neighbouring amenity will occur.
- 6.62 Given the above, it is considered that the proposals are compliant with the parts of UDP Policy HSG 4 relevant to neighbour amenity and the impact of the proposals on adjoining properties is considered to be acceptable.

Highways and Traffic Issues

- 6.63 Policy 6.3 of the London Plan requires development to be assessed against its effect on transport capacity and the transport network, including at a local level. Core Strategy Policy 14 sets out the Council’s policy approach for sustainable development and transport including a managed approach to car parking, car free development, cycle parking and the need for travel plans.
- 6.64 The applicant has submitted a Transport Assessment which considers a number of matters including the level of public transport accessibility and servicing.
- 6.65 The site has a PTAL level of 5 (very good), being less than 100m from Blackheath rail station and close to a number of bus services. Blackheath is covered by a Controlled Parking Zone (CPZ). As a car free development is proposed, it is proposed to prevent future residents from obtaining car-parking permits within the CPZ via the S106 Agreement. There are several car club space located within the Blackheath station car park and it is proposed to secure two years membership of a car club for residents of the development.
- 6.66 Independents Road is a private road and while there is a right of access over Independents Road, there has been some concern expressed in relation to servicing, particularly in relation to refuse collection.
- 6.67 The Transport Assessment states that given the car-limited nature of the scheme it is considered that the impact on the local highway network will be minimal. It

should also be noted that use of the premises for its current use class could result in a significant level of vehicle movements.

- 6.68 Cycle parking should be provided in accordance with policy standards. The application shows the provision of 18 cycle parking spaces to be provided adjacent to the east side of the building. A condition will be attached to control delivery and retention.
- 6.69 Initially the Council's Highways Manager had raised particular concerns regarding refuse collection in view of the limited turning facilities for large vehicles, as Independents Road is one-way. The applicants had advised that they would be prepared to deal with refuse collection by using a private refuse contractor and that this provision could be secured as part of the s106 Agreement. Highways and refuse service officers, having visited the site, have indicated that it would be possible for refuse to be collected by the Council's refuse service since they already collect refuse from The Blackheath Montessori Centre in Independents Road located to the west of the site.
- 6.70 Several residents and premises in Independents Road have raised strong concerns about the impact of construction activities, in particular access to the site by construction vehicles and construction deliveries and how the process would impact on other users of Independents Road including parents and children using the Montessori Centre and patients visiting the Blackheath Hospital premises. As the proposed building would occupy much of the site and space within the site for storage of materials and construction facilities would be limited it is acknowledged that there is potential for disruption caused by construction activities to occur. An initial Construction Management Plan (CMP) has been submitted which outlines systems and procedures that would be employed. Many of the provisions are general good practice measures. The CMP states that a protected pavement would be provided for pedestrian safety. The applicant's agent has stated that further details of construction methodology would be submitted once a contractor has been appointed. The CMP acknowledges that delivery vehicles would need to reverse into Independents Road. It notes that due to the restricted nature of the site, construction of the foundations and lower ground floor slab would be carried out in phases to accommodate storage of materials and site accommodation within the site area.
- 6.71 In terms of construction servicing, it is envisaged that access routes and times would be by agreement to avoid congestion, with each delivery being allocated a time; the CMP states that deliveries would be unloaded without delay. The report states that delivery of materials would be co-ordinated so that a 'just in time' regime would be in place. The report sets out measures, including contact details to establish liaison with neighbouring residents.
- 6.72 Due to the constrained nature of the site and narrowness of Independents Road it is considered that further details of construction site management should be provided, including measures to ensure safe access to other properties in Independents Road is maintained. It is recommended that this be required by condition.
- 6.73 Subject to a satisfactory detailed CMP, it is considered that the proposal subject of this application can be accommodated without detriment to traffic conditions on the local highway network. There is no evidence that the proposal will result in

demonstrable harm or that any additional mitigation measures are required following the construction phase.

- 6.74 The Councils' Highways Manager does not raise an objection to the proposal subject to recommended conditions particularly with regard to construction management and logistics, including provisions for managing deliveries and for safe access for users of Independents Road.

Trees and Landscape

- 6.75 There are no trees within the application site however there are two mature sycamore trees close to the western site boundary within the adjacent car park and a goat willow to the north of the site. A Tree Preservation Order covers 14 trees within the vegetated bank between Lawn Terrace and Independents Road, and all trees close to the site are protected by virtue of the conservation area designation.
- 6.76 The Arboricultural Survey describes the condition of the two sycamore trees as "fair" and "poor" respectively and recommends removal of the smaller tree (subject to the owners consent). The larger of the two sycamore trees is approximately 15m high and its crown overhangs the site at the northwest corner. The Arboricultural Report envisages some crown reduction to facilitate construction and to provide clearance at the corner of the building.
- 6.77 An Arboricultural method statement notes the retaining wall bounding the adjacent car park, which is approximately 2.2m high with a boundary wall of approximately 2m above this and concludes that due to the retaining structure, it is unlikely that root development would have occurred below the retaining wall and that the root mass of the tree will principally occupy the land on the car park side of the wall. Landscape and tree protection measures are proposed to be secured by condition.

Sustainability and Energy

- 6.78 London Plan and Core Strategy Policies advocate the need for sustainable development. All new development should address climate change and reduce carbon emissions. For major development proposals, there are a number of London Plan requirements in respect of energy assessments, reduction of carbon emissions and, sustainable design and construction and decentralised and renewable energy. Major developments are expected to prepare an energy strategy based upon the Mayors energy hierarchy adopting lean, clean and green principles.
- 6.79 This application was accompanied a Sustainable Energy Assessment. The development will be undertaken on Brownfield land which is a fundamental sustainability objective. The Sustainable Energy Assessment sets out that the development will address climate change in the followings ways:
- Maximise natural daylight into the units, reducing the need for artificial lighting, the design includes measures to reduce overheating of south facing rooms;
 - Ensure the building is well insulated and ventilated;
 - Inclusion of solar thermal panels;
 - Use of gas fired CHP;

- 6.80 Carbon dioxide emissions would be reduced by 44% to meet Code Level 4 – Code for Sustainable Homes.
- 6.81 In addition, a Code for Sustainable Homes Code Level 4 Pre Assessment has been undertaken for the proposed development to identify at this stage in the design process, the maximum number of credits that can be achieved. It concludes that the development would achieve Level 4 of Code for Sustainable Homes.
- 6.82 Overall, the application is considered to represent a sustainable form of development.

Ecology and Biodiversity

- 6.83 The planning system should contribute to enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; minimising impacts on biodiversity and providing net gains in biodiversity where possible. CS Policy 12 seeks to protect open space and environmental assets.
- 6.84 This site is a Brownfield site but is substantially covered by the existing building. Officers are satisfied that the proposal would not have significant adverse impacts on ecology or biodiversity. There is little scope for landscaping however, some limited planting is proposed at the site frontage and two bat boxes are proposed. These features will be controlled by condition.

Land Contamination

- 6.85 UDP Policy ENV.PRO.10 requires developers to investigate and identify any contamination on development sites. Evidence of investigation should be provided as part of the planning application and any necessary remediation works secured via planning conditions.
- 6.86 Given the previous uses of the site (which, according to historic maps, included the use of the building as an “electrical factory”), it is recommended that a condition be attached to any permission, requiring the submission of a detailed investigation and assessment of the site in relation to possible contamination, together with full details of any remediation required, and the final submission of a closure report. This recommendation accords with the recommendation for intrusive investigation of the site, set out in the submitted Environmental Desk Study.

Noise and Vibration

- 6.87 The impact of external noise (largely from trains to the north, and aeroplanes overhead) on the proposed dwellings has been addressed in the submitted Noise and Vibration Assessment. This states that the site falls within Noise Exposure Category (NEC) B.
- 6.88 Noting that double glazed and weather stripped windows would provide a reasonable level of façade sound insulation, and assuming that an existing masonry wall at the northern site boundary would be retained, the applicant asserts that no further noise mitigation measures are required, although it is suggested that some windows would require sound attenuated ventilation.

- 6.89 Details of measures to ensure that future occupants would not be adversely affected by existing noise sources are required by condition. The noise report addresses potential noise caused by the operation of the existing outdoor refuse/good lifts within the curtilage of Winchester House, adjacent to the application site. The report states that this does not add significantly to background noise.
- 6.90 With regard to vibration, the report concludes that “Vibration levels on site are very low and not readily discernible, hence no mitigation action is deemed necessary”.

Flood Risk

- 6.91 This site is within a Flood Risk Zone 1. Given the location of the site, the proposed development raises no specific concerns relating to flood risk and the suitability of the site for residential development.

Planning Obligations

- 6.92 The National Planning Policy Framework (NPPF) states that in dealing with planning applications, local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. It further states that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. The NPPF also sets out that planning obligations should only be secured when they meet the following three tests:
- (a) Necessary to make the development acceptable
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development
- 6.93 Paragraph 122 of the Community Infrastructure Levy Regulations (April 2010) puts the above three tests on a statutory basis, making it illegal to secure a planning obligation unless it meets the three tests.
- 6.94 The applicant has provided a planning obligations statement outlining the obligations they consider necessary to mitigate the impacts of the development. The proposed Heads of Terms for a S106 agreement are:-
- Affordable housing - 4 Affordable Housing Units;
 - Education contribution - £62,414;
 - Health contribution - £20,800;
 - Sustainable transport, public realm improvements - £26,933
 - Leisure facilities - £13,015
 - Open space - £7,996
 - Community centres - £5,025
 - Town Centre Management - £2,335;
 - Employment training - £5,455

- Residents restricted from obtaining residents car parking permits within the Controlled Parking Zone;
- Car club membership for two years;
- Meeting Council's legal, professional and monitoring costs.

6.95 Officers consider that the proposed obligations outlined above are appropriate and necessary in order to mitigate the impacts of the development and make the development acceptable in planning terms. Officers are satisfied that the proposed obligations meet the three legal tests as set out in the Community Infrastructure Levy Regulations.

7.0 Local Finance Considerations

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

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

7.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.

7.3 The Mayor of London's CIL is therefore a material consideration. CIL is payable on this application (1,452m²).

8.0 Conclusion

8.1 The application has been considered in the light of policies set out in the development plan and other material considerations, including issues raised in response to consultations.

8.2 It is considered that the redevelopment of the site for residential use would be acceptable. The proposed scheme is considered to be acceptable, providing an architectural approach of high quality, compatible with the location and the wider conservation area.

8.3 The standard of proposed accommodation is in compliance with guidelines. Officers therefore consider the proposals to be acceptable.

9.0 Summary of Reasons for Grant of Planning Permission

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

9.2 The local planning authority has further had regard to the local planning authority's Adopted Residential Standards Supplementary Planning Document (August 2006, updated) and Planning Obligations Supplementary Planning Document (January 2011), Government Planning Policy Guidance and Statements, and all other material considerations as well as the obligations that

are to be entered into in the planning agreement in connection with the development and the conditions to be imposed on the permission. The local planning authority considers that:

- (1) The proposed residential development of the site is in accordance with Core Strategy Policy 1, which supports residential uses, and London Plan Policy 3.12 which identifies the need to encourage rather than restrain housing development. The site is an appropriate location for a development of the density proposed in accordance with London Plan Policy 3.4, which seeks to optimise the potential of sites and ensure that development proposals achieve the highest possible intensity of use compatible with local context, identified design principles and public transport capacity.
- (2) The scale and design of the development is in accordance with London Plan policies 7.4, 7.6 and 7.8 and Core Strategy Policies 15 and 16.
- (3) The layout of the site, the design of the development, and the provision of housing is in accordance with London Plan Policy 3.5 which seeks to achieve a range of housing choice, and within Core Strategy Policy CSP1 and Lewisham UDP Policy HSG 5, which requires that all new residential development is attractive, neighbourly and meets the functional requirements of its future inhabitants.
- (4) The proposed dwelling mix and provision of affordable housing, which is controlled by planning obligations agreed as part of the permission, is considered to be the maximum reasonable that can be achieved on this site taking account of targets and scheme viability and the need to encourage rather than restrain residential development in accordance with London Plan Policy 3.12 regarding the provision of affordable housing and with CSP1 of the Core Strategy, which seeks the provision of affordable housing in a way which assists in securing a more balanced social mix having regard to the financial viability of the development.
- (5) The energy demand of the proposed development has been assessed in accordance with London Plan Policies 5.2, 5.6 and 5.7 and CSP 8 of the Core Strategy regarding energy and carbon dioxide savings through a lean, clean and green strategy.
- (6) The provisions for pedestrians, cyclists and other road users and the overall traffic impact of the development have been assessed in accordance with Core Strategy Policy 14 which requires major schemes to take account of the requirements of public transport providers as well improvements to public transport and facilities for cyclists and pedestrians.
- (7) The proposed level of cycle parking and associated measures to reduce car use are in accordance Core Strategy Policy 14 regarding sustainable movement and transport.
- (8) The financial contributions towards achieving other planning policy objectives are in accordance with Core Strategy Policy 21 which seeks the inclusion of community benefits as part of development proposals, and with London Plan Policy 8.2.

9.3 Consideration has also been given to the objections made to the proposed development. It is considered that none of the material objections outweighs the reasons for granting planning permission.

10.0 Recommendation

10.1 Recommendation (A)

10.2 Authorise officers to negotiate and complete a legal agreement under Section 106 of the Town and Country Planning including 1990 Act (and other appropriate powers) to cover the following matters including such amendments as considered appropriate to ensure the acceptable implementation of the development:-

1. Affordable housing.
2. Financial contribution towards:
 - a) Education facilities - £62,414
 - b) Health provision - £20,800
 - c) Leisure facilities - £13,015
 - d) Open space contributions - £7,996
 - e) Transport, public realm contribution - £26, 933
 - f) Employment training - £5,455
 - g) Community centres - £5,025
 - h) Town Centre Management - £2,335
3. Restriction in relation to obtaining residents car parking permits within the Controlled Parking Zone.
4. Payment for membership to car club for 2 years
5. Meeting the Council's legal, professional and monitoring costs associated with the drafting, finalising and monitoring of the Agreement. To include meeting the cost of external viability consultants appointed by the Council to assess and advise on proposed development.

Recommendation (B)

10.3 Subject to completion of a satisfactory legal agreement, authorise the Head of Planning to GRANT PERMISSION subject to the following Conditions and Informatives:

Conditions

1. Three-year time limit.
Reason: As required by Section 73 of the Town and Country Planning Act 1990.
2. Unless minor variations are otherwise approved in writing by the local planning authority, the development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved.
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. External Materials and Finishes

- a) The building hereby approved shall be constructed of the materials and components as detailed in the Materials and Components Specification and drawings AL-032-101-100 Rev A, AL-032-102-100 Rev A, AL-032-103-100 Rev B AL-032-104-100 Rev A hereby approved.
- b) Notwithstanding part a) above, sample panels of a minimum size of 1m² of each of the proposed bricks, showing details of bonding, mortar and pointing shall be constructed on site and approved by the local planning authority prior to commencement; the development shall not be carried out otherwise than in accordance with any such approval given.

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

4. External Finishes

No development shall commence on site until a detailed schedule and specification of all windows, reveals and external doors have been submitted to and approved in writing by the local planning authority; the development shall not be carried out otherwise than in accordance with any such approval given.

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

5. External Finishes - Sections

Prior to the commencement of development, section detail drawings at a scale of 1:5 through all principal features of the facades, including:

- a) Roof edges/eaves, roof openings;
- b) Balcony types, balustrades and railings;
- c) Heads, cills and jambs of all openings;

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

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

6. Plumbing and Pipes

No plumbing, pipes, flues, vents or airbricks shall be fixed on the external faces of the building, other than the flue outlet of the CHP boiler, unless otherwise agreed in writing by the local planning authority.

Reason: B09R

7. Landscaping

Full details of both hard and soft landscaping including paving, boundary treatments and gates, planters and a schedule of planting shall be submitted to and approved in writing by the local planning authority prior to the commencement of any above ground works. The details shall be general conformity with the Materials and Components Specification hereby approved. Any plants which within a period of 5 years from the completion of development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority has given written consent to any variation.

Reason: L01R

8. Land Contamination

(a) No development shall take place until each of the following has occurred:

- (i) a site investigation has been carried out to survey and assess the extent of potential contamination and its effect (whether on or off site);
- (ii) a report comprising the results of that site investigation and recommendations for treatment of any contamination (whether by remedial works or not) has been submitted to and approved in writing by the Council; and
- (iii) all measures or treatments identified in that report as being necessary or desirable for the remediation of the site have been implemented in full.

(b) If during any works at the site (whether pursuant to paragraph (a) of this condition ["paragraph a,,"] or implementation of this planning permission generally) contamination is encountered which has not previously been identified ("the new contamination,,"), then works on the affected part of the site and adjacent areas will cease and paragraph (a) shall apply to the new contamination and no further

development shall take place on the affected part of the site until the requirements of paragraph (a) have been complied with in relation to the new contamination.

- (c) The development shall not be occupied until a closure report has been submitted to and approved in writing by the Council. The closure report shall include details both of the remediation (including waste materials removed from the site, an audit trail demonstrating that all imported or reused soil material conforms to current soil quality requirements as approved by the Council) and any post-remediation sampling that has been carried out.

Reason: To ensure that the Council may be satisfied that potential site contamination is identified and remedied in view of the historical use(s) of the site, which may have included industrial processes, and to comply with Policy ENV.PRO 10 Contaminated Land in the adopted Unitary Development Plan (July 2004).

9. External Noise Protection

- (i) The building shall be constructed so as to provide sound insulation against external noise and vibration, to achieve levels not exceeding 30dB LAeq (night) and 45dB LMax (measured with F time-weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with windows shut and other means of ventilation provided.
- (ii) Development shall not commence until details of a sound insulation scheme complying with paragraph (i) of this condition have been submitted to and approved in writing by the local planning authority.
- (iii) The development shall not be occupied until the sound insulation scheme approved pursuant to paragraph (ii) of this condition has been implemented in its entirety. Thereafter, the sound insulation scheme shall be maintained in perpetuity.

Reason: To safeguard the amenities of residents and to comply with Policy HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004), and to ensure any impacts arising from the proposed development (and any measures required to mitigate those impacts) are consistent with the Noise Assessment accompanying the application.

10. Environmental Management Plan

No development shall commence on site (including demolition works) until such time as an Environmental Management Plan has been submitted to and approved in writing by the local planning authority, which shall include, but is not limited to the following items: -

- Dust mitigation measures.
- Measures to mitigate against noise and air quality impacts associated with site preparation, demolition, earthworks, materials handling and storage, vehicles and plant, construction and fabrication and waste.
- Methods of monitoring construction impacts (noise and air quality).

- Training of Site Operatives and ensuring the chosen contractor subscribes to the 'Considerate Contractors' scheme.
- The location of plant and wheel washing facilities and the operation of such facilities.
- Details of measures to be employed to mitigate against noise and vibration arising out of the construction process.
- Construction traffic details (volume of vehicle movements likely to be generated during the construction phase including routes and times).
- Hours of working

Works on site shall only take place in accordance with the approved Environment and Construction Management Plan.

Reason: In order that the local planning authority may be satisfied that the demolition and construction process is carried out in a manner that recognises the locational characteristics of the site and minimises nuisance to any neighbouring residential occupiers, and to comply with Policies ENV.PRO 10 Contaminated Land and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

11. Construction Management and Logistics Plan

No works (including demolition and construction) shall commence until a Construction Management and Logistics Plan (CMP) has been submitted to and approved in writing by the local planning authority, which shall include, but is not limited to the following items: -

- (i) Location of loading areas, materials storage, site accommodation, hoarding/fence locations;
- (ii) Pedestrian routes and measures to ensure safe pedestrian and vehicle access to the site and to other premises in Independents Road;
- (iii) Details and times of servicing movements and measures to prevent queuing of vehicles requiring access to the site;
- (iv) Swept path analysis to demonstrate that construction vehicles can manoeuvre safely into/out of Independents Road and details of any associated traffic management measures that may be required.

The CMP shall be in accordance with the Environmental Management Plan required by Condition (8). No works shall be carried out other than in accordance with the relevant approved CLP.

Reason: To ensure that the demolition and construction processes are carried out in a manner which will minimise possible disturbance from road traffic and safeguards road safety in accordance with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004) and that all reasonable measures have been taken to improve construction freight efficiency by reducing CO₂ emissions, congestion and collisions in accordance with Policy 14 Sustainable movement and transport and Policy 21 Planning

obligations. of the adopted Core Strategy (June 2011), and Policy 6.14 Freight in the London Plan (July 2011).

12. Demolition

No demolition works shall be undertaken until a method statement for a watching brief for demolition, which shall include the presence of a bat ecologist during demolition works, has been submitted to and approved in writing by the local planning authority. The works of demolition shall be undertaken in full accordance with the approved method statement.

Reason: To comply with Policy 7.19 (Biodiversity and access to nature) in the London Plan (July 2011) and Policy 12 Open Space and environmental assets of the adopted Core Strategy (June 2011).

13. Bat Boxes

The mitigation measures, including a minimum of two bat tubes/boxes shall be undertaken in full accordance with the Phase 1 Ecological walkover and Initial Bat Survey Report December 2010. These measures shall be provided to the satisfaction of the local planning authority prior to first occupation of the development.

Reason: To ensure the development provides suitable creation of habitats in accordance with Policy 7.19 (Biodiversity and access to nature) in the London Plan (July 2011); and Policy 7 Climate change and adapting to the effects, Policy 10 Managing and reducing the risk of flooding and Policy 12 Open Space and environmental assets, of the adopted Core Strategy (June 2011).

14. Code for Sustainable Homes

No new dwelling hereby approved shall be occupied until a Code for Sustainable Homes Level 4 post-construction certificate for that dwelling has been submitted to and approved in writing by the local planning authority.

Reason: To ensure the use of sustainably-sourced and recycled materials and aggregates and the sustainable use of water, and to meet the requirements of Policy 5.3 Sustainable design and construction in the adopted London Plan (July 2011).

15. Tree Protection

No development shall commence on site until adequate steps have been taken in accordance with BS 5837:2012 Trees to safeguard all trees adjoining the site against damage prior to or during building works, including the erection of fencing. These fences shall be erected to the extent of the crown spread of the trees, or where circumstances prevent this, to a minimum radius of 2 metres from the trunk of the tree and such protection shall be retained until the development has been completed. No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage to the root structure of the trees.

Reason To safeguard the health and safety of trees during building operations and the visual amenities of the area generally and to comply with Policy

12 Open space and environmental assets of the adopted Core Strategy (June 2011) and Policies URB 3 Urban Design, URB 12 Landscape and Development and URB 13 Trees in the adopted Unitary Development Plan (July 2004).

16. Refuse Storage and Collection

In respect of each unit hereby approved, details of proposals for the storage, disposal and collection of refuse and recycling facilities shall be submitted to and approved in writing by the local planning authority and shall be provided in full accordance with the approved details before the permitted use starts and shall be permanently retained and maintained thereafter.

Reason: In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse disposal, storage and collection, in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with Policy URB 3 Urban Design in the adopted Unitary Development Plan (July 2004).

17. Site Levels

Details of the proposed slab levels of the buildings and existing site levels shall be submitted to and approved in writing by the local planning authority before work commences and the development shall be completed in accordance with the approved levels and details.

Reason: To protect the amenities of neighbouring occupiers and the surrounding area, in compliance with Policies URB 3 Urban Design and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

18. Cycle Storage

Notwithstanding the information submitted, the development hereby approved shall include secure parking provision for a minimum of 20 cycles, in accordance with details to be submitted to and approved in writing by the local planning authority. Such provision shall be provided before first occupation of the development hereby approved and retained permanently 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 (June 2011).

19. External Lighting

Details of any external lighting to be installed at the site, including measures to prevent light spillage, shall be submitted to and approved in writing by the local planning authority before any works on site are commenced. Any such external lighting shall be installed in accordance with the approved drawings and any directional hoods shall be retained permanently. The applicant should demonstrate that the proposed lighting is the minimum needed for security and working purposes and that the proposals minimise pollution from glare and spillage.

Reason: In the interests of residential amenity and to comply with Policy HSG4 of the UDP (July 2004).

20. Telecommunications

No telecommunications installations, whether or not permitted under Article 3 and Schedule 2 (Part 24) of the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactment thereof, shall be carried out without the prior written permission of the local planning authority.

Reason: To ensure that the local planning authority may have the opportunity of assessing the impact of any further development.

Informative

Assessment of the sound insulation scheme should be carried out by a suitably qualified acoustic consultant, and should be guided by the advice in the NPPF and comply with the standards given in the current BS8233 for internal noise design levels and BS6472 for evaluation of human exposure to vibration in buildings.

Recommendation (C)

10.4 In respect of Conservation Area Consent application no. DC/10/76230: authorise the Head of Planning to GRANT PERMISSION subject to the following Condition:

LB2 Retention of Buildings

Reason: LB2R

Appendix A – Notes of Local Meeting - Planning Application DC/10/76229

Notes of Local Meeting - Planning Application DC/10/76229

24 November 2011

Held at Friends Meeting House, Independents Road, SE3

The redevelopment of 9 Independents Road with a part four/part five storey building to provide 16 flats.

Attendance

Applicants:

Jan-Marc Petrowska (JMP)

Gerry Cassidy (GC)

LBL

Cllr Maines - Chair

Cllr Bonavia

Louise Holland (LH) – Planning

Approx 15 residents attended together with representatives of Blackheath Hospital (BH), Blackheath Montessori (BM) and the Blackheath Society (B Soc).

The meeting was introduced by Cllr Maines, who explained the format and purpose of the meeting.

JMP gave a short presentation, described the site and its context, described design development of the scheme, outlined the design, materials and dwelling mix.

A number of questions were asked and responded to by the applicants as follows:

Q. Do the top storeys have a glass frontage?

A. Yes, with louvres.

Q. (Cllr Maines) Have there been any discussions with Hospital? Concern about servicing, previous use was low level. Delivery vans frequently have to reverse along Independents Road.

A. Site has right of way for deliveries. Current use (if operative) could generate a level of deliveries.

Q. How would refuse collection work?

A. Considering private refuse collection.

Q. Likelihood that delivery vans would reverse onto Blackheath Village.

A. Will ask transport consultant to address this.

(BH) Tries to get goods delivered to Lee Terrace site.

Q. Frequent problem with sewage/water supply, comes up storm drain, recent problem at rear of Winchester House.

A. Will investigate this.

Q. Why take largest building as point of reference?

A. Building sits comfortably in this location; can produce visual.

Q. What benefit to area/LBL?

A. 35% social housing, 2 family units, 2 wheelchair units.

Q. (BM) Access to nursery for emergency vehicles, nursery has rear fire escape. Concern over construction period, refurbishment of Hospital was very difficult period.

A. Possible temporary bridge over from Lawn Terrace.

Q. Loss of footway on Lawn Terrace which is one-way street.

A. Construction logistics/management plan would be required by condition.

Q. How would asbestos be removed?

A. Covered by specific legislation.

Q. What is density? Density is excessive.

A. Density reduced following local presentation.

Q. Was further reduction in scale considered?

A. Design appeared squat.

Q. Was lower floor removed for light reasons?

A. No, due to drainage issue.

Q. There's no street lighting currently in Independents Road, what about new residents?

A. Could be considered.

Q. Ownership of development company?

A. Owned by investor, bought speculatively at auction, new to this part of London, have worked in other London boroughs.

Q. Queried content of Transport Assessment re traffic to scheme and road safety.

A. Will provide outline statement on this; outline Code of Construction Practice with contact numbers.

Residents raised a number of concerns as follows:

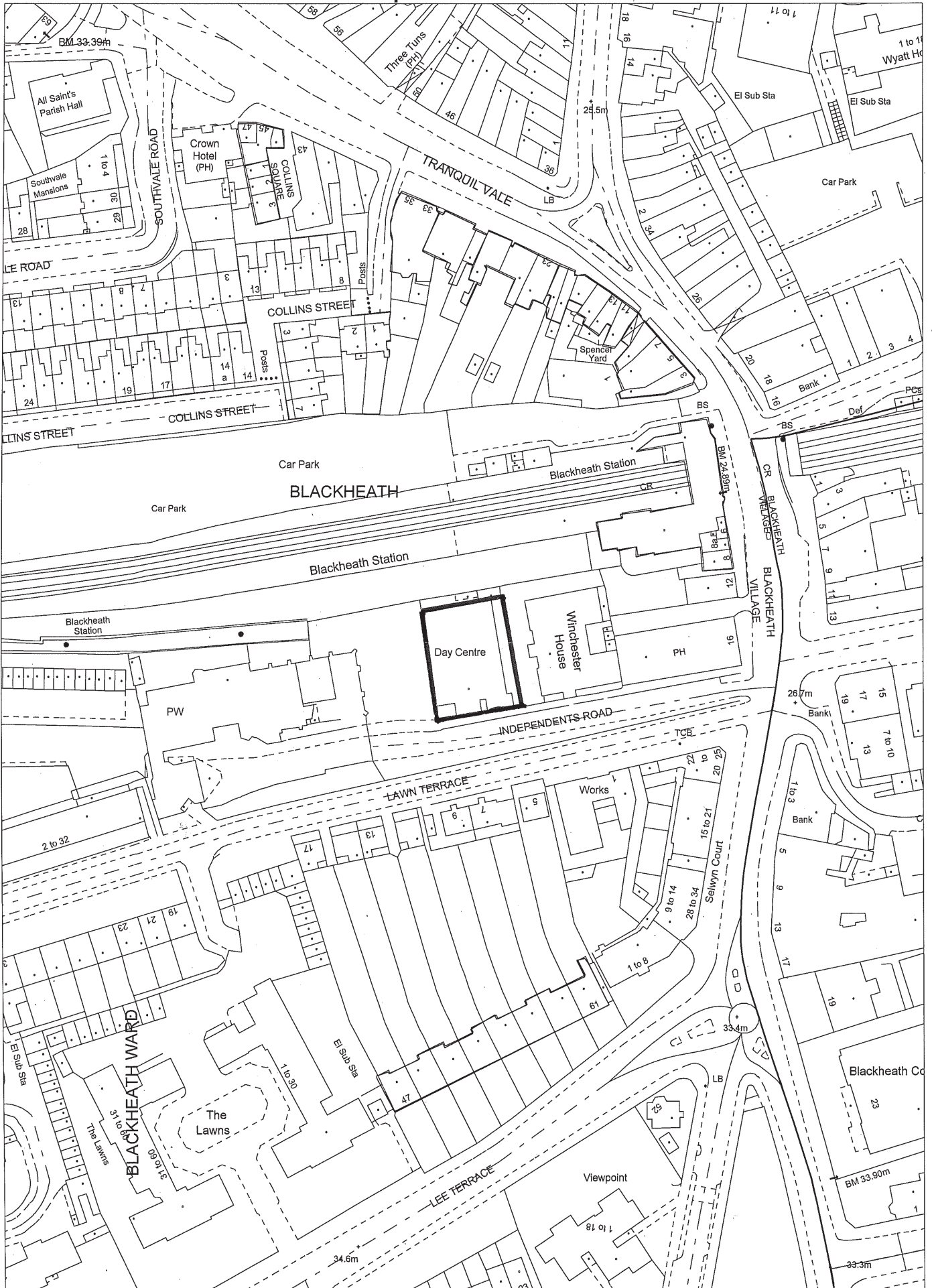
- Overlooking and loss of privacy affecting living space and bedrooms in Lawn Terrace.
- Loss of view.
- Concern about increased noise, current disturbance from noise from pub.
- Independents Road is currently solely commercial, busy with users of Winchester House;
- Servicing would impact on use of Winchester House;
- Transport Statement does not address servicing;
- (Blackheath Montessori) Concerned about difficulty accessing their space;
- Road is either resident or business parking, currently inconsiderate parking by patients takes place;
- Difficulty with phone lines;
- Loss of property values;
- (B Soc Peter Dean) critical of previous scheme. Winchester House should not be point of reference, building should be lower;
- Effect on trees in Lawn Terrace during construction period;
- Could be light nuisance to existing residents, people could light balconies;
- Building is too high, enjoys view from flat (The Lawns);
- (BM) design not sympathetic, no architectural merit;
- (BH) no significant building possible on site without transport problems.

Comment (B Soc) - Scheme quite exciting, good quality materials, 4 blocks well reasoned; a bit too high, also from railway which is important public domain.

Meeting finished 9.00pm.

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9 Independents Road SE3



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Committee	PLANNING COMMITTEE C	
Report Title	Phase 4 Kender Triangle, SE14	
Ward	New Cross	
Contributors	Monique Wallace	
Class	PART 1	27 September 2012

Reg. Nos.	DC/12/79828
Application dated	28.03.12 as revised on 03.09.12
Applicant	Miss J Richardson of BPTW Partnership on behalf of Hyde Housing Association
Proposal	The development of Phase 4 of the Kender Triangle, bounded by New Cross Road, Avonley Road, Barlbrough Street and Monson Road, SE14 including the construction of a part 6/part 9 storey building and two, 4 storey buildings comprising 164 residential flats together with 40, two and three storey houses to provide a residential development total of 204 new dwellings with 70 car parking spaces, cycle and refuse storage, private and communal amenity space and associated hard and soft landscaping.
Applicant's Plan Nos.	KEN AL (P) 001 Rev A, KEN AL (P) 002 Rev A, KEN AL (P) 010 Rev A, KEN AL (P) 030 Rev A, KEN AL (P) 031 Rev A, KEN AL (P) 032 Rev A, KEN AL (P) 033 Rev A, KEN AL (P) 034 Rev A, KEN AL (P) 039 Rev B, KEN AL (P) 040 Rev B, KEN AL (P) 041 Rev A, KEN AL (P) 042 Rev A, KEN AL (P) 043 Rev A, KEN AL (P) 044 Rev A, KEN AL (P) 045 Rev A, KEN AL (P) 046 Rev A, KEN AL (P) 047 Rev A, KEN AL (P) 048 Rev A, KEN AL (P) 049 Rev A, KEN AL (P) 050 Rev A, KEN AL (P) 051 Rev A, KEN AL (P) 052 Rev A, KEN AL (P) 053 Rev A, KEN AL (P) 054 Rev A, KEN AL (P) 060 Rev A, KEN AL (P) 061 Rev A, KEN AL (P) 070 Rev A, KEN AL (P) 071 Rev A, KEN AL (P) 072 Rev A, KEN AL (P) 073 Rev A, KEN AL (P) 074 Rev A, KEN AL (P) 080 Rev A, KEN AL (P) 081 Rev A, KEN AL (P) 090, KEN AL (P) 091, KEN AL (P) 092, KEN AL 9100 Rev F, KEN AL 9200 Rev C, KEN AL (P) 100 Rev A, KEN AL (P) 101 Rev A, KEN AL (P) 102 Rev A, KEN AL (P) 103 Rev A, KEN AL (P) 104 Rev A, KEN AL (P) 105 Rev A, KEN AL (P) 106 Rev A, KEN AL (P) 107 Rev A, KEN AL (P) 108 Rev A, KEN AL (P) 109 Rev A, KEN AL (P) 110 Rev A, KEN AL (P) 111 Rev A, KEN AL (P) 112 Rev A, KEN AL (P) 113 Rev A, KEN AL (P) 114 Rev A,

	<p>KEN AL (P) 115 Rev A, KEN AL (P) 116 Rev A, KEN AL (P) 117 Rev A, KEN AL (P) 118 Rev A, KEN AL (P) 119 Rev A, KEN AL (P) 120 Rev A, KEN AL (P) 121 Rev A, KEN AL (P) 122 Rev A, KEN AL (P) 123 Rev A, KEN AL (P) 124 Rev A, KEN AL (P) 125 Rev A, KEN AL (P) 126 Rev A, KEN AL (P) 127 Rev A, KEN AL (P) 128 Rev A, KEN AL (P) 129 Rev A, KEN AL (P) 130 Rev A, KEN AL (P) 131 Rev A, KEN AL (P) 132 Rev A, KEN AL (P) 133 Rev A, 9437/420, 9437/490, 9437/491, 9437/492, Air Quality Assessment Rev2 (RPS), Arboricultural Implication Study & Tree Protection Strategy, (Honey Tree Specialists Ltd), Code for Sustainable Homes Report (Issue 2), (Focus), CfSH Ecology Report (Middlemarch Environmental Ltd), Contamination Report Desk Study & Discovery Strategy (Southern Testing), Daylight and Sunlight Report, (Waterslades), Design and Access Statement Issue 21/03/12 (HTA Architects), Energy Assessment (Issue G), (Max Fordham Consulting Engineers), Flood Risk Assessment (Tully De'Ath), Historic Environment Assessment Issue 1 (Museum of London Archaeology), Noise and Vibration Report Rev 3 (RPS), Planning Statement (bptw partnership), Statement of Community Involvement (bptw partnership), Transport Statement, (Tully De'Ath), Travel Plan, (Tully De'Ath), PERS Audit Report (JMP), Disabled Parking and Car Club Parking Space Response Note and Plan (HTA Architects), Energy Response Notes (x2) Max Fordham, Urban Design Response Notes (x2) HTA Architects, Playspace Response Notes x2 (HTA Architects), Addendum to Noise and Vibration Assessment report August 2012 (RPS)</p>
Background Papers	<p>(1) Case File DE/H30/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan</p>
Designation	Core Strategy - Existing Use
Screening	<p>A Screening Opinion was issued on 7 October 2011 in respect of 214 residential units at the application site. Officers consider the outcome of the Screening Opinion is still valid as the difference in 10 less units as proposed in the current application is non-material given the scale of the development. The application</p>

	reference for the Screening Opinion is DC/11/78384.
Zoning	PTAL 3 PTAL 2 PTAL 6a PTAL 5 PTAL 4 Hatcham Conservation Area Article 4(2) Direction Hatcham Conservation Area Flood Risk Zone 3 Flood Risk Zone 2 Area of Archaeological Priority

1.0 Property/Site Description

- 1.1 The application site is the land bounded by New Cross Road to the southwest, Avonley Road to the west, Barlborough Street to the northeast and Monson Road to the north. The site measures 1.504 hectares and previously comprised 144 residential dwellings which have been demolished to make way for continued regeneration of the area.
- 1.2 The Hatcham Conservation Area, which is also subject to an Article 4 Direction, is adjacent to the eastern and northwestern boundaries of the site, but the site itself is not within the Conservation Area.
- 1.3 The western side of Avonley Road comprises a series of two to four storey residential developments derived from the redevelopment of the New Cross Hospital site. The boundary treatment between the public footpath and the residential estates is the retained 2m high boundary wall which previously enclosed the hospital grounds. The buildings behind are a mixture of converted traditional hospital buildings, whilst the remainder are modern in appearance.
- 1.4 The eastern side of Avonley Road provides a mixture of property styles. To the south, at the junction with New Cross Road is Hong Kong City which is a white painted rendered, part one/part three storey restaurant building which fronts New Cross Road. Further north along Avonley Road is Reaston Street of which the northern side comprises newly built, yellow brick and clad three and four storey flats and houses.
- 1.5 From Barlborough Street northwards along Avonley Road and the roads running easterly therefrom are the two storey 19th Century houses which are located within the Hatcham Conservation Area. Development on the Hatcham Park estate started with Hatcham Park Road and therefore the roads at the northern end of the conservation area were developed some 20-30 years later with Edric Road (to the north west of the application site) being laid out in 1884.
- 1.6 New Cross Road comprises a mixture of commercial and residential properties, mainly traditional in appearance, but with modern alterations and infills.
- 1.7 The application site is known as Phase 4, the last of 4 phases involving the redevelopment of the Kender Triangle which is the complete redevelopment of the housing estates both north and south of New Cross Road.

1.8 Strategically, the application forms part of the opportunity routes for the North Lewisham Links project. The project notes a potential to provide better cycling and walking access to Eckington Gardens to the east and Bridge House Meadows (also known as 'The Fields') to the north west of the application site.

1.9 The application site also falls within the Lewisham, Catford, Deptford Opportunity Area as defined by policy 2.13 of the London Plan.

2.0 Planning History

2.1 Planning permission was granted in the 1960's for the development of the application site to provide residential flats in a series of blocks with associated parking and landscaping.

2.2 The blocks comprised a mixture of three and four storey flats and maisonettes known as Edward Robinson House, Palm Tree House, Fir Tree House and Anthony House which were surrounded by vast expanses of grassed areas and hard surface which accommodated car parking and walkways.

2.3 The subsequent planning history for the site refers to minor ancillary developments such as the erection of fences and advertising boards.

2.4 In June 2001, outline planning permission was granted for the demolition of properties forming part of the 'Kender' estate and for a phased redevelopment of 434 new dwellings.

2.5 A Screening Opinion was issued on the 7 October 2011 in accordance with the provisions of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 in respect of 214 residential units at the application site. The Screening Opinion confirmed that the development would not have significant environmental effects, and would not necessitate Environmental Impact Assessment. Officers consider the outcome of the Screening Opinion is still valid as the difference in 10 less units as proposed in the current application is non-material given the overall scale of the development. The application reference for the Screening Opinion is DC/11/78384.

2.6 Also of relevance to the current proposal is the chronology of planning applications for and surrounding the Kender Triangle;

2.7 Conditional planning permission was granted on the 21 December 2001 for the construction of 12 three storey, three bedroom and 6 three storey four bedroom houses and 15 one-bedroom and 15 two-bedroom self-contained flats in four and five storey blocks on part of the Kender 'Triangle Site', Queens Road SE14, together with associated landscaping and provision of refuse stores and 38 car parking spaces with the formation of vehicular access onto Queens Road. This scheme has been developed and is known as Phase 1, referenced DC/01/49771.

2.8 Conditional planning permission was granted on the 15 February 2002 for the construction of a two storey terrace of 6, two bedroom houses, together with the provision of 5 car parking spaces, to the rear of the Coach & Horses PH, Pomeroy Street (south of the application site), SE14, and the construction of a three storey terrace of 6, three bedroom houses adjacent, fronting Pomeroy Street. These properties are now in place and are known as Kender Phase 1b, planning reference DC/01/50332.

- 2.9 Conditional planning permission was granted on 5 March 2003 for the construction of 12 three storey, three bedroom and 6 three storey, four bedroom houses and 15 one bedroom and 15 two bedroom self-contained flats in three to five storey blocks on part of the Kender Triangle Site, Queens Road SE14 (to the far south west of the application site), together with associated landscaping, the provision of refuse stores and up to 38 car parking spaces with the formation of vehicular access onto Queens Road. The properties have been built and this scheme is referred to as Phase 1a referenced DC/01/50319.
- 2.10 Conditional planning permission was granted on 15 February 2002 for the construction of a four storey block comprising 8, one bedroom self-contained flats and a three storey terrace of 5, three bedroom houses on the site of existing garages fronting Kender Street SE14 (to the south of the application site), together with associated landscaping and the provision of 10 car parking spaces with access onto Kender Street. This development has been built and is referred to as Phase 1c referenced DC/01/50333.
- 2.11 Conditional planning permission was granted on 20 January 2003 for the construction of a two storey plus roof space terrace comprising 6 three bedroom and 4 four bedroom houses on the site of the existing garages adjacent to Palm Tree House, Barlborough Street SE14, together with associated landscaping. This development is known as Phase 2, has since been built and is referenced DC/02/52359.
- 2.12 Conditional planning permission was granted on 18 April 2007 for the construction of a part single/part four/part five storey building at Kender Triangle Development, Queens Road SE14, to provide a residents' facility and 2 commercial units (Use Class A1/A2/B1) on the ground floor and 4 one bedroom and 8 two bedroom self-contained flats above, together with associated landscaping, provision of refuse stores, 4 car parking and 18 bicycle spaces. This permission was not constructed and was referenced DC/06/64420.
- 2.13 Conditional planning permission was granted on 14 November 2007 for the construction of a part single/part four/part five storey building at Kender Triangle Development, Queens Road SE14, to provide a residents' facility and 2 commercial units (Use Class B1) on the ground floor and 4 one bedroom and 8 two bedroom self-contained flats above, together with associated landscaping, provision of refuse stores, 4 car parking and 18 bicycle spaces. This application is referenced DC/06/66614 and was constructed.
- 2.14 In 2009, conditional planning permission was approved for the redevelopment of the Kender Triangle, comprising the demolition of Antony House and Edward Robinson House and the construction of 67 new dwellings, comprising 11 three and four bedroom houses, 28 one-bed flats and 28 two-bed flats. It is intended that 30 of the proposed dwellings would comprise affordable housing. The houses are proposed on the north side of Reaston Street and would be three storeys, with the second floor set back on the street elevation. The flats would be in part three/part four storey blocks. The blocks would be aligned with main frontages to the street, maintaining the existing street pattern. These buildings are now in place, known as Phase 3 of the Kender Triangle and has a planning reference of DC/07/65684.
- 2.15 In February 2011, conditional planning permission was granted for the construction of two residential blocks comprising one with part two/part three,/part

four/part five and part six storeys and the second with part three/part four/part five and part six storeys both blocks incorporating balconies at former New Cross Hospital Site, Wardalls Grove, Avonley Road SE14 to provide 35 one bedroom, 64 two bedroom self-contained flats, 11 three bedroom and 14 four bedroom houses, together with associated landscaping, provision of refuse stores, 127 cycle spaces and 43 car parking spaces with access onto Avonley Road (to the immediate west of the application site). At the time of writing this report, the development was near completion. The planning reference is DC/10/70536.

3.0 Current Planning Application

The Proposals

- 3.1 The proposal is for the development of Phase 4 of the Kender Triangle, bounded by New Cross Road, Avonley Road, Barlborough Street and Monson Road, SE14 including the construction of a part 6/part 9 storey building and two, 4 storey buildings comprising 164 residential flats together with 40, two and three storey houses to provide a residential development totalling of 204 new dwellings with 70 car parking spaces, cycle and refuse storage, private and communal amenity space and associated hard and soft landscaping.

Buildings

- 3.2 Block 1: At the north western corner of the Avonley Road and Barlborough Street there is to be a two to three storey block of flats (Block 1). This block would comprise 11 x 1 bed, 27 x 2 bed, 9 x 3 bed and 2 x 4 bed flats resulting in 49 units in total.
- 3.3 Block 2: To the east of that block would be a further pair of three storey blocks of terraced houses, (cumulatively known as Block 2). This set of buildings would comprise 16, 3 bed houses.
- 3.4 Block 3: To the south of Block 1, fronting Avonley Road to the western boundary of the site would be a four-storey block (Block 3). This block would comprise 15 x 1 bed, 11 x 2 bed and 19 x 3 bed flats totalling 45 flats.
- 3.5 Block 4: In the centre of the site, south of Block 2 is a horizontal row of part two/part single storey houses, fronting Reaston Street to the north and Hatfield Close to the south. The dwelling mix thereof would be formed of 9 x 3 bed houses.
- 3.6 Block 5: Continues the horizontal row of houses of Block 4, running eastwards towards Monson Road, which is then capped by a four-storey block of flats running along the eastern boundary of the site. This row of properties would comprise 16 x 3 bed flats, 6 x 3 bed houses and 6 x 4 bed houses totalling 28 units all together.
- 3.7 Block 6: Being the largest building on the site, Block 6 is to be located at the south eastern corner of the site, comprising a segregated three storey block, then an 'L' shaped, stepped, part four/part 6/part 9 storey block, largely fronting New Cross Road. This block would comprise 18 x 1 bed and 36 x 2 bed flats creating 54 units in total.

- 3.8 Page 31 of the Design and Access Statement provides a massing drawing, depicting the various heights of the proposed building in the context of the application site's surrounds. This diagram is especially useful for demonstrating the stepped design of Block 6.
- 3.9 The new development would be modern in appearance, but the scale and massing of the proposed buildings have been articulated to compliment their immediate surrounds, resulting in the lower buildings generally being to the north and centre of the site, and the taller buildings being on the western and southern boundaries.

New streets

- 3.10 To the north, the development would complete the southern side of Barlborough Street. A gap between the flats of Block 1 and houses in Block 2 creates a new one way street (Robinson Way), connecting Barlborough Street from the north and Reaston Street in a southerly direction. Reaston Street would run horizontally through the centre of the site, from west to east.
- 3.11 Juxtaposed between Blocks 4 & 5 and Hatfield Close to the south would be Hatfield Lane which would provide vehicular access to the houses.
- 3.12 To the east of Block 6, a pedestrian link is proposed from New Cross Road from the south of the site, running in a northerly direction to a central square. East from this point would guide pedestrians to Avonley Road, north would lead to Reaston Street, then Barlborough Street at its junction with Wigglesworth Street. A westerly walk from the central square would lead pedestrians to Monson Road.
- 3.13 The northern elevations of Blocks 3, 4 & 5 would necessitate the reduction (eating into/stopping up some of the public highway) of Reaston Street and relocating the southern public highway boundary northwards.

Amenity

- 3.14 The houses will all benefit from their own private gardens or semi-private courtyards (shared and accessed by the occupiers of the blocks only), while some of the houses will also benefit from enclosed first floor terraces. The scheme is designed around a central square which would also provide amenity space and thus, the development as a whole would cumulatively provide 3,467.2m² of amenity space.
- 3.15 The flats will benefit from either their own private balconies or will have access to secured communal gardens and courtyards. Block 6 in particular will have three communal roof terraces on the 1st, 4th and 6th floors. These terraces would be for the use of the occupiers of Block 6 only.
- 3.16 A Central Square would be located in the centre of the application site, providing a thoroughfare from New Cross Road to the south and Reaston Street further north in the site would be a hard surfaced area with planting and benches which connect the blocks within the development. Blocks 1 & 3 will benefit from a residents only accessible internal courtyard.

Car Parking

- 3.17 On site, 70 (18 undercroft, and the remainder on street, within the site or on driveways) parking spaces will be provided for proposed occupiers. Block 6 will accommodate undercroft parking, while the remainder of the spaces will be located either on the drives for the houses, or on the access roads within the site.
- 3.18 All (20) wheelchair accessible, South East London Housing Partnership compliant units will have access to a nearby or on site parking provision.
- 3.19 On street parking spaces will be provided on Reaston Street for users of the proposed development or the surrounding roads to use.
- 3.20 At present, neither Reaston Street, Avonley Road or Barlborough Street have any parking restrictions. The relevant section of New Cross Road is a double red line route which prohibits parking at any time.
- 3.21 The parking ratio for the site is 30% provision in relation to the amount of units proposed.

Cycle Parking

- 3.22 A total of 384 cycle spaces are being provided as part of the development. All houses will be provided with storage shelters which are capable of accommodating at least two bicycles within the front garden, while all of the flatted units will have access to one or two cycle spaces located in secure stores wither within or adjacent to the relevant block.

Supporting Documents

Design and access statement

- 3.23 This document summarises the scheme and the ideas which formed the final proposal.
- 3.24 The document is introduced by an assessment of the site and its surrounds, and describes how the site was evaluated which resulted in the design concept for the development.
- 3.25 Details of the development including unit amounts and types, the design, scale and layout of buildings and proposed parking, amenity provision and sustainability measures are also summarised within this document.

Statement of community involvement

- 3.26 This document outlines the consultation processes (not verified) undertaken with the local community prior to the submission of the formal planning application.

Transport Statement

- 3.27 The Transport statement considers the effect of the development upon the local transport infrastructure including public and private means of transport. The report also provides guidance as to how the effect of the scheme can be minimised.

- 3.28 The report draws from public transport publications appended thereto. The excerpts comprise public transport information including destinations and frequencies, and maps comprising road classifications and access routes. Reference is also made to other modes of transport such as walking and cycling.
- 3.29 The document concludes by stating that the existing facilities for walking and cycling within the area are already good.
- 3.30 A parking survey carried out concluded that there is capacity on the immediately surrounding roads, while the provision of 70 additional spaces from the scheme would exceed policy requirements.
- 3.31 This document also states that the implementation and promotion of a car club space would also help reduce car ownership, and thus any stress on street parking.
- 3.32 With regard to the additional traffic derived from the site, it concludes that any potential impact to the Avonley Road/New Cross Road junction would be minor.

Travel Plan

- 3.33 Travel plans are intended to be guidance for future occupiers, encouraging them to use more sustainable modes of travel, thus relying less on private vehicles.
- 3.34 The document outlines the site, its environs and current accessibility modes and frequencies thereof.
- 3.35 The report states that a Travel Plan is an ever-evolving document, changing with the requirements and availability of sustainable modes of transport as they emerge and/or improve. The Travel Plan also identifies the need for a Travel Plan Co-ordinator to actively promote the contents and benefits of using the Travel Plan.
- 3.36 Reference is also made to the benefits of car club provision and that the Travel Plan and Travel Plan Co-ordinator will be promoting its use.

Daylight and sunlight report

- 3.37 This document confirms why the development proposal warranted the consideration of daylight and sunlight due to its relatively dense urban location... Further, given that the proposal includes a 9-storey block, it is imperative that the scheme minimises any impact to current levels of sunlight and daylight currently afforded to nearby properties.
- 3.38 Appended to this report, are 3D angled drawings of the application site in its previous form (prior to demolition of the previous residential blocks) and the environs.
- 3.39 The assessment of these drawings against BRE (Building Research Establishment) guidance lead to conclusions that the impact of the application proposal upon the sunlight and daylight levels of the existing surrounding buildings is small. The conclusion acknowledges that there are isolated instances where strict compliance to the guidance is not adhered to (4% of units do not fully comply with the BRE standards); however in each case the shortfall is considered to be minimal.

- 3.40 Overall, the future occupiers of the development would have 'good' levels of access to daylight and sunlight.

Flood Risk Assessment

- 3.41 The application site is not within a flood risk zone. However, due to the plot size exceeding more than 0.5 hectares, a flood risk assessment was necessary.
- 3.42 This document describes the application site in the context of its land use and topography and that of its immediate surrounds. The document also makes reference to the River Thames being approximately 2 kilometres southwest of the application site in Deptford.
- 3.43 The report identifies a 5,000m² increase of impermeable area within the site, compared to the buildings prior to their demolition.
- 3.44 Mitigation measures proposed include impermeable areas which will be drained to infiltration soak aways, green roofs located on the three blocks of flats will also reduce water run-off. Water butts for the houses from the rain pipes and permeable paving for the parking areas will ensure that the water from the site entering the public sewers would be less than that derived from the previous development.

Air Quality Assessment

- 3.45 This document considered the impact to the air quality during the construction works of the development, and then the impact of the development once it is in use.
- 3.46 During the construction of the development, the greatest consequential nuisance is dust. Once the site is in full operation, the greatest impact from the development is then derived from the increase/change in traffic to and from the site.
- 3.47 With regard to pollution potentially affecting future occupiers of the development, a study of receptors states that all new buildings, except for the façade which fronts New Cross Road of Building 6, would not be exposed to unacceptable levels of pollutants.
- 3.48 Chapter 7 (Page 35) of this document, provides proposed mitigation measures to minimise the creation and concentration of pollutants during the course of works and for future occupiers. Measures include, amongst other things, solid barriers to surround the site, all waiting vehicles to switch off their engines, watering down loose materials and air sealed windows with whole house ventilation for future occupiers.

Noise and vibration assessment report

- 3.49 This report considers the impact of any existing noise and vibrations on or immediately around the application site and how it might affect the quiet enjoyment of future occupiers.
- 3.50 The report identifies New Cross Road as being the main source of noise heard from the site, but also confirms that the site is not in close proximity to a railway line which can be a source of noise and vibrations.

- 3.51 The conclusion is that there are unlikely to be any noise impacts derived from the site itself and with appropriate noise mitigation glazing units and ventilation systems, internal noise levels would be acceptable. External amenity areas can also benefit from good design.

Code for Sustainable Homes prediction report

- 3.52 Predictions of how the proposed development would achieve a minimum of 68 points (Level 4) are set out in this report.
- 3.53 It is confirmed that much of the information within the report is based on assumptions and that evidence of the ability of the scheme to achieve Level 4 will have to be provided.
- 3.54 The conclusions section of the report states that some of the units within Block 5 and some of the units within Block 6 may not achieve Code Level 4.

Code for Sustainable Homes – Ecological assessment

- 3.55 This report was undertaken when the previous residential dwellings had already been demolished. The assessment therefore confirms that there was little ecology to protect or enhance as upon site visit, the site comprised rubble and sparse vegetation.
- 3.56 Using a credit system, the document concludes by calculating the credits available to differing elements of the scheme given the current ecological value of the site and the predicted capabilities of the proposed development.
- 3.57 The document also provides a comprehensive list of suggested measures which could optimise the ecological credits for the development.
- 3.58 Energy Assessment – This document still refers to individual boilers within the flats and was not revised to incorporate the change to communal boilers which is now proposed.

Historic environment assessment

- 3.59 This report is based on the findings of a desk-based study which assessed the impact of the scheme on buried heritage assets.
- 3.60 The findings conclude that the site does not contain any nationally designated (protected) heritage assets, but that it lies across the boundary of two areas of archaeological priority as designated by Lewisham. The document also identifies the adjacent Hatcham Conservation Area.
- 3.61 The report also concludes that a site investigation prior to granting planning permission is unnecessary, but that investigative works should be carried out prior to the commencement of works.

Arboricultural implication study and tree protection strategy

- 3.62 This report assesses all trees currently on site and adjacent thereto in terms of their health and safety, amenity value and future potential. A schedule of the trees is appended to the report. The report also considers any potential impact on the trees from the application proposal.

3.63 The report concludes that there are no trees of high amenity value on the site. Eighteen trees of modest amenity value will be removed in order to facilitate the redevelopment of the site.

3.64 Two trees adjacent to the site will have their root protection areas breached by less than 5% and this is concluded to be acceptable.

Desk study, site investigation and risk assessment report.

3.65 This study considers the potential contaminants which might be on the site and provides suggestions for remedial measures. Part of the conclusions is that site investigative works should be carried out by an engineer and any remedial works should be discussed with the Local Authority, prior to implementation.

3.66 This document erroneously refers to the application site as being 1.77ha. The site area is 1.509ha.

Planning Statement

3.67 This document has been compiled by the agent for the applicant and considers the policy context of the application.

3.68 The document is introduced by describing the application site and proposed development including policy required attainments such as achieving Code for Sustainable Homes, Level 4, adequate amenity space, cycle provision and such.

3.69 The relevant national and local policy base is then listed and then application attributes are listed to demonstrate how the scheme is policy compliant.

3.70 The document concludes by stating that the proposed development would result in a sustainable, high quality designed scheme which maximises the development potential of the site, whilst sitting well with the scale and mass of the sites environs.

3.71 A draft heads of terms is also appended to this document, stating that the scheme would contribute financial compensation in accordance with the Council's Planning Obligations SPD amounting to £956,547.54.

3.72 The document also confirms that the proposed development is CIL (Community Infrastructure Levy) liable and calculates its net liability to be £186,312.

4.0 Consultation

4.1 This section outlines the consultation carried out by the applicant prior to submission and the Council, following the submission of the application and summarises the responses received.

Pre-Application Consultation

4.2 The Statement of Community Involvement submitted with the application introduces the document stating that this application is the 4th Phase of the redevelopment of the wider Kender Triangle proposals.

- 4.3 Discussions about the redevelopment between Lewisham Council and Hyde Housing Association, to whom the redeveloped site will be transferred, began in 2007.
- 4.4 Paragraph 2.2 states that forum meetings were held with the [then in residence] tenants and local residents to ensure detailed feedback and comment on the proposals were picked up to help influence the design of the current application proposal. A public exhibition event took place in July 2011, of which 9 people attended.
- 4.5 The document reports initial comments raised by neighbours, Lewisham Planners and Housing Officers to be as follows;
- Create new, attractive and well overlooked streets
 - Create safe pedestrian routes to local Amenities like Eckington Gardens and New Cross Road
 - Create a mix of homes of different types and sizes for rent, shared ownership and private sale
 - Improve public and private spaces with gardens, balconies, good landscaping and trees
 - Create a new landmark building on New Cross Road
 - Reflect Kender 2 & 3 phases in terms of materials, window sizes and enhance landscaping and internal streets.
- 4.6 Once the crux of the design of the scheme had been finalised and shown the residents, paragraph 4.5 of the submitted Statement of Community Involvement states that 'on the whole, the development was welcomed.'

Application consultation

- 4.7 The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.8 Site notices were displayed and letters were sent to residents and business in the surrounding area. Together with local ward Councillors, the following external agencies and departments were also notified and provided with a minimum 21 days to reply to the consultation exercise;
- Lewisham Cyclists
 - Environment Agency
 - English Heritage - CAC
 - London Fire & Emergency Authority
 - TfL's Land Use Planning Team (Refer to GLA)
 - Lewisham Primary Care Trust
 - Thames Water
 - Metropolitan Police Crime Prevention Unit

- London Cycling Network
- Greater London Authority

Written Responses received from Statutory Agencies

The Environment Agency

4.9 The Environment Agency considered that 'planning permission could be granted to the proposed development if the conditions stated in their consultation reply letter were applied to the decision notice.'

4.10 The conditions related to the development being carried out in accordance with the details within the Flood Risk assessment submitted in the application documents, the provision of a surface water drainage scheme and site contamination.

Transport for London (TfL)

4.11 The comments from TfL were provided together with the Stage 1 Response from the Greater London Authority (GLA).

4.12 In a letter dated 11 June 2012, from Transport for London it was confirmed that 'impact of the expected trip rate from this development on the TLRN is considered acceptable to TfL and further junction analysis is not needed at this stage.'

4.13 With regard to parking, the letter states that 'The proposed level of parking provision is in accordance with London Plan policy 6.13 and well below the maximum standards detailed in Table 6.2. Given the moderate public transport accessibility of much of the site, it is considered that a reasonable balance has been struck between encouraging use of more sustainable modes and avoiding on street parking stress. Consideration should be given to a further reduction of the overall availability of parking as the Travel Plan takes effect by preventing residents from applying for residential parking permits should a Controlled Parking Zone be introduced.'

4.14 The letter goes on to encourage the provision of further disabled car parking spaces, the creation of a car club space either on the site or adjoining it and 20% of spaces should be fitted with Electronic Vehicle Charging Points (EVCP).

4.15 Contributions towards improving the walking and cycling routes through the site should be secured via S.278 or S.106 agreements.

4.16 The letter is concluded by stating that 'Overall, TfL has no significant objections to the principle of the proposed development. However, to comply with the transport policies of the London Plan, further work is required with respect to electric vehicle charging points, car club, disabled and cycle parking provision, the Travel Plan, and in auditing the accessibility of the site to the surrounding area, public transport and local facilities.'

4.17 In the transport section of the Stage 1 report, objections were raised to the following;

4.18 The applicant has assessed the gross (i.e. without allowance for the 144 units previously on the site) effect of the additional levels of traffic generated by the

development upon the Avonley Road/New Cross Road junction. However, the impact of the expected trip rate from this development on the TLRN is considered acceptable to TfL and further junction analysis is not needed at this stage.

- 4.19 The proposed level of parking provision is in accordance with London Plan policy 6.13 and well below the maximum standards detailed in Table 6.2. Given the moderate public transport accessibility of much of the site, it is considered that a reasonable balance has been struck between encouraging use of more sustainable modes and avoiding on street parking stress. Consideration should be given to a further reduction of the overall availability of parking as the Travel Plan takes effect by preventing residents from applying for residential parking permits should a Controlled Parking Zone be introduced.
- 4.20 It is proposed that each of the wheelchair adaptable homes included in the scheme would have a disabled parking space. TfL would recommend additional disabled parking is provided to support disabled visitors.
- 4.21 The applicant has stated that should demand for car club use dictate, a parking bay (or bays) could be allocated closer to the site than the nearest existing space about 400m away. In line with London Plan policy 6.13, consideration should be given to such provision being made from the outset either on site or adjoining it.
- 4.22 Also in line with London Plan policy 6.13, 20 per cent of all car parking spaces should be fitted with electric vehicle charging points, with an additional 20 per cent having passive provision. The car club, disabled and EVCP parking should be secured by condition.

Thames Water

- 4.23 No objections were raised to the proposal, but conditions and informatives were provided to be put on the decision notice.
- 4.24 The conditions and informatives related to waste, in terms of surface water drainage, impact piling, discharging into a ground water sewer.
- 4.25 With regard to the provision of water, the letter states that the existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. Thames Water required a condition pertaining to the provision of an impact study which would provide details of how much water demand would be required from the future occupiers.

Greater London Authority – Stage 1 response

- 4.26 In addition to the TfL comments noted above regarding transport, the Stage 1 reply from the GLA is summarised to be an objection to the proposal, confirming that the proposal as initially submitted did not comply with the London Plan.
- 4.27 The summary section of the document states that the principle of the residential development and the overall regeneration to be gained from the proposed development is acceptable and that the percentage of affordable housing exceeds London Plan targets. The family housing proposed is also welcomed.
- 4.28 Further information was requested with regard to play space provision and type, inclusive design, energy and transport. Without further information and

justifications supporting what had already been proposed, the scheme would not be compliant with the London Plan and if the matters were not remedied, the London Mayor could exercise his powers withdraw Lewisham's ability to grant planning permission and determine the application himself.

- 4.29 Revisions were then submitted to the GLA to address the queries raised. In response to the revisions the GLA provided the following comments on 30 August 2012;
- 4.30 Housing: - The applicant has provided verification from the Council to justify the proposed tenure split. However, whilst a high amount of affordable housing is being proposed, this does not exclude the need for an independent assessment/verification of the viability assessment. These matters should be addressed before a stage 2 referral can be made. However, in response to this point, an email was received from the applicant dated 3 September 2012, which comprised confirmation from the GLA that an independent viability assessment was no longer required.
- 4.31 Play space: - the applicant is proposing to provide 3467.4m² of amenity space, which exceeds the results of the GLA child yield standards, which calculated the requirement/provision to be 2059.5m² for this development proposal. The applicant is proposing to include playable landscape features in the central square, which is welcomed. It is recommended that the applicant consider the provision of interesting play features in addition to the landscaping proposed in the semi private courtyards (blocks 1 and 3) as well, so that there is a dedicated safe and personal area for 0-5 year olds to play in closer proximity to their home.
- 4.32 Design: - The applicant has explained the rationale for the walk through route between New Cross Road and Balborough Street which is acceptable. The response also explains the geometry behind the proposed building line for block 6.
- 4.33 The GLA would like clarification of how the triangular space left vacant by this building's position, in front of block 6 will be used.
- 4.34 It is essential that designers ensure that where two entrances to individual units are provided, the entrance facing the public realm/entrance is designed as the primary entrance to the unit-including post boxes and utility meters.
- 4.35 It is also very important for block 6 that the address of the property, and front entrances should be facing New Cross Road. The clarification provided by the applicant for this paragraph suggests that all the entrances to houses are made directly from the street, however, street elevation B, drawing KEN AL (P) 090 suggests otherwise. The block has no visible front entrance doors.
- 4.36 Noise: - All the noise and vibration related comments appear to have been addressed adequately.
- 4.37 Energy: - The scheme has clearly been revised to drop the proposal for adopting individual gas boilers for the flats and reverted to communal heating from an energy centre. The revisions now meet the future proofing requirements for later connection to area wide district heating. If the system costs and carbon are reasonable, this proposal could be a useful case study for future proofing.

- 4.38 Transport: - The revised assessment has been reviewed and the TfL officer has initially responded suggesting that she would have hoped that the assessment would include the existing and proposed routes directly between the application site and New Cross Road and the bus stops since this is of most importance to future residents of the scheme. It is recommended that this is undertaken. The stage 1 report did raise this as an issue.
- 4.39 It can be confirmed that TfL would be happy with the Travel Plan being secured and submitted by way of a planning condition or better still, as a clause in the S106 agreement, as suggested in the Stage 1 report.
- 4.40 Once the additional work is undertaken, it is likely to meet the ATTrBuTE assessment. The revised framework Travel Plan needs to be viewed however, before a stage 2 referral is made. Transport matters are therefore still pending.

Written Responses received from Local Residents and Organisations

- 4.41 Hong Kong City – Objection: The proposed parking and access arrangement against the north side of HKC Restaurant, as well as the narrow width of the new access road would make it very difficult for delivery and refuse vehicles to operate. Although the proposal shows a space for bins and service access, no parking or turning space for delivery or staff vehicles appears to have been allowed.
- 4.42 The restaurant has very limited parking space for customers at the front of the building. Customers rely mainly on the surrounding streets for on-street parking. This will no longer be possible as the proposed scheme will take over most of the surrounding streets and will provide parking presumably for the sole use of residents. This problem, which threatens the survival of the restaurant as a viable business, is further exacerbated by the use of double yellow and red lines along the main streets. If unregulated parking is a concern for the council, then perhaps the provision of on-street paying parking could be included, as this would certainly help businesses, both for customers and late night staff.
- 4.43 The proposed building (block 6) facing New Cross Road and immediately adjacent to the restaurant appears to be very close to the flank wall of the restaurant. This flank wall is currently propped up by a series of buttresses which project over 1m at their base. This would make the building very close indeed, considering that the previous building of the demolished scheme was around 14m away.
- 4.44 61 Edric Road x 2– objection: Seventy car parking spaces are not enough for 204 new dwellings. If they [the new residents] park on the surrounding streets, it will increase the amount of congestion that already occurs within the area at key times of the day.
- 4.45 58 Edric Road – Objection: Seventy car parking spaces is not enough for 204 new dwellings. The rainwater drains in the neighbourhood have been constantly blocked since I moved here around 5 years ago. I am concerned the additional load put on the draining systems from this new development is only going to make matters worse. Other than that, it looks like an interesting development. It is hoped the number of trees planted lives up to the artist impressions.

The letters are available to members.

Design Panel

- 4.46 The application, prior to submission, but in its current form, went to the design panel 15 May 2012.
- 4.47 The Panel were pleased with the progression that the design team have made with this proposal and commend the changes made in response to the Design Panel comments. It is felt that the new proportions and shape of the new buildings along New Cross Road are an improvement and that they relate much better to the existing tower blocks. The space to the back of Hong Kong City looks improved, but the detailed landscaping should be provided to ensure it would be delivered.
- 4.48 The Panel remain to be convinced on the choice of materials, especially that of 'buff' brick. It is thought that used in this location in such large expanses that it would look bland. Using more than one shade of brick is supported but work is necessary to establish the most appropriate locations and shades of different brick. Material samples are required including those proposed for the balconies.

Internal Consultation replies

- 4.49 The following internal departments were also notified and provided with a minimum 21 days to reply to the consultation exercise:
- Strategic Housing
 - Sustainability Manager
 - Education
 - Environmental Health
 - Environmental Sustainability
 - Highways & Transportation
 - Parks Manager
 - Disability & Domiciliary Services
 - Leisure
 - District Surveyor

Strategic Housing

- 4.50 With regard to the level of affordable housing proposed by the scheme, the planning policy requirement is 50% and the scheme would provide 74% affordable homes.
- 4.51 144 units were previously on the site, but were demolished under the Kender Regeneration scheme. The majority were rented homes but at least 12 had been sold under the Right to Buy.
- 4.52 The proposed Hyde Scheme has been worked up in close consultation with Strategic Housing Scheme is one of a number of sites comprising the Kender Regeneration Scheme which started in 2000. One of the aims of the regeneration scheme was to diversify tenure in the area, which was then predominantly social

rented housing. We believe this proposal by Hyde strikes the right tenure balance.

- 4.53 The tenure splits, rent levels and the quality of the units (all achieving Lifetime Homes) are acceptable.

Sustainability Manager

- 4.54 Favourable Comments were provided in response to the scheme as originally submitted as the scheme adhered to Core Strategy requirements. Given the development is not in an area that officers could reasonably expect a decentralised energy network to come forward, there is no policy justification for requiring a communal system if it cannot be shown to be the most effective technological solution. In this instance, and particularly because they are compliant with Lewisham's policy requirements in terms of overall CO₂ reductions, officers are content with the proposals.

- 4.55 Post the revisions as requested by the GLA, including the provision of communal boilers to the flats in lieu of individual boilers, the scheme remains to be policy compliant and therefore, no objections are raised to the proposed development.

Highways and Transportation

- 4.56 Based on the level of car ownership in the surrounding area and the availability of on-street parking in streets adjacent to the application site, the level of off-street car parking proposed for the Kender 4 scheme is considered acceptable, subject to the provision of a car club scheme at the site (i.e. the provision of car club membership), as a sustainable alternative to car ownership.

- 4.57 The site is well located in terms of access to public transport facilities and has a moderate PTAL of 3-4. The nearest rail stations are Queens Road Peckham to the southwest of the site and New Cross Gate to the east of the site. Both are approximately 1.2km from the site (15 minutes walk). With the provision of the new rail Station on Surrey Canal Road, the site will be within 700m (10 minutes walk) of the new Surrey Canal rail station, via a link through Bridge House Meadows. So, if the application were granted planning permission, the applicant would be required to provide a S106 contribution towards improving the cycle and pedestrian routes/links to the new station.

- 4.58 A Construction and Logistics Plan (CLP) is required, it should be submitted prior to commencement of the development and should specify how the impacts of construction activities and associated traffic will be managed. The Plan should include details of access arrangement and safe routes for existing residents, particularly those requiring access to Hatfield Close.

- 4.59 A Waste Management Plan (WMP) is required, which should include details of refuse and re-cycling collection points which should be accessible from within 10m of kerb line. The plan should illustrate how bins will be brought out to collection points on collection days and returned.

- 4.60 A Parking Management Plan is required. The plan should include details of how the parking on the private roads/areas will be allocated and managed. The plan should also provide details of measures to prevent vehicles parking on the hard landscaped areas, to ensure routes through the site are not obstructed.

- 4.61 A detail of Cycle Storage is required, which should be covered and secure.
- 4.62 A condition is required to ensure the Travel Plan is taken forward and delivered. The Travel Plan should include measures to encourage the use of more sustainable forms of transport
- 4.63 The applicant will be required to enter into a S278 agreement with the Highway Authority. The S278 Highways Agreement is required to secure the highways works on the public highway within and adjacent to the site and shall include highways reinstatement/improvement works to Reaston Street, Avonley Road, Barlborough Street and Monson Road, including amendments to the carriageways/footways, junctions, and measures to regulate vehicle speeds as the site is within a 20mph zone. The highway authority will also require a financial contribution for maintenance of any trees or landscaped verges (soft landscaping) on the public highway.
- 4.64 The development proposal includes reducing the width of Reaston Street and relocating the southern public highway boundary northwards. So, the applicant will be required to make a Stopping Up application under Sections 247 Town & Country Planning Act 1990.
- 4.65 The Highway Authority will require details of the Sustainable Urban Drainage Systems (SuDs) proposed on the public highway and details of the proposed drainage systems on the private hard landscaped areas.
- 4.66 The Highway Authority will also require details of lighting proposals on the public highway.

Environmental Health

- 4.67 With regard to noise considerations, the proposal is acceptable subject to conditions pertaining to sound insulation details being attached to the decision notice.
- 4.68 For air quality, according to the criteria in the London-wide BPG for controlling emissions from construction/demolition, the site is categorised as high risk. The developer proposes to implement mitigation measures commensurate with the risk, which is welcomed. I would recommend securing this commitment to put in place all appropriate mitigation measures from the BPG which could be through a condition requiring a CEMP to be submitted and approved beforehand.

5.0 Policy Context

Introduction

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:
- (a) the provisions of the development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

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

The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation of the NPPF. In summary, this states that (paragraph 211), policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215 guidance is given on the weight to be given to policies in the development plan. In summary, this states, that for a period of 12 months from publication of the NPPF, decision takers can give full weight to policies adopted since 2004 even if there is limited conflict with the NPPF. Following this period, weight should be given to existing policies according to their consistency with the NPPF.

- 5.5 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict, as such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, 214 and 215 of the NPPF.

Ministerial Statement: Planning for Growth (23 March 2011)

- 5.6 The statement sets out that the planning system has a key role to play in rebuilding Britain's economy by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Government's expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.
- 5.7 The statement further sets out that local authorities should reconsider at the developer's request, existing Section 106 agreements that currently render schemes unviable, and where possible modify those obligations to allow development to proceed, provided this continues to ensure that the development remains acceptable in planning terms.

- 5.8 Other National Guidance

The other relevant national guidance is:

By Design: Urban Design in the Planning System - Towards Better Practice (CABE/DETR 2000)

Planning and Access for Disabled People: A Good Practice Guide (ODPM, March 2003)

Safer Places: The Planning System and Crime Prevention (ODPM, April 2004)
Guidance on Tall Buildings (English Heritage/CABE, July 2007)
Code for Sustainable Homes Technical Guide (DCLG/BRE, November 2010)
South East London Partnership Wheelchair homes design guidelines (2011)
Accessible London: Achieving an Inclusive Environment (2004)
Housing (2005)
Sustainable Design and Construction (2006)
Planning for Equality and Diversity in London (2007)
Providing for Children and Young People's Play and Informal Recreation (2008)

5.9 London Plan Best Practice Guidance

The London Plan Best Practice Guidance's relevant to this application are:
Development Plan Policies for Biodiversity (2005)
Control of dust and emissions from construction and demolition (2006)
Wheelchair Accessible Housing (2007)
Health Issues in Planning (2007)
London Housing Design Guide (Interim Edition, 2010)

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

Draft Housing Supplementary Planning Guidance 2 DECEMBER 2011
London Plan Supplementary Planning Guidance (SPG)

5.11 London Plan (July 2011)

The London Plan policies relevant to this application are:
Policy 1.1 Delivering the strategic vision and objectives for London
Policy 2.2 London and the wider metropolitan area
Policy 2.5 Sub-regions
Policy 2.9 Inner London
Policy 2.13 Opportunity Areas and Intensification Areas
Policy 2.14 Areas for regeneration
Policy 3.1 Ensuring equal life chances for all
Policy 3.2 Improving health and addressing health inequalities
Policy 3.3 Increasing housing supply
Policy 3.4 Optimising housing potential
Policy 3.5 Quality and design of housing developments
Policy 3.6 Children and young people's play and informal recreation facilities
Policy 3.7 Large residential developments
Policy 3.8 Housing choice
Policy 3.9 Mixed and balanced communities

Policy 3.10 Definition of affordable housing

Policy 3.11 Affordable housing targets

Policy 3.12 Negotiating affordable housing on individual private residential and mixed use schemes

Policy 3.13 Affordable housing thresholds

Policy 3.14 Existing housing

Policy 3.15 Co-ordination of housing development and investment

Policy 3.16 Protection and enhancement of social infrastructure

Policy 3.17 Health and social care facilities

Policy 3.18 Education facilities

Policy 4.12 Improving opportunities for all

Policy 5.1 Climate change mitigation

Policy 5.2 Minimising carbon dioxide emissions

Policy 5.3 Sustainable design and construction

Policy 5.5 Decentralised energy networks

Policy 5.6 Decentralised energy in development proposals

Policy 5.7 Renewable energy

Policy 5.8 Innovative energy technologies

Policy 5.9 Overheating and cooling

Policy 5.10 Urban greening

Policy 5.11 Green roofs and development site environs

Policy 5.12 Flood risk management

Policy 5.13 Sustainable drainage

Policy 5.14 Water quality and wastewater Infrastructure

Policy 5.15 Water use and supplies

Policy 5.16 Waste self-sufficiency

Policy 5.17 Waste capacity

Policy 5.18 Construction, excavation and demolition waste

Policy 5.21 Contaminated land

Policy 5.22 Hazardous substances and installations

Policy 6.1 Strategic approach

Policy 6.3 Assessing effects of development on transport capacity

Policy 6.4 Enhancing London's transport connectivity

Policy 6.5 Funding Crossrail and other strategically important transport infrastructure

Policy 6.7 Better streets and surface transport

Policy 6.9 Cycling

Policy 6.10 Walking

Policy 6.11 Smoothing traffic flow and tackling congestion

Policy 6.12 Road network capacity

Policy 6.13 Parking

Policy 7.1 Building London's neighbourhoods and communities

Policy 7.2 An inclusive environment
Policy 7.3 Designing out crime
Policy 7.4 Local character
Policy 7.5 Public realm
Policy 7.6 Architecture
Policy 7.7 Location and design of tall and large buildings
Policy 7.8 Heritage assets and archaeology
Policy 7.13 Safety, security and resilience to emergency
Policy 7.14 Improving air quality
Policy 7.15 Reducing noise and enhancing soundscapes
Policy 7.18 Protecting local open space and addressing local deficiency
Policy 7.19 Biodiversity and access to nature
Policy 7.20 Geological conservation
Policy 7.21 Trees and woodlands
Policy 8.1 Implementation
Policy 8.2 Planning obligations
Policy 8.3 Community infrastructure levy
Policy 8.4 Monitoring and review

5.12 Core Strategy

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

Spatial Policy 1 Lewisham spatial strategy
Spatial Policy 2 Regeneration and growth areas
Spatial Policy 5 Areas of stability and managed change
Core Strategy Policy 1 Housing Provision, mix and affordability
Core Strategy Policy 7 Climate change and adapting to the effects
Core Strategy Policy 8 Sustainable design and construction and energy efficiency
Core Strategy Policy 9 Improving local air quality
Core Strategy Policy 10 Managing and reducing the risk of flooding
Core Strategy Policy 12 Open space and environmental assets
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

Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment
Core Strategy Policy 18 The location and design of tall buildings
Core Strategy Policy 19 Provision and maintenance of community and recreational facilities
Core Strategy Policy 20 Delivering educational achievements, healthcare provision and promoting healthy lifestyles
Core Strategy Policy 21 Planning obligations
Strategic Site Allocation 1 Requirements for strategic site allocations

5.13 Unitary Development Plan (2004)

The saved policies of the UDP relevant to this application are:

STR URB 1 The Built Environment
STR URB 4 Regeneration Areas
STR ENV PRO 3 Energy and Natural Resource Conservation
URB 1 Development Sites and Key Development Sites
URB 3 Urban Design
URB 12 Landscape and Development
URB 13 Trees
URB 14 Street Furniture and Paving
URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas
ENV.PRO 5 Waste Management Facilities
ENV.PRO 9 Potentially Polluting Uses
ENV.PRO 10 Contaminated Land
ENV.PRO 11 Noise Generating Development
ENV.PRO 12 Light Generating Development
ENV PRO 17 Management of the Water Supply
HSG 1 Prevention of Loss of Housing
HSG 4 Residential Amenity
HSG 5 Layout and Design of New Residential Development
HSG 7 Gardens
HSG 18 Special Needs Housing

5.14 Local Supplementary Documents relevant to the proposal include;
Residential Standards Supplementary Planning Document (August 2006)

5.15 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.

Planning Obligations Supplementary Planning Document (January 2011)

- 5.16 This document sets out guidance and standards relating to the provision of affordable housing within the Borough and provides detailed guidance on the likely type and quantum of financial obligations necessary to mitigate the impacts of different types of development.

Hatcham Conservation Area Supplementary Planning Document (2006)

- 5.17 This document advises on the content of planning applications, and gives advice on external alterations to properties within the Hatcham Conservation Area. The document provides advice on repairs and maintenance and specifically advises on windows, satellite dishes, chimneystacks, doors, porches, canopies, walls, front gardens, development in rear gardens, shop fronts and architectural and other details.

Housing Implementation Strategy Including statement of five year housing land supply at 1 April 2011

- 5.18 This statement is introduced by stating the supply of housing within the London Borough of Lewisham is monitored on an annual basis to ensure there is adequate provision to meet the Government's housing requirements for the borough. This statement explains how the Council has updated the housing supply forecasts from a new base of 1 April 2011.

Lewisham Borough Wide Character Study 2010 and the Lewisham Tall Buildings Study 2010

- 5.19 This study provides a definition of tall buildings and considers they might be suitably located within the Lewisham borough.

6.0 Planning Considerations

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

- (1) Principle of Development
- (2) Scale & Layout and Design & Conservation
- (3) Housing
 - a. Size and Tenure of Residential Accommodation
 - b. Mixed and balance Communities
 - c. Standard of Residential Accommodation
 - d. Density
- (4) Amenity
- (5) Parking Highways and Traffic Issues
 - a. Car parking
 - b. Cycle parking

- c. Access & Servicing
 - d. Refuse
 - e. Gardens and Play space
- (6) Sustainability and Energy
 - (7) Ecology and Landscaping
 - (8) Planning Obligations

Principle of Development

- 6.2 The application site now comprises cleared land which has resulted from the demolition of the previous 144 dwellings which were part of the wider Kender housing estate. The site was cleared for the purpose of providing a better standard of homes, whilst optimising the density potential of the site and contributing to the regeneration of the area generally.
- 6.3 Policy 2.13 Opportunity and Intensification Areas in the London Plan refers to Lewisham, Catford and New Cross as being such areas. The annexe to this policy states that the principles in Policy 2.13 should be applied to specific Opportunity and Intensification Areas including indicative estimates of employment capacity and minimum guidelines for new homes to 2031. The annexe goes further to specifically mention the Kender Triangle and confirms that such areas 'contain a series of centres with scope for intensification, regeneration and renewal...Projects such as the Kender Triangle gyratory removal and Lewisham Gateway will provide development opportunities, improve the public realm and raise design quality in the area.
- 6.4 Lewisham's Core Strategy confirms that the Kender Estate is within a Regeneration and Growth Area. Core Strategy Spatial Policy 2 states that 'this strategy area will capitalise on public transport accessibility and the availability of deliverable and developable land, particularly through intensification of land uses. In the supporting text to this policy, Kender is again specifically referred to by confirming that 'Estate renewal will continue for the Kender and Pepys estates'.
- 6.5 Table 9.2 in the Core Strategy shows the housing predictions for Lewisham up to 2026. The supporting text to the table at paragraph 9.29 confirms that the regeneration of the Kender Estate has been included in the housing aspirations of the policy.
- 6.6 Lewisham's Housing Implementation Strategy (2011) refers to the current application and its ability to contribute approximately 200 new homes to the Council's housing requirements and that the risk of the homes not being delivered is low.
- 6.7 Regional and local plan policies all concur that the application site should be developed for residential purposes to help the regeneration of the immediate area. The Implementation strategy goes further to propose that the application site (Phase 4) provides approximately 200 new homes. Given that the application is for the redevelopment of the site for 204 residential new homes, the principle of the housing on the application site is acceptable in planning terms.
- 6.8 In order to address the needs of the increased population proposed for the site, which includes an increase in family sized units, officers consider it necessary to

secure obligations via a S106 agreement in respect of Health and Education to ensure that the impact of the Council's resources is minimised.

- 6.9 The obligations proposed as set out in the submitted Planning Statement offer contributions that were calculated using the Obligations Calculator which forms part of the Obligations SPD (2011), therefore, the contributions offered are considered to be acceptable.

Scale, Layout and Design & Conservation

- 6.10 National and local planning policies place considerable emphasis on the importance of achieving high quality design that complements existing development, established townscape and character. All new developments should contribute towards improved safety and security and new buildings must be fully accessible.
- 6.11 London Plan Policy 3.4 Optimising Housing Potential, states that planning considerations should take into account '....local context and character, the design principles in Chapter 7 and public transport capacity, development should optimise housing output for different types of location within the relevant density range shown in Table 3.2. Development proposals which compromise this policy should be resisted'.
- 6.12 To the southeast of the application site are two, 13 storey tower blocks, to the south are three and four storey buildings to the southwest are three and four storey Listed buildings, to the west, when completed the Wardall's Grove development would have a six storey block fronting the application site and to the north are newly built three and four storey residential flats and houses. To the northeast is Eckington Gardens which is a park, and to the east is a traditionally built church which is single storey, but has tall steeples and gables. Both the Church and park are within the Hatcham Conservation Area.
- 6.13 Of particular note, is the part single, part three storey building (Hong Kong City) located in the immediate south west of the application site. The southernmost element of the application site is narrowed by, and juxtaposed between the position of both the existing part single, part three storey and the 13 storey blocks.
- 6.14 Block 6 would be the tallest of the proposed buildings, being 9 storeys at its highest point. To the west of the proposed 9 storeys would be the part single, part three storey building (Hong Kong City) which sits at the junction of Avonley Road and New Cross Road. Block 6 is not considered to be a 'Tall building.' Lewisham's Tall Buildings Study states that 'Tall buildings are, almost by definition, prominent buildings in their immediate context and their design.' As Block 6 at its highest point is 4 storeys shorter than the adjacent 13 storey Block, officers consider the scale of this building to be an appropriate transitional height considering the 13 storey Block to the east and the part 1/part 3 storey block to the west.
- 6.15 The remainder of the blocks within the proposed scheme are lower than their immediate surrounds, providing a transition between the existing and proposed taller buildings which front New Cross Road to the south of the application site and the lower level 2 to 4 storey buildings to the west and north of the application site.

- 6.16 Given the above, officers conclude the scale of the proposed buildings are fitting to their immediate surrounds, whilst also accommodating an optimum density for the site.
- 6.17 London Plan Policy 3.5 Quality and design of Housing Developments, states that '(A) Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment; (B) The design of all new housing developments should enhance the quality of local places, taking into account physical context; local character; density; tenure and land use mix; and relationships with, and provision of, public, communal and open spaces...'
- 6.18 Core Strategy Policy 15 High quality design for Lewisham, states that (d) 'In the Deptford and New Cross area, urban design policy will aim to establish visual links with the Thames, increase the connectivity of the street network, improve the streetscape, and create a sense of place with radical improvements to the social and physical environment. Tall buildings may be appropriate in certain locations....' And (e) 'The New Cross/New Cross Gate Town Centre has a number of development opportunities which need to preserve and respect the character of the adjacent conservation areas and the setting of listed buildings.
- 6.19 Saved UDP policy URB 3 Urban Design states that the Council will expect a high standard of design in new development or buildings and in extensions or alterations to existing buildings, whilst ensuring that schemes are compatible with, or complement the scale and character of existing development and its setting (including any open space).
- 6.20 The design concept for the site has evolved as a result of pre-application discussions that have been ongoing since 2007 between the applicants, neighbours and Council Officers. The design concept has been formulated through a detailed assessment of the opportunities and constraints of the existing site, and the functional requirements of the applicant.
- 6.21 The applicant has described the main factors guiding the design proposals for the site were the need to establish a strong feature building along New Cross Road to create an iconic building. Following that ambition, but not secondary to, a legible site which would be easy to navigate to and through, and which articulates the built form to respond to the scale of the surrounding townscape. To this regard, pedestrian and cycle routes would be created through the site, with access points to and from New Cross Road, Avonley Road, Barlborough Street, Reaston Street and Monson Road. Vehicular access into the site would be Barlborough Street and Reaston Street onto Avonley Road.
- 6.22 A further guide to the resultant design was the ambition to protect neighbouring amenity maximising the potential for variety of good external space while providing sufficient parking and manoeuvring to establish good links between internal and external space and to provide natural surveillance in the area.
- 6.23 The application site is irregularly shaped, surrounded by a myriad of building types and sizes. To reflect and respect this varied built form, the application site also comprises differing scales and designs.
- 6.24 However, as a starting point, the underlying theme of the development was to be calm and simplicity. This has resulted in a contemporary appearance comprising rhythmic and logical fenestration arrangements and large punctuations which can

be seen throughout all of the building types; the flats benefit from large floor to ceiling windows and deep recessed balconies, while the houses commonly have larger single windows per floor. A more traditional design approach would have seen smaller, individual windows.

- 6.25 The Design Panel were pleased with how the design of the scheme evolved. The application scheme effectively responded to initial Design Panel comments. The conclusions of the application scheme is that the new proportions and shape of the new buildings along New Cross Road are an improvement and that they relate much better to the existing tower blocks and that the space to the back of Hong Kong City looks improved.
- 6.26 However, the Panel 'remain to be convinced on the choice of materials, especially that of 'buff' brick. It is thought that used in this location in such large expanses that it would look bland...Material samples are required including those proposed for the balconies.'
- 6.27 While the Design Panel were broadly satisfied with the final version of the scheme, save the use of the proposed materials, officers are satisfied that the materials can be secured by way of apply an appropriate condition to the decision notice. That said, the condition regarding the choice of materials to be used has to be detailed enough to ensure that the definition and distinction between the varying buildings as requested by the Design Panel is achieved whilst also retaining the robustness and quality of materials as envisaged for the site. Further, to ensure that the development remains neighbourly to existing and proposed nearby dwellings, officers deem it necessary to remove all permitted development rights for the houses to ensure that further development on the site is appropriate in terms of their form and design and their potential impact upon neighbouring amenity. The withdrawal of permitted development in relation to alterations and extensions to houses will be secured by way of a condition on the decision notice. Flats do not have any permitted development rights with regard to extensions and alterations and thus will not be referred to in the condition.
- 6.28 The proposed scheme falls outside of the Hatcham Conservation Area. In considering the scale and massing of the proposed development, officers acknowledge that the site is now clear and accept that the previous buildings comprised groups of 1960's 4 storey residential blocks.
- 6.29 The application site abuts Barlborough Street to the north and Monson Road to the east which are both within the Hatcham Conservation Area. Views into the site from Eckington Gardens, Wrigglesworth Street and Avonley Road will be impacted by the development. However, they are considered to have a natural impact being of no greater mass than the former buildings and are proposed to be of good quality.
- 6.30 In light of the latter considerations, officers find the design of the scheme and its impact to the Hatcham Conservation Area to be acceptable.

Housing

a) Size and Tenure of Residential Accommodation

- 6.31 The proposal is for 204 residential units (723 habitable rooms), an increase of 60 dwellings upon what was on site prior demolition.

6.32 Blocks 1, 3 & 6 comprise flats and Blocks 2, 4 & 5 comprise flats and houses.

Table 1 Residential Tenure and Size Mix*

	1 Bed	2 Bed	3 Bed	4 Bed +	Total
Private	18(6)	36	0	0	54 (6)
Affordable Rent	22(1)	32(8)	47(2)	19(1)	120(12)
Shared Ownership	4(1)	22	4(1)	0	30(2)
Total	44(8)	90 (8)	51 (3)	19 (1)	204 (20)

*Wheelchair accessible units shown in brackets ()

b) Mixed and balance Communities

6.33 Blocks 1, 3 & 6 comprise flats and Blocks 2, 4 & 5 comprise flats and houses.

6.34 London Plan Policy 3.9 Mixed and balanced communities, states Communities mixed and balanced by tenure and household income should be promoted across London through incremental small scale as well as larger scale developments which foster social diversity, redress social exclusion and strengthen communities' sense of responsibility for, and identity with their neighbourhoods. They must be supported by effective and attractive design, adequate infrastructure and an enhanced environment.'

6.35 The dwelling mix for the scheme is derived from negotiations with the Council's Strategic Housing Officers. The dwelling and tenure mix has started with a need to replace the dwellings previously on site, to redress the high levels of social rent properties and to ensure that the resultant dwelling and tenure mix results in a mixed and balanced community.

6.36 The scheme is proposing 34% family sized (3 & 4 bed) units. These units are within Blocks 1, 2, 4 and 5 and Block 2, which are to be located at the north of the development.

6.37 The layout of the site proposes the higher density flats to be located on the peripheral of the site, being mainly located adjacent to New Cross Road and Avonley Road, while the lower density flats and houses are to be located mainly in the centre of the site. However, a row of 4 bed houses is proposed to front Barlborough Street.

6.38 The proposed dispersion of density on the application complements the existing pattern of development in terms of appearance and dwelling types. For instance, the row of 4 bed houses proposed to front Barlborough Street, complement the existing traditional housing typologies which are within the Hatcham Conservation Area, whilst completing the existing row of modern, recently built houses located on the southern side of Barlborough Street.

6.39 Core Strategy Policy 1 Housing provision, mix and affordability, requires the maximum provision of affordable housing with 'the starting point for negotiations

being a contribution of 50% affordable housing. Anything less than this provision would be subject to a financial viability assessment. The policy goes further to require the affordable housing component to be 70% social rented and 30% intermediate housing. Part 6 of the policy states that provision of family housing (3+ bedrooms) will be expected as part of any new development with 10 or more dwellings.

6.40 The affordable housing provision is 74% which is comfortably in excess of Lewisham’s requirement to achieve 50%.

6.41 To gain a clearer perspective of how the affordable units are dispersed across the tenures, Table 2 below shows the affordable housing reflected in percentages;

Table 2: Tenure mix

Dwelling Size	Affordable Housing Provision (By Unit)					
	Social Rented		Intermediate		Total Affordable Units	
	Number of Units	Percentage	Number of Units	Percentage	Number of Units	Percentage
1-bedroom	22	18%	4	13%	26	17%
2-bedroom	32	27%	22	74%	54	36%
3-bedroom	47	39%	4	13%	51	34%
4-bedroom	19	16%	0	0%	19	13%
Total	120 (80%)	100%	30 (20%)	100%	150 (100%)	100%

6.42 The Stage one response from the London Mayor criticised the omission of a viability statement with the application, as this would demonstrate that the scheme is providing the maximum amount of affordable housing whilst still achieving a financially viable scheme.

6.43 However, Core Strategy Policy 1 Housing provision, mix and affordability, states that a viability statement would be required if the scheme failed to provide at least 50% affordable housing, notwithstanding however much more could be provided within the financial viability parameters of the development.

6.44 The last column in Table 2 demonstrates that the social rented and intermediate units have been dispersed relatively evenly throughout the dwelling types and sizes with the only point being that 74% of 2 bed units are proposed to be intermediate (shared ownership).

6.45 It is also noted that most of the 3 bed and all of the 4 bed units are to be social rent. However, in line with the mixed and balance communities policies, in this instance, creating larger units for social rent helps to redress the high levels of affordable smaller units within the immediate vicinity. Therefore, while there are a few disproportionate allocations between the dwelling and tenure mixes in the scheme, officers consider that an overall provision of 74% affordable housing is policy compliant.

6.46 Further, as the proposal has been conceived in conjunction with the Council's housing team, officers are satisfied that the optimum amount of affordable housing is being proposed and would help contribute to a mixed and balanced community, given the levels of social rented accommodation within the immediate vicinity of the application site.

6.47 Away from the submitted case documents, the applicant provided further financial information pertaining to the development to the GLA to address the viability concerns raised in the Stage 1 report. Justin Carr, the Strategic Planning Manager at the GLA (Development Decisions), confirmed in an email dated 3 September 2012 that it was agreed that given the nature of the scheme, an independent assessment of viability to be commissioned is not necessary in this instance.

c) Standard of Residential Accommodation

6.48 All of the dwellings generously exceed the Council's minimum room sizes standards as set out in Lewisham's Residential Design Standards Supplementary Planning Document (August 2006), and as a minimum, the scheme matches the minimum room sizes as set out in the London Plan (2011). The Draft Housing SPG (December 2011) is yet to be adopted, but is still a material planning consideration with considerable weight apportioned thereto in the planning considerations of this application.

6.49 The Housing SPG repeats the minimum floor areas required as set out in the London Plan, but also provides guidance for necessary furniture, light levels and amenity space and for rooms and circulation spaces to be flexible enough to have alternative room layouts. The guidance provides 'Baseline' requirements, which are prerequisite, and 'Good practice', which are not essential, but would make the unit a better home for future occupiers.

6.50 Point c of London Plan Policy 3.8 Housing Choice, requires that all new homes be built to Lifetime Homes standards, while Part 7 of Lewisham's Core Strategy Policy 1 repeats the requirement.

6.51 All housing proposed with the application scheme are to be built to Lifetime Homes and the drawings submitted with the application, showing each unit type demonstrate how the 16 Criteria of Lifetime Homes would be achieved.

6.52 Drawings labelled 'typical unit layout' showing how each of the unit types are laid out internally, annotating how the 16 Lifetime Homes criteria is achieved but in doing so, also demonstrates that all of the units achieve all of the baseline requirements as set out SPG, partly by virtue of the scheme compliance with Lifetime Homes and Code for Sustainable Homes, Level 4 (discussed later on in this report). Given the above, officers are satisfied with the standard of accommodation proposed for future occupiers.

d) Density

6.53 Table 3.2 in the London Plan provides density guidelines using the urban typology and the Public Transport Accessibility Level (PTAL) of an area. The PTAL level for the application site is 3, where 6 is excellent and 1 is poor. The building typologies in the immediate vicinity however, are extremely varied in terms of the differing heights, massing and their design. While the typologies in the vicinity

differ, there is a clear urban identity due to the mixture of uses and the higher density buildings.

- 6.54 In light of the latter, with a PTAL level of 3 in an urban environment, table 3.2 suggests a density optimum of between 200 and 700 habitable rooms per hectare. The application proposes a density of 479 habitable rooms per hectare, and therefore is comfortably within density range. That said, the density range is vast so if the surroundings of the application site permit scales of buildings which can accommodate a higher or lesser density, then these figures have immediate flexibility to accommodate the environs of a site.

Amenity

- 6.55 The proposed residential development would sit aptly within a mainly residential environment. Any noise and disturbance caused by the additional dwellings proposed for the site upon the nearby residential occupiers would be only what is to be expected from a residential development.
- 6.56 Noise is defined as unwanted sound. In terms of the protection from road noise from New Cross Road, the Council's Environmental Health Officer has requested that details of the acoustic properties of the windows and doors proposed for New Cross Road be secured by way of an appropriate condition to ensure that the amenities of future occupiers are protected.
- 6.57 A noise and vibration report was submitted with the application and this report confirms that the main source of noise would be derived from the vehicular traffic on New Cross Road. Paragraph 4.18 of the report states 'Although in some cases it may not be practical to locate all balconies in areas screened from the nearby roads by buildings, it is recommended that balconies will not be located on facades overlooking New Cross Road and Avonley Road. This concern was reiterated by the Council's Environmental Health Officer.
- 6.58 Blocks 1, 3 & 6 all have façades with balconies fronting onto either Avonley Road or New Cross Road. For the properties fronting Avonley Road, all of the units with balconies are dual aspect. Therefore, if occupiers require ventilation but retreat from the road noise of Avonley Road, then the layout of the units provides an alternative source of ventilation.
- 6.59 Block 6, which fronts both New Cross Road and Avonley Road, does comprise some single aspect units. These units would be exposed to the road noise of New Cross Road should windows and or doors be opened. Any use of the balconies would also be subject to the noise derived from New Cross Road.
- 6.60 Further, Block 6 comprises the private sale units. Unlike the social rent units of which the tenants occupying usually do not have a choice in where they live, occupiers of Block 6 are there by choice.
- 6.61 Given the small proportion of the single aspect units fronting onto New Cross Road and the fact that the units are to be private sale, officers are satisfied that the single aspect units within Block 6, fronting onto New Cross Road would be acceptable.
- 6.62 Notwithstanding the latter, officers will still include a condition ensuring the acoustic properties of the glazing for all units is sufficient enough to reduce

internal ambient noise to an acceptable level whilst also ensuring that the occupiers of the single aspect units fronting New Cross Road benefit from an air source derived away from the busyness of New Cross Road.

- 6.63 In terms of overlooking and any subsequent loss of privacy, officers consider the proposed building to be sufficiently far away from neighbouring dwellings (existing and proposed), that any impact would be of an acceptable level in planning terms.

Sunlight and overshadowing

- 6.64 The Sunlight and daylight impact study studied the impact of the proposal on the surrounding streets. Each street and section thereof as impacted by the proposed development was considered. The report considers the levels of sunlight comparable between the previous buildings on the site, to those proposed.
- 6.65 The conclusion drawn is that many of the properties to the north and west of the site would benefit from additional access to sunlight given the locations and heights of the proposed buildings.
- 6.66 The greatest levels of impact of the development would come from the height of Block 6 to the south. Even though Block 6 is to be 9 storeys tall, 4 less than the adjacent tower blocks, the eastern façade of the block nearest to Block 6 would be overshadowed. Further, given the proposed 9 storeys, overshadowing would also occur into New Cross Road.
- 6.67 Block 6 is located to the south of the site which means that the shadow of the 9 storey element of the building will fall westerly onto itself and the taller section of Hong Kong City in the mornings, then into the vehicular access and communal square in the centre of the site and onto the adjacent 13 storey block to the east during the afternoons and evenings.
- 6.68 The overshadowing report concludes that the impact of the proposed development upon the amenities of nearby occupiers is acceptable, and officers agree because any loss of sunlight derived from the proposed buildings would be for short periods throughout the day.

Parking, Highways and Traffic Issues

a) Parking

- 6.69 Seventy Parking spaces are proposed for the entire development. This results in a parking ratio of 1:3 or 30%, (1 parking space to every 3 dwellings). Page 27 of the Design and Access Statement provides a summary of the parking distribution around the site. The houses in Blocks 4 & 5 benefit from off street parking on their driveways, while on street parking and disabled bays are provided surrounding Blocks 1 and 3. Block 6 would comprise 18 undercroft parking spaces.
- 6.70 Of the four objection letters received to the proposal, all objected to the lack of proposed parking for the scheme. Page 27 of the Design and Access Statement provides a summary diagram of where the 70 car parking spaces are to be located on the site. Given the proposed 204 dwellings, it is argued that the development would result in an increase in on street parking to the surrounding roads. The owner of Hong Kong City has also argued that his customers would

not have anywhere to park should the development go ahead with the proposed 70 car parking spaces.

- 6.71 Officers consider the proposed parking ratio to be acceptable in terms of striking a balance between the provision of sufficient parking provision both on and off site, while also discouraging car use and thus encouraging more sustainable modes of future occupiers.
- 6.72 The Highways Officer has agreed with the level of parking, advising that there is capacity on the surrounding roads for additional parking requirements derived from the proposal. Nor was an objection raised to the proposed new streets. However, it was noted that a new rail station is proposed to the north west of the site, (Surrey Canal overground railway station) and that when finished, would be the closest station to the new development. For that reason, the Highways Officer requested that a financial contribution be sought to encourage proposed occupiers to walk to that station.
- 6.73 To further mitigate the impact of additional dwellings combined with fewer parking spaces, officers deem it necessary to secure a car club parking space for the proposal.
- 6.74 The adjacent Wardalls Grove development proposed 124 residential units and incorporates a car club space within the development site. Three years free car club membership to first occupiers of the development was secured within the S.106.
- 6.75 The application proposal is for 204 residential units, so 2 car club spaces as indicatively shown in superseded drawing KEN AL 9200 REV A to address concerns raised by the GLA in their Stage 1 response, would be appropriate to the scale of the proposed development. Further, the applicant has been in discussion with car club providers and officers are advised that car club spaces should be provided on street so that other members of the public are aware of the facility. In light of the latter, officers will secure at least one of the car club spaces outside the application site (the indicative drawing shows one to be on Avonley Road), and/or one within the development site. Officers will also secure the three-year membership for first occupiers as secured for Wardalls Grove.
- 6.76 With regard to disabled car parking, 10% of the dwellings will be designed for wheelchair users. These units would also require disabled parking spaces very near to or on the dwelling plot. The GLA in their Stage 1 report raised objections to the lack of provision of parking spaces for disabled visitors. To that regard, the same indicative drawing (KEN AL 9200 REV A as referred to above) provided locations which might be suitable to accommodate 2 additional disabled parking spaces. While the indicative drawing does not form part of the planning documents, officers are satisfied that the extra two disabled parking spaces required for visitors can be provided on site and thus the spaces will be secured in the S.106 agreement.

Electronic Vehicle Charging Points (EVCP)

- 6.77 To reduce pollution emissions in accordance with London Plan Policy 6.13 Parking and Core Strategy Policy 9 Improving local air quality and in order to encourage sustainable modes of transport, the use of electric cars should be promoted. Such vehicles produce less emissions than traditional petrol and diesel

vehicles and thus, to encourage wider use of electric cars, officers will ensure that a minimum of 20% of parking spaces on site are provided with EVCPs by way of an appropriate condition.

b) Cycle Parking

- 6.78 The scheme proposes 384 cycle spaces at a ratio of one storage space for 1 and 2 bed units and two storage spaces for 3+ bed units. In terms of cycle parking, all cycle storage is located in covered and secured ground and basement cores of the buildings. The Stage 1 report from the GLA advised that it would be better if additional cycle parking were provided for visitors.
- 6.79 To the latter regard, the North Lewisham Links project has identified a walking and potentially cycling link from the Kender regeneration area to the new station, via Avonley Road and Bridge House Meadows to the north east of the application site. The current route to the station from the application site requires access from a narrow, gated path from the north of Avonley Road, through a housing estate. To further encourage walking and cycling and to reduce the demand for car use, this route requires significant improvement in terms of legibility, lighting, and visual splays to make it a more desirable place to walk and cycle through. Officers conclude that a feasibility study should be carried out to ensure that improvement works to the area are optimised while also ensuring that the funds are available to execute the delivery of those recommendations. The aforementioned ambitions will be secured by way of a S.106 contribution.

Access & Servicing

- 6.80 New roads, Hatfield Lane, which is adjacent to Hatfield Close to the south east of the application site and Robinson Way which would run in a southerly direction into the site from Barlborough Street, are proposed, to ensure adequate entry into the new development and ease of access for refuse and deliveries. A new access road would be created from Avonley Road which provides vehicular access to the undercroft parking of Block 6.
- 6.81 The southern side of the highway in Reaston Street would have to be given up as part of the development proposal, and to compensate, the southern public highway boundary on Reaston Street would move northwards. The latter would necessitate a Stopping Up application under Sections 247 Town & Country Planning Act 1990 with the Council's Highways Department. Without this Stopping Up Order, Blocks 4 & 5 which comprises 3 and 4 bed houses could not be built out. These larger units are integral in the balance of the dwelling mix of the scheme and thus in order for the development to accord with the provisions of London Plan Policy 3.9 Mixed and Balanced Communities, and Core Strategy Policy 1 Housing provision, mix and affordability, it is imperative that the Stopping Up Order is agreed prior to the commencement of development. This requirement will be an obligation set out in the S.106.

d) Refuse

- 6.82 The refuse collection would be from the bin store cores in the flats, while both Robinson Way and Hatfield Lane have been designed so that they are accessible to refuse vehicles for collection from the houses.

6.83 To conclude, officers consider that the proposed new roads satisfactorily address the functional requirements of the proposed development such as refuse management and accessibility, while it integrates well with the surrounding road network.

Highway visual amenity

6.84 The Highways Officer requested that the applicant enter into a S.278 agreement to ensure that highways work necessary to complete, and that any damage of the nearby roads caused by the construction works are remedied at the cost of the developer. A financial contribution was also sought in respect of maintenance of any trees or landscaped verges (soft landscaping) on the public highway. These costs are separate from the Transport and Environmental contributions deemed necessary to minimise the impact of the proposed development, and will form part of the negotiation process between the applicant and Lewisham's Highways department when agreeing the Section 278 agreement. Therefore, officers are satisfied that the contributions offered and subsequently secured during the planning application process will be directed to the benefit of future occupiers and the area generally, and not consumed by reinstatement works caused during the construction process.

e) Gardens and Play space

6.85 London Plan Policy 3.6 Children and young people's play and informal recreation facilities (B), states that 'Development proposals that include housing should make provision for play and informal recreation based on the expected child population generated by the scheme and an assessment of future needs.'

6.86 Core Strategy Policy 12 Open space and environmental assets, provides that the Council will be '(h) seeking new on-site provision of public and private open space as part of new development.'

6.87 Both policies require the provision of play space on site in relation to the amount of children forecast to be using the site, while contributions should also be sought from developers to ensure that the communal spaces adjacent to the development site are also attractive for use by the future occupiers of the development.

6.88 In the Stage 1 report, the London Mayor requested further details regarding the play space strategy. In response to this, the applicant submitted further information (HHA KEN 052 15 August 2012) which confirmed the forecast level of children (child yield) based on the current GLA standards is 206 children. This results in a required provision of 2059.5m².

6.89 The amount of amenity space proposed for the site is 3467.4m² which is derived from rear gardens, semi-private courtyards and the proposed central square.

6.90 Provision of amenity space would also be derived from the nearby Eckington Gardens which has recently been refurbished as a result of local regeneration. Eckington Gardens comprises a mixture of open space, sports facilities and under 5's play equipment. The amount of amenity space available for future occupiers in Eckington Gardens is 12,298.4m².

- 6.91 Through the provision of on site gardens, terraces and central spaces, combined with the close proximity of the recently upgraded Eckington Gardens to the immediate northeast of the application site, the soon to be re-opened Bridge House Meadows to the far northwest of the application site, together with the contributions to be secured for Community and Leisure Facilities, officers are satisfied that the level and quality of the amenity space to be made available to future occupiers of the application development is acceptable.
- 6.92 Further, the planning obligations statement offers financial contributions towards both open space and public realm improvements, which would further negate the impact of the proposed development upon the local environment.

Sustainability and Energy

- 6.93 London Plan Policy 5.2 Minimising carbon dioxide emissions, requires all new developments to 'make the fullest contribution to minimising carbon dioxide emissions in accordance with the energy hierarchy of 1 Be lean: use less energy; 2 Be clean: supply energy efficiently and; 3 Be green: use renewable energy.
- 6.94 Lewisham Core Strategy Policy 7 Climate change and adapting to the effects, point c, states [officers will] apply the London Plan policies relevant to climate change including those related to air quality, energy efficiency, sustainable design and construction, retrofitting, decentralised energy works, renewable energy, innovative energy technologies, overheating and cooling, urban greening, and living roofs and walls. Core Strategy Policy 8 Sustainable design and construction and energy efficiency, states that all new developments are expected to 'a) submit a Sustainability Statement and Energy Statement that show how the requirements of London Plan policy and the London Plan SPG Sustainable Design and Construction, or any subsequent document, are met...b). Maximise the energy and water efficiency measures of the building and c) connect to an existing or approved decentralised energy network, safeguard potential network routes, and make provision to allow future connection to a network or contribute to its development, where possible within the Regeneration and Growth Areas.
- 6.95 The Code for Sustainable Homes prediction report submitted with the application predicts that some of the units within Block 5 and some of the units within Block 6 may not achieve Code Level 4. However, achieving a minimum Level 4 Code for Sustainable Homes is necessary in order to comply with both London Plan Policy 5.2 Minimising carbon dioxide emissions, Core Strategy Policy 7 Climate change and adapting to the effects, and Policy 8 Sustainable design and construction and energy efficiency (June 2011).
- 6.96 The Code Levels are achieved by developers choosing which and how many standards they implement to obtain 'points' under the Code in order to achieve a higher sustainability rating. Therefore, while the prediction report states that Block 5 and 6 may not achieve the code, there maybe elements of those blocks which can be improved in order to gain further points to make the overall score reach Level 4. The onus however, is upon the developer to ensure that the development is policy compliant and this requirement will be secured by way of a condition added to the decision notice.
- 6.97 Also, in accordance with Core Strategy Policy 1 Housing provision, mix and affordability, 10% (20) of the dwellings proposed in the scheme are to be wheelchair accessible to the South East London Housing Partnership (2011).

- 6.98 The energy statement initially submitted with the application was challenged by the Stage 1 response from the London Mayor. While the scheme achieved a 29% reduction in CO₂ using individual gas boilers and Photovoltaic (PV) panels, the objection was that the development could future proof the ability to upgrade to more energy saving technologies as they evolve if the flats benefitted from communal heating systems.
- 6.99 As a result, the scheme now only proposes a 20% reduction in CO₂ through the use of PV panels, but the flats all now benefit from communal heating. Whilst the immediate CO₂ savings have been reduced, the longevity of the renewable energy proposals results in a more pragmatic approach to sustainable design.

Ecology and Landscaping

- 6.100 Core Strategy Objective 5: Climate change, (e) confirms that developments should support environmental protection and enhancement including establishing ecological networks.
- 6.101 The ecological report confirms that post the site clearance, there were minimal ecological characteristics left on the site. 'At the time of the survey the site predominantly consisted of bare ground and rubble and a few trees, some of which were mature, but which had moderate ecological value.
- 6.102 In order to aid the attainment of Level 4, Code for Sustainable Homes, the proposed development needs to provide protection to the trees which overhang and/or have root spread into the site while also proposing planting on the site.
- 6.103 As a recommendation, the report also suggests that 15 bird boxes and 10 bat boxes should be installed within the completed development. This will be secured by way of a condition to the decision notice. Further suggestions were to plant recommended species of shrubs and trees on the site; however, these recommendations will be reviewed again for suitability as captured in the overall landscaping condition which is to be applied to the decision notice.
- 6.104 The Arboricultural Implication Study and Tree Protection Strategy (Arboricultural Study) submitted with the application confirms that the trees on site will be removed and that the trees on the peripheral of the application site would be protected using the appropriate BS standards.
- 6.105 The tree protection measures will be secured by way of condition, to ensure that the protection works are carried out in accordance with the provisions of the submitted Arboricultural Study
- 6.106 A Landscape masterplan has been submitted, reference KEN AL 9200, depicting where the soft landscaping would be located on the site. Pages 34 to 38 in the Design and Access Statement also provide indicative drawings of that the green spaces would look like and provides suggestions as to what planting would be used. While officers are broadly satisfied with the proposed planting scheme, the details thereof will be confirmed by way of condition once planning permission is granted.

Employment, Training and Local Labour

- 6.107 The Council's Obligations SPD (2006) states that 'Planning contributions will support both capital and revenue costs of a range of services provided by the Local Labour and Business Scheme for residents and small and medium sized businesses in the borough. The contribution sought reflects the current training and operation costs of running the programme to the end date of this document (2025). It is estimated that the combined cost of operating the programme will be £15,000,000 (based upon an estimate of £1,000,000 per year).
- 6.108 To ensure that Lewisham residents have the opportunity to live and work within the borough, residential schemes such as the current proposal, which result in an increase in occupiers, should also contribute to employment and training opportunities which keep residents in the borough and thus reduce the necessity for commuting while encouraging economic growth in the borough.
- 6.109 In the Planning statement, the applicant has agreed to contribute £20,455 which is to be secured in the S.106.
- 6.110 With regard to local labour, paragraph C.1.9 in the Obligations SPD states that 'The Council will use planning obligations to secure the commitment of developers to using local labour and also financial contributions towards the training, support and recruitment of local people.'
- 6.111 The redevelopment of the application site would necessitate a plethora of employment opportunities. In accordance with the provisions of the adopted SPD, officers will request, via an obligation secured via the S.106 agreement that the applicant uses all reasonable endeavours to employ residents and businesses from Lewisham for and during the construction of the development.

7.0 Planning Obligations

- 7.1 The National Planning Policy Framework (NPPF March 2012) states that in dealing with planning applications, local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. It further states that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. The NPPF also sets out that planning obligations should only be secured when they meet the following three tests:
- (a) Necessary to make the development acceptable
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development
- 7.2 Paragraph 122 of the Community Infrastructure Levy Regulations (April 2010) puts the above three tests on a statutory basis, making it illegal to secure a planning obligation unless it meets the three tests.

7.3 The applicant has provided a planning obligations statement outlining the obligations that they consider necessary to mitigate the impacts of the development.

- Provision of 73% affordable housing (Units)
- The applicant is required to provide two Car Club spaces either on and/or off site and to pay for three years free membership for all first occupants of the development to promote sustainable modes of transport.
- The development proposal includes reducing the width of Reaston Street and relocating the southern public highway boundary northwards. So, the applicant will be required to make a Stopping Up application under Sections 247 Town & Country Planning Act 1990
- Wheelchair housing: the developer shall meet the SELHP standard for 20 units on the site
- 2 Visitor disabled parking bays to be provided on site.
- An Education contribution of £732,548 for additional school places.
- An Employment and Training contribution of £20,455
- A Health services and facilities contribution of £78,000
- Open space: contribution of £57,896
- A Leisure contribution of £48,807.
- A Community Facilities contribution of £18,844 including Community space and libraries
- A Transport and Environmental Improvement Contribution of £125,675
- Meeting the Council's costs in assessing the application including implementation and monitoring costs
- Local Labour to be used for and during the construction of the development

7.4 Officers consider that the obligations outlined above are appropriate and necessary in order to mitigate the impacts of the development and make the development acceptable in planning terms. Officers are satisfied the proposed obligations meet the three legal tests as set out in the Community Infrastructure Levy Regulations (April 2010).

8.0 Conclusion

8.1 The application is for the redevelopment of Phase 4, the final piece of the wider regeneration of the Kender housing estate.

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

8.3 On balance, officers consider that the proposed density, design, scale and layout of the scheme is proportionate to the sites immediate environ, while also creating a sustainable form of development for future occupier and the longevity for the scheme overall. The scheme is therefore considered acceptable.

9.0 Summary of Reasons for Grant of Planning Permission

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

9.2 The local planning authority has further had regard to the local planning authority's Adopted Residential Standards Supplementary Planning Document (August 2006, updated) and Planning Obligations Supplementary Planning Document (January 2011), Government Planning Policy Guidance and Statements, and all other material considerations as well as the obligations that are to be entered into in the planning agreement in connection with the development and the conditions to be imposed on the permission. The local planning authority considers that:

1. The redevelopment of the application site for residential purposes is in accordance with London Plan Policy 2.13 Opportunity and Intensification Areas, and Core Strategy Spatial Policy 2 which aspires to achieve 1500 new homes by 2016.
2. The site is an appropriate location for a development of the density proposed in accordance with London Plan Policy 3.4 Optimising Housing Potential, which seeks to ensure that development proposals achieve the highest possible intensity of use compatible with local context and Core Strategy Policy 15 which identifies the site as suitable for higher density development.
3. On balance, the layout of the site, the design of the development, and the provision of housing is in accordance with London Plan Policy 3.4 which seeks to achieve a range of housing choice, and with Lewisham UDP Policy HSG 5, which requires that all new residential development is attractive, neighbourly and meets the functional requirements of its future inhabitants.
4. The proposed dwelling mix and provision of affordable housing, which is controlled by planning obligations agreed as part of the permission, is considered to be the maximum reasonable that can be achieved on this site taking account of targets and scheme viability and the need to encourage rather than restrain residential development in accordance with London Plan Policy 3.9 Mixed and Balanced Communities regarding the provision of affordable housing, with Core Strategy Policy 1 regarding housing provision, mix and affordability, and also seeks a mix of dwelling sizes determined by reference to the housing needs of the area, the nature of the development and its proposed relationship to the surrounding area.
5. The energy demand of the proposed development has been assessed in accordance with London Plan Policy 5.2 Minimising carbon dioxide emissions, Lewisham Core Strategy Policy 7 Climate change and adapting to the effects, and Policy 8 Sustainable design and construction and energy efficiency, regarding energy and carbon dioxide savings.
6. The proposed highway works including provisions for pedestrians, cyclists and other road users and the overall traffic impact of the development have been assessed in accordance with Core Strategy Policy 14 Sustainable

movement and transport, and the identified highway impacts and proposed mitigation measures secured by planning conditions and obligations are considered acceptable in accordance with Lewisham Core Strategy Policy 14 and London Plan policies regarding public transport as well as improvements to facilities for cyclists and pedestrians.

7. The proposed level of cycle parking and associated measures to reduce car use are in accordance with Core Strategy Policy 14 Sustainable movement and transport. Measures to submit a Travel Plan are proposed to be secured by planning obligations agreed as part of the permission and by condition.
8. On balance, the benefits inherent in the scheme and the financial contributions towards achieving other planning policy objectives are in accordance with London Plan Policy 8.2 Planning obligations and Core Strategy Policy 21 regarding planning obligations.

RECOMMENDATIONS

10.0 RECOMMENDATION (A)

- 10.1 Agree the proposals and refer the application and this report and any other required documents to the Mayor for London (Greater London Authority) under Article 5 of the Town and Country Planning (Mayor of London) Order 2008 (Categories 1A and 1C of the Schedule of the Order).

11.0 RECOMMENDATION (B)

- 11.1 Agree the proposals and authorise the Head of Law to complete a legal agreement under Section 106 of the 1990 Act (and other appropriate powers) to cover the following principal matters:-

- Provision of 73% affordable housing (Units)
- The applicant is required to provide two Car Club spaces either on and/or off site and to pay for three years free membership for all first occupants of the development to promote sustainable modes of transport.
- The development proposal includes reducing the width of Reaston Street and relocating the southern public highway boundary northwards. So, the applicant will be required to make a Stopping Up application under Sections 247 Town & Country Planning Act 1990
- Wheelchair housing: the developer shall meet the SELHP standard for 20 units on the site
- 2 Visitor disabled parking bays to be provided on site.
- An Education contribution of £732,548 for additional school places.
- An Employment and Training contribution of £20,455
- A Health services and facilities contribution of £78,000
- Open space: contribution of £57,896
- A Leisure contribution of £48,807.
- A Community Facilities contribution of £18,844 including Community space and libraries

- A Transport and Environmental Improvement Contribution of £125,675
- Meeting the Council's costs in assessing the application including implementation and monitoring costs
- Local Labour to be used for and during the construction of the development.

12.0 **RECOMMENDATION (B)**

12.1 Upon the completion of a satisfactory Section 106 Agreement, in relation to the matters set out above, authorise the Head of Planning to Grant Permission subject to the following conditions:

- (1) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme for investigation which has been submitted by the applicant and approved by the Local Planning Authority. The development shall only take place in accordance with the detailed scheme pursuant to this condition. The archaeological works shall be carried out by a suitably qualified investigating body acceptable to the Local Planning Authority

Reason

AR1R

- (2) Notwithstanding the proposal to provide a buff London stock brick, no development shall commence on site until samples of the proposed brick colouring and contrasting materials to be attached to all faces of the individual buildings (including their colour and texture), together with details of reveals have been submitted to and approved in writing by the local planning authority. The brick and materials submitted shall provide contrast and individual distinction to the buildings. The development shall be carried out in accordance with the approved samples, unless the local planning authority agrees in writing to any variation.

Reason

B01R

- (3) No works shall be carried out in respect of the development hereby approved until a Section 278 Agreement has been entered into in respect of highways works detailed in the Landscape Masterplan (drwg. no. KEN_AL_9200_Rev C), which include junction works to Barlborough Street, Avonley Road and Monson Road, works to Reaston Street including traffic calming measures and pedestrian friendly treatments/features, and any necessary associated reinstatement works to roads and pavements including the blocking up of any redundant crossovers.

Reason

In the interests of highway safety and to ensure a satisfactory standard of development, in accordance with Policies Objective 9 and Policy 15 High quality design for Lewisham in the adopted Core Strategy (June 2011).

- (4) Notwithstanding the details hereby approved, full details including any walls, planters, bollards and schedules of planting in and on the peripheral of the application site of the site shall be submitted to and approved in writing by the local planning authority prior to the commencement of any above ground works. Any trees or plants which within a period of 5 years from the completion of development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority has given written consent to any variation.

Reason

L01R

- (5) (i) No works shall commence until a Construction Logistics Plan (CLP) has been submitted to and approved in writing by the local planning authority. The CLP shall be in accordance with the Environment and Construction Management Plan required by Condition (16).
- (ii) No works shall be carried out other than in accordance with the relevant approved CLP.

Reason

To ensure that the demolition and construction processes are carried out in a manner which will minimise possible disturbance from road traffic and safeguards road safety in accordance with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004) and that all reasonable measures have been taken to improve construction freight efficiency by reducing Co2 emissions, congestion and collisions in accordance with Policy 14 Sustainable movement and transport and Policy 21 Planning obligations of the adopted Core Strategy (June 2011). And Policy 3C.25 Freight Strategy in the London Plan (February 2008) Consolidated with Alterations since 2004.

(6) Waste Management

- (i) A detailed Waste Management Plan (WMP) (to include details for the disposal, processing, recycling and storage of waste and for the provision of composting facilities) for each building shall be submitted to and approved in writing by the local planning authority prior to the commencement of works.
- (ii) The development of each building shall be carried out and operated in accordance with the approved WMP relating to that building in perpetuity unless minor variations are otherwise approved in writing by the local planning authority.

Reason

To ensure that waste is minimised as far as practicable and managed in an environmentally sustainable way and to comply with Policy 5.3 Sustainable design and construction in the London Plan (July 2011).

(7) No development shall commence on site until such time as an Environmental Management Plan has been submitted to and approved in writing by the local planning authority, which shall include, but is not limited to the following items: -

- Dust mitigation measures in accordance with section 6 of the Air Quality Assessment (March 2010) hereby approved.
- Measures to mitigate against noise and air quality impacts associated with site preparation, demolition, earthworks, materials, handling and storage, haul routes, vehicles and plant, construction and fabrication and waste.
- Methods of monitoring construction impacts (noise and air quality).
- Training of Site Operatives and ensuring the chosen contractor subscribes to the 'Considerate Contractors' scheme.
- The location of plant and wheel washing facilities and the operation of such facilities.
- Details of measures to be employed to mitigate against noise and vibration arising out of the construction process.
- Construction traffic details (volume of vehicle movements likely to be generated during the construction phase including routes and times).
- A risk management assessment of any flood events that might occur during the construction phase, registered with the Environment Agency's "Floodline Warning Direct" service.
- Security Management (to minimise risks to unauthorised personnel).
- Hours of working

Works on site shall only take place in accordance with the approved Environment and Construction Management Plan.

Reason

In order that the local planning authority may be satisfied that the demolition and construction process is carried out in a manner that recognises the locational characteristics of the site and minimises nuisance to neighbouring residential occupiers, and to comply with Policies ENV.PRO 10 Contaminated Land and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

(8) Fixed Plant

- (i) The rating level of the noise emitted from fixed plant on the site shall be 5dB below the existing background level at any time. The noise levels shall be determined at the façade of any noise sensitive property. The measurements and assessments shall be made according to BS4142:1997.
- (ii) Development shall not commence until details of a scheme complying with paragraph (i) of this condition have been submitted to and approved in writing by the local planning authority.

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

Reason

N07 R

(9) External Noise protection

- (i) Each Block shall be constructed so as to provide sound insulation against external noise and vibration, to achieve levels not exceeding 30dB LAeq (night) and 45dB LAm_{ax} (measured with F time-weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with windows shut and other means of ventilation provided.
- (ii) No Block shall commence construction until details of a sound insulation scheme complying with paragraph (i) of this condition have been submitted to and approved in writing by the local planning authority.
- (iii) No Block shall be occupied until the sound insulation scheme approved pursuant to paragraph (ii) of this condition has been implemented in its entirety. Thereafter, the sound insulation scheme shall be maintained in perpetuity.

Reason

To safeguard the amenities of residents and to comply with Policy HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004), and to ensure any impacts arising from the proposed development (and any measures required to mitigate those impacts) are consistent with the Noise and Vibration Assessment Report Revision 3 accompanying the application.

(10) No development shall commence until each of the following have been complied with:

- a) (i) A desktop study and site assessment has been carried out to survey and characterise the nature and extent of contamination, and its effect (whether on, or off-site) to the Council for approval.
- (ii) A site investigation report to characterise and risk assess the site, specifying rationale; and recommendations for treatment for contamination encountered (whether by remedial works or not) has been submitted to and approved in writing by the Council. No development shall commence until the gas, hydrological and contamination status has been characterised and risk assessed; and the required remediation scheme implemented.
- b) If during any works on the site contamination is encountered which has not previously been identified (“the new contamination”) the Council

shall be notified immediately thereof; then the terms of paragraph (a) above, shall apply to the new contamination; and no further works shall take place on that part of the site and adjacent areas affected, until the requirements of paragraph (a) have been complied with in relation to the new contamination.

- c) No individual block (including the houses in Blocks 4 & 5) shall be occupied until a closure report for each thereof has been submitted to and approved in writing by the Council which shall include verification of all measures, or treatments as required in (Section (a) i & ii) and relevant correspondence (including other regulating authorities and stakeholders involved with the remediation works) to verify compliance requirements, necessary for the remediation of the site have been implemented in full and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason

To ensure that the Council may be satisfied that potential site contamination is identified and remedied in view of the historical use(s) of the site, which may have included industrial processes, and to comply with Policy ENV.PRO 10 Contaminated Land in the adopted Unitary Development Plan (July 2004) and to meet the requirements of PPS23 and the Environment Agency GP3 policy on protecting groundwater as the site is in an Inner Source Protection Zone (SPZ1) and over a principle aquifer.

- (11) No impact piling shall take place until a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason

The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the details of the piling method statement.

- (12) Development shall not commence until Impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.

Reason

To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.

- (13) Full details including any walls, planters, bollards and schedules of planting to the area to the front of Block 6, between the application site and New Cross Road, shall be submitted to and approved in writing by the local planning authority prior to occupation of Block 6. Any trees or plants which within a period of 5 years from the completion of development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority has given written consent to any variation.

Reason

L01R

- (14) Details of any external lighting to be installed at the site, including measures to prevent light spillage onto existing nearby properties, shall be submitted to and approved in writing by the local planning authority before any works on site are commenced. Any such external lighting shall be installed in accordance with the approved drawings and such directional hoods shall be retained permanently. The applicant should demonstrate that the proposed lighting is the minimum needed for security and working purposes and that the proposals minimise pollution from glare and spillage.

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 neighbouring properties and to comply with Policies ENV.PRO 12 Light Generating Development; HSG 4 Residential Amenity and OS17 Protected Species in the adopted Unitary Development Plan (July 2004).

- (15) Notwithstanding the details hereby approved, plans showing the treatment and layout of the roof top amenity space shall be submitted to and approved in writing by the local planning within 3 months of the commencement of the above ground works. The approved details shall be implemented in full prior to the occupation of Block 6.

Reason

In order that the local planning authority may be satisfied as to the details of the proposal and the provision of amenity space and to comply with Policy 12 within the Core Strategy (June 2011).

- (16) Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan for contamination on site shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme, a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason

To meet the requirements of and the Environment Agency GP3 policy on protecting groundwater as the site is in an Inner Source Protection Zone

(SPZ1) and over a principle aquifer.

- (17) No occupation of development hereby approved shall take place until 15 bird and 10 bat boxes have been placed in various locations on the site, details of which shall be submitted to and approved in writing by the local planning authority. Once in place, the bat boxes shall be permanently maintained.

Reason

To ensure that the development provides opportunities to increase biodiversity in and around the site in accordance with Policy 12 Open space and environmental assets of the adopted Core Strategy (June 2011).

- (18) A Parking Management Plan shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any Block hereby approved. The plan shall include details of how the parking on the private roads/areas will be allocated and managed and details of measures to prevent vehicles parking on the hard and soft landscaped areas, to ensure routes through the site are not obstructed or visual amenity is not compromised.

Reason

In order to comply with the requirements of Section 76 of the Town and Country Planning Act 1990 which relates to the provision of satisfactory access to buildings for people with disabilities and to comply with Policies 14 Sustainable movement and transport and 15 High quality design for Lewisham of the adopted Core Strategy (June 2011) and Table 6.1 of the London Plan (July 2011).

- (19) No deliveries in connection with construction works shall be taken at or despatched from the site and 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

C11 R

- (20) Delivery and Service Plan

- (i) The building shall not be occupied until a Delivery and Servicing Plan (DSP) has been submitted to and approved in writing by the local planning authority.
- (ii) The uses in the building shall be carried out in accordance with the approved DSP.

Reason

To ensure that the operation of the site after construction is undertaken efficiently and sustainably in a manner which will minimise possible disturbance from road traffic and safeguards road safety in accordance with

Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004) and that all reasonable measures have been taken to improve construction freight efficiently by reducing Co2 emissions, congestion and collisions in accordance with Policy 14 Sustainable movement and transport and Policy 21 Planning obligations of the adopted Core Strategy (June 2011) and Policy 6.14 Freight in the London Plan (July 2011).

- (21) A minimum of 12 active electrical charging points and 12 passive charging points of the car parking spaces hereby approved shall be installed in accordance with drawing 9437 492 as submitted with this application and retained permanently thereafter.

Reason

To reduce pollution emissions in an Air Quality Management Area in accordance with London Plan Policy 6.13 Parking (July 2011) and Policy 9 Improving local air quality of the adopted Core Strategy (June 2011).

- (22) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment by Tully De'Ath, referenced 9437, dated December 2011.

Reason

To prevent the increased risk of flooding, both on and off site.

- (23) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The scheme shall demonstrate that :

- (i) surface water run-off generated by the site will be limited to Greenfield run off rates for critical storms up and including the 1 in 100 year plus climate change event;
- (ii) the use of sustainable drainage systems will be maximised in line with the London plan policy 5.13 drainage hierarchy including maximising the use of rainwater harvesting, green roofs, the use of permeable paving and infiltration.
- (iii) above ground flooding will be limited to critical storm events greater than 1 in 30 and that any flooding from critical storm events up and including the 1 in 100 year plus climate change event will be satisfactorily contained on site without increasing flood risk.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason

- (i) To prevent flooding by ensuring the satisfactory disposal / storage of surface water from the site.
 - (ii) To meet the requirements of London Plan policy
 - (iii) To prevent flooding by ensuring the satisfactory disposal / storage of surface water from the site.
- (24) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved and reported to the satisfaction of the Local Planning Authority.

Reason

There is always a potential for unexpected contamination to be identified during redevelopment groundworks. The Environment Agency should be consulted should any significant contamination be identified that could present an unacceptable risk to Controlled Waters. (The site is located over a Secondary Aquifer).Surface Water Drainage.

(25) Sustainable Buildings

- (i) The buildings hereby approved shall achieve a Code for Sustainable Homes Rating Level 4.
- (ii) No development (including works of demolition) shall commence on site until a Design Stage Certificate for each Block (prepared by an independent, qualified Assessor) has been submitted to and approved in writing by the local planning authority to demonstrate compliance with part (i).
- (iii) Within 3 months of occupation of each Block, evidence shall be submitted in the form of a Post Construction Certificate (prepared by a qualified Assessor) to demonstrate full compliance with part (i) for that specific Block.

Reason

To ensure that the development achieves the maximum possible in respect of energy and carbon emissions and to comply with Policies 5.1 Climate change and mitigation, 5.2 Minimising carbon dioxide emissions, 5.3 Sustainable design and construction, 5.7 renewable energy, 5.15 Water use and supplies in the London Plan (2011) and Core Strategy Policy 7 Climate change and adapting to the effects, Core Strategy Policy 8 Sustainable design and construction and energy efficiency (2011).

- (26) All units hereby approved shall strictly be built in accordance with the plans as listed in Condition 2 of this decision notice (including the internal layout),

in order to comply with the 16 Criteria of Lifetime Homes. Any deviation therefrom should be approved by an independent, accredited assessor to ensure compliance.

Reason

In order to comply with the requirements of Section 76 of the Town and Country Planning Act 1990 which relates to the provision of satisfactory access to buildings for people with disabilities and to comply with Policy HSG 5 Layout and Design of New Residential Development in the adopted Unitary Development Plan (July 2004) and Core Strategy Policy 1 Housing provision, mix and affordability (June 2011).

- (27) No extensions or alterations to the houses hereby approved, whether or not permitted under Article 3 and Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactment thereof, 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 in accordance with HSG 4 Residential Amenity and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).

- (28) No flues, plumbing or pipes, other than rainwater pipes, shall be fixed on the external faces of the buildings.

Reason

It is considered that such flues, plumbing and pipes would seriously detract from the appearance of the buildings and to comply with Policy URB 3 Urban Design in the adopted Unitary Development Plan (July 2004).

- (29) Communal heating shall be provided in accordance with drawings KEN AL (P) 039 B and KEN AL (P) 040 B and shall be maintained as such in perpetuity.

Reason

In order to comply with London Plan Policy 5.2 Minimising carbon dioxide emissions (July 2011).

- (30) Any building ventilation systems shall be designed and operated so that air is not drawn from the ground level on the New Cross Road elevations of Block 6.

Reason

To ensure adequate air quality for the future occupiers of these Buildings and comply with Policy 7.14 Improving air quality in the London Plan (July 2011).

- (31) With regard to surface water drainage, it is the responsibility of a developer to make proper provision for drainage to ground, watercourses or a suitable sewer. In respect of surface water, it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.

Reason

To ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

(32) Travel Plan

- (i) Notwithstanding the Tully De'Ath Travel Plan for Kender Phase 4 Development (December 2011), no occupation of the development hereby approved shall take place until such time as a revised Travel Plan, has been submitted to and approved in writing by the local planning authority. The development shall operate in full accordance with all measures identified within the Travel Plan from first occupation.
- (ii) The Travel Plan shall specify initiatives to be adopted by the new development to encourage access to the site by a variety of non-car means, shall set targets and shall specify a monitoring and review mechanism to ensure compliance with the Travel Plan objectives.
- (iii) Within the timeframe specified by (i) and (ii), evidence shall be submitted to demonstrate compliance with the monitoring and review mechanisms agreed under parts (i) and (ii).

Reason

In order that both the local planning authority and highway authority may be satisfied as to the practicality, viability and sustainability of the Travel Plan for the site and to comply with Policy 14 Sustainable movement and transport of the adopted Core Strategy (June 2011).

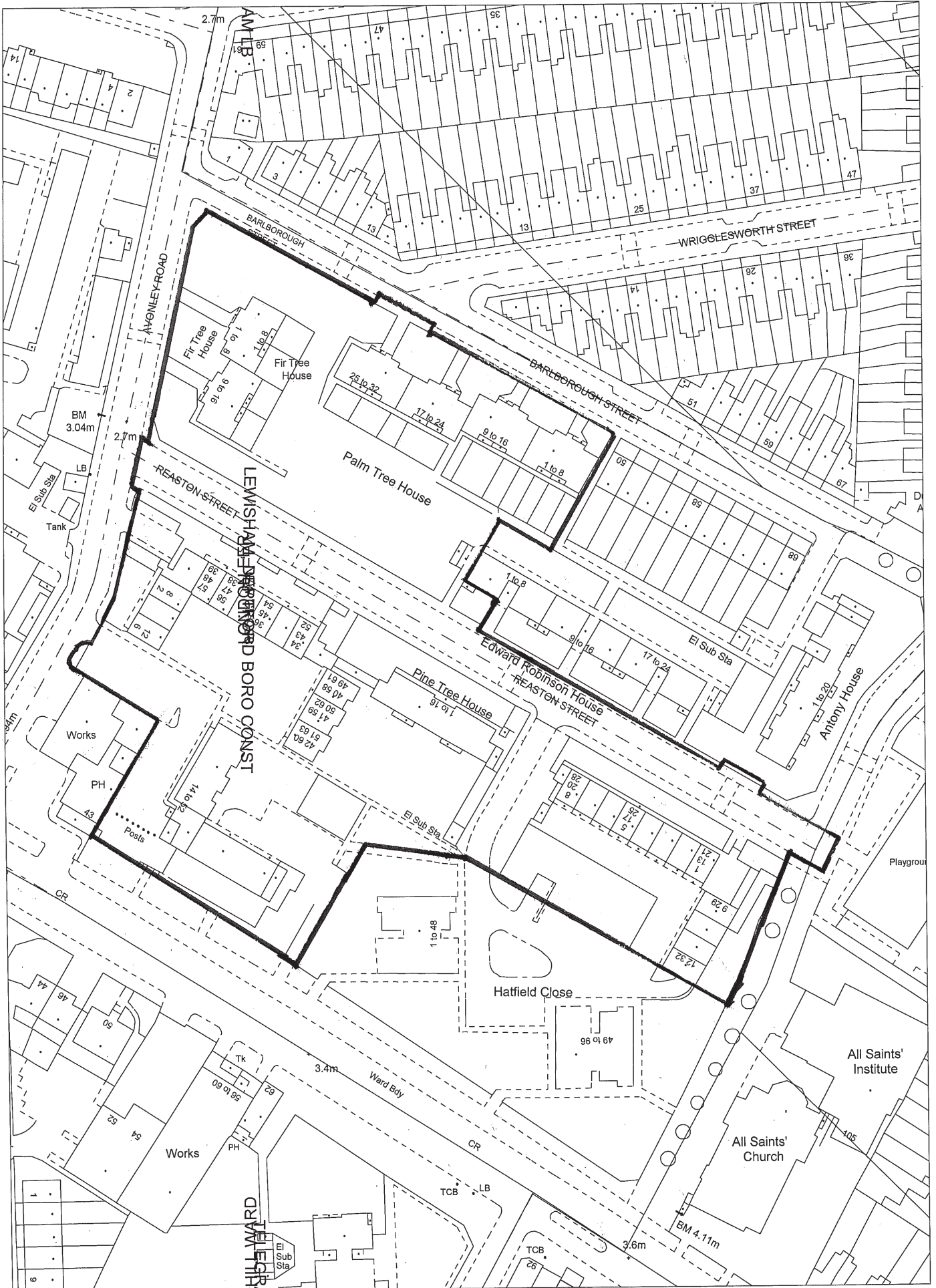
Informatives

- (1) Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 8507 4890 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via

www.thameswater.co.uk/wastewaterquality. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.

- (2) The applicant be advised to read 'Contaminated Land Guide for Developers' (London Borough's Publication 2003), on the Lewisham web page, prior to submitting information pursuant to Condition 10. The Applicant should also be aware of their responsibilities under Part IIA of the Environmental Protection Act 1990 to ensure that human health, controlled waters and ecological systems are protected from significant harm arising from contaminated land. Guidance therefore relating to their activities on site, should be obtained primarily by reference to DEFRA (and its successor bodies) and EA publications.
- (3) Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed off site operations is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays...
- (4) In preparing the Environmental and Construction Management Plan, the applicant will be expected to carry out a Risk Assessment including the following: -
 - The description of the site layout and access routes;
 - A summary of the work to be carried out on site;
 - An inventory of all dust generating activities;
 - An inventory of all non-road mobile machinery to be used on site and the location of such machinery;
 - Details of all dust and emission control methods to be used;
 - Summary of the monitoring protocol and agreed procedure of notification to the Council and;
 - Identification of sensitive receptors in the locality.
- (5) The development of this site is likely to damage archaeological remains. The applicant should therefore submit detailed proposals in the form of an archaeological project design. The design should be in accordance with appropriate English Heritage guidelines.
- (6) Assessment of the sound insulation scheme should be carried out by a suitably qualified acoustic consultant, and should comply with the standards given in the current BS8233 for internal noise design levels.

Phase 4 Kender Triangle, SE14



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Committee	PLANNING COMMITTEE C	
Report Title	Units 1 & 2, Evelyn Court, Grinstead Road, SE8 REQUEST FOR ENFORCEMENT ACTION	
Ward	Evelyn	
Contributors	R Lockett	
Class	PART 1	27 September 2012
<u>Background Papers</u>	(1) Case File - DE/229/B/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework (June 2011) (4) The London Plan (July 2011) (5) Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) (6) National Planning Policy Framework (March 2012) Paragraph 207: Enforcement	
<u>Designation</u>	Adopted UDP - Existing Use	

1.0 Introduction

- 1.1 This report deals with a breach of planning control at units 1 & 2 Evelyn Court, Grinstead Road, SE8 relating to the unauthorised change of use from B1 Office use to use as a place of worship, which falls within the use class D1.

2.0 Property/Site Description

- 2.1 The premises consists of two purpose built business units on the ground floor of Evelyn Court which is located on the southern side of Grinstead Road, at the junction with Evelyn Street. Evelyn Court currently comprises 18 x B1 units within a three storey modern building. The ground floor units are single storey, whilst those occupying the first and second floors are two storey, some of which have been sub-divided. The premises which is the subject of this report comprises units 1 and 2, located at the north end of the building, adjacent to the site entrance, with facades facing onto Grinstead Road, Evelyn Street and into the application site. It is understood the two units have been combined to form a single premises now known as Unit 2.
- 2.2 There is a car park with 28 car parking spaces which are accessed via electric gates leading onto Grinstead Road.
- 2.3 The site is within the south eastern 'leg' of the designated Surrey Canal Strategic Industrial Location, but is not within a Conservation Area, nor within the immediate vicinity of any Listed Buildings. Grinstead Road is not a Classified Road; however Evelyn Street is an A Classified Road (the A200). There are industrial and commercial sites on the opposite side of Evelyn Street.
- 2.4 To the southwest is a residential estate fronting Grinstead Road, whilst to the southeast are further industrial and commercial buildings. On the opposite side of Evelyn Street are a number of industrial and warehouse premises.

3.0 Planning History

3.1 Planning permission was granted in 1990 for the construction of the office building comprising 12 x B1 units. The conditions attached to the permission referred to disabled access, landscaping, the retention of the car parking, materials and loading times. However, officers note that online marketing of the property currently refers to 18 commercial units, presumably as a result of the sub-division mentioned above.

3.2 In July 2012 planning permission was **refused** under delegated powers for the continued use of Unit 2 Evelyn Court, Grinstead Road SE8, as a place of worship, office and community centre (Use Class D1) for the following reasons:

- (1) The use would result in the loss of employment premises within a Strategic Industrial Location and the applicant has failed to demonstrate that the premises should no longer be retained in employment use contrary to Policy 3 Strategic industrial locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).
- (2) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

Related Units

3.3 In July 2012 planning consent was **refused** under delegated powers for the continued use of Unit 11a (first floor), Evelyn Court, Grinstead Road SE8, as a place of worship (Use Class D1) for the following reasons:

- (1) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) The applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations *in Lewisham's Core Strategy (June 2011)*.

3.4 In July 2012 planning consent was **refused** under delegated powers for the continued use of Unit 3 Evelyn Court, Grinstead Road SE8, as a place of worship, community meeting hall and for charity activities (Use Class D1) for the following reasons:

- (1) The use would result in the loss of employment premises within a Strategic Industrial Location and the applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic industrial locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).
- (2) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

4.0 Policy Context

National Planning Policy Framework (March 2012)

- 4.1 The NPPF was published on 27 March 2012. Annex 1 of the NPPF provides guidance on implementation and states, in paragraph 211, that policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215, guidance is given on the weight to be given to policies in the development plan. In summary, this states that for a period of 12 months from publication of the NPPF, decision takers can give full weight to policies adopted since 2004, even if there is limited conflict with the NPPF. Following this period, weight should be given to existing policies according to their consistency with the NPPF.
- 4.2 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process, in accordance with paragraphs 211, 214 and 215 of the NPPF.
- 4.3 With regard to enforcement Paragraph 207 of the NPPF states:-

"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning decisions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."
- 4.4 In addition, Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) is relevant.

London Plan (July 2011)

- 4.5 The following London Plan policies are considered relevant:

Policy 1.1 Delivering the strategic vision and objectives for London, 3.1 Ensuring equal life chances for all, Policy 3.16 Protection and enhancement of social infrastructure, Policy 4.2 Offices, Policy 4.3 Mixed use development and offices, Policy 6.3 Assessing effects of development on transport capacity, Policy 6.9 Cycling, Policy 6.10 Walking, Policy 6.11 Smoothing traffic flow and tackling congestion, Policy 6.13 Parking, Policy 7.1 Building London's neighbourhoods and communities, Policy 7.2 An inclusive environment, Policy 7.4 Local character, Policy 7.15 Reducing noise and enhancing soundscapes.

Local Development Framework - Core Strategy (June 2011)

- 4.6 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, form the borough's statutory development plan. Relevant objectives and policies in the Core Strategy are:

Spatial Policy 2: Regeneration and Growth Areas, Objective 4: Economic activity and local businesses, Objective 9: Transport and accessibility, Objective 10: Protect and enhance Lewisham's character, Objective 11: Community well-being, Core Strategy Policy 3 Strategic Industrial Locations and Local Employment Locations, Core Strategy Policy 5: Other employment locations, Core Strategy Policy 14: Sustainable movement and transport, Core Strategy Policy 19: Provision and maintenance of community and recreational facilities, Core Strategy Policy 20: Delivering educational achievements, healthcare provision and promoting healthy lifestyles.

Adopted Unitary Development Plan (July 2004)

- 4.7 The following saved policies of the UDP are considered relevant:

ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity, LCE 1 Location of New and Improved Leisure, Community and Education Facilities

5.0 Consideration of Enforcement Action

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

Breach of Planning Control

- 5.2 The Council has confirmed by way of a site inspection that the use of the premises known as Unit 2 Evelyn Court has been changed to a church, without the benefit of the necessary planning permission.
- 5.3 The following assessment (paragraphs 5.5 – 5.25 below) was made in relation to consideration of the planning application – DC/12/79800 for the continued use of

the premises as a place of worship to which this report relates. The application was refused under delegated powers on 11 July 2012.

Planning Considerations

- 5.4 The main planning considerations are, the acceptability of the loss of employment floor space, whether the proposed use as a place of worship would be detrimental to the character and appearance of the area and whether there would be any harmful impacts on the amenities of nearby residential occupiers.

Loss of Employment Floorspace

- 5.5 Lewisham's adopted proposals map shows the application site being within the Surrey Canal Strategic Industrial Location. Core Strategy Policy 3 states the following: 'The Council will protect the Strategic Industrial Locations (SILs) for uses within the B Use Class (B1c, B8 and where appropriate B2 industry), and also appropriate sui generis uses, to provide land for activities that support the continued functioning of London as a whole such as waste management, transport and utilities, and uses that require 24-hour functioning.' Point 2 of the policy refers to Local Employment Locations, stating that the Council will protect Local Employment Locations (LELs) for a range of uses within the B Use Class (B1, B8 and where appropriate B2 industry) and also appropriate sui generis uses, to support the local economy.
- 5.6 Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities of the UDP encourages the provision of new community facilities. The policy states that, facilities serving local neighbourhoods should be located preferably in a District Centre, but a Local Centre may be acceptable. The policy allows for new facilities that are appropriately located in residential areas or where other sites are not available. In these instances, the policy states that a new community use will only be acceptable if there will be no adverse impact on residential amenity arising from noise or traffic generation, there is good access by public transport or the premises are suitably accessible to the client group or community to be served; and the proposals do not conflict with the other policies and provisions of the Plan.
- 5.7 The applicants have provided a letter from a letting agent 'Kalmar's Commercial.' The letter provided details of marketing, including a 'to let' board which has been in place since 2009, offering units ranging from 634sq ft to 2,648 sq ft which, in accordance with the online advertisement, confirms that the units are/can be split or amalgamated to suit the occupier(s). It is also argued that churches need administrative services which would result in the retention of some employment use at the unit. The letter goes further to state that there have only been 34 viewings since 2009, that market demand for offices in secondary locations is 'generally very poor' and that the problem with the site is the location and close proximity to residential occupiers. There is no reference to the vacancy rate for the remainder of the site. It should be noted that this letter has also been used to accompany the concurrent applications as referred to in the 'Planning History' section of this report.
- 5.8 In the Planning Statement, the applicant states that the unit had been vacant for 30 months, prior to the occupation of the current user which, in their opinion, demonstrated that employment use is not viable. Reference is also made to an

appeal decision made in 2006 within an employment location (the Elizabeth Industrial Estate) in which the Inspector allowed the appeal, agreeing that the first and second floors of that building were no longer viable for employment use. It should be noted that the building in question is approximately 90 years old and in need of considerable investment.

- 5.9 To summarise the above, Council policy states that employment land should be retained. The applicant stated that this unit had been vacant for a period of time and therefore the change of use should be allowed.
- 5.10 In producing the Core Strategy (adopted June 2011), the Council has undertaken a recent review of its employment land. The Lewisham Employment Land Study 2008 was commissioned from Roger Tym and Partners and is part of the evidence base for the LDF. The Roger Tym Study describes Evelyn Court as a modern business building occupied by a number of business users. As a result of the review, the area allocated as Strategic Industrial Location was reduced in extent and the area designated as Defined Employment Area in the 2004 UDP has also been reduced. The Council's Core Strategy has identified a number of strategic sites where significant growth and development is envisaged within the plan period. Four of the five strategic sites are designated as Mixed Use Employment Locations where a range of economic, employment and training opportunities focusing on flexible business and light industrial uses is envisaged, as well as significant numbers of new dwellings. One of the strategic sites, Oxestalls Road, is located directly opposite Evelyn Court on the northeast side of Evelyn Street. In the main, the strategic sites comprise land formerly designated as 'Defined Employment Land' comprising a mix of general industrial/warehousing uses, with mainly older buildings in need of significant investment. In addition, the designated Surrey Canal SIL and Local Employment Locations (LELs), in addition to the strategic sites, are the result of the employment land review.
- 5.11 Evelyn Court forms part of a contiguous area which the Core Strategy envisages will continue to contribute to the continuing functioning of the Lewisham economy and has been subject to a comprehensive and rigorous recent review in terms of its continued protected designation.
- 5.12 The applicant states in the submitted Planning Statement that the property has been vacant for 30 months prior to the occupation of the current tenant. However, of the 18 units, one vacant unit is considered to be an acceptable vacancy rate for the site with an 89% occupation rate. Further, given the 89% occupation rate, officers are mindful of the need to protect the existing employment space within the remainder of the site which is being used for B1 activities. In a building housing a significant number of units, it can be expected that the level of vacancy will vary from time to time.
- 5.13 The Lewisham Employment Land Study 2008 confirms that space for small and medium sized enterprises is in short supply across Lewisham. Growing sectors in the Borough, such as creative industries, rely upon high quality and affordable accommodation in order to maintain and develop their businesses. The Council seeks to support the growth in the number of businesses in the borough and in particular, to attract higher value added knowledge based businesses. The Employment Land Demand Study highlighted the need to create more office space and higher quality workshops and industrial units. There are opportunities

to increase the number of businesses which support the business and financial sector within the area.

- 5.14 It is considered that the current use for religious worship is not compatible with the use of the remainder of the building for B1 employment purposes. There have been a significant number of objections from residents of Inwen Court, the residential block adjoining to the southwest. Should occupiers and employees of other units wish to work on a flexible basis, after normal business hours or at weekends, they could be disturbed by the activities of the D1 use. The Use Classes Order states that B1 uses (Offices), research and development of products and processes and light industry are appropriate in a residential area. Therefore, the B1 occupiers should also be protected against any business activity outside of these restrictions. While Core Strategy Policy 3 indicates that more general industrial activities can be appropriate within SILs, the Surrey Canal SIL covers a larger area and there are locations, such as in this instance, where residential uses are in close proximity. Therefore, whilst some parts of the SIL is appropriate for more general industrial activities, given the character of the area, those sites where there is an interface with residential property have also to be considered in the context of the their residential neighbours. The site is in such a location given the proximity of Inwen Court.
- 5.15 The applicant has made the point that there is significant demand within the wider area for church uses. As stated above, two further concurrent similar applications for Units 3 and 11a are under consideration. In the marketing information, Kalmars stated that they have had 82 inquiries for churches or colleges. It is considered that there is a danger that if this unauthorised change of use was permitted it would be difficult to resist the two concurrent applications and that further occupation of the building by church uses would result. It is considered that a proliferation of such uses would undermine the continuing functioning of the building as a business centre and would adversely impact on the continued functioning of other nearby business and industrial premises. The applicant has stated that the church use includes an element of administrative employment; however, the church would be able to use B1 business premises for office use without the necessity for a change of use.
- 5.16 The demand for church premises is acknowledged, however this should not result in the loss of designated employment premises, particularly in the context of a recent, comprehensive and rigorous review. It is of note that a recently granted planning permission for one of the strategic sites (the Surrey Canal Triangle) includes provision for a Faith Centre.
- 5.17 In conclusion, whilst the applicant may have provided some evidence of vacancy, this does not justify a change of use and the principle of the loss of B1 office space is not considered acceptable in this instance.

Design, character and appearance

- 5.18 No external alterations have been carried out to facilitate this change of use.

Impact to residential amenities from the proposed use

- 5.19 An important issue is the impact of the proposed use on neighbouring amenity, given the close proximity of residential accommodation at Inwen Court to the south west of the application building.
- 5.20 Seven letters of objection have been received from residential neighbours, including one from the management company of the adjacent residential block, Inwen Court. Neighbours have complained about noise at unsociable hours, children playing in the car park and parking congestion in and around the application site.
- 5.21 Officers consider that the proposed D1 (place of worship) use would be a far more intensive use, when services are taking place, than the lawful B1 Use. The lawful use comprises two combined commercial units which would typically be used during commercial hours during the daytime with limited evening and weekend use. While the proposed D1 use may not result in greatly increased use during usual business hours, it would result in a more intensive use of the premises in the evenings and particularly on Sundays when main services are envisaged to be held. The premises would be used for services associated with a place of worship, which could include prayers, ceremonies, rituals, music and other forms of noise generating activity associated with spiritual and cultural development. Such a use is likely to generate a significant level of noise and disturbance particularly during the evening and Sunday mornings. The application form submitted with the application does not propose opening hours, but the Planning Statement suggests officers place a condition on the decision notice suggesting opening hours of 9-5, Monday to Thursdays, 9am to midnight, Fridays and Saturdays and 9am to 6pm Sundays.
- 5.22 Whilst a condition limiting hours of use could be imposed, the hours required for a place of worship are unsociable and therefore the operating hours necessary to protect the amenities of nearby occupiers would not be deemed reasonable for a place of worship as required by the tests referred to in Circular 11/95. It is the proposed Sunday and late evening opening hours which would be most detrimental to neighbouring amenities. The opening hours on a Sunday and late Friday and Saturday evenings are likely to significantly compromise the quiet enjoyment of the residential neighbours. Further, any preparation and closure work would be outside of these hours, and could also compromise the amenities of the nearby residential occupiers. These concerns are exacerbated as more than one church operates within the building.
- 5.23 If officers were to consider a condition to mitigate noise emanating from the site, this would be dependent on doors and windows remaining closed, which is likely to be unrealistic in practice. In addition, whilst noise breakout could be mitigated to some degree, a church would result in high volumes of patrons coming in and out of the building, which is likely to give rise to disturbance, as it is impossible to control activities outside the building. Therefore, permitting the change of use would be contrary to the conditions as set out in saved UDP Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities.
- 5.24 Given the proximity of the site to residential dwellings and the existing B1 occupiers on the site, it is not considered that any units within Evelyn Court are suitable for the proposed D1 use as a place of worship, as this would lead to

unacceptable levels of noise and disturbance, contrary to saved policies ENV.PRO 9, ENV.PRO 11 and HSG 4 of the UDP.

Highways and Parking

- 5.25 Neighbours also complained about the parking congestion derived from the patrons of the church. However, the site is very close to a main road served by a high frequency of bus services and the Highways Officer did not raise any objection to the proposal.

6.0 Legal Implications

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

7.0 Equal Opportunities and Human Rights Implications

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

Schedule 1, Part I - The Convention

Article 8 Right to Respect for Private and Family Life

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

Schedule 1, Part II - The First Protocol

Article 1 Protection of Property

- 7.2 Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

- 7.3 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.

The protected characteristics under the Act are Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The duty is a “have regard duty”, and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.

- 7.4 It is acknowledged that the majority of the congregation is from minority groups and that there is a high demand for church premises in the area. However, officers consider that the loss of the employment premises is not justified in the light of strategic employment policies. It is considered that in this matter officers have taken account of the impact on equality and have concluded that pursuing enforcement action in the circumstances of the case is the correct course of action in view of the loss of employment premises, and that such action is proportionate and appropriate. In the circumstances, it is considered expedient to take enforcement action to secure the cessation of the use for the reasons set out in the report above.

8.0 Conclusion

- 8.1 For the reasons set out in the body of the report above, officers recommend that an Enforcement Notice be served to secure the cessation of the use of the premises as a place of worship on the grounds that it has resulted in a loss of employment space within a designated Strategic Employment Location and will continue to have a detrimental impact upon the amenities of nearby residential occupiers and the existing B1 users of the site.

8.2 The unauthorised use is contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in the Council's Core Strategy (June 2011), and policies ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity, in the adopted Unitary Development Plan (July 2004).

9.0 Requirements of Enforcement Notice

9.1 To cease the use of the unit as a place of worship or any other use outside of the B1 use class.

10.0 RECOMMENDATION

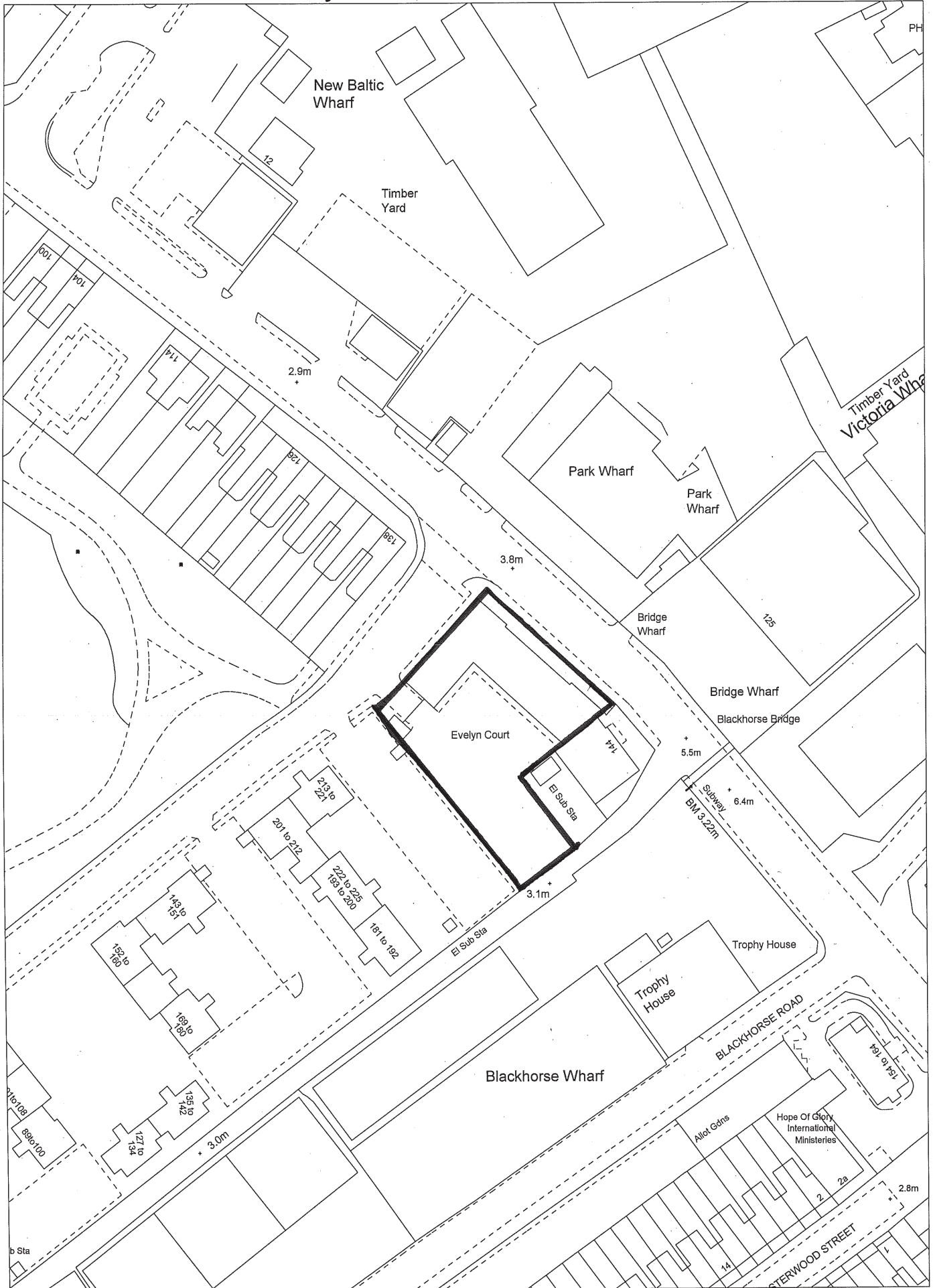
AUTHORISE THE HEAD OF LAW to take all necessary action to secure the cessation of the use of Unit 2 (ground floor), Evelyn Court, Grinstead Road SE8 as a place of worship or any other use outside of the B1 use class for the following reasons:-

- (1) The continued use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity, in the adopted Unitary Development Plan (July 2004).
- (2) The continued use as a place of worship would result in a loss of employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).

Period for Compliance: 3 months

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Evelyn Court, Grinstead Road, SE8



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Committee	PLANNING COMMITTEE C	
Report Title	Unit 3, Evelyn Court, Grinstead Road, SE8 REQUEST FOR ENFORCEMENT ACTION	
Ward	Evelyn	
Contributors	R Lockett	
Class	PART 1	27 September 2012

<u>Background Papers</u>	(1) Case File - DE/229/B/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework (June 2011) (4) The London Plan (July 2011) (5) Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) (6) National Planning Policy Framework (March 2012) Paragraph 207: Enforcement
<u>Designation</u>	Adopted UDP - Existing Use

1.0 Introduction

- 1.1 This report deals with a breach of planning control at unit 3 Evelyn Court, Grinstead Road, SE8 relating to the unauthorised change of use from B1 Office use to use as a place of worship, which falls within the Use Class D1.

2.0 Property/Site Description

- 2.1 The premises consists of a purpose built business unit on the ground floor of Evelyn Court which is located on the southern side of Grinstead Road, at the junction with Evelyn Street. Evelyn Court currently comprises 18 x B1 units within a three storey modern building. The ground floor units are single storey, whilst those occupying the first and second floors are two-storey, some of which have been sub-divided. The premises, which is the subject of this report, comprises unit 3, located towards the north end of the building, with facades facing onto Evelyn Street and the car park at the rear of the building.
- 2.2 There is a car park with 28 car parking spaces which are accessed via electric gates leading onto Grinstead Road.
- 2.3 The site is within the southeastern 'leg' of the designated Surrey Canal Strategic Industrial Location, but is not within a Conservation Area, nor within the immediate vicinity of any Listed Buildings. Grinstead Road is not a Classified Road; however, Evelyn Street is an A Classified Road (the A200). There are industrial and commercial sites on the opposite side of Evelyn Street.
- 2.4 To the southwest is a residential estate fronting Grinstead Road, whilst to the southeast are further industrial and commercial buildings. On the opposite side of Evelyn Street are a number of industrial and warehouse premises.

3.0 Planning History

3.1 Planning permission was granted in 1990 for the construction of the office building comprising 12 x B1 units. The conditions attached to the permission referred to disabled access, landscaping, the retention of the car parking, materials and loading times. However, officers note that online marketing of the property currently refers to 18 commercial units, presumably as a result of the sub-division mentioned above.

3.2 In July 2012 planning permission was **refused** under delegated powers for the continued use of Unit 3 Evelyn Court, Grinstead Road SE8, as a place of worship, office and community centre (Use Class D1) for the following reasons:

- (1) The use would result in the loss of employment premises within a Strategic Industrial Location and the applicant has failed to demonstrate that the premises should no longer be retained in employment use contrary to Policy 3 Strategic industrial locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).
- (2) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

Related Units

3.3 In July 2012 planning consent was **refused** under delegated powers for the continued use of Unit 11a (first floor), Evelyn Court, Grinstead Road SE8, as a place of worship (Use Class D1) for the following reasons:

- (1) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) The applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).

3.4 In July 2012 planning consent was **refused** under delegated powers for the continued use of Unit 2 Evelyn Court, Grinstead Road SE8, as a place of worship, community meeting hall and for charity activities (Use Class D1) for the following reasons:

- (1) The use would result in the loss of employment premises within a Strategic Industrial Location and the applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic industrial locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).
- (2) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

4.0 Policy Context

National Planning Policy Framework (March 2012)

- 4.1 The NPPF was published on 27 March 2012. Annex 1 of the NPPF provides guidance on implementation and states, in paragraph 211, that policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215, guidance is given on the weight to be given to policies in the development plan. In summary, this states that for a period of 12 months from publication of the NPPF, decision takers can give full weight to policies adopted since 2004, even if there is limited conflict with the NPPF. Following this period, weight should be given to existing policies according to their consistency with the NPPF.
- 4.2 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process, in accordance with paragraphs 211, 214 and 215 of the NPPF.
- 4.3 With regard to enforcement Paragraph 207 of the NPPF states:-

"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning decisions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."
- 4.4 In addition, Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) is relevant.

London Plan (July 2011)

- 4.5 The following London Plan policies are considered relevant:

Policy 1.1 Delivering the strategic vision and objectives for London, 3.1 Ensuring equal life chances for all, Policy 3.16 Protection and enhancement of social infrastructure, Policy 4.2 Offices, Policy 4.3 Mixed use development and offices, Policy 6.3 Assessing effects of development on transport capacity, Policy 6.9 Cycling, Policy 6.10 Walking, Policy 6.11 Smoothing traffic flow and tackling congestion, Policy 6.13 Parking, Policy 7.1 Building London's neighbourhoods and communities, Policy 7.2 An inclusive environment, Policy 7.4 Local character, Policy 7.15 Reducing noise and enhancing soundscapes.

Local Development Framework - Core Strategy (June 2011)

- 4.6 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, form the borough's statutory development plan. Relevant objectives and policies in the Core Strategy are:

Spatial Policy 2: Regeneration and Growth Areas, Objective 4: Economic activity and local businesses, Objective 9: Transport and accessibility, Objective 10: Protect and enhance Lewisham's character, Objective 11: Community well-being, Core Strategy Policy 3 Strategic Industrial Locations and Local Employment Locations, Core Strategy Policy 5: Other employment locations, Core Strategy Policy 14: Sustainable movement and transport, Core Strategy Policy 19: Provision and maintenance of community and recreational facilities, Core Strategy Policy 20: Delivering educational achievements, healthcare provision and promoting healthy lifestyles.

Adopted Unitary Development Plan (July 2004)

- 4.7 The following saved policies of the UDP are considered relevant:

ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity, LCE 1 Location of New and Improved Leisure, Community and Education Facilities

5.0 Consideration of Enforcement Action

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

Breach of Planning Control

- 5.2 The Council has confirmed by way of a site inspection that the use of the premises known as Unit 3 Evelyn Court has been changed to a church, without the benefit of the necessary planning permission.
- 5.3 The following assessment (paragraphs 5.5 – 5.25 below) was made in relation to consideration of the planning application – DC/12/79800 for the continued use of

the premises as a place of worship to which this report relates. The application was refused under delegated powers on 11 July 2012.

Planning Considerations

- 5.4 The main planning considerations are, the acceptability of the loss of employment floor space, whether the proposed use as a place of worship would be detrimental to the character and appearance of the area and whether there would be any harmful impacts on the amenities of nearby residential occupiers.

Loss of Employment Floorspace

- 5.5 Lewisham's adopted proposals map shows the application site being within the Surrey Canal Strategic Industrial Location. Core Strategy Policy 3 states the following: 'The Council will protect the Strategic Industrial Locations (SILs) for uses within the B Use Class (B1c, B8 and where appropriate B2 industry), and also appropriate sui generis uses, to provide land for activities that support the continued functioning of London as a whole such as waste management, transport and utilities, and uses that require 24-hour functioning.' Point 2 of the policy refers to Local Employment Locations, stating that the Council will protect Local Employment Locations (LELs) for a range of uses within the B Use Class (B1, B8 and where appropriate B2 industry) and also appropriate sui generis uses, to support the local economy.
- 5.6 Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities of the UDP encourages the provision of new community facilities. The policy states that, facilities serving local neighbourhoods should be located preferably in a District Centre, but a Local Centre may be acceptable. The policy allows for new facilities that are appropriately located in residential areas or where other sites are not available. In these instances, the policy states that a new community use will only be acceptable if there will be no adverse impact on residential amenity arising from noise or traffic generation, there is good access by public transport or the premises are suitably accessible to the client group or community to be served; and the proposals do not conflict with the other policies and provisions of the Plan.
- 5.7 The applicants have provided a letter from a letting agent 'Kalmar's Commercial.' The letter provided details of marketing, including a 'to let' board which has been in place since 2009, offering units ranging from 634sq ft to 2,648 sq ft which, in accordance with the online advertisement, confirms that the units are/can be split or amalgamated to suit the occupier(s). It is also argued that churches need administrative services which would result in the retention of some employment use at the unit. The letter goes further to state that there have only been 34 viewings since 2009, that market demand for offices in secondary locations is 'generally very poor' and that the problem with the site is the location and close proximity to residential occupiers. There is no reference to the vacancy rate for the remainder of the site. It should be noted that this letter has also been used to accompany the concurrent applications as referred to in the 'Planning History' section of this report.
- 5.8 In the Planning Statement, the applicant states that the unit had been vacant for 30 months, prior to the occupation of the current user which, in their opinion, demonstrated that employment use is not viable. Reference is also made to an

appeal decision made in 2006 within an employment location (the Elizabeth Industrial Estate) in which the Inspector allowed the appeal, agreeing that the first and second floors of that building were no longer viable for employment use. It should be noted that the building in question is approximately 90 years old and in need of considerable investment.

- 5.9 To summarise the above, Council policy states that employment land should be retained. The applicant stated that this unit had been vacant for a period of time and therefore the change of use should be allowed.
- 5.10 In producing the Core Strategy (adopted June 2011), the Council has undertaken a recent review of its employment land. The Lewisham Employment Land Study 2008 was commissioned from Roger Tym and Partners and is part of the evidence base for the LDF. The Roger Tym Study describes Evelyn Court as a modern business building occupied by a number of business users. As a result of the review, the area allocated as Strategic Industrial Location was reduced in extent and the area designated as Defined Employment Area in the 2004 UDP has also been reduced. The Council's Core Strategy has identified a number of strategic sites, where significant growth and development is envisaged within the plan period. Four of the five strategic sites are designated as Mixed Use Employment Locations where a range of economic, employment and training opportunities focusing on flexible business and light industrial uses is envisaged, as well as significant numbers of new dwellings. One of the strategic sites, Oxestalls Road, is located directly opposite Evelyn Court on the northeast side of Evelyn Street. In the main, the strategic sites comprise land formerly designated as 'Defined Employment Land' comprising a mix of general industrial/warehousing uses, with mainly older buildings in need of significant investment. In addition, the designated Surrey Canal SIL and Local Employment Locations (LELs), in addition to the strategic sites, are the result of the employment land review.
- 5.11 Evelyn Court forms part of a contiguous area which the Core Strategy envisages will continue to contribute to the continuing functioning of the Lewisham economy and has been subject to a comprehensive and rigorous recent review in terms of its continued protected designation.
- 5.12 The applicant states in the submitted Planning Statement that the property has been vacant for 30 months prior to the occupation of the current tenant. However, of the 18 units one vacant unit is considered to be an acceptable vacancy rate for the site with an 89% occupation rate. Further, given the 89% occupation rate, officers are mindful of the need to protect the existing employment space within the remainder of the site which is being used for B1 activities. In a building housing a significant number of units, it can be expected that the level of vacancy will vary from time to time.
- 5.13 The Lewisham Employment Land Study 2008 confirms that space for small and medium sized enterprises is in short supply across Lewisham. Growing sectors in the Borough, such as creative industries, rely upon high quality and affordable accommodation in order to maintain and develop their businesses. The Council seeks to support the growth in the number of businesses in the borough and in particular, to attract higher value added knowledge based businesses. The Employment Land Demand Study highlighted the need to create more office space and higher quality workshops and industrial units. There are opportunities

to increase the number of businesses which support the business and financial sector within the area.

- 5.14 It is considered that the current use for religious worship is not compatible with the use of the remainder of the building for B1 employment purposes. There have been a significant number of objections from residents of Inwen Court, the residential block adjoining to the southwest. Should occupiers and employees of other units wish to work on a flexible basis, after normal business hours or at weekends, they could be disturbed by the activities of the D1 use. The Use Classes Order states that B1 uses (Offices), research and development of products and processes and light industry are appropriate in a residential area. Therefore, the B1 occupiers should also be protected against any business activity outside of these restrictions. While Core Strategy Policy 3 indicates that more general industrial activities can be appropriate within SILs, the Surrey Canal SIL covers a larger area and there are locations, such as in this instance, where residential uses are in close proximity. Therefore, whilst some parts of the SIL is appropriate for more general industrial activities, given the character of the area, those sites where there is an interface with residential property have also to be considered in the context of the their residential neighbours. The site is in such a location given the proximity of Inwen Court.
- 5.15 The applicant has made the point that there is significant demand within the wider area for church uses. As stated above, two further concurrent similar applications for Units 3 and 11a are under consideration. In the marketing information, Kalmars stated that they have had 82 inquiries for churches or colleges. It is considered that there is a danger that if this unauthorised change of use was permitted, it would be difficult to resist the two concurrent applications and that further occupation of the building by church uses would result. It is considered that a proliferation of such uses would undermine the continuing functioning of the building as a business centre and would adversely impact on the continued functioning of other nearby business and industrial premises. The applicant has stated that the church use includes an element of administrative employment; however, the church would be able to use B1 business premises for office use without the necessity for a change of use.
- 5.16 The demand for church premises is acknowledged, however this should not result in the loss of designated employment premises, particularly in the context of a recent, comprehensive and rigorous review. It is of note that a recently granted planning permission for one of the strategic sites (the Surrey Canal Triangle) includes provision for a Faith Centre.
- 5.17 In conclusion, whilst the applicant may have provided some evidence of vacancy, this does not justify a change of use and the principle of the loss of B1 office space is not considered acceptable in this instance.

Design, character and appearance

- 5.18 No external alterations have been carried out to facilitate this change of use.

Impact to residential amenities from the proposed use

- 5.19 An important issue is the impact of the proposed use on neighbouring amenity, given the close proximity of residential accommodation at Inwen Court to the southwest of the application building.
- 5.20 Seven letters of objection have been received from residential neighbours, including one from the management company of the adjacent residential block, Inwen Court. Neighbours have complained about noise at unsociable hours, children playing in the car park and parking congestion in and around the application site.
- 5.21 Officers consider that the proposed D1 (place of worship) use would be a far more intensive use when services are taking place, than the lawful B1 Use. The lawful use comprises two combined commercial units which would typically be used during commercial hours during the daytime with limited evening and weekend use. While the proposed D1 use may not result in greatly increased use during usual business hours, it would result in a more intensive use of the premises in the evenings and particularly on Sundays when main services are envisaged to be held. The premises would be used for services associated with a place of worship, which could include prayers, ceremonies, rituals, music and other forms of noise generating activity associated with spiritual and cultural development. Such a use is likely to generate a significant level of noise and disturbance particularly during the evening and Sunday mornings. The application form submitted with the application does not propose opening hours, but the Planning Statement suggests officers place a condition on the decision notice suggesting opening hours of 9-5, Monday to Thursdays, 9am to midnight, Fridays and Saturdays and 9am to 6pm Sundays.
- 5.22 Whilst a condition limiting hours of use could be imposed, the hours required for a place of worship are unsociable and therefore the operating hours necessary to protect the amenities of nearby occupiers would not be deemed reasonable for a place of worship as required by the tests referred to in Circular 11/95. It is the proposed Sunday and late evening opening hours which would be the most detrimental to neighbouring amenities. The opening hours on a Sunday and late Friday and Saturday evenings are likely to significantly compromise the quiet enjoyment of the residential neighbours. Further, any preparation and closure work would be outside of these hours, and could also compromise the amenities of the nearby residential occupiers. These concerns are exacerbated as more than one church operates within the building.
- 5.23 If officers were to consider a condition to mitigate noise emanating from the site, this would be dependent on doors and windows remaining closed, which is likely to be unrealistic in practice. In addition, whilst noise breakout could be mitigated to some degree, a church would result in high volumes of patrons coming in and out of the building, which is likely to give rise to disturbance, as it is impossible to control activities outside the building. Therefore, permitting the change of use would be contrary to the conditions as set out in saved UDP Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities.
- 5.24 Given the proximity of the site to residential dwellings and the existing B1 occupiers on the site, it is not considered that any units within Evelyn Court are suitable for the proposed D1 use as a place of worship, as this would lead to

unacceptable levels of noise and disturbance, contrary to saved policies ENV.PRO 9, ENV.PRO 11 and HSG 4 of the UDP.

Highways and Parking

- 5.25 Neighbours also complained about the parking congestion derived from the patrons of the church. However, the site is very close to a main road served by a high frequency of bus services and the Highways Officer did not raise any objection to the proposal.

6.0 Legal Implications

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

7.0 Equal Opportunities and Human Rights Implications

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

Schedule 1, Part I - The Convention

Article 8 Right to Respect for Private and Family Life

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

for the protection of health or morals, or for the protection of the rights and freedoms of others.

Schedule 1, Part II - The First Protocol
Article 1 Protection of Property

- 7.2 Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

- 7.3 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.

The protected characteristics under the Act are Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The duty is a “have regard duty”, and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.

- 7.4 It is acknowledged that the majority of the congregation is from minority groups and that there is a high demand for church premises in the area. However, officers consider that the loss of the employment premises is not justified in the light of strategic employment policies. It is considered that in this matter officers have taken account of the impact on equality and have concluded that pursuing enforcement action in the circumstances of the case is the correct course of action in view of the loss of employment premises and that such action is proportionate and appropriate. In the circumstances, it is considered expedient to take enforcement action to secure the cessation of the use for the reasons set out in the report above.

8.0 Conclusion

- 8.1 For the reasons set out in the body of the report above, officers recommend that an Enforcement Notice be served to secure the cessation of the use of the premises as a place of worship on the grounds that it has resulted in a loss of employment space within a designated Strategic Employment Location and will

continue to have a detrimental impact upon the amenities of nearby residential occupiers and the existing B1 users of the site.

- 8.2 The unauthorised use is contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in the Council's Core Strategy (June 2011), and policies ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

9.0 Requirements of Enforcement Notice

- 9.1 To cease the use of the unit as a place of worship or any other use outside of the B1 use class.

10.0 RECOMMENDATION

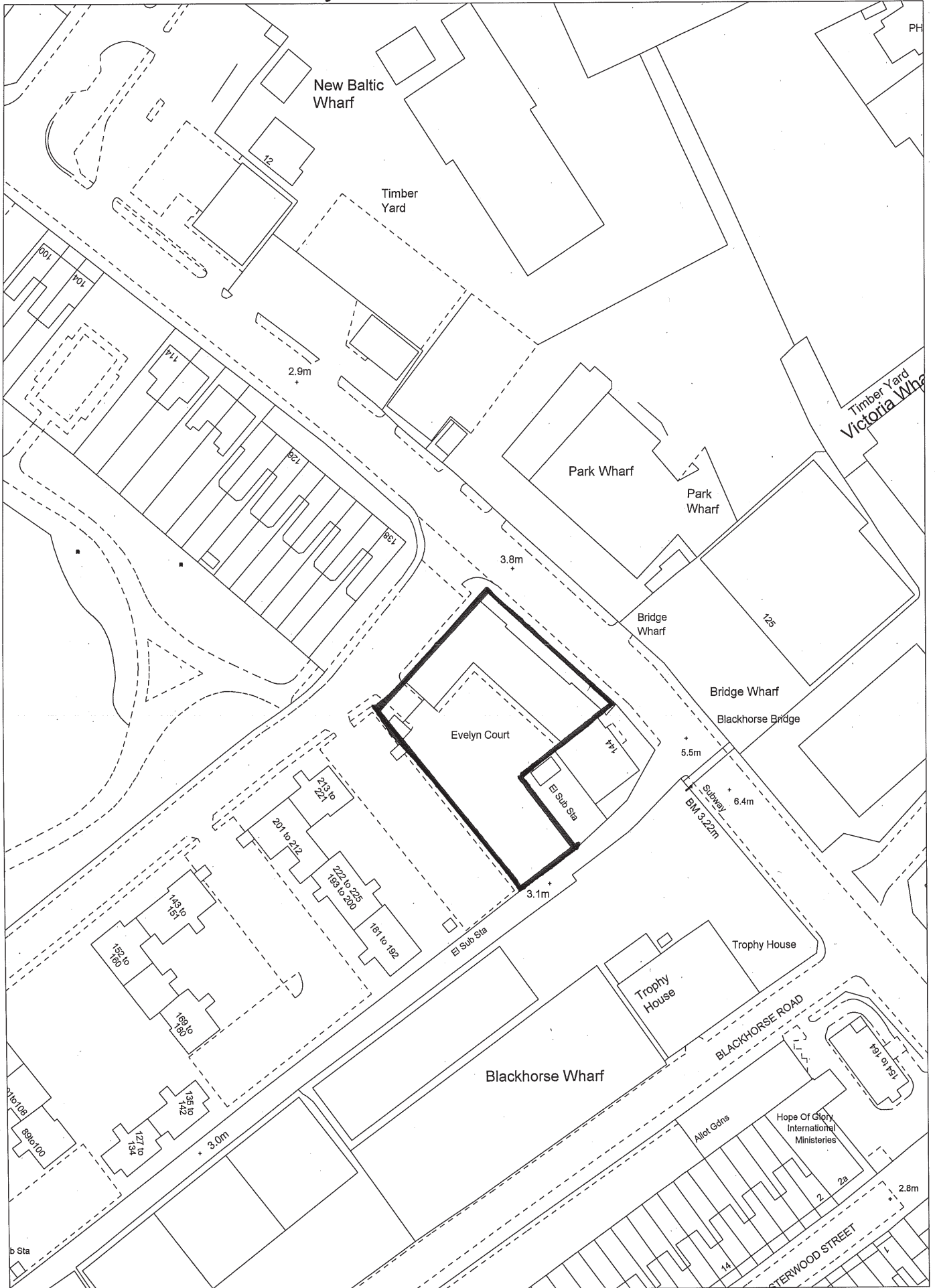
AUTHORISE THE HEAD OF LAW to take all necessary action to secure the cessation of the use of Unit 3 (ground floor), Evelyn Court, Grinstead Road SE8 as a place of worship or any other use outside of the B1 use class for the following reasons:-

- (1) The continued use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) The continued use as a place of worship would result in a loss of employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).

Period for Compliance: 3 months

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Evelyn Court, Grinstead Road, SE8



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Committee	PLANNING COMMITTEE C	
Report Title	Unit 11a, Evelyn Court, Grinstead Road, SE8 REQUEST FOR ENFORCEMENT ACTION	
Ward	Evelyn	
Contributors	R Lockett	
Class	PART 1	27 September 2012

<u>Background Papers</u>	<ul style="list-style-type: none"> (1) Case File - DE/229/B/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework (June 2011) (4) The London Plan (July 2011) (5) Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) (6) National Planning Policy Framework (March 2012) Paragraph 207: Enforcement
<u>Designation</u>	Adopted UDP - Existing Use

1.0 Introduction

- 1.1 This report deals with a breach of planning control at unit 11a Evelyn Court, Grinstead Road, SE8 relating to the unauthorised change of use from B1 Office use to use as a place of worship, which falls within the Use Class D1.

2.0 Property/Site Description

- 2.1 The premises consists of a purpose built business unit on the first floor of Evelyn Court which is located on the southern side of Grinstead Road, at the junction with Evelyn Street. Evelyn Court currently comprises 18 x B1 units within a three storey modern building. The ground floor units are single storey, whilst those occupying the first and second floors are two-storey, some of which have been sub-divided. The premises, which is the subject of this report, comprises unit 11a, located towards the south end of the building, with facades facing onto Evelyn Street and the car park at the rear of the building.
- 2.2 There is a car park with 28 car parking spaces which are accessed via electric gates leading onto Grinstead Road.
- 2.3 The site is within the southeastern 'leg' of the designated Surrey Canal Strategic Industrial Location, but is not within a Conservation Area, nor within the immediate vicinity of any Listed Buildings. Grinstead Road is not a Classified Road; however, Evelyn Street is an A Classified Road (the A200). There are industrial and commercial sites on the opposite side of Evelyn Street.
- 2.4 To the southwest is a residential estate fronting Grinstead Road, whilst to the southeast are further industrial and commercial buildings. On the opposite side of Evelyn Street are a number of industrial and warehouse premises.

3.0 Planning History

3.1 Planning permission was granted in 1990 for the construction of the office building comprising 12 x B1 units. The conditions attached to the permission referred to disabled access, landscaping, the retention of the car parking, materials and loading times. However, officers note that online marketing of the property currently refers to 18 commercial units, presumably as a result of the sub-division mentioned above

3.2 On 18 July 2012 planning permission was **refused** under delegated powers for the continued use of Unit 11a Evelyn Court, Grinstead Road SE8, as a place of worship (Use Class D1) for the following reasons:

- (1) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) The applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).

Related Units

3.3 In July 2012 planning consent was **refused** under delegated powers for the continued use of Unit 3 (first floor), Evelyn Court, Grinstead Road SE8, as a place of worship (Use Class D1) for the following reasons:

- (1) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) The applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).

3.4 In July 2012 planning consent was **refused** for under delegated powers for the continued use of Unit 2 Evelyn Court, Grinstead Road SE8, as a place of worship, community meeting hall and for charity activities (Use Class D1) for the following reasons:

- (1) The use would result in the loss of employment premises within a Strategic Industrial Location and the applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic industrial locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).
- (2) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

4.0 Policy Context

National Planning Policy Framework (March 2012)

- 4.1 The NPPF was published on 27 March 2012. Annex 1 of the NPPF provides guidance on implementation and states, in paragraph 211, that policies in the development plan should not be considered out of date just because they were adopted prior to the publication of the NPPF. At paragraphs 214 and 215, guidance is given on the weight to be given to policies in the development plan. In summary, this states that for a period of 12 months from publication of the NPPF, decision takers can give full weight to policies adopted since 2004, even if there is limited conflict with the NPPF. Following this period, weight should be given to existing policies according to their consistency with the NPPF.
- 4.2 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process, in accordance with paragraphs 211, 214 and 215 of the NPPF.
- 4.3 With regard to enforcement Paragraph 207 of the NPPF states:-

"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning decisions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."
- 4.4 In addition, Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) is relevant.

London Plan (July 2011)

- 4.5 The following London Plan policies are considered relevant:

Policy 1.1 Delivering the strategic vision and objectives for London, 3.1 Ensuring equal life chances for all, Policy 3.16 Protection and enhancement of social infrastructure, Policy 4.2 Offices, Policy 4.3 Mixed use development and offices, Policy 6.3 Assessing effects of development on transport capacity, Policy 6.9 Cycling, Policy 6.10 Walking, Policy 6.11 Smoothing traffic flow and tackling congestion, Policy 6.13 Parking, Policy 7.1 Building London's neighbourhoods and communities, Policy 7.2 An inclusive environment, Policy 7.4 Local character, Policy 7.15 Reducing noise and enhancing soundscapes

Local Development Framework - Core Strategy (June 2011)

- 4.6 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, form the borough's statutory development plan. Relevant objectives and policies in the Core Strategy include Core Strategy are:

Spatial Policy 2: Regeneration and Growth Areas, Objective 4: Economic activity and local businesses, Objective 9: Transport and accessibility, Objective 10: Protect and enhance Lewisham's character, Objective 11: Community well-being, Core Strategy Policy 3 Strategic Industrial Locations and Local Employment Locations, Core Strategy Policy 5: Other employment locations, Core Strategy Policy 14: Sustainable movement and transport, Core Strategy Policy 19: Provision and maintenance of community and recreational facilities, Core Strategy Policy 20: Delivery education achievements, health care provision and promoting healthy lifestyles.

Adopted Unitary Development Plan (July 2004)

- 4.7 The following saved policies of the UDP are considered relevant:

ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity, LCE 1 Location of New and Improved Leisure, Community and Education Facilities

5.0 Consideration of Enforcement Action

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

Breach of Planning Control

- 5.2 The Council has confirmed by way of a site inspection that the use of the premises known as Unit 11a Evelyn Court has been changed to a church, without the benefit of the necessary planning permission.
- 5.3 The following assessment (paragraphs 5.5 – 5.25 below) was made in relation to consideration of the planning application – DC/12/80314 for the continued use of

the premises as a place of worship to which this report relates. The application was refused under delegated powers on 18 July 2012.

Planning Considerations

- 5.4 The main planning considerations are the acceptability of the loss of employment floor space, whether the proposed use as a place of worship would be detrimental to the character and appearance of the area and whether there would be any harmful impacts on the amenities of nearby residential occupiers.

Loss of Employment Floorspace

- 5.5 Lewisham's adopted proposals map shows the application site being within the Surrey Canal Strategic Industrial Location. Core Strategy Policy 3 states the following: 'The Council will protect the Strategic Industrial Locations (SILs) for uses within the B Use Class (B1c, B8 and where appropriate B2 industry), and also appropriate sui generis uses, to provide land for activities that support the continued functioning of London as a whole such as waste management, transport and utilities, and uses that require 24-hour functioning.' Point 2 of the policy refers to Local Employment Locations, stating that the Council will protect Local Employment Locations (LELs) for a range of uses within the B Use Class (B1, B8 and where appropriate B2 industry) and also appropriate sui generis uses, to support the local economy.
- 5.6 Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities of the UDP encourage the provision of new community facilities. The policy states that facilities serving local neighbourhoods should be located preferably in a District Centre, but a Local Centre may be acceptable. The policy allows for new facilities that are appropriately located in residential areas or where other sites are not available. In these instances, the policy states that a new community use will only be acceptable if there will be no adverse impact on residential amenity arising from noise or traffic generation, there is good access by public transport, or the premises are suitably accessible to the client group or community to be served; and the proposals do not conflict with the other policies and provisions of the Plan.
- 5.7 The applicants have provided a letter from a letting agent 'Kalmar's Commercial.' The letter provided details of marketing, including a 'to let' board which has been in place since 2009, offering units ranging from 634sq ft to 2,648 sq ft which, in accordance with the online advertisement, confirms that the units are/can be split or amalgamated to suit the occupier(s). It is also argued that churches need administrative services which would result in the retention of some employment use at the unit. The letter goes further to state that there have only been 34 viewings since 2009, that market demand for offices in secondary locations is 'generally very poor' and that the problem with the site is the location and close proximity to residential occupiers. There is no reference to the vacancy rate for the remainder of the site. It should be noted that this letter has also been used to accompany the concurrent applications as referred to in the 'Planning History' section of this report.
- 5.8 In the Planning Statement, the applicant states that the unit had been vacant for two years, prior to the occupation of the current user which, in their opinion, demonstrates that employment use is not viable. Reference is also made to an

appeal decision made in 2006 within an employment location (the Elizabeth Industrial Estate) in which the Inspector allowed the appeal, agreeing that the first and second floors of that building were no longer viable for employment use. It should be noted that the building in question is approximately 90 years old and in need of considerable investment.

- 5.9 To summarise the above, Council policy states that employment land should be retained. The applicant states that Unit 11a has been vacant for a period of time and therefore the change of use should be allowed.
- 5.10 In producing the Core Strategy (adopted June 2011), the Council has undertaken a recent review of its employment land. The Lewisham Employment Land Study 2008 was commissioned from Roger Tym and Partners and is part of the evidence base for the LDF. The Roger Tym Study describes Evelyn Court as a modern business building occupied by a number of business users. As a result of the review, the area allocated as SIL was reduced in extent and the area designated as Defined Employment Area in the 2004 UDP has also been reduced. The Council's Core Strategy has identified a number of strategic sites, where significant growth and development is envisaged within the plan period. Four of the five strategic sites are designated as Mixed Use Employment Locations where a range of economic, employment and training opportunities focusing on flexible business and light industrial uses is envisaged, as well as significant numbers of new dwellings. One of the strategic sites, Oxestalls Road, is located directly opposite Evelyn Court on the northeast side of Evelyn Street. In the main, the strategic sites comprise land, formerly designated as 'Defined Employment Land' comprising a mix of general industrial/warehousing uses, with mainly older buildings in need of significant investment. In addition, the designated Surrey Canal SIL and Local Employment Locations (LELs), in addition to the strategic sites, are the result of the employment land review.
- 5.11 Evelyn Court forms part of a contiguous area which the Core Strategy envisages will continue to contribute to the continuing functioning of the Lewisham economy and has been subject to a comprehensive and rigorous recent review in terms of its continued protected designation.
- 5.12 The applicant states in the submitted Planning Statement that the property has been vacant for 30 months prior to the occupation of the current tenant. However, of the 18 units one vacant unit is considered to be an acceptable vacancy rate for the site with an 89% occupation rate. Further, given the 89% occupation rate, officers are mindful of the need to protect the existing employment space within the remainder of the site which is being used for B1 activities. In a building housing a significant number of units, it can be expected that the level of vacancy will vary from time to time.
- 5.13 The Lewisham Employment Land Study 2008 confirms that space for small and medium sized enterprises is in short supply across Lewisham. Growing sectors in the Borough, such as creative industries, rely upon high quality and affordable accommodation in order to maintain and develop their businesses. The Council seeks to support the growth in the number of businesses in the borough and in particular, to attract higher value added knowledge based businesses. The Employment Land Demand Study highlighted the need to create more office space and higher quality workshops and industrial units. There are opportunities

to increase the number of businesses which support the business and financial sector within the area.

- 5.14 It is considered that the current use for religious worship is not compatible with the use of the remainder of the building for B1 employment purposes. There have been a significant number of objections from residents of Inwen Court, the residential block adjoining to the southwest. Should occupiers and employees of other units wish to work on a flexible basis, after normal business hours or at weekends, they could be disturbed by the activities of the D1 use. The Use Classes Order states that B1 uses (Offices), research and development of products and processes and light industry are appropriate in a residential area. Therefore, the B1 occupiers should also be protected against any business activity outside of these restrictions. While Core Strategy Policy 3 indicates that more general industrial activities can be appropriate within SILs, the Surrey Canal SIL covers a larger area and there are locations, such as in this instance, where residential uses are in close proximity. Therefore, whilst some parts of the SIL is appropriate for more general industrial activities, given the character of the area, those sites where there is an interface with residential property have also to be considered in the context of the their residential neighbours. The site is in such a location given the proximity of Inwen Court.
- 5.15 The applicant has made the point that there is significant demand within the wider area for church uses. As stated above, two further concurrent similar applications for Units 2 and 3 are under consideration. In the marketing information, Kalmars stated that they have had 82 inquiries for churches or colleges. It is considered that there is a danger that if this unauthorised change of use was permitted, it would be difficult to resist the two concurrent applications and that further occupation of the building by church uses would result. It is considered that a proliferation of such uses would undermine the continuing functioning of the building as a business centre and would adversely impact on the continued functioning of other nearby business and industrial premises. The applicant has stated that the church use includes an element of administrative employment; however, the church would be able to use B1 business premises for office use without the necessity for a change of use.
- 5.16 The demand for church premises is acknowledged, however this should not result in the loss of designated employment premises, particularly in the context of a recent, comprehensive and rigorous review. It is of note that a recently granted planning permission for one of the strategic sites (the Surrey Canal Triangle) includes provision for a Faith Centre.
- 5.17 In conclusion, whilst the applicant may have provided some evidence of vacancy, this does not justify a change of use and the principle of the loss of B1 office space is not considered acceptable in this instance.

Design, character and appearance

- 5.18 No external alterations have been carried out to facilitate this change of use.

Impact to residential amenities from the proposed use

- 5.19 An important issue is the impact of the proposed use on neighbouring amenity, given the close proximity of residential accommodation at Inwen Court to the southwest of the application building.
- 5.20 Twelve letters of objection have been received from residential neighbours, including one from the management company of the adjacent residential block, Inwen Court. Neighbours have complained about noise at unsociable hours, children playing in the car park and parking congestion in and around the application site.
- 5.21 Officers consider that the proposed D1 (place of worship) use would be a far more intensive use when services are taking place, than the lawful B1 Use. The lawful use comprises two combined commercial units which would typically be used during commercial hours during the daytime with limited evening and weekend use. While the proposed D1 use may not result in greatly increased use during usual business hours, it would result in a more intensive use of the premises in the evenings and particularly on Sundays when main services are envisaged to be held. The premises would be used for services associated with a place of worship, which could include prayers, ceremonies, rituals, music and other forms of noise generating activity associated with spiritual and cultural development. Such a use is likely to generate a significant level of noise and disturbance particularly during the evening and Sunday mornings. The application form submitted with the application does not propose opening hours, but the Planning Statement suggests officers place a condition on the decision notice suggesting opening hours of 9-5, Monday to Thursdays, 9am to midnight, Fridays and Saturdays and 9am to 6pm Sundays.
- 5.22 Whilst a condition limiting hours of use could be imposed, the hours required for a place of worship would be unsociable and therefore the operating hours necessary to protect the amenities of nearby occupiers would not be deemed reasonable for a place of worship as required by the tests referred to in Circular 11/95. It is the proposed Sunday and late evening opening hours which would be the most detrimental to neighbouring amenities. The opening hours on a Sunday and late Friday and Saturday evenings are likely to significantly compromise the quiet enjoyment of the residential neighbours. Further, any preparation and closure work would be outside of these hours, and could also compromise the amenities of the nearby residential occupiers. These concerns are exacerbated as more than one church operates within the building.
- 5.23 If officers were to consider a condition to mitigate noise emanating from the site, this would be dependent on doors and windows remaining closed, which is likely to be unrealistic in practice. In addition, whilst noise breakout could be mitigated to some degree, a church would result in high volumes of patrons coming in and out of the building, which is likely to give rise to disturbance, as it is impossible to control activities outside the building. Therefore, permitting the change of use would be contrary to the conditions as set out in saved UDP Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities.
- 5.24 Given the proximity of the site to residential dwellings and the existing B1 occupiers on the site, it is not considered that any units within Evelyn Court are suitable for the proposed D1 use as a place of worship, as this would lead to

unacceptable levels of noise and disturbance, contrary to saved policies ENV.PRO 9, ENV.PRO 11 and HSG 4 of the UDP.

Highways and Parking

- 5.25 Neighbours have also complained about the parking congestion derived from the patrons of the church. However, the site is very close to a main road served by a high frequency of bus services and the Highways Officer did not raise any objection to the proposal.

6.0 Legal Implications

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

7.0 Equal Opportunities and Human Rights Implications

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

Schedule 1, Part I - The Convention

Article 8 Right to Respect for Private and Family Life

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

for the protection of health or morals, or for the protection of the rights and freedoms of others.

Schedule 1, Part II - The First Protocol
Article 1 Protection of Property

- 7.2 Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

- 7.3 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.

The protected characteristics under the Act are Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The duty is a “have regard duty”, and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.

- 7.4 It is acknowledged that the majority of the congregation is from minority groups and that there is a high demand for church premises in the area. However, officers consider that the loss of the employment premises is not justified in the light of strategic employment policies. It is considered that in this matter officers have taken account of the impact on equality and have concluded that pursuing enforcement action in the circumstances of the case is the correct course of action in view of the loss of employment premises and that such action is proportionate and appropriate. In the circumstances, it is considered expedient to take enforcement action to secure the cessation of the use for the reasons set out in the report above.

8.0 Conclusion

- 8.1 For the reasons set out in the body of the report above, officers recommend that an Enforcement Notice be served to secure the cessation of the use of the premises as a place of worship on the grounds that it has resulted in a loss of employment space within a designated Strategic Employment Location and will

continue to have a detrimental impact upon the amenities of nearby residential occupiers and the existing B1 users of the site.

- 8.2 The unauthorised use is contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in the Council's Core Strategy (June 2011), and policies ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

9.0 Requirements of Enforcement Notice

- 9.1 To cease the use of the unit as a place of worship or any other use outside of the B1 use class.

10.0 RECOMMENDATION

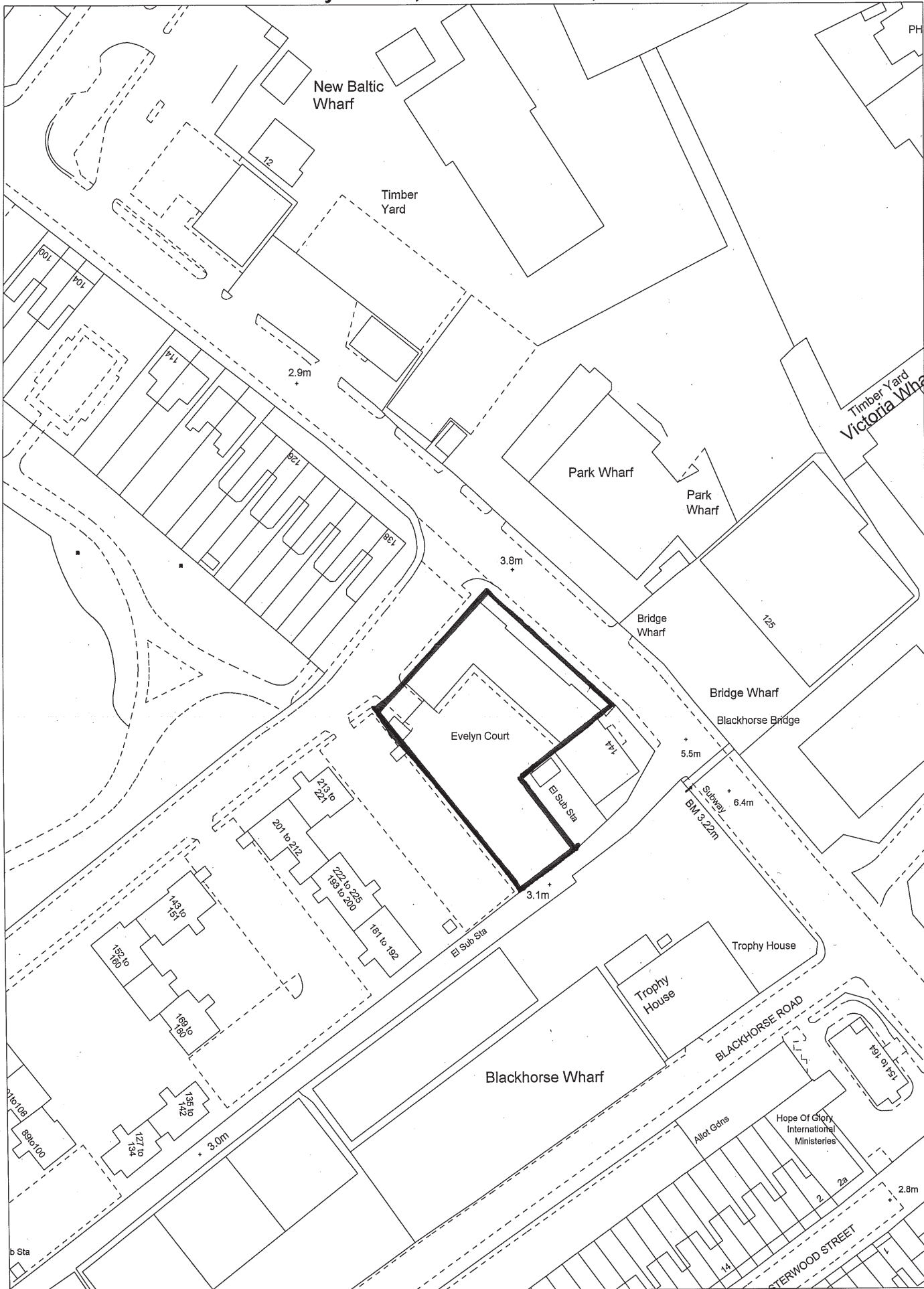
AUTHORISE THE HEAD OF LAW to take all necessary action to secure the cessation of the use of Unit 11a (first floor), Evelyn Court, Grinstead Road SE8 as a place of worship or any other use outside of the B1 use class for the following reasons:-

- (1) The continued use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) The continued use as a place of worship would result in a loss of employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).

Period for Compliance: 3 months

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Evelyn Court, Grinstead Road, SE8



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Committee	PLANNING COMMITTEE C	
Report Title	Unit 12a Evelyn Court, Grinstead Road, SE8 REQUEST FOR ENFORCEMENT ACTION	
Ward	Evelyn	
Contributors	R Lockett	
Class	PART 1	27 September 2012

<u>Background Papers</u>	(1) Case File - DE/229/B/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework (June 2011) (4) The London Plan (July 2011) (5) Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) (6) National Planning Policy Framework (March 2012) Paragraph 207: Enforcement
<u>Designation</u>	Adopted UDP - Existing Use

1.0 Introduction

- 1.1 This report deals with a breach of planning control at unit 12a Evelyn Court, Grinstead Road, SE8 relating to the unauthorised change of use from B1 Office use to use as a place of worship, which falls within the use class D1.

2.0 Property/Site Description

- 2.1 The premises consists of a purpose built business unit on the first floor of Evelyn Court which is located on the southern side of Grinstead Road, at the junction with Evelyn Street. Evelyn Court currently comprises 18 B1 units within a three storey modern building. The ground floor units are single storey, whilst the units on the first and second floors are two-storey, some of which have been sub-divided. The premises which is the subject of this report, is located close to the south end of the building, with facades facing onto Evelyn Street and into the application site.
- 2.2 There is a car park to the rear with 28 car parking spaces which are accessed via electric gates leading onto Grinstead Road.
- 2.3 Evelyn Court is within the south eastern 'leg' of the designated Surrey Canal Strategic Industrial Location, but is not within a Conservation Area, nor within the immediate vicinity of any Listed Buildings. Grinstead Road is not a Classified Road; however Evelyn Street is an A Classified Road being the A200.
- 2.4 To the southwest is a residential estate fronting Grinstead Road, whilst to the south east are further industrial and commercial buildings. On the opposite side of Evelyn Street are a number of industrial and warehouse premises.

3.0 Planning History

- 3.1 Planning permission was granted in 1990 for the construction of the office building comprising 12 x B1 units. The conditions attached to the permission referred to disabled access, landscaping, the retention of the car parking, materials and

loading times. However, officers note that online marketing of the property currently refers to 18 x commercial units, presumably as a result of the sub-division mentioned above.

3.2 On 18 July 2012, planning consent was refused (DC/12/80314) for the continued use of Unit 11a (first floor), Evelyn Court, Grinstead Road SE8, as a place of worship (Use Class D1) for the following reasons:

- (1) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) The applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).

3.3 In July 2012 planning consent was **refused** for the continued use of unit 2 Evelyn Court, Grinstead Road SE8, as a place of worship (Use Class D1), office and community centre for the following reasons:

- (1) The use would result in the loss of employment premises within a Strategic Industrial Location and the applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic industrial locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).
- (2) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

3.4 In July 2012 planning consent was **refused** for the continued use of unit 3 Evelyn Court, Grinstead Road SE8, as a place of worship, community meeting hall and for charity activities (Use Class D1) for the following reasons:

- (1) The use would result in the loss of employment premises within a Strategic Industrial Location and the applicant has failed to demonstrate that the premises should no longer be retained in employment use, contrary to Policy 3 Strategic industrial locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).
- (2) The proposed use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse

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- 4.2 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process, in accordance with paragraphs 211, 214 and 215 of the NPPF.
- 4.3 With regard to enforcement Paragraph 207 of the NPPF states:-
- "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning decisions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."*
- 4.4 In addition, Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006), is relevant.

London Plan (July 2011)

- 4.5 The following London Plan policies are considered relevant:

Policy 1.1 Delivering the strategic vision and objectives for London, 3.1 Ensuring equal life chances for all, Policy 3.16 Protection and enhancement of social infrastructure, Policy 4.2 Offices, Policy 4.3 Mixed use development and offices, Policy 6.3 Assessing effects of development on transport capacity, Policy 6.9 Cycling, Policy 6.10 Walking, Policy 6.11 Smoothing traffic flow and tackling congestion, Policy 6.13 Parking, Policy 7.1 Building London's neighbourhoods and communities, Policy 7.2 An inclusive environment, Policy 7.4 Local character, Policy 7.15 Reducing noise and enhancing soundscapes

Local Development Framework - Core Strategy (June 2011)

- 4.6 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the London Plan and the saved policies of the Unitary Development Plan, form the borough's statutory development plan. Relevant objectives and policies in the Core Strategy include Core Strategy are:

Spatial Policy 2: Regeneration and Growth Areas, Objective 4: Economic activity and local businesses, Objective 9: Transport and accessibility, Objective 10: Protect and enhance Lewisham's character, Objective 11: Community well-being, Core Strategy Policy 3 Strategic Industrial Locations and Local Employment Locations, Core Strategy Policy 5: Other employment locations, Core Strategy Policy 14: Sustainable movement and transport, Core Strategy Policy 19: Provision and maintenance of community and recreational facilities, Core Strategy Policy 20: Delivery education achievements, health care provision and promoting healthy lifestyles.

Adopted Unitary Development Plan (July 2004)

- 4.7 The following saved policies of the UDP are considered relevant:

STR URB 1 The Built Environment, URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity, LCE 1 Location of New and Improved Leisure, Community and Education Facilities.

5.0 Consideration of Enforcement Action

- 5.1 The main issue for consideration is whether it is appropriate and expedient for the Council to serve an Enforcement Notice, under the Town and Country Planning Act 1990 (as amended), on those who have a legal interest in the land which is the subject of this report, to secure the cessation of the use.
- 5.2 The Council has confirmed by way of a site inspection that the use of the premises known as Unit 12a has been changed to a church, without the benefit of the necessary planning permission.

Loss of Employment Floorspace

- 5.3 The Lewisham's adopted proposals map shows the application site being within the Surrey Canal Strategic Industrial Location. Core Strategy Policy 3 states that 'The Council will protect the Strategic Industrial Locations (SILs) for uses within the B Use Class (B1c, B8 and where appropriate B2 industry), and also appropriate sui generis uses, to provide land for activities that support the continued functioning of London as a whole such as waste management, transport and utilities, and uses that require 24-hour functioning.' Point 2 of the policy refers to Local Employment Locations, stating that the Council will protect Local Employment Locations (LELs) for a range of uses within the B Use Class (B1, B8 and where appropriate B2 industry) and also appropriate sui generis uses, to support the local economy.
- 5.4 Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities of the UDP encourages the provision of new community facilities. The policy states that facilities serving local neighbourhoods should be located preferably in a District Centre, but a Local Centre may be acceptable. The policy

allows for new facilities that are appropriately located in residential areas or where other sites are not available. In these instances, the policy states that a new community use will only be acceptable if there will be no adverse impact on residential amenity arising from noise or traffic generation, there is good access by public transport, or the premises are suitably accessible to the client group or community to be served; and the proposals do not conflict with the other policies and provisions of the Plan.

- 5.5 Despite the fact that planning permission has not been sought for the continued use of this unit, when applying for planning consent at neighbouring units the applicants provided a letter from a letting agent 'Kalmars Commercial.' The letter provided details of marketing, including a 'to let' board which has been in place since 2009, offering units ranging from 634sq ft to 2,648 sq ft which, in accordance with the online advertisement, confirms that the units are/can be split or amalgamated to suit the occupier(s). It was also argued that churches need administrative services which would result in the retention of some employment use at the unit. The letter went further, stating that there have only been 34 viewings since 2009, that market demand for offices in secondary locations is 'generally very poor' and that the problem with the site is the location and close proximity to residential occupiers. There is no reference to the vacancy rate for the remainder of the site. It should be noted that this letter has been used to accompany each of the concurrent applications as referred to in the 'Planning History' section of this report.
- 5.5 Council policy states that employment land should be retained. In producing the Core Strategy (adopted June 2011), the Council has undertaken a recent review of its employment land. The Lewisham Employment Land Study 2008 was commissioned from Roger Tym and Partners and is part of the evidence base for the LDF. The Roger Tym Study describes Evelyn Court as a modern business building occupied by a number of business users. As a result of the review, the area allocated as SIL was reduced in extent and the area designated as Defined Employment Area in the 2004 UDP has also been reduced. The Council's Core Strategy has identified a number of strategic sites, where significant growth and development is envisaged within the plan period. Four of the five strategic sites are designated as Mixed Use Employment Locations where a range of economic, employment and training opportunities focusing on flexible business and light industrial uses is envisaged, as well as significant numbers of new dwellings. One of the strategic sites, Oxestalls Road, is located directly opposite Evelyn Court on the northeast side of Evelyn Street. In the main, the strategic sites comprise land, formerly designated as 'Defined Employment Land' comprising a mix of general industrial/warehousing uses, with mainly older buildings in need of significant investment. In addition, the designated Surrey Canal SIL and Local Employment Locations (LELs), in addition to the strategic sites, are the result of the employment land review.
- 5.6 Evelyn Court forms part of a contiguous area which the Core Strategy envisages will continue to contribute to the continuing functioning of the Lewisham economy and has been subject to a comprehensive and rigorous recent review in terms of its continued protected designation.
- 5.7 Officers are mindful of the need to protect the existing employment space within the remainder of the site which is being used for B1 activities. In a building

housing a significant number of units, it can be expected that there will be a certain level of vacancy that will vary from time to time.

- 5.8 The Lewisham Employment Land Study 2008 confirms that space for small and medium sized enterprises is in short supply across Lewisham. Growing sectors in the Borough, such as creative industries, rely upon high quality and affordable accommodation in order to maintain and develop their businesses. The Council seeks to support the growth in the number of businesses in the borough and in particular, to attract higher value added knowledge based businesses. The Employment Land Demand Study highlighted the need to create more office space and higher quality workshops and industrial units. There are opportunities to increase the number of businesses which support the business and financial sector within the area.
- 5.9 It is considered that the current use for religious worship is not compatible with the use of the remainder of the building for B1 employment purposes. There have been a significant number of complaints from residents of Inwen Court, the residential block adjoining to the southwest. Should occupiers and employees of other units wish to work on a flexible basis, after normal business hours or at weekends, they could be disturbed by the activities of the D1 use. The Use Classes Order states that B1 uses (Offices), research and development of products and processes and light industry are appropriate in a residential area. Therefore the B1 occupiers should also be protected against any business activity outside of these restrictions. While Core Strategy Policy 3 indicates that more general industrial activities can be appropriate within SILs, the Surrey Canal SIL covers a larger area and there are locations, such as in this instance, where residential uses are in close proximity. Therefore, whilst some parts of the SIL are appropriate for more general industrial activities, given the character of the area, those sites where there is an interface with residential property have also to be considered in the context of the their residential neighbours. The site is in such a location given the proximity of Inwen Court.
- 5.10 It would appear that from the planning applications at the neighbouring units, there is significant demand within the wider area for church uses. Planning applications for similar uses at Units 1 and 2 (combined to form a single unit), 3 and 11a have all been refused for similar reasons. It is considered that there is a danger that if this unauthorised change of use were allowed to continue, it would be difficult to resist the other current D1 uses within the building and there is a likelihood that further occupation of the building by church uses would result. It is considered that a proliferation of such uses would undermine the continuing functioning of the building as a business centre and would adversely impact on the continued functioning of other nearby business and industrial premises.
- 5.11 The demand for church premises is acknowledged, however this should not result in the loss of designated employment premises, particularly in the context of a recent, comprehensive and rigorous review. It is of note that a recently granted planning permission for one of the strategic sites (the Surrey Canal Triangle) includes provision for a Faith Centre.

Impact to residential amenities from the proposed use

- 5.12 The residential accommodation at Inwen Court to the south west of Evelyn Court is in close proximity and complaints have been made to the Council in relation to noise nuisance. An investigation was carried out into the unauthorised use of four

units at the premises for places of worship, following complaints from neighbours. Several letters of objection were received from residential neighbours during the planning application process for three other units in Evelyn Court, including one from the management company of the adjacent residential block, Inwen Court. Neighbours have complained about noise at unsociable hours, children playing in the car park and parking congestion in and around the application site.

- 5.13 Officers consider that the continuation of the D1 (place of worship) use would be a far more intensive use, when services are taking place, than the lawful B1 Use. The lawful use comprises a commercial unit which would typically be used during commercial hours during the daytime with limited evening and weekend use. While the current D1 use may not result in greatly increased use during usual business hours, it would result in a more intensive use of the premises in the evenings and particularly on Sundays when main services are envisaged to be held. The premises is used for services associated with a place of worship, which includes prayers, ceremonies, rituals, music and other forms of noise generating activity associated with spiritual and cultural development. Such a use is likely to generate a significant level of noise and disturbance particularly during the evening and Sunday mornings.
- 5.14 The hours required for a place of worship are unsociable and therefore the operating hours necessary to protect the amenities of nearby occupiers would not be deemed reasonable for a place of worship as required by the tests referred to in Circular 11/95. Sunday and late evening opening hours are the most detrimental to neighbouring amenities. The opening hours on a Sunday and late Friday and Saturday evenings are likely to significantly compromise the quiet enjoyment of the residential neighbours. Further, any preparation and closure work would be outside of these hours, and could also compromise the amenities of the nearby residential occupiers. These concerns are exacerbated as more than one church operates within the building.
- 5.15 Whilst noise breakout could be mitigated to some degree by condition (if a planning application was submitted), a church does result in high volumes of patrons coming in and out of the building, which has also given rise to disturbance. Therefore, it is considered that the continuation of this use would be contrary to the criteria set out in saved UDP Policy LCE 1 Location of New and Improved Leisure, Community and Education Facilities.
- 5.16 Given the proximity of the site to residential dwellings and the existing B1 occupiers on the site, it is not considered that any units within Evelyn Court are suitable for the proposed D1 use as a place of worship, as this would lead to unacceptable levels of noise and disturbance, contrary to saved policies ENV.PRO 9, ENV.PRO 11 and HSG 4 of the UDP.

Highways and Parking

- 5.17 Neighbours have also complained about the parking congestion derived from the patrons of the church. However, the site is very close to a main road served by a high frequency of bus services.

6.0 Legal Implications

- 6.1 Government Policy advice to local planning authorities on the use of their enforcement powers is set out in The National Planning Policy Framework (2012).

They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.

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

7.0 Equal Opportunities and Human Rights Implications

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

Schedule 1, Part I - The Convention

Article 8 Right to Respect for Private and Family Life

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

Schedule 1, Part II - The First Protocol

Article 1 Protection of Property

- 7.2 Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

- 7.3 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.

The protected characteristics under the Act are Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The duty is a “have regard duty”, and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.

- 7.4 It is acknowledged that the majority of the congregation is from minority groups and that there is a high demand for church premises in the area. However, officers consider that the loss of the employment premises is not justified in the light of strategic employment policies. It is considered that in this matter officers have taken account of the impact on equality and have concluded that pursuing enforcement action in the circumstances of the case is the correct course of action in view of the loss of employment premises and that such action is proportionate and appropriate. In the circumstances, it is considered expedient to take enforcement action to secure the cessation of the use for the reasons set out in the report above.

8.0 Conclusion

- 8.1 For the reasons set out in the body of the report above, officers recommend that an Enforcement Notice be served to secure the cessation of the use of the premises as a place of worship on the grounds that it has resulted in a loss of employment space within a designated Strategic Employment Location and will continue to have a detrimental impact upon the amenities of nearby residential occupiers and the existing B1 users within Evelyn Court.
- 8.2 The unauthorised use is contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in the Council’s Core Strategy (June 2011), and policies ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

9.0 Requirements of Enforcement Notice

- 9.1 To cease the use of the unit as a place of worship or any other use outside of the B1 use class.

10.0 RECOMMENDATION

AUTHORISE THE HEAD OF LAW to take all necessary action to cease the use of Unit 12a (First floor), Evelyn Court, Grinstead Road SE8 as a place of worship or any other use outside of the B1 use class for the following reasons:-

- (1) The continued use as a place of worship would give rise to significant noise and disturbance for neighbouring B1 units and nearby residential occupiers. As such the proposal would have an unacceptable adverse impact upon neighbouring amenity contrary to saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, LCE 1 Location of New and Improved Leisure, Community and Education Facilities and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) The continued use as a place of worship would result in a loss of employment use, contrary to Policy 3 Strategic Industrial Locations and Local Employment Locations in Lewisham's Core Strategy (June 2011).

Period for Compliance: 3 months

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