

## PLANNING COMMITTEE C

Date of Meeting: **THURSDAY, 8 NOVEMBER 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, 30 October 2012**

**For further information please contact:  
Yinka Ojo Committee Co-ordinator  
5<sup>th</sup> Floor Laurence House  
Catford Road SE6 4RU**

**Telephone No: 020 8314 9785  
Email: [planning@lewisham.gov.uk](mailto:planning@lewisham.gov.uk)**



<b>Order Of Business</b>			
<b>Item No</b>	<b>Title of Report</b>	<b>Ward</b>	<b>Page No.</b>
1.	Declarations of Interests		1 - 4
2.	Minutes of Planning Committee C - 27 September 2012		5 - 6
3.	9 Independents Road SE3	Blackheath	7 - 64
4.	2B Mount Pleasant Road, SE13	Lewisham Central	65 - 72
5.	41-43 Nightingale Grove SE13 (Land to the rear)	Lewisham Central	73 - 94
6.	21-101 (Odd), Wells Park Road, SE26	Sydenham	95 - 102
7.	62 Siddons Road SE23	Perry Vale	103 - 110
8.	129 Woodyates Road SE12	Lee Green	111 - 128
9.	5 and 6 Beverley Court SE4	Brockley	129 - 140

Committee	PLANNING COMMITTEE C	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	8 November 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).

This page is intentionally left blank

Committee	PLANNING COMMITTEE C	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	8 November 2012

### MINUTES

To approve the minutes of the meeting of Planning Committee C held on 27 September 2012.

This page is intentionally left blank



Committee	PLANNING COMMITTEE C	
Report Title	9 INDEPENDENTS ROAD SE3 9LF	
Ward	Blackheath	
Contributors	Louise Holland	
Class	PART 1	8 NOVEMBER 2012

Reg. Nos. (A) DC/10/76229  
(B) DC/10/76230

Application dated 23 December 2010

Applicant BPTW Partnership on behalf of Borago Global Limited

Proposal (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.

Applicant's Plan Nos. 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.

Background Papers (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

Designation

PTAL 5, Blackheath Conservation Area, Not Listed.

Screening

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 Background**

1.1 This application was considered by Members at the meeting of Planning Committee C held on 27 September 2012. Members resolved to defer determination of the applications to the following meeting of Planning Committee C for the provision of further information regarding the impact of the proposed development on neighbouring properties in Lawn Terrace and the provision of photographs showing the relationship of the development to neighbouring properties.

1.2 Members are referred to the report considered at that meeting which is included as an appendix to this report, and which contains a full description of the site and its planning history, the details of the application, an explanation of the planning policy background and an assessment of the main planning issues raised by the applications.

**2.0 Additional Information Submitted**

2.1 The applicant has submitted further information in relation to the relationship between the proposed development and the closest properties opposite in Lawn Terrace. In addition for the purpose of comparison the applicants have provided information on the average facing distances across a number of streets in the vicinity.

**3.0 Additional Responses to Consultation**

3.1 Additional letters have been received from the residents of 7 Lawn Terrace and The Blackheath Hospital. The letters re-iterate grounds for objection raised in previous correspondence and summarised in the previous report. In addition the following matters are raised.

3.2 7 Lawn Terrace:

1. Officers and the applicant have not sufficiently addressed the wide range of issues raised in objections including at the local meeting;
2. Right to Light would be infringed;
3. Submitted drawings are misleading and do not show facing distances correctly, the shortest distance from the proposed balconies to our bathroom window would be 21m and 22m to bedrooms and living rooms; the development should be reduced in height
4. Traffic impact, provision should be made for turning facility within the site.
5. Concern about construction logistics which should be agreed prior to any planning permission being granted.

## Blackheath Hospital

- 3.3 Consider proposed development will add to congestion and increase risk to pedestrians and other road users in Blackheath Village.

### **4.0 Planning Considerations**

- 4.1 The main planning considerations raised by the application are described in the appendix.
- 4.2 The additional information submitted by the applicant comprises survey drawings that show the relationship of the site with neighbouring buildings, including the closest houses in Lawn Terrace and location plans and photographs that illustrate various building heights and facing distances in a number of streets in the vicinity of the site.
- 4.3 In relation to impact on daylight, the submitted sections include illustration of a 25 degree angle from the centre of the upper ground floor windows of property opposite in Lawn Terrace which shows that the highest part of the proposed building would not obstruct the angle, such that further calculations would be indicated. The applicants Report on Sunlight, Daylight and Overshadowing included the results of assessment of the impact on ground floor windows at 5, 7, 9 and 11 Lawn Terrace in relation to Vertical Sky Component (VSC) which showed that the relevant windows would continue to receive levels of daylight that exceed the guideline values included in the BRE Site Layout Planning for Daylight and Sunlight good practice guide (2011). Officers remain satisfied that the properties opposite would continue to receive satisfactory daylight levels to ground floor windows in accordance with the BRE guidelines.
- 4.4 The additional information submitted shows that the closest part of the proposed building, the south-eastern block, would be 23.1m from the upper ground floor bay window of No.7 Lawn Terrace. The south-western block would be set back by an additional 1.3m from the Independents Road frontage.
- 4.5 The configuration of Independents Road and Lawn Terrace is unusual in that the separate, largely parallel carriageways are separated by a strip of trees and vegetation and in terms of the difference in levels between the two roads. Officers consider that with these characteristics the proposed development would have an acceptable relationship with the closest properties on the south side of Lawn Terrace and that the facing relationship would not be overpowering and would be typical of the relationship between properties that have a conventional facing position on either side of a road with perimeter development to each side.
- 4.6 Officers have reviewed the conclusions contained in the appendix, and are of the view that, subject to the terms of the section 106 agreement and the conditions recommended, the scheme is otherwise acceptable for the reasons outlined in the appendix.

### **5.0 Local Finance Considerations**

- 5.1 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).

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

5.3 The Mayor of London's CIL is therefore a material consideration. CIL is payable on this application (1,452m<sup>2</sup>).

## **6.0 Conclusion**

6.1 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.

6.2 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.

6.3 The standard of proposed accommodation is in compliance with guidelines. Officers are of the view that the scheme is acceptable for the reasons set out in this report and the appendix.

## **7.0 Summary of Reasons for Grant of Planning Permission**

7.1 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.

7.2 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 1 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 Policy 1 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 Policy 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.

7.3 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.

## **8.0 Recommendation**

### **8.1 Recommendation (A)**

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.

## 8.2 **Recommendation (B)**

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 1m<sup>2</sup> 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 LAm<sub>ax</sub> (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 CO<sub>2</sub> 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.

8.3 **Recommendation (C)**

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 1

Committee	PLANNING COMMITTEE C	
Report Title	9 INDEPENDENTS ROAD SE3 9LF	
Ward	Blackheath	
Contributors	Louise Holland	
Class	PART 1	27 SEPTEMBER 2012

Reg. Nos. (A) DC/10/76229  
(B) DC/10/76230

Application dated 23 December 2010

Applicant BPTW Partnership on behalf of Borago Global Limited

Proposal (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.

Applicant's Plan Nos. 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.

Background Papers (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

Designation PTAL 5, Blackheath Conservation Area, Not Listed.

Screening 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**

#### The Proposals

- 3.1 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.
- 3.2 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.
- 3.3 A communal cycle store is proposed at ground floor level. No off-street car parking is proposed.
- 3.4 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.



- 3.5 The building would occupy much of the site, however there would be small terrace gardens to front and rear.
- 3.6 There is a concurrent application for conservation area consent for the demolition of the existing building.

#### Supporting Documents

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

#### Design and Access Statement

- 3.8 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

- 3.9 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

- 3.10 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)

- 3.11 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

- 3.12 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)

- 3.13 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

- 3.14 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

- 3.15 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

- 3.16 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

- 3.17 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

- 3.18 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)

- 3.19 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)

- 3.20 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

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

#### Drainage Statement

- 3.22 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)

- 3.23 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

- 3.24 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 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 Lifetimes 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 7m<sup>2</sup> and 10m<sup>2</sup>. 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 railway 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 2.m 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 nets gains in biodiversity where possible. Core Strategy 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 (1,452m<sup>2</sup>).

## **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 1 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 Policy 1 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 Policy 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.

### **10.3 Recommendation (B)**

10.4 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 1m<sup>2</sup> 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 LAm<sub>ax</sub> (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 CO<sub>2</sub> 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 HSG 4 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)**

10.5 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.

## MINUTES

### 9 INDEPENDENTS ROAD SE3

The Planning Officer outlined the details of the proposal for conservation area consent to demolish 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.

The Committee received verbal representation from the applicant's architect, Jan Marc Petroschka of Emoli Petroschka, and objections from Alex Schweitzer of the Blackheath Society and residents of 7 Lawn Terrace.

Councillor Long moved a motion to accept the officer's recommendation to grant planning permission subject to conditions, which was seconded by Councillor Paschoud.

Members voted as follows:

FOR: Councillors Paschoud and Long.

AGAINST: Councillors Bell (Chair), Gibson and Curran.

Councillors Bell moved a subsequent motion to defer determination of the applications pending the provision of further information regarding the impact of the development on neighbouring properties and the provision of photos showing the relationship of the development on neighbouring properties.

Members voted as follows:

FOR: Councillors Bell (Chair), Gibson and Curran.

AGAINST: Councillors Long.

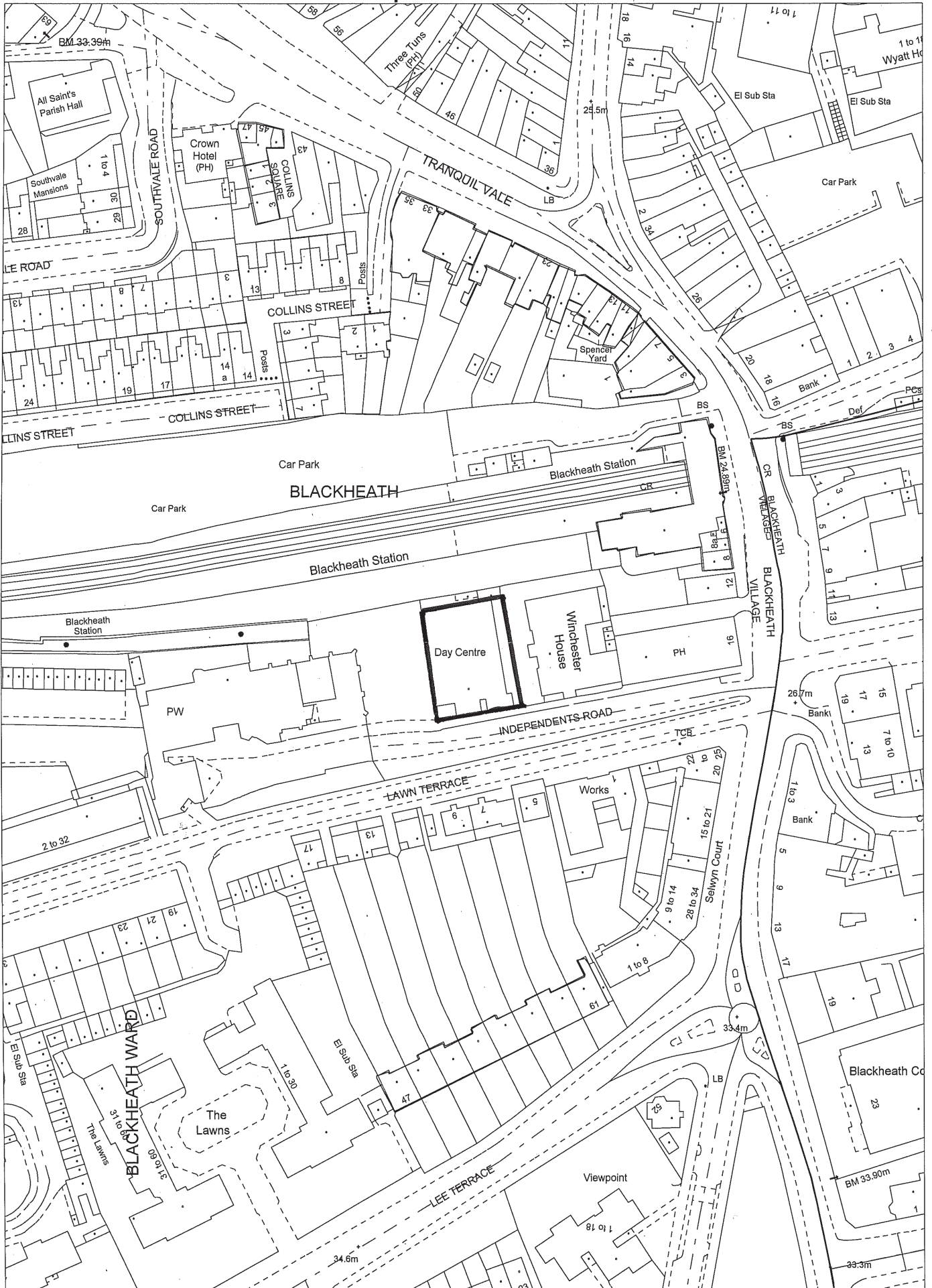
ABSTENTIONS: Councillors Paschoud.

RESOLVED: that determination of applications DC/10/76229 and DC/10/76230 be deferred until the next Planning Committee C meeting on 8 November 2012 pending the provision of further information regarding the:

- i. The impact of the proposed development on neighbouring properties on Lawn Terrace;
- ii. And the provision of photos showing the relationship of the development on neighbouring properties.



# 9 Independents Road SE3



This page is intentionally left blank

Committee	PLANNING COMMITTEE C	
Report Title	2B MOUNT PLEASANT ROAD SE13 6RB	
Ward	Lewisham Central	
Contributors	Tabitha Lythe	
Class	PART 1	8 November 2012

<u>Reg. No.</u>	DC/11/78891
<u>Application dated</u>	23.11.2011, completed 03.01.2012
<u>Applicant</u>	ReDesign Architecture Ltd on behalf of Mr A Talha
<u>Proposal</u>	The change of use of part of the print works (Class B1) to an Islamic Burial Service (Class A1) at 2B Mount Pleasant Road, SE13 including alterations to the front elevation.
<u>Applicant's Plan Nos.</u>	00; 01; 02; 03; 04; Planning Statement.
<u>Background Papers</u>	(1) This is Background Papers List (2) Case File LE/923/B/TP (3) Adopted Unitary Development Plan (July 2004) (4) Local Development Framework Documents (5) The London Plan
<u>Designation</u>	Core Strategy / Adopted UDP - Existing Use

## **1.0 Property/Site Description**

- 1.1 The application property is a two storey building on the north side of Mount Pleasant Road. The premises was formerly in use as a printworks (Class B1) which has since ceased use. The application relates to the part of the ground floor at the west side of the building which is currently in use as an Islamic Book shop and clothes shop (Class A1). Adjoining to the west is a garage building which is understood to be in the ownership of the applicant. To the rear the building adjoins a mosque, the Lewisham Islamic Centre at 363-365 Lewisham High Street. There is an access way between Nos. 2a and 2 Mount Pleasant Road which is used as a means of escape for the Islamic Centre. Further to the west at the junction with Lewisham High Street are three storey buildings with commercial/retail uses on the ground floor. There is a funeral parlour located on the south corner of Mount Pleasant Road and Lewisham High Street. To the east the remainder of Mount Pleasant Road is residential in character, including the property immediately to the east at 2 Mount Pleasant Road.
- 1.2 The property is not within a Conservation Area, there are no Article 4 Directions and it is not a Listed Building.

## **2.0 Planning History**

- 2.1 1995: planning permission was granted for the erection of a first floor extension at Whitmount Press 2B Mount Pleasant Road SE13 to provide a store room and darkroom.
- 2.2 2008: application withdrawn for the change of use of 2b Mount Pleasant Road SE13 to a restaurant and takeaway service.
- 2.3 Oct 2012: planning permission was granted for the change of use of the existing storage garage at 2B Mount Pleasant Road SE13 into a travel agency (Use Class A1).

## **3.0 Current Planning Applications**

### **3.1 The Proposals**

- 3.2 Planning permission is sought for the change of use from a print works (Class B1) to an Islamic funeral parlour (Class A1).
- 3.3 A window is proposed to be removed and a door inserted into the front elevation to allow a separate access for the office to where the bodies are brought in and out.
- 3.4 The property is currently in use as a book shop without the benefit of planning permission.

## **4.0 Consultation**

- 4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.
- 4.2 Site notices were displayed and letters were sent to residents and business in the surrounding area and the relevant ward Councillors.

### **Written Responses received from Local Residents and Organisations**

- 4.3 4 responses were received from Flat 1, Flat 2 and Flat 3, 2 Mount Pleasant Road and 371 Lewisham High Street.
  - Less privacy
  - Increased pressures on parking
  - Highway safety, overcrowding of people on the pavements
  - Increase in noise
  - Increase in litter

## 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.

### London Plan (July 2011)

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

Policy 5.3 Sustainable design and construction  
Policy 5.7 Renewable energy  
Policy 7.2 An inclusive environment  
Policy 7.4 Local character  
Policy 7.6 Architecture

## Core Strategy

- 5.7 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the 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:

Core Strategy Policy 5 Other employment locations  
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 15 High quality design for Lewisham

## Unitary Development Plan (2004)

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

URB 3 Urban Design  
URB 6 Alterations and Extensions

## **6.0 Planning Considerations**

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

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

### Principle of Development

- 6.2 This unit is located just off the main high street where there are many other Class A1 uses and a travel agents which is also Class A1 use, has been granted planning permission next door. While office space is sought to be retained in the Catford Town Centre this property is just outside this and there is a surplus of office space in this area at present. Therefore as it is out of the Catford Town Centre but within close proximity of other vacant office space the loss of this space would not have a detrimental impact on the area. The proposed retail use would provide some employment and therefore the change of use would be considered to be acceptable.
- 6.3 While concerns have been raised about the suitability of a funeral parlour in this location the principle of the use would appear acceptable as there is a funeral parlour opposite at 373 Lewisham High Street.

### Design

- 6.4 The removal of the window and replacement with a door would be considered to be a relatively minor alteration that would not have a negative impact on the property or the surrounding properties.

## Highways and Traffic Issues

### *a) Cycle Parking*

- 6.5 No cycle parking has been proposed. The size of the unit is relatively small and providing a formal cycle parking space inside would be difficult. Furthermore there would not appear to be space at the front to provide secure cycle parking. Therefore no provision of formal cycle parking would be considered to be acceptable in this instance.

### *b) Car Parking*

- 6.6 Concerns have been raised by residents about a further strain on parking. While this may become worse it would be unlikely to significantly change from the existing situation and would therefore be considered to be acceptable. Furthermore, the unit has one off-street parking space which is unusual for a retail unit and would ease some of the pressure on parking

### *c) Refuse*

- 6.7 No details of refuse storage have been provided and it is unclear the levels that may be required for the proposed use. A condition requiring details of refuse storage can be added to ensure that satisfactory storage is provided.

## Noise

- 6.8 Concerns have been raised about noise however these would mainly appear to relate to the existing mosque and school. The proposed use as a funeral parlour is unlikely to cause a significant increase in noise levels. However, were noise to become an issue the Noise Team in Environmental Health have legislation that they could use to manage this.

## Impact on Adjoining Properties

- 6.9 Policy HSG4 seeks to protect residential amenity.
- 6.10 The use as a funeral parlour would be likely to increase the number of people visiting the property when compared with its use as a print works. However the property has been used as a book shop for some time without complaints to the planning department and the use of the funeral parlour is likely to be similar to this. A condition restricting the hours of opening to be between 8am and 11pm would ensure that residents are not disturbed unduly.

## **7.0 Conclusion**

- 7.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 7.2 On balance, Officers consider that the proposed change of use to a funeral parlour and alterations to the front elevation is considered acceptable.

## **8.0 Summary of Reasons for Grant of Planning Permission**

8.1 It is considered that the proposal is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area, or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Policies URB 3 Urban Design and URB 6 Extensions and Alterations in the adopted Unitary Development Plan (July 2004) and Objective 10: Protect and enhance Lewisham's character; Policy 5: Other employment locations and Policy 15: High quality design for Lewisham in the adopted Core Strategy (June 2011).

## **9.0 RECOMMENDATION**

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

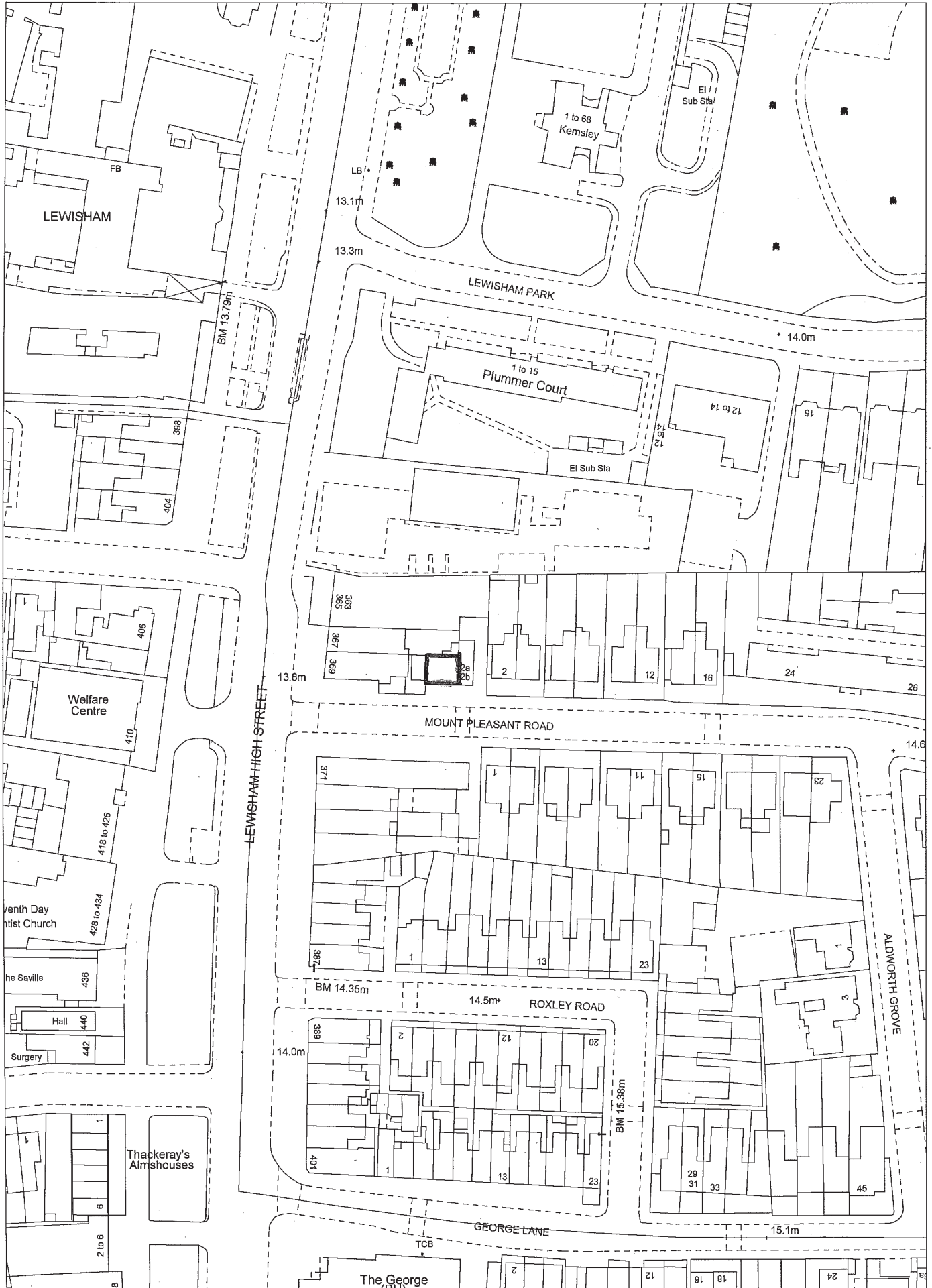
- (1) Details of the construction, including facing materials, of the proposed refuse storage arrangements shall be submitted to and approved in writing by the local planning authority prior to the commencement of approved use and shall be carried out in full accordance with the approved details.
- (2) The premises shall not be open for customer business between the hours of 11 pm and 8 am on any day of the week.

### Reasons

- (1) To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to comply with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).
- (2) To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to comply with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).



# 2B MOUNT PLEASANT ROAD, LONDON, SE13 6RB



This page is intentionally left blank

Committee	PLANNING COMMITTEE C	
Report Title	LAND TO THE REAR OF 41-43 NIGHTINGALE GROVE SE13 6SN, FRONTING SPRINGBANK ROAD	
Ward	Lewisham Central	
Contributors	S Isaacson	
Class	PART 1	8 NOVEMBER 2012

<u>Reg. No.</u>	DC/11/78741
<u>Application dated</u>	8.11.2011 as revised 18.12.2011
<u>Applicant</u>	The Black Ant Company Ltd
<u>Proposal</u>	The construction of a part two/part four storey building on land to the rear of 41-43 Nightingale Grove SE13, fronting Springbank Road, comprising 2 office units (Use Class B1) on the ground floor, 3 one-bedroom and 3 two-bedroom self contained flats on the upper floors, incorporating balconies and a roof terrace.
<u>Applicant's Plan Nos.</u>	100-ST-01 rev D, 200-SK-01 rev D, 200-SK-02 rev E, 200-SK-03 rev E, 200-SK-R03 rev A, 300-EL-01 rev E, 300-EL-02 rev D, 300-EL-03 rev C, 300-EL-04 rev D, 400-SE-01 rev D, 400-SE-02 rev A, Design & Access Statement, BRE Sunlight Analysis & Code for Sustainable Homes Pre-Assessment Report.
<u>Background Papers</u>	(1) Case File LE/792/E/TP (2) National Planning Policy Framework (NPPF) (3) The London Plan (4) Local Development Framework Documents (5) Adopted Unitary Development Plan (July 2004)
<u>Designation</u>	Core Strategy / Adopted UDP - Existing Use

## **1.0 Property/Site Description**

- 1.1 The application site is located on the north side of Springbank Road to the rear of properties in Nightingale Grove, at the north end of Springbank Road. The site has been vacant for about 2 years, following its sale by Network Rail (apart from the unauthorised storage use that was taking place at the time of the appeal site visit). It forms part of a larger group of industrial sites on the north side of Springbank Road and east side of Nightingale Grove, comprising various commercial uses, and including a day nursery. Immediately to the east of the site is a footpath linking the north end of Springbank Road to Hither Green Station entrance. The railway line runs to the east of the site on a high embankment, with Hither Green station to the north-east. To the south, the west side of Springbank Road is residential in character, the closest residential dwellings being 102-116 and 51 Nightingale Grove and 18 - 24 Springbank Road.

- 1.2 The site is not within a conservation area, nor is it in the vicinity of any listed buildings. The site has a PTAL Rating of 3.
- 1.3 On the south-west side of the railway, bus route 225 runs along Springbank Road, and links Hither Green with New Cross, Surrey Quays and Canada Water. On the north-east side of the station, the 225 Route stops at Hither Green Station, running along Fernbrook Road and linking Lewisham down to Lee. Grove Park, Chislehurst and Petts Wood. Route 181 runs close by along Hither Green Lane, linking Lewisham through to Grove Park, via Catford and Lower Sydenham.
- 1.4 The Greenwich Meridian runs close to the east side of the site and crosses the main railway foot tunnel at Hither Green Station, where it is marked on the curving roof of the tunnel.

## **2.0 Planning History**

- 2.1 The previous use of the site was for storage, but there are no older records on the Statutory Register.
- 2.2 On 10 June 2011, planning permission was refused for the construction of a four-storey building on the land at the rear of 41-43 Nightingale Grove SE13, facing Springbank Road SE13, comprising 2 office units (Use Class B1) on the ground floor and 6 one bedroom and 2 two bedroom self-contained flats on the upper floors, incorporating balconies and a roof terrace (DC/11/75718). The reason for refusal was:-

*The proposed four-storey building would have an overbearing and dominating relationship to the open play area of the adjoining day nursery and thereby have an unacceptable adverse impact upon the amenity of children and teachers using the play area, contrary to policies URB 3 Urban Design and LCE 4 Places for Children to Play in the adopted Unitary Development Plan (July 2004).*

- 2.3 An appeal was submitted to the Planning Inspectorate against this decision, and the subsequent decision was issued on 11 October 2011. The appeal was dismissed. The Inspector stated that: - "The main issue in the appeal is the effect of the proposed building on the children's day nursery use adjacent to the north; in particular, whether it would have an unacceptably overbearing proximity to it, leading to an unduly increased sense of enclosure and a loss of natural light to the playground and the main nursery building."

- 2.4 The following paragraphs are relevant from the Inspector's Report:-

8. *There is no dispute that the proposed development would make full and effective use of a previously developed site, in line with other UDP policies, and that the 8 flats would make a significant contribution to meeting local housing needs. The ground floor B1 offices would also contribute to employment and regeneration needs and related planning objectives. Other than its effect on the nursery, the Council has no particular objection to the building design, which to my mind has a simple but attractive contemporary form and elevations externally, and is well laid out internally. Although it would be higher than the other buildings in the area, it would not harm the local townscape or the street scene.*

9. *Thus I agree with the Council that the only problematical aspect of the proposal is its effect or impact on the nursery. I therefore spent some time during my site visit considering that, both from the playground and from inside the nursery buildings. I am in little doubt that the proposed building, 4 storeys in height and for some 6m. hard up against the nursery boundary, would have a very overbearing effect on the nursery playground, in particular, leading to a greatly increased sense of enclosure, and a significant loss of natural light at certain times of day, depending on the season. Indeed, that is borne out by the appellants' own sunlight analysis, and to some degree acknowledged by them. Rooms in the main nursery building would also suffer these effects, but to a more limited extent.*
10. *The appellants argue that the effects on a children's nursery are inherently less significant than if the neighbouring use affected were residential. In any event, they say, the merits of the proposals should outweigh any adverse effects on the nursery.*
11. *On balance, I am not persuaded by these arguments. It seems to me that UDP policies URB 3 and LCE4, while not directly relevant to the proposal in hand, provide policy backing for taking the adverse effects on the nursery into account. With that in mind, I regard the playground as an important and indeed indispensable amenity for the nursery, whose continued use and character should be protected as far as possible. To my mind, that includes protection from any potentially adverse effects or impacts of nearby development proposals.*
12. *I have also borne in mind that the playground is relatively small, but - as I saw for myself - is often intensively used; that its use is frequent, and occurs throughout the pre-school day, and (I have assumed) throughout most of the year; that it is already fairly tightly enclosed by buildings and by the nearby railway embankment; and that this sense of enclosure is further increased by the group of tall trees standing on the embankment. This existing level of enclosure tends somewhat to undermine its role, character and effectiveness as an outdoor playing area, but in my opinion the use and character of the playground would be significantly further harmed by the relatively tall, 4 storey building which is proposed to rise above its boundary fence. If this were built as proposed, the playground would have a far more tightly enclosed feel, would be more overshadowed and as a result would become less useful and pleasant as an essential amenity for the nursery.*
13. *While I have borne in mind the real merits of the appeal proposals, some of which I refer to above, they do not outweigh the harm to the amenity and functioning of the adjacent children's nursery. That is why the appeal must fail."*

### **3.0 Current Planning Application**

#### **The Proposal**

- 3.1 Following the refusal of planning permission and the dismissed appeal, the applicant has revised the proposal to take account of the Inspector's decision.

- 3.2 The revised application now submitted is again for the construction of a two/part four storey building on the site, but with the upper floors being of reduced depth. The new building will present a frontage both onto Springbank Road and to the railway footpath. It will comprise 2 office units (Use Class B1) on the ground floor, with the main commercial entrance and windows facing onto the footpath.
- 3.3 As original submitted, seven residential units were to be provided on the upper floors (reduced from 8 in the refused scheme) as 4 one-bedroom and 3 two-bedroom self-contained flats on the upper floors, incorporating balconies and a roof terrace (previously 6 one-bedroom and 2 two-bedroom self-contained flats in the refused scheme).
- 3.4 This residential provision has been revised, following discussion, to six units, viz. 1 two-bedroom flat and 1 one-bedroom flat on each floor. The rear of the upper floors is set a mean of 5.4m from the rear boundary with the day nursery playground (4.75m measured along the eastern site boundary and 5.9m along the west boundary.)
- 3.5 The site is roughly rectangular, measuring approximately 10m wide by a maximum of 22m deep along the western boundary, reducing slightly to 20m deep along the eastern boundary with the public footpath. The railway footpath to the east measures 7.5m wide at the front of the site, gradually tapering to just under 3m wide at the rear site boundary.
- 3.6 The revised plans show two Class B1 units at ground floor level. The forwardmost unit would measure 57.9m<sup>2</sup> and the rearmost unit 78.9m<sup>2</sup> and both would include a disabled WC. Both units are accessed from new pedestrian doors onto the public footpath running along the eastern side of the site, and each unit also has substantial glazing along this boundary to increase surveillance over the public footpath.
- 3.7 In terms of amenity space provision, all the residential units would have recessed balconies located on the east-facing elevation, whilst the roof would be utilised as a shared amenity area. The rear part of the flat roof over the ground floor commercial unit would be an intensive green roof, with no access for residents, other than for maintenance purposes.
- 3.8 In terms of bulk of building, the overall height has been reduced by 2m since the original submission, partly via a reduction in the floor to ceiling heights. That said, the proposed building is still four-storey, with commercial on the ground floor and three residential floors above, plus use of the roof space for amenity purposes. The applicant has also submitted a Sunlight Analysis to support the application.

#### Supporting Documents

- 3.9 The Design and Access Statement explains that the current proposal is a revised design, following the Inspector's appeal decision. The previous application was for the most part supported by planning officers, with the exception of the relationship of the proposed buildings to the neighbouring nursery playspace. The revised design has been developed to address this issue, with attention paid to planning policy, and the Statement explains that the following was prioritised:-

- Reducing impact on the nursery boundary to the north.

- The buildings relationship with the public footpath.
- Consideration of the internal environment of the flats and their relationship to the railway.
- The sloping topography of the site.
- The anticipated demographic of the area.
- Responding to both the current context and the anticipated redevelopment of the neighbouring properties.
- Proposing a subtle and appropriate material response to surrounding context.

3.10 The Design and Access Statement continues: - *"The revised application addresses this issue by the complete removal of the four-storey element from the nursery boundary, and replacement of it with a more appropriate two-storey volume. This volume sits well below the ridge of the nursery building which borders the west side of the playground and incorporates careful detail to add interest and soften the visual experience. The proposed four-storey volume is now set back approximately six and a half metres from the nursery playground.*

3.11 *Layout has been designed so as not to overlook the adjacent nursery and to provide an ease of opportunity for the neighbouring site to develop. Overlooking issues from the 'winter balcony' have been avoided by a detailed wooden slatted design. This design will allow light through, adding interest to the north facade, while providing complete visual privacy to the nursery playground."*

#### **4.0 Consultation**

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

4.2 Site notices were displayed and letters were sent to residents and business in the surrounding area and the relevant ward Councillors.

#### **Written Responses received from Local Residents and Organisations**

4.3 13 letters of objection have been received. 3 individual letters have been received from the resident of 26 Longhurst Road, from mjb architecture on behalf of the owners of 41-43 Nightingale Grove and from Zoom Nurseries of Maythorne Cottages, off Nightingale Grove. The following objections were raised:-

- The proposed built form is out of character with form and scale of adjoining properties.
- Visual impact on adjoining properties, harmful to residential amenity.
- Overbearing impact of scale will create issues of overlooking and overshadowing.
- Intensive residential use with no parking will jar with the mixed use nearby and create issues with parking demand and create conflict with the adjoining commercial site.
- Impact on the adjoining day nursery, despite effort to reduce this. Positive benefit of scheme will not outweigh impact on nursery playground.

- Perhaps entirely residential scheme of a reduced scale would be a more practical way forward.

4.4 10 identical letters of objection have been received from parents with children attending the Zoom Day Nursery, (from addresses in Benin Street, Fenton Road, Fernbrook Road, Florence Road, Kellerton Road, Leahurst Road, Mount Pleasant Road, Murmio Road, Nightingale Grove, Pascoe Road, St. Joseph's Vale, Southbrook Road, Springbank Road & Taunton Road) raising the following issues:-

- Loss of light in the playground area. This tall four-storey building is going to block out sunlight.
- Security risks that the roof garden is going to present in relation to the playground and nursery being overlooked freely and debris that could fall from the roof.
- Parking and traffic - Cars already speed up and down Springbank Road and finding places to park is already difficult, not to mention the extra pressure placed on the transport system.

4.5 The Zoom Day Nursery, located at Maythorne Cottages, off Nightingale Grove, has submitted a 'strong objection' based on the following factors:-

- The proposed building would loom over our building and playground, which would result in loss of light and loss of amenity. The building will abut our rear boundary, so that we will lose natural light both in the building and in the play area. It is a huge building crammed into a tiny space, and in addition the health and safety of our children and teamwork will be compromised.
- Zoom Day Nursery provides a very valuable local childcare service.
- Although the applicant has submitted revised plans, they have not changed sufficiently to remove the concerns already raised.

(Letters are available to Members).

#### Written Responses received from Statutory Agencies

##### Thames Water

4.6 No objection in principle. Detailed comments regarding surface water drainage, sewerage and water infrastructure have been forwarded to the applicant.

##### Highways and Transportation

Unobjectionable in principle, subject to submission of details of residential and commercial waste and collection points, and cycle storage for both residential and commercial elements. Recommend Street Naming & Numbering informative.

## **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.

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.

## Other National Guidance

5.8 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)

## London Plan (July 2011)

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

Policy 2.14 Areas for regeneration

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 3.8 Housing choice

Policy 3.9 Mixed and balanced communities

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 5.7 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 5.13 Sustainable drainage

Policy 5.21 Contaminated land

Policy 6.9 Cycling

Policy 6.10 Walking

Policy 6.13 Parking

Policy 7.3 Designing out crime

Policy 7.4 Local character

Policy 7.5 Public realm

Policy 7.6 Architecture

Policy 8.2 Planning obligations

Policy 8.3 Community infrastructure levy

Policy 8.4 Monitoring and review

## London Plan Supplementary Planning Guidance (SPG)

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

Accessible London: Achieving an Inclusive Environment (2004)

Housing (2005)  
Sustainable Design and Construction (2006)

London Plan Best Practice Guidance

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

Development Plan Policies for Biodiversity (2005)  
Wheelchair Accessible Housing (2007)  
London Housing Design Guide (Interim Edition, 2010)

Core Strategy

5.12 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 3 District hubs  
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 4 Mixed use employment locations  
Core Strategy Policy 5 Other employment locations  
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 14 Sustainable movement and transport  
Core Strategy Policy 15 High quality design for Lewisham  
Core Strategy Policy 19 Provision and maintenance of community and recreational facilities  
Core Strategy Policy 21 Planning obligations

Unitary Development Plan (2004)

5.13 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  
ENV.PRO 10 Contaminated Land  
ENV.PRO 12 Light Generating Development  
HSG 4 Residential Amenity  
HSG 5 Layout and Design of New Residential Development  
HSG 7 Gardens  
HSG 8 Backland and In-fill Development  
LCE 2 Existing Leisure and Community Facilities

## Residential Standards Supplementary Planning Document (August 2006)

- 5.14 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)

- 5.15 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 planning issues relate to employment policy, the principle of residential development and whether the proposed four-storey building would have a significant impact on adjoining uses, particularly the day nursery located to the north at Maythorne Cottages, plus urban design, character, appearance and parking / traffic.

### Employment Policy Issues

- 6.2 Core Strategy Policy 5 seeks to protect the scattering of employment locations outside Strategic Industrial Locations, Local Employment Locations and Mixed Use Employment Locations . The application form lists the previous use of the site as private vehicle storage, currently vacant. Although the form also states that there is no known contamination on the site, it is certainly likely that oil spillage and dumped materials could have caused some land contamination in the past and therefore, if permission were to be granted, a full contamination survey and schedule of remediation work would be required.
- 6.3 The proposal includes the provision of 2 new Class B1 Business units on the ground floor, measuring a total of 126m<sup>2</sup> of new commercial floor space, with access from the existing pedestrian footpath. In employment policy terms, this is likely to generate an increase in employment over the previous vehicle parking / open storage use and the proposal therefore complies with the requirements of Policy 5.

### Principle of Residential Development

- 6.4 The principle of providing an element of residential development in this area close to the main Hither Green Station is considered acceptable providing an adequate level of amenity can be provided for future residents. The residential element will also increase the site value and hence the likelihood of the development coming forward for implementation in the shorter term.

## Impact on Amenity of Adjoining Premises

- 6.5 The application site forms the south-east corner of a block of essentially commercial uses bounded by Springbank Road to the south, Nightingale Grove to the west and Maythorne Cottages to the north. The eastern boundary is formed by the railway footpath leading between the north end of Springbank Road up to the main Hither Green Station entrance in Maythorne Cottages. The nearest residential dwellings are the bungalows on the south side of Springbank Road immediately opposite the site.
- 6.6 The Zoom Day Nursery occupies the site immediately to the north, fronting onto Maythorne Cottages, and shown as 'Depot' on the applicant's submitted location plan. There is an electricity substation in the northeast corner of the day nursery site, but otherwise the open land to the east of the nursery building is used as their open play area. This land is provided with various play equipment and is clearly in regular use by the children.
- 6.7 Following the appeal decision and to back up the revised design submission, the applicant has submitted a revised BRE Sunlight Analysis which considers the revised relationship of the proposed building to the day nursery.
- 6.8 Daylight and sunlight analyses are normally couched in terms of impact on adjoining residential properties, rather than day nurseries, but the importance of sunlight to the functioning of the nursery and the ability to use their external space to maximum benefit for the children is clearly an important issue, and this was confirmed by the Planning Inspector as being the significant issue in this case.
- 6.9 The relevant part of the Inspector's report states:-
9. *"Thus I agree with the Council that the only problematical aspect of the proposal is its effect or impact on the nursery. I therefore spent some time during my site visit considering that, both from the playground and from inside the nursery buildings. I am in little doubt that the proposed building, four stories in height and for some 6 m, hard up against the ministry boundary, would have a very overbearing effect on the nursery playground, in particular, leading to a greatly increased sense of enclosure, and a significant loss of natural light at certain times of day, depending on the season. Indeed, that is borne out by the appellant's own sunlight analysis, and to some degree acknowledged by them. Rooms in the main nursery building with all staff also suffer these effects, but to a more limited extent.*
  10. *The appellants argue that the effects on a children's nursery are inherently less significant than if the neighbouring use affected were residential. In any event, they say, the merits of the proposals should outweigh any adverse effects on the nursery.*
  11. *On balance, I am not persuaded by these arguments. It seems to me that UDP policies URB 3 and LCE 4, while not directly relevant to the proposal in hand, provide policy backing for taking the adverse effects on the nursery into account. With that in mind, I regard the playground as an important and indeed indispensable amenity for the nursery, whose continued use and character should be protected as far as possible. To my mind, that includes*

*protection from any potentially adverse effects or impacts of nearby development proposals.*

12. *I have also borne in mind that the playground is relatively small, but - as I saw for myself - is often intensively used; that its use is frequent, and occurs throughout the pre-school day, and (I have assumed) throughout most of the year; that it is already fairly tightly enclosed by buildings and by the nearby railway embankment; and that this sense of enclosure is further increased by the group of tall trees standing on the embankment. This existing level of enclosure tends somewhat to undermine its role, character and effectiveness as an outdoor playing area, but in my opinion the use and character of the playground would be significantly further harmed by the relatively tall, four-storey building which is proposed to rise above its boundary fence. If this were built as proposed, the playground would have a far more tightly enclosed feel, would be more overshadowed and as a result would become less useful and pleasant as an essential amenity for the nursery.*
13. *While I have borne in mind the real merits of the appeal proposals, some of which I referred to above, they do not outweigh the harm to the amenity and functioning of the adjacent children's nursery. That is why the appeal must fail."*

- 6.10 The applicant has made significant changes to the design of the building when compared to the scheme refused last year, by setting back of the taller four-storey element of the building, by 5.34 metres from the boundary with the day nursery. The single-storey business units would still extend to the full depth of the site up to the nursery boundary, but as these are only approximately 3.4m high, they are not considered to constitute a particularly obtrusive element and would therefore not affect the nursery playground to any great extent.
- 6.11 The residential unit on each of the first to third floors at the north end of the building would each have a balcony on the east side, with full height opening and double doors facing out onto the balcony. Two additional windows would be provided on the northern elevation, providing additional light to each of the large living/kitchen/dining areas. However, these north-facing windows would be fixed shut and fitted with obscured glass at the lower level, with the obscure glazing extending above eye height, so that there would be no direct overlooking of the day nursery or its playground. Similarly, the east-facing balconies would be provided with screen walls on the northern side, in order to prevent any direct overlooking in the direction of the day nursery whilst at the same time allowing improved surveillance over the footpath from Springbank Road to Hither Green Station.
- 6.12 Clearly this is a matter of fact and degree that is difficult to adjudge and, given the advice of the Planning Inspector in the recent appeal decision, officers have endeavoured in negotiation to reduce the impact of the new building by moving it a significant distance from the nursery boundary as well as ensuring that design measures preclude any direct overlooking problems in relation to the nursery.
- 6.13 The applicant was requested to consider a reduction in the overall bulk of the building to perhaps three stories, but has stated that this would render the scheme uneconomic. In policy and land use terms, it is considered important to retain the

employment floorspace at ground level, and both commercial and residential use would have significant benefits of overlooking the public footpath.

- 6.14 Taking the above circumstances into account, officers consider that the amendments to the proposal are satisfactory and, on balance, the impact of the proposed four-storey building on the adjoining day nursery play area is now not considered to be sufficient to warrant a refusal of planning permission on this ground.

#### Overlooking and Security Issues

- 6.15 The day nursery has raised concerns over direct overlooking and impact of the development on safety of the children attending the nursery. The applicant has confirmed that all windows in the rear elevation would be fitted with obscure glass to above eye height. The imposition of a condition to all north-facing windows of the building to require that they are non-opening and provided with obscure glazing is recommended.
- 6.16 With regards to overlooking from the proposed roof garden areas, the applicant's drawing (200-SK-03 Revision A) indicates that whilst the edge of the roof of the building would be set 5.4m away from the day nursery boundary, the northern part of the roof would be a semi-intensive green roof, and not available as an amenity area for residents. Access to this area would be for maintenance only.

The proposed roof terrace would be set back approximately 5.5m from the northern edge of the roof, which would mean that it was approximately 12m away from the boundary with the playground. The effect of this 12m setback and the relative angles of view is that the roof terrace would not in fact be visible from the nursery playground and vice versa.

- 6.17 It is considered that this matter could be dealt with by way of a suitably-worded condition to ensure that residents using the top floor of the building do not directly overlook the nursery, and that overlooking / security reasons would not in themselves justify a refusal of permission.

#### Urban Design, Character and Appearance

- 6.18 The proposed building is four stories in height, whereas the existing nearby buildings fronting Nightingale Grove are generally three stories in height, whilst the nearest dwellings on the south side of Springbank Road are single-storey bungalows. These bungalows are unusual in this urban context and the surrounding area generally contains buildings which are at least two stories in height, with a majority in the main part of Springbank Road around the shops being three stories.
- 6.19 The applicant has argued that the greater height of the building is partly justified by its relationship to the height of the railway embankment and abutments immediately to the east. Although the proposed building is substantially taller than the bungalows opposite, it would be read in a different context and there is certainly a reasonable argument that a taller building could be justified on this site by virtue of its close proximity to the main railway station entrance.
- 6.20 In his report, the Planning Inspector concluded as follows: - *“Other than its effect on the nursery, the Council has no particular objection to the building design,*

*which to my mind has a simple but attractive contemporary form and elevations externally, and is well laid out internally. Although it would be higher than the other buildings in the area, it would not harm the local townscape or the street scene."*

#### Standard of Accommodation

- 6.21 All the units comply with the London Plan standards and would provide a satisfactory level of accommodation. Despite the constrained site, all units are provided with some private amenity space, in the form of east-facing balconies, plus residents will have use of a separate roof garden. A car-free scheme is considered acceptable, given the close proximity to Hither Green Station and local bus routes.

#### Sustainability

- 6.22 The building would be provided with a biodiverse living roof on the top floor and the roof of the rear part of the ground floor, providing a total of 71 sq. m. of green roof. This matter can be the subject of a condition regarding the exact specification of the roof.

#### Community Infrastructure Levy (CIL)

- 6.23 The Mayor of London's CIL is a material consideration and, if permission is granted, CIL is payable on this application.

### **7.0 Conclusion**

- 7.1 The proposed redevelopment of the site and loss of the existing storage use employment site are considered to be acceptable. The scale of residential development has been reduced from the scheme previously refused and, on balance, it is considered that the impact on the adjoining day nursery is now not so serious as to justify a refusal of permission. This application has been considered in the light of policies set out in the development plan and other material considerations.

### **8.0 Summary of Reasons for Grant of Planning Permission**

- 8.1 It is considered that the proposal satisfies the Council's land use and environmental criteria and is acceptable in principle, being in accordance with Objective 11: Community Well Being, Policy 8 Sustainable Design and Construction, Policy 15 High quality design for Lewisham and Policy 19 Provision and Maintenance of Community and recreational facilities in the adopted Core Strategy (June 2011), and saved Policy URB 3 Urban Design, ENV.PRO 10 Contaminated Land, HSG 1 Prevention of Loss of Housing, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development and LCE 2 Existing Leisure and Community Facilities in the adopted Unitary Development Plan (July 2004).
- 8.2 It is considered that the proposal is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area, or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Objective 11: Community Well Being, Policy 8 Sustainable Design and Construction and Policy 15 High quality design for



Lewisham and in the adopted Core Strategy (June 2011), and saved policies URB 3 Urban Design, ENV.PRO 11 Noise Generating Development, HSG 4 Residential Amenity, HSG 5 Layout and Design of New Residential Development and LCE 2 Existing Leisure and Community Facilities in the adopted Unitary Development Plan (July 2004).

## **9.0 RECOMMENDATION**

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

- (1) No development shall commence on site until sample details of all facing materials (including their colour and texture) to be used on the buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- (2) All window and door openings shall be constructed with minimum 90mm deep external reveals.
- (3) Details of lighting to external areas within the site and to illuminate the adjoining public footpath shall be submitted to and approved in writing by the local planning authority prior to first occupation of the residential units. Any such lighting shall be installed in accordance with the approved drawings. The applicant should demonstrate that the proposed lighting is the minimum needed and that the proposals minimise pollution from glare and spillage.
- (4)
  - (i) The buildings shall be constructed so as to provide sound insulation against external noise to achieve levels not exceeding 30dB LAeq and 45dB LAm<sub>ax</sub> (night) 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) None of the flats hereby approved shall be first 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.
- (5) Prior to first occupation of any of the flats hereby granted permission, the windows to be installed in the north-facing rear walls of the building shall be fitted with obscured glazing, which is non-openable unless at or above a height of 1.7 metres above internal floor level, and such obscured glazing shall be maintained permanently thereafter.
- (6) Details of the living roofs, which shall cover an area no less than 70 sq. m. shall be submitted to and approved in writing by the local planning authority prior to any superstructure works commencing on site. The living roof shall be:-

- a) Biodiversity based with extensive substrate base (depth shall vary between 80-150mm with peaks and troughs but shall average at least 133mm);
  - b) Laid out in accordance with plans 200-SK-02 Revision E and 200-SK-R03 Revision A hereby approved; and will include details of how the roof has been designed to accommodate any plant, management arrangements, and any proposed photovoltaic panels and fixings.
  - c) Plug planted & seeded with an agreed mix of species within the first planting season following the practical completion of the building works.
  - d) The living roofs shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.
  - e) The development shall be carried out strictly in accordance with the details so approved, shall be maintained as such thereafter and no change there from shall take place without the prior written consent of the Local Planning Authority.
  - f) Evidence that the roof has been installed in accordance with sub-points a) to c) above shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved.
- (7) (i) The dwellings hereby approved shall achieve a Code for Sustainable Homes rating of minimum 'Level 4'.
- (iii) Prior to commencement of development, a Design Stage Assessment undertaken by a suitably qualified Assessor shall be submitted to and approved in writing by the local planning authority to demonstrate compliance with (i).
- (iv) Within 3 months of first occupation of the dwellings, evidence shall be submitted to demonstrate full compliance with the requirements of this condition, which shall include a Post Construction Certificate issued by a suitably qualified Assessor.
- (8) The dwellings hereby permitted shall be constructed in accordance with Lifetime Homes Standards.
- (9) C10 Site Contamination

Reasons

- (1) BO1R
- (2) BO1R
- (3) The order that the local planning authority may be satisfied that the lighting is installed and maintained in a manner which will improve lighting and pedestrian safety along the adjoining footpath leading to Hither Green

Station, and minimise possible light pollution to neighbouring properties and to comply with Policies ENV.PRO 12 Light Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

- (4) To ensure the development is carried out to the satisfaction of the local planning authority and to comply with policy Objective 10 Protect and Enhance Lewisham's Character and Policy 15 High Quality Design for Lewisham in the Local Development Framework - Core Strategy (June 2011) and saved policies URB 3 Urban Design, HSG 4 Residential Amenity and HSG 5 Layout and Design of New Residential Development in the adopted Unitary Development Plan (July 2004).
- (5) BO5R
- (6) To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity in accordance with policies OS 13 of the Lewisham UDP July 2004; Policies 5.11 (Green roofs and development sites environs) and 7.19 (Biodiversity and access to nature) in the London Plan (July 2011); Planning Policy Statement 9 Biodiversity and Geological Conservation & Local Development Framework; 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.
- (7) To ensure the development achieves the maximum possible in respect of energy and carbon emissions and to comply with Policy 8 Sustainable Design and Construction and Energy Efficiency of the adopted Core Strategy (June 2011).
- (8) To ensure that the development meets the Lifetime Home Standards and to ensure compliance with London Plan Policy 3.8 Housing Choice.
- (9) C10R

## Appendix

### MINUTES of LOCAL MEETING MINUTES

Site rear of 41-43 Nightingale Grove, fronting Springbank Road SE13

Application No DC/11/78741

**Notes of the Local Meeting held at Zoom Nursery, off Nightingale Grove on Tuesday 31 January 2012 from 6.45 - 8.15pm.**

The meeting was attended by:-

Steve Isaacson (SI) LB Lewisham Planning Case Officer

Anthony Thomas (AT) - Site owner / developer

Amber Bowie (AB) - Architect for the scheme

Bella Landen            Zoom Day Nursery

Sophie Hubble         Zoom Day Nursery

Plus some 12 parents with children attending the Zoom Day Nursery or staff working at the premises.

SI welcomed everybody to the meeting, gave an overview of the planning history and explained the way he would conduct the meeting with an initial presentation from the developer, followed by questions from the audience.

He explained the process of the current planning application and likely route to Planning Committee, following the Local Meeting. He confirmed that residents could submit further comments on the application if they wished.

AT explained the design rationale for the proposal, as well as the financial background and that the site was within the Hither Green regeneration area. He stressed that his position was also a local businessman and investor, and he explained his commitment to providing a high-quality development that would last. He had purchased the site from Network Rail sometime ago, and his intention was to provide a good-looking scheme, with a strong visual point of interest on the corner of Springbank Road and good appearance of the building. He referred to the previous refusal of planning permission by the Council and subsequent appeal to the Planning Inspectorate. He had also taken into account the advice contained in the appeal Inspector's letter, particularly that the Inspector was happy with a four-storey building on the Springbank Road frontage. Later revisions to the scheme also included a reduction in the height of the rear part of the building to single-storey.

Mr Thomas further explained that, as currently proposed, the building would be 6.2 metres high fronting onto Springbank Road, and the four-storey element would be set back from the nursery boundary by 5.7 metres. This rear section of single-storey flat roof would be provided as a green roof and not available as a sitting out or balcony area.

All windows to the rear would be provided with obscured glass up to a certain height so that there was no direct overlooking of the nursery play area. A condition could be imposed to ensure the provision of such glazing and its permanent retention.

The scheme would provide to Class B1 commercial units at ground floor level, fronting onto the pathway running alongside the runaway embankment. SI explained the B1 use class as containing light industrial buildings or office uses that did not cause any detriment to the area by way of noise, vibration, ash, dust, grit, etc.

A roof terrace would be provided on the top of the building on the flat roof and this would be approximately 10-12m from the nursery boundary.

### Sunlight and daylight

There was some discussion over the submitted data and sunlight study and the conclusions reached. AT stressed that the study followed standard methodology in comparing shadow diagrams from four different times during the year, and that the scheme complies with Building Research Establishment (BRE) standards. Parents felt these limits were applicable to adults, but no account seemed to be taken of how children would perceive the development.

### Other points raised

- Could object to be thrown from the top roof terrace over into the nursery?
- With teenagers sunbathe on the unprotected part of the roof?
- How would the green roof be maintained?
- If you stood on a chair you could look over the top of the frosted part of the rear windows.
- The proposal would be overbearing from a child's perspective.
- The scheme was still too ambitious and too big.
- It was disingenuous to compare the height of a four-storey flat roof with nearby ridge heights, when the perceived height from ground level was in fact the eaves line.
- Has consideration being given to fewer floors?
- Trees along the railway embankment are felled on a regular basis.
- Length of building works (AT estimated 9/10 months).
- Could the Council require that construction works only take place at the weekend? (AT opined that this would not be practical from a developer's point of view).
- The Council should take into account the cumulative impact of two adjoining developments taking place at the same time, if planning permission is granted for the adjoining scheme at 41-43 Nightingale Grove.
- Has a scale model been constructed? (AT - "No")
- Could the ground floor be sunk?
- Fence to roof terrace was too low.

### Issues of security

AT emphasise that local issues of security would actually be improved by redeveloping the site with residential occupiers and commercial units that would be occupied during the day, with windows facing out onto the railway footpath.

### Noise & Dust Pollution Issues

Parents were concerned over possible dust and noise pollution. SI explained the Council's Code of Practice for Demolition and Construction Sites which the developer would need to comply with if planning permission was granted. The owners of the Zoom Day Nursery were concerned that children would be petrified by drilling noise.

AT explained party wall legislation and that there would need to be agreements with all the adjoining owners in this regard, and confirmed that he would happy to discuss the detailed construction programme with the Day Nursery to minimise disruption.

### Form of Construction

What form of construction would be used? AT said that this had not been determined at this stage, but he could possibly consider using timber frame construction, where the main construction elements would be formed off-site, allowing a faster construction time and thereby minimising noise disturbance.

### Car Free Development

AT explained that this would be a car-free scheme, given the proximity of Hither Green station.

### Specific Issues Relating to the Zoom Day Nursery

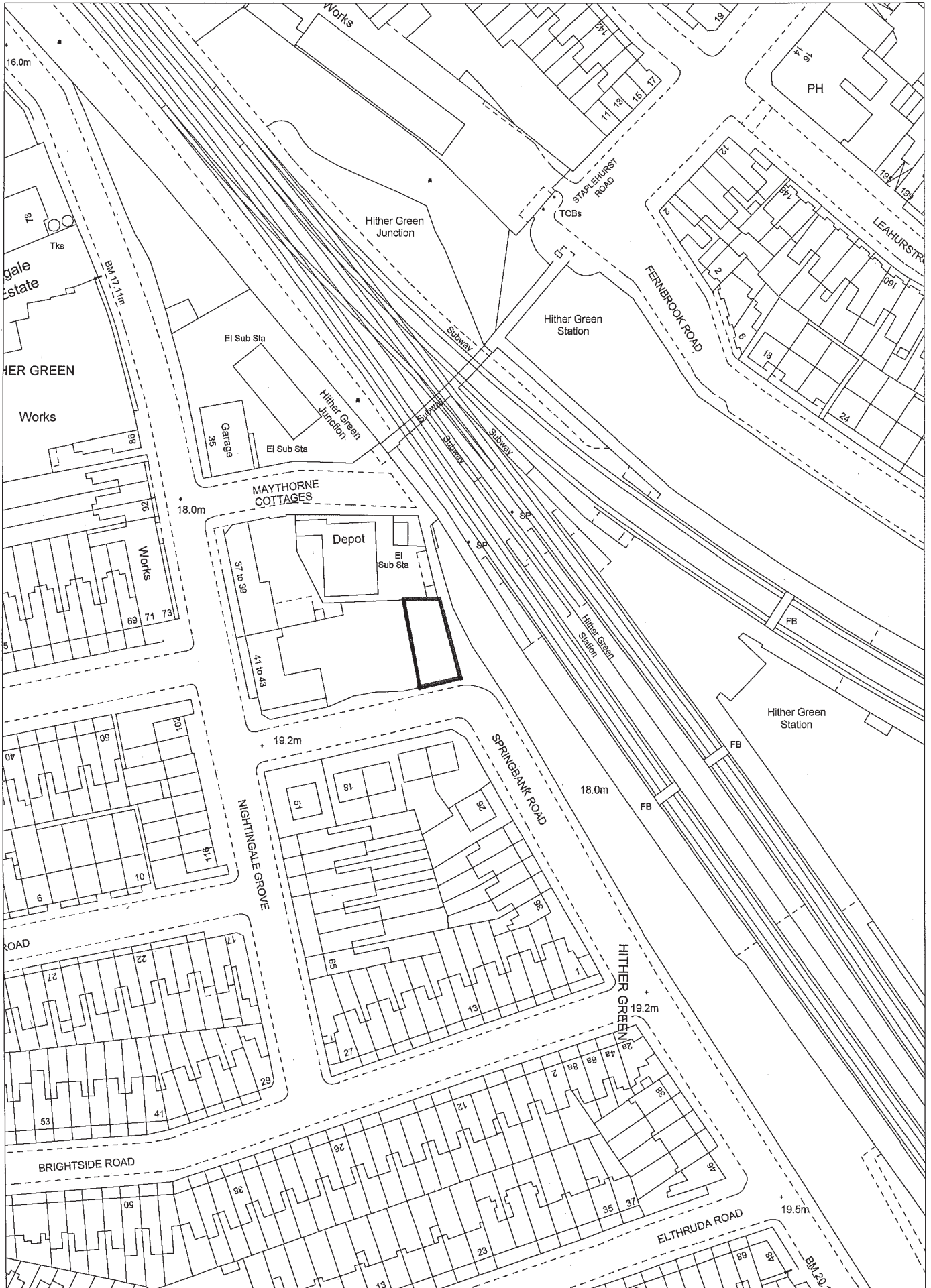
As well as noise concerns, the Nursery owners and staff are concerned that if permission was granted, this could have a significant commercial impact on the Nursery, with parents withdrawing their children. The Nursery provides an important service to the local community.

AT explained party wall legislation and that there would need to be agreements with all the adjoining owners in this regard, and confirmed that he would happy to discuss the detailed construction programme with the Day Nursery to minimise disruption. Overshadowing remains the most significant concern. The top corners of the top floor would cast the biggest shadows - could this floor be chamfered? Research indicates that 25% of UK children suffer from vitamin D deficiency, and the proposal would result in further loss of sunlight. AT considered that a mansard design with chamfered corners would be difficult to achieve, and that he did not wish to create a 'pastiche' development.

Regarding the question as to whether the freehold would be sold, AT confirmed that this had not been decided as yet.

The meeting ended at 8.15 PM.

AND TO REAR OF 41-43 NIGHTINGALE GROVE FACING, SPRINGBANK ROAD, LONDON, SE13 6SI



This page is intentionally left blank



Committee	PLANNING COMMITTEE C	
Report Title	21-101 (Odd), WELLS PARK ROAD, SE26 6JQ	
Ward	Sydenham	
Contributors	Diane Verona & Joost Van Wells	
Class	PART 1	8 NOVEMBER 2012

<u>Reg. No.</u>	DC/12/80949
<u>Application dated</u>	24.7.2012, completed 20.08.2012
<u>Applicant</u>	Baily Garner Mr Bennett on behalf of Mr Gwyer Lewisham Homes.
<u>Proposal</u>	The installation of replacement Pvcu doors and windows in the front, side and rear elevations of 21-43 & 45-101 Wells Park Road SE26
<u>Applicant's Plan Nos.</u>	P35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, Row92507-0, -1, -2, Profile Print 706.100E, Design & Access Statement.
<u>Background Papers</u>	(1) Case File LE/73/21/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	Adopted UDP - Existing Use

## **1.0 Property/Site Description**

- 1.1 This application relates to 21 – 101 (odd) Wells Park Road SE26, two three storey plus roof space blocks comprising 41 maisonettes in total. The application sites are located on the south side of Wells Park Road opposite its junctions with both Dallas Road and Springfield Rise.
- 1.2 The property is aligned to face Wells Park Road. The frontage of the property is north facing and the rear south facing.
- 1.3 The plot is bounded to the south and rear by the blocks of other residential dwellings in Bradford Close and Prospect Close and to the west by properties in Coombe Road. The area is predominantly residential in character.
- 1.4 The site is not within a Conservation Area, nor within the vicinity of any listed buildings and Wells Park Road is not a classified Road.
- 1.5 The original windows are of a timber framed casement design, in a dark coloured finish. Some of the windows and doors in the blocks have already been replaced in Pvcu.

## **2.0 Planning History**

- 2.1. No relevant planning history. No planning permissions have been granted for replacement windows and/or doors.

## **3.0 Current Planning Application**

- 3.1 The proposal is for the installation of replacement Pvcu double glazed doors and windows in the front, side and rear elevations at 21-43 & 45-101 Wells Park Road SE26.
- 3.2 This application is made in respect of the replacement of the existing timber framed windows which are single glazed. Rear access and private balcony doors are also included in this scheme in order to provide thermal efficiency and security of the properties.
- 3.3 The replacement windows will be double glazed white Pvcu units of the same design as the existing timber casement windows.
- 3.4 The existing structural window and door openings will be unaltered.

## **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 During the initial consultation process in May 2012, a site notice was displayed outside the application building and letters were sent to neighbouring properties. Ward Councillors were also consulted.

### Written Responses received from Local Residents

- 4.3 3 letters were received from residents of 43, 47 & 71 Wells Park Road, objecting to the proposals on the following grounds:
- The existing windows and doors are double glazed and were fitted six years ago. They are still in good condition.
  - The tenanted flats are well overdue for new doors and windows but leaseholders' windows and doors do not need replacing.
  - Opposed to the proposal.

(Letters are available to Members)

## **5.0 Policy Context**

- 5.1 In considering and determining applications for planning permission the local planning authority must "have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations" (Section 70 (2) of the Town and Country Planning Act 1990). 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. 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)

- 5.2 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation 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.
- 5.3 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, 214 and 215 of the NPPF.

#### London Plan (July 2011)

- 5.4 The London Plan policies relevant to this application are:  
Policy 5.3 Sustainable design and construction  
Policy 7.4 Local character  
Policy 7.6 Architecture

#### Lewisham Core Strategy (June 2011)

- 5.5 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 10: Protect and enhance Lewisham's character  
Core Strategy Policy 8 Sustainable design and construction and energy efficiency  
Core Strategy Policy 15 High quality design for Lewisham

#### Unitary Development Plan (2004)

- 5.6 The saved policies of the UDP relevant to this application are:  
STR URB 1 The Built Environment  
URB 3 Urban Design  
URB 6 Alterations and Extensions  
HSG 4 Residential Amenity

## **6.0 Planning Considerations**

- 6.1 The main issue to be considered in respect of this application is the impact of the proposed replacement windows and doors on the appearance of the properties and the surrounding area.
- 6.2 The existing windows are casement and a mixture of side hung and top hung. Some windows have been replaced by existing leaseholders, some of which have been replaced in white Pvcu and do not match the original fenestration. The remaining original windows, balcony and rear access doors are in poor condition.
- 6.3 Although the proposed replacement windows will differ in materials and frame thickness to the remaining original 1970's fenestration, because of the diversity and mixture of the current window designs, frame thicknesses, colours and materials, the proposed replacement of the remaining windows and doors in white Pvcu will bring a greater degree of uniformity to the blocks.
- 6.4 Due to the design of the subject buildings, which are of no significant architectural or historical merit, the use of Pvcu framed double glazed windows and doors is not considered to harm or detract from the appearance of the building or the streetscene.
- 6.5 There is considered to be no objection in land use planning terms to the window and door designs as proposed. It is not proposed to impose a condition requiring that all of the windows must be replaced.

## **7.0 Consultations**

- 7.1 A number of objections have been received from residents who have already carried out window replacements to their individual flats. The issue of whether the window and door replacement works are carried out to flats occupied by leaseholders and the matter of leaseholder contributions to refurbishment works is a separate matter between the applicant as freeholder and the individual leaseholders.

## **8.0 Conclusion**

- 8.1 This application has been considered in the light of policies set out in the development plan and other material considerations including policies in the adopted Core Strategy.
- 8.2 The proposed windows and doors are considered acceptable and the proposed alterations would not have a detrimental impact on neighbouring amenity.

## **9.0 Summary of Reasons for Grant of Planning Permission**

- 9.1 On balance, it is considered that the proposals satisfy the Council's Land Use and environmental criteria and is in accordance with Policies URB 3 Urban Design, URB 6 Alterations and Extensions and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004) and Policy 15 High quality design for Lewisham in the adopted Core Strategy (June 2011).
- 9.2 It is considered that the proposals are appropriate in terms of their form and design and would not result in material harm to the appearance or character of the surrounding area or the amenities of neighbouring occupiers. The proposals are thereby in accordance with Policies URB 3 Urban Design, URB 6 Alterations and Extensions and HSG 4 Residential Amenity in the adopted Unitary Development Plan

(July 2004) and Policy 15 High quality design for Lewisham in the adopted Core Strategy (June 2011).

## **10.0 RECOMMENDATION**

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

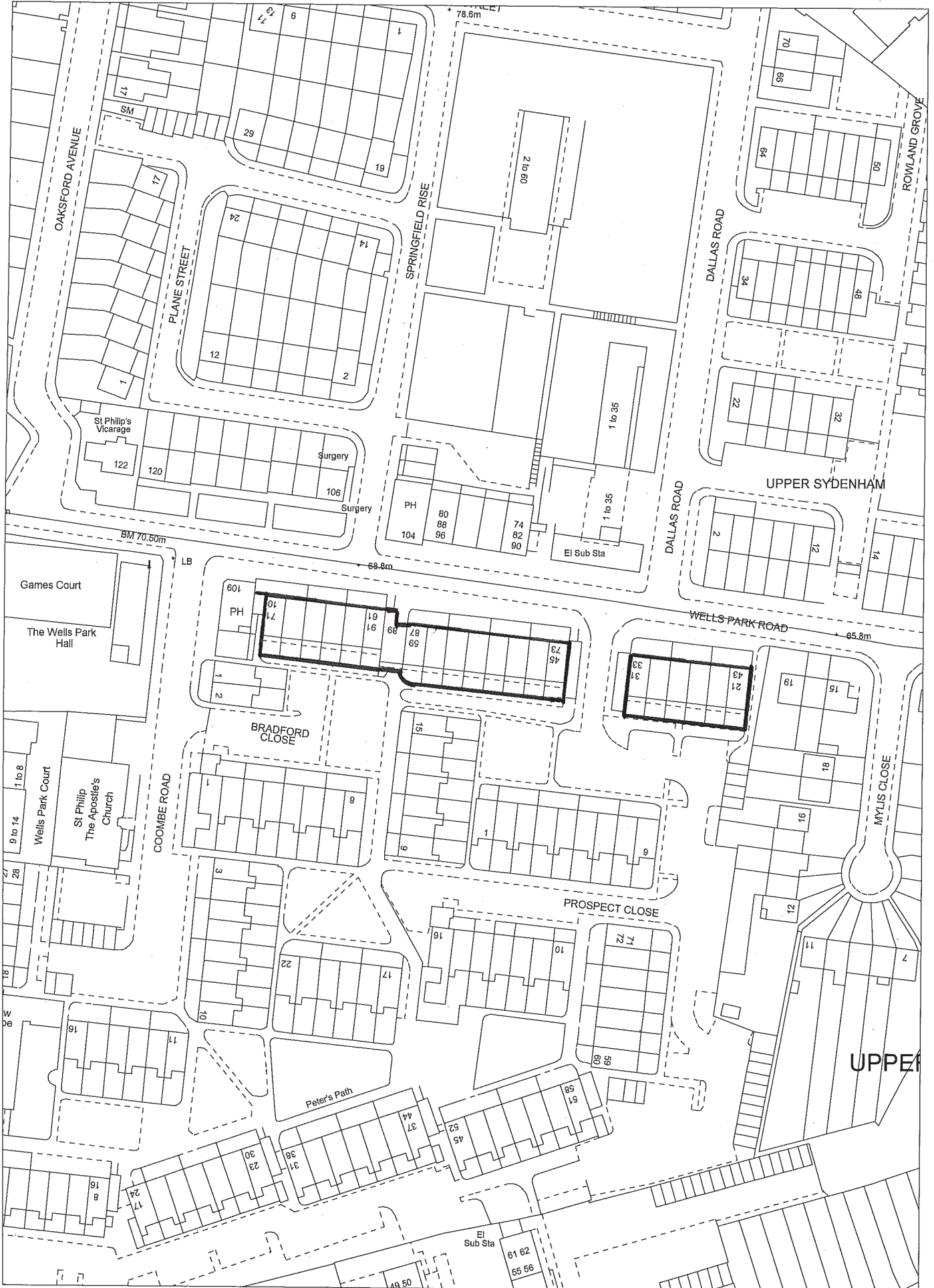
- (1) The development hereby permitted shall begin not later than three years from the date of this decision.
- (2) The development hereby permitted shall be carried out in accordance with the following approved plans reference: P35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, Row92507-0, -1, -2, Profile Print 706.100E, Design & Access Statement.

### Reasons

- (1) As required by Section 91 of the Town & Country Planning Act 1990.
- (2) To ensure that the development hereby permitted is carried out in full accordance with the plans hereby approved.

This page is intentionally left blank

21-101 (ODD), WELLS PARK ROAD, LONDON, SE26 6JQ



This page is intentionally left blank



Committee	PLANNING COMMITTEE C	
Report Title	62 SIDDONS ROAD, LONDON SE23 2JQ	
Ward	Perry Vale	
Contributors	Malachy McGovern	
Class	PART 1	8 November 2012

<u>Reg. No.</u>	DC/12/81018
<u>Application dated</u>	01.08.2012
<u>Applicant</u>	Mr Nathan Jones
<u>Proposal</u>	The construction of single storey extensions to the side and rear at 62 Siddons Road SE23, in connection with the existing ground floor flat.
<u>Applicant's Plan No.</u>	1794/1 Revision B
<u>Background Papers</u>	(1) LE/384/62/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	Not in a Conservation Area
<u>Screening</u>	N/A

## **1.0 Property/Site Description**

- 1.1 The application site comprises a two-storey mid-terrace property currently in use as two self-contained flats, located on the eastern side of Siddons Road close to the junction with Shipman Road. The application relates to the ground floor flat.
- 1.2 The area is predominantly residential in nature with a mixture of Victorian, inter-war and modern housing.
- 1.3 The properties along Siddons Road have two storey rear 'closet wings' and quite modest rear gardens. The neighbouring property to the north no. 64 Siddons Road has a small rear garden with an irregular plot shape due to the layout of the housing terrace along Shipman Road.

## **2.0 Planning History**

- 2.1 There is no relevant planning history for the site.

## **3.0 Current Planning Applications**

### The Proposal

- 3.1 The current application seeks to construct a single-storey side and rear ground floor extension to the property. The roof of the side element would slope upwards from

the eastern boundary with a gentle pitch and would incorporate 4 no. velux style roof lights.

- 3.2 The applicant submitted a revision to the scheme which reduced the projection of the proposed extension (from the rear building line of the closet wing) from 3 metres to 2 metres.

#### **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 A site notice was displayed and letters were sent to residents and business in the surrounding area and the relevant ward Councillors.

#### **Written Responses received from Local Residents and Organisations**

- 4.3 4 Objections were received from neighbouring occupiers of properties and one further objection has been made where no address has been provided. Two of the 4 objections came from the same household
- 4.4 The objections were on the following grounds
- 1) Light Loss – The neighbour immediately north of the site has raised objections on the grounds that the proposed extension would significantly reduce light to the ground floor rear kitchen window of their property and has requested that the extension be reduced to 1.5 metres in depth from the rear building line. The neighbour immediately south has instructed an agent to make formal submissions objecting on the grounds of loss of light. Two neighbours have stated that the proposed development would not comply with the 45 degree rule guidance or with the 'right of light' legislation.
  - 2) Scale & Massing - The neighbour immediately south has raised concerns about the overall massing of the extension suggesting that the pitched roof element should terminate at the line of the rear closet wing and not extend beyond it.
  - 3) Maintenance and Party Wall Issues – A neighbour has raised concerns about the maintenance of the resultant valley or butterfly roof that would result from the two side extensions should the proposed extension be built.
  - 4) Trees – There is a mature tree in the garden of the adjoining property no. 60. A neighbour would like assurances that this would be protected.
  - 5) Party Wall Issues – The neighbour would like assurances that the development would be 20mm from the extension to no. 60 in order to ensure neighbourliness and accommodate any possible expansion

#### **Written Responses received from Statutory Agencies**

No responses

## **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.

### 5.6 Ministerial Statement: Planning for Growth (23 March 2011)

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 Other National Guidance

The other relevant national guidance is:

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

## 5.8 Relevant UDP policies include:

URB 3 'Urban Design'  
URB 6 'Alterations and Extensions'  
HSG 4 'Residential Amenity'  
HSG 12 'Residential Extensions'

## 5.9 Relevant Core Strategy policies include

Policy 15 'High Quality Design for Lewisham'  
Policy 8 'Sustainable Design and Construction and Energy Efficiency'

## 5.10 Residential Development Standards SPD (August 2006)

In August 2006, the Council adopted the Residential Standards Supplementary Planning Document. 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, back land 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.

## 5.11 London Plan 2011

Policy 7.4 'Local Character'  
Policy 7.6 'Architecture'

## **6.0 Planning Considerations**

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

- a) Principle of Development
- b) Design
- c) Impact on Adjoining Properties
- d) Sustainability and Energy

### Principle of Development

6.2 The application proposes to create a ground floor side and rear extension. The proposal would improve the existing internal living accommodation and provide a larger kitchen/ dining and living area for the existing 2 bedroom flat. As such, the proposal is considered to create a more sustainable use of the property

## Design

- 6.3 The proposed extension would be full width and would project from the rear building line of the closet wing element by approximately 2 metres. The side element would be approximately 6.1 metres deep and would be set forward from the rear building line of the main building by approximately 1.8 metres.
- 6.4 The side infill element would have a sloping roof which would rise from a height of 2.5 metres to a maximum height of 3.5 metres at the raised parapet.
- 6.5 The side element would incorporate 4 x velux style roof lights which would be set within the roof slope and provide good natural light into the living / kitchen area. The remainder of the rear element would be flat roofed with a raised party wall on the boundary with no. 64 measuring approximately 2.6 metres above ground level.
- 6.6 The Lewisham SPD on Residential Standards states that rear extensions should reflect and enhance the appearance of the original building whatever its character or style. It is considered that the proposed side element would be of a similar pitched roof design and construction as the extension to the adjoining property at no. 60 and as such would be in keeping with the area.
- 6.7 It is considered that the extension is of an appropriate form, design and materials and would remain subordinate to the principal building being 2.5 metres high at eaves level with a small pitch to the side element. The proposal is therefore considered acceptable in design terms.

## Impact on Adjoining Properties

- 6.8 The proposed side element would have a sloping roof which is of a similar form and height as the existing lean to type side extension to no. 60. The proposal would project out only 2 metres beyond the rear building line and as such it is not considered that the extension would have a significant impact on no. 60 by reason of light loss. A neighbour has raised a concern about the potential butterfly form that would be created by the two sloping side additions (no. 60 & 62) and the potential maintenance implications however this is not considered to be a planning matter in determining the application.
- 6.9 The neighbouring property no. 64 is immediately north of the application property and as such would be more affected in terms of light. It is considered that whilst the extension would be noticeable, the proposed depth of just 2 metres and height of 2.5 metres at the boundary would not have an unacceptable overbearing impact and would not or cause an unacceptable reduction in daylight to the small rear kitchen window.
- 6.10 It is considered that whilst the proposed extension would have some impact on the neighbouring properties, on balance, this would not cause unacceptable harm to neighbouring amenity. The proposed extension would provide an improved kitchen/ dining and living area with a better layout and as such would represent a more sustainable use of the property. As such it is considered that the proposal is acceptable in amenity terms.

## **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:
- 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 a material consideration. CIL is not payable on this application.

## **8.0 Conclusion**

- 8.1 It is considered that the proposed extension would be subordinate to the principal building, and would be of a design and appearance that is appropriate in its context. The extension would not result in unacceptable harm to neighbouring amenity in terms of light loss, privacy or physical presence.
- 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 scheme is therefore considered acceptable.

## **9.0 Summary of Reasons for Grant of Planning Permission**

- 9.1 It is considered that the proposed extension is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area, or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Policies HSG 4 'Residential Amenity' and HSG12 'Residential Extensions' of the adopted Unitary Development Plan (July 2004), Policy 15 'High Quality Design for Lewisham' of the Lewisham Core Strategy (June 2011), and policies 7.4 'Local Character' and 7.6 'Architecture' of the London Plan (July 2011).

## **10.0 RECOMMENDATION**

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

### Conditions

The use of the extension shall be as set out in the application and no development or the formation of any door providing access to the roof of the extension shall be carried out, nor shall the roof area of the extension be used as a balcony, roof garden or similar amenity area, without the prior written permission of the local planning authority.

### Reasons

In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High quality design for Lewisham of the adopted Core Strategy (June 2011) and Policies URB 3 Urban Design, HSG 5 Layout and Design of New Residential Development and HSG 12 Residential Extensions in the adopted Unitary Development Plan (July 2004).

**GROUND FLOOR FLAT, 62 SIDDONS ROAD, LONDON, SE23 2JQ**



This page is intentionally left blank



Committee	PLANNING COMMITTEE C	
Report Title	129 WOODYATES ROAD SE12 9JH	
Ward	Lee Green	
Contributors	Stephanie Gardiner	
Class	PART 1	8 NOVEMBER 2012

<u>Reg. No.</u>	DC/12/79857
<u>Application dated</u>	26.03.2012, completed 27.04.2012 and revised 10.8.2012
<u>Applicant</u>	Mr Charles Kijambu on behalf Little Pumpkins Nursery.
<u>Proposal</u>	The alteration and change of use including the garage at 129 Woodyates Road SE12, from residential (Use Class C3) to a Day Care Nursery (Use Class D1), together with the construction of single storey extensions to the side and a disabled access ramp to the front.
<u>Applicant's Plan Nos.</u>	CK-LP 50 Rev A, 51 Rev A, 52, 53 Rev A, 54, 55 Rev A, 57 Rev A, 58, 60 Rev B, 61 Rev A, 62 Rev A, 63, 64 Rev A, 65 Rev A, 67 Rev A, 70 Rev A. Site Location Plan, Supporting Letter, Planning, Design & Access Statement, Traffic Assessment & Travel Plan, Introduction Supporting Document, Lewisham Maternity Pathway Profile 2011, CIL Documentation (Dated 27/4/12) and Noise Statement (Dated 10/8/12)
<u>Background Papers</u>	(1) Case File LE/371/129/TP (2) Adopted Unitary Development Plan (July 2004) (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	Adopted UDP - Existing Use

## **1.0 Property/Site Description**

- 1.1 This application relates to 129 Woodyates Road which is a detached, two-storey single family dwelling. It is located on a large corner plot on the north-eastern side of the intersection of Woodyates Road and the South Circular Road (Westthorne Avenue).

- 1.2 The property is aligned to face Woodyates Road. A 1.8m boundary timber fence separates the property from the South Circular (Westthorne Avenue). The frontage of the property is southwest facing and the rear southeast facing.
- 1.3 The plot is bounded to the north and rear by the gardens of other residential dwellings. The area is predominantly residential in character with the majority of houses being double storey terraced houses.
- 1.4 Approximately 30m away is 88 Woodyates Road, this is a similar building to the application property and is also operating as a nursery (Use Class D1).
- 1.5 The site is not within a Conservation Area, nor within the vicinity of any listed buildings and Woodyates Road is not a classified Road.

## **2.0 Planning History**

- 2.1 Planning Permission was granted in November 1984 for the erection of a car port at the front of 129 Woodyates Road.
- 2.2 Planning Permission was granted on 17 December 2007 for the alteration and change of use including the garage at 129 Woodyates Road SE12, from residential (Use Class C3) to a Day Care Nursery (Use Class D1), together with the construction of a single storey extension to the side and a disabled access ramp to the front. This permission was not implemented.
- 2.3 Relevant to the application site, is the opposite property at 88 Woodyates Road SE12. On the 17 January 2005, planning permission was granted for the use of the dwelling house as a nursery together with a single storey extension to the side and a conservatory to the rear.

## **3.0 Current Planning Applications**

### The Proposals

- 3.1 The proposal is for the alteration and change of use including the garage at 129 Woodyates Road SE12, from residential (Use Class C3) to a Day Care Nursery (Use Class D1), together with the construction of a single storey extension to the side and a disabled access ramp to the front.
- 3.2 The proposal is for the conversion and change of use of the application site into a day nursery catering for 21 babies (13, 3-8 months and 8, 8 months to 2 years).
- 3.3 There would be up to 8 staff, and the centre would operate between the hours of 08:00-18:00 Monday to Friday. The use of the external play area will be between the hours of 10:00 -12:00 and 14:00-16:00 only.
- 3.4 A residential unit would not be retained within the property.
- 3.5 The proposal also includes external alterations to the existing dwelling. The existing garage would be extended by 2.2m towards the front elevation but would have a set back of 0.2m. The front garage door would be replaced by double Upvc windows. The extension to the south of the site would be almost flush with the front elevation and would measure 4.4m in depth, 2.6m in height at the eaves and 4m to the ridge. It would have a pitched roof that is of a similar style to the host building.

The proposed materials would include brick, painted rendering and tiles that match the existing dwelling.

- 3.6 The existing hard landscaping and parking to the front is to be maintained. The existing hard and soft landscaping to the rear of the site will also remain unaltered.
- 3.7 Two car parking spaces are proposed to be retained on the front drive and one would be a dedicated pick up/drop off bay for parents. 5 secure cycle parking spaces are also proposed

#### **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 During the initial consultation process in May 2012, a site notice was displayed outside the application building and letters were sent to neighbouring properties. Ward Councillors were also consulted.

#### Written Responses received from Local Residents and Organisations

- 4.3 14 Letters were received from residents of 85 & 105 Woodyates Road, 122 & 130 Pitfold Road and 1, 2, 3, 4, 5, 16, 17 & 20 Pitfold Close objecting to the proposals on the following grounds:
- The proposed external alterations are out of character to the surrounding area.
  - Noise will be generated from the use and be above what is normally associated with residential areas, which will be a nuisance to neighbours.
  - Unacceptable to have two commercial premises of similar use so close together within a residential area.
  - Congestion and traffic caused by existing nursery.
  - There is no space for parents to drop off and pick up children so close to the South Circular.
  - Dangerous location in terms of increased traffic and parking.

#### Written Responses received from Statutory Agencies

##### Highways and Transportation

- 4.4 The proposed change of use would result in an increased frequency of arrivals and departures from the site when compared to the existing use. It would also result in an increase in car trips and associated parking demand when compared to the existing residential use.
- 4.5 The parking demand generated by the staff at the proposed use could be accommodated in the streets surrounding the site and the start/end times at the nursery (8am-9.30am and 5pm – 6pm) are not fixed, so the arrivals/departures at the site will be staggered, which will minimise the impact of the proposed use.

- 4.6 However, I do have concerns about the impact of additional short term parking adjacent to the site, particularly given the site's proximity to Woodyates Road/Westhorne Avenue junction.
- 4.7 Additional vehicles stopping adjacent to the site, close to the junction (Woodyates Road/Westhorne Avenue) would reduce the width of carriageway on Woodyates Road creating a pinch point close to the junction with Westhorne Avenue which is considered unacceptable as it would have an impact on traffic flow and on highway safety. Vehicles stopping on Woodyates Road (adjacent to 129 Woodyates Road) close to the junction would displace traffic bound for Westhorne Avenue onto the right hand side of Woodyates Road which would increase the risk of collisions with vehicles turning left from Westhorne Avenue into Woodyates Road.
- 4.8 The London Road Safety Unit's database was checked for recorded accidents occurring adjacent to the site (Woodyates Road/Westhorne Avenue junction) and there were 3 recorded accidents in the last 3 years adjacent to the site. The introduction of additional vehicles stopping adjacent is likely to exacerbate the safety record adjacent to the site.
- 4.9 Given the highways safety issues, the proposal would only be acceptable if the existing waiting restrictions on the junction of Westhorne Avenue/Woodyates Road were extended to improve visibility and reduce the potential for accidents at the junction.
- 4.10 The applicant would also be required to submit and implement a Travel Plan. The plan should include measures and targets that encourage parents and staff to use sustainable modes of transport to travel to and from the site.

#### Transport for London

- 4.11 The site at 129 Woodyates Road is located less than 15 metres from the A205 Westhorne Avenue, which forms part of the Transport for London Road Network (TLRN). TfL is the highway authority for the TLRN, and are therefore concerned about any proposal which may affect the performance and/or safety of the TLRN.
- 4.12 In this instance, the extent of the TLRN extends beyond the A205 into Woodyates Road, and these roads form part of the Red Route where no parking, loading or waiting is permitted at any time. Beyond this, TfL note there are no parking restrictions on Woodyates Road. Given the proximity of the site to a fast moving road, parked vehicles may cause an obstruction and a safety risk to users of the nursery. As a result, TfL request the submission of a Car Parking Management Strategy, which addresses the challenges of the location and measures to mitigate these challenges; measures may include the use of car parking stewards at times of the day when pick ups and drop off's occur as well as the issuing of information as part of the enrolment process to remind parents of local parking restrictions and advise of safe areas to park for pick up and drop off. TfL request this is secured by condition.
- 4.13 Subject to the above conditions being met, the proposal as it stands would not result in an unacceptable impact to the Transport for London Road Network (TLRN).

## 5.0 Policy Context

### Introduction

- 5.1 In considering and determining applications for planning permission the local planning authority must "have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations" (Section 70 (2) of the Town and Country Planning Act 1990). 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. 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)

- 5.2 The NPPF was published on 27 March 2012 and is a material consideration in the determination of planning applications. It contains at paragraph 14 a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on implementation 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.
- 5.3 Officers have reviewed the Core Strategy and saved UDP policies for consistency with the NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 211, 214 and 215 of the NPPF.

### London Plan (July 2011)

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

Policy 3.18 Education facilities  
Policy 5.3 Sustainable design and construction  
Policy 7.4 Local character  
Policy 7.6 Architecture

### Lewisham Core Strategy (June 2011)

- 5.5 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 9: Transport and accessibility  
Objective 10: Protect and enhance Lewisham's character  
CS Objective 11: Community Well Being.  
Spatial Policy 1 Lewisham Spatial Policy  
Spatial Policy 5 Areas of Stability and Managed Change  
Core Strategy Policy 8 Sustainable design and construction and energy efficiency  
Core Strategy Policy 14 Sustainable movement and transport  
Core Strategy Policy 15 High quality design for Lewisham  
Core Strategy Policy 19 Provision and maintenance of community and recreational facilities

#### Unitary Development Plan (2004)

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

STR URB 1 The Built Environment  
URB 3 Urban Design  
URB 6 Alterations and Extensions  
ENV.PRO 11 Noise Generating Development  
HSG 1 Prevention of Loss of Housing  
HSG 4 Residential Amenity  
LCE 1 Location of New and Improved Leisure, Community and Education Facilities

### **6.0 Planning Considerations**

6.1 The main issues to be considered in respect of this application are the loss of the residential unit and the principle of the change of use to a nursery, the acceptability of parking demand and the potential effect on highway safety, the effect on residential amenity and the suitability of the proposed extensions in relation to the property and streetscene.

#### Change of Use.

6.2 In 2007, planning permission was granted for the alteration and change of use including the garage at 129 Woodyates Road SE12, from residential (Use Class C3) to a Day Care Nursery (Use Class D1), together with the construction of single storey extension to the side and a disabled access ramp to the front. This permission subsequently expired in December 2010.

6.3 Core Strategy Policy 19 encourages the provision and maintenance of community and recreational facilities. UDP Policy HSG 1 Prevention of Loss of Housing states that the Council will prevent the loss of housing by change of use except, inter alia, where a change of use to an essential local community service including day nursery is proposed. The policy also states that when permission for a change of use of a dwelling is granted, where possible, part of the premises should be retained as residential accommodation.

6.4 The applicant has provided information indicating that there is a shortage of childcare places within the Borough. The applicant states that there is currently a waiting list for places within Little Pumpkins nursery at 88 Woodyates Road, and that this is anticipated to increase by September 2012. It is asserted within the application that the location is appropriate and although there is a child care facility directly adjacent to the site at 88 Woodyates Road, the age group differs and

therefore the proposed change of use will still be satisfying a demand within the area, which is well served by public transport and is within walking distance of Lee Railway Station.

- 6.5 Policy HSG 1 aims to prevent the loss of housing by demolition, redevelopment or change of use. However, exceptions can be made where there is a change of use to an essential local community service or facility including a day care nursery. In this instance, officers raise no objection to the principle of the loss of the residential unit as the proposal is moderate in scale and involves a change of use to a day nursery.

#### Highways and Traffic Issues

- 6.6 The Council's Highways Department has stated that the proposed change of use would result in an increased frequency of arrivals and departures from the site when compared to the existing use. It would also result in an increase in car trips and associated parking demand when compared to the existing residential use.
- 6.7 Officers noted on a site visit that Woodyates Road is not heavily congested with parked cars, and it is considered that there is adequate daytime capacity for additional vehicles. Additionally, Lee Station is within walking distance from the property and a local bus route passes the property, therefore alternative and more sustainable forms of transport are available.
- 6.8 The parking demand generated by the staff could be accommodated in the streets surrounding the site and the start/end times at the nursery (8-9.30 and 17.00 – 18.00) are not fixed, so the arrivals/departures at the site will be staggered, which would minimise the impact of the proposed use.
- 6.9 One area of objection from local residents and concern for the Councils' Highways Department is the impact of additional short-term parking (pick up/drop off) adjacent to the site, particularly given the site's proximity to Woodyates Road/Westthorne Avenue junction.
- 6.10 The proposed facility will have two on-site parking spaces. It is important that there is provision for safe access by parents who choose to deliver their children by private car; one of the two car parking spaces has been designated as a bay for parents collecting and dropping off children, to ensure that highway flow is not impeded.
- 6.11 The Council's Highways Officer has requested that the applicant enter into a S278 Agreement of the Highways Act 1980 with the Highway Authority, to secure Double Yellow Lines to ensure that the proposal would not have an impact on highway safety at the Westthorne Avenue/Woodyates Road Junction.
- 6.12 Transport for London have also commented on the application and have stated that given the proximity of the site to a fast moving road, parked vehicles may cause an obstruction and a safety risk to users of the nursery. As a result, TfL have requested the submission of a Car Parking Management Strategy which addresses the challenges of the location and suggest measures to mitigate these challenges.

- 6.13 Officers considered that the potential parking and traffic concerns could be mitigated with the submission of an appropriate Travel Plan which could potentially reduce any potential highway issues. The travel plan may include the use of car parking stewards at times of the day when pick ups and drop offs occur as well as the issuing of information as part of the enrolment process to remind parents of local parking restrictions and advise of safe areas to park for pick up and drop off.
- 6.14 Due to the number of objections received in relation to the application it was necessary to hold a local meeting. During the meeting concerns were raised in relation to road safety, in particular one traffic incident, where a car collided with the boundary wall of the application property. Suggestions were made by the residents about the possibility of erecting a crash barrier that would front Westhorne Avenue. However, officers consider that this would be an onerous condition that would need to satisfy both crash safety standards and be aesthetically acceptable. Many business premises, including nurseries are located on busy roads and do not have crash barriers. Officers consider that the same risks would still apply to a residential dwelling and that this could have been a one off incident.

### Design

- 6.15 The proposed side extensions would be constructed in the same materials as the main building, at single storey level, thus maintaining a subordinate appearance. The existing garage would be extended by 2.2m towards the front elevation but would have a set back of 0.2m. The front garage door would be replaced by double Upvc windows.
- 6.16 The proposed single storey extension that would be located on the southeast facing flank elevation would also be set back from the front elevation by 0.2m and will remain subordinate to the host dwelling. Although the roof pitch is different to that of the steeply pitched main roof, it is considered to be an appropriate addition. With regard to the impact to Westhorne Avenue, the location of the extension means that only the roof of the extension would be visible from Westhorne Avenue and would not be considered to have a negative impact on the character or appearance of the property or the streetscene.
- 6.17 A new ramped approach will be located on the front elevation to enable wheelchair access and to comply with DDA requirements. Officers consider that there will be no significant harm to host dwelling or street scene. Therefore in terms of design, the scheme is considered to be unobtrusive and thus acceptable.

### Impact on Adjoining Properties

- 6.18 The property is a detached house and shares no internal walls with neighbours, therefore the potential for disturbance is substantially reduced. Furthermore, by the very nature of such day care provision, the use as a nursery would operate during the day and cease in the early evening and would be closed at weekends. The applicant has confirmed that the hours of use are 08:00 to 18:00 Monday to Friday. As the property is located on a corner (which will minimise disturbance to neighbours) at a junction with a major highway artery, the scheme is considered to be appropriate to its mainly residential environment in this instance.



- 6.19 With regard to use of the garden, the applicant states that its' use will be between the hours of 10:00-12:00 and 14:00 – 16:00. It is considered that this would be restricted by condition in order to minimise the impact to neighbouring dwellings in order to comply with Policy ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity.
- 6.20 Levels of sunlight/daylight, outlook and privacy would remain similar to existing and as such the proposed extensions would not have a detrimental impact on the amenity of neighbouring properties.

#### Planning Obligations

- 6.21 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
- 6.22 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.
- 6.23 The applicant has provided a Unilateral Undertaking outlining the obligations that they agree are necessary to mitigate the impacts of the development. This covers a Traffic Regulation Order Contribution and the Waiting Restriction Contribution for the installation of double yellow lines outside 88 Woodyates Road and 129 Woodyates Road. It also includes the applicant covering the Council's legal and monitoring fees.
- 6.24 The Unilateral Undertaking covers the following obligations:
- to pay the Traffic Regulation Order Contribution (£2500) to the Council upon the Date of the Deed
  - to pay the Waiting Restriction Contribution (£500) to the Council upon the date of the Deed
  - The Owner shall on the date of the Deed pay to the Council's legal fees in the sum of £1,500 towards the cost of preparation and completion of the Deed
  - The Owner shall on the date of the Deed pay to the Council's Monitoring Contribution of £250 towards the costs it incurs in employing the Monitoring Officer .

6.25 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).

## **7.0 Conclusion**

7.1 This application has been considered in the light of policies set out in the development plan and other material considerations including policies in the adopted Core Strategy.

7.2 The proposed change of use is considered acceptable. To ensure there is no adverse impact on neighbouring amenity a condition is required to restrict the hours of operation of the premises and use of outdoor play space. To also address concerns relating to highway safety a condition is required to be attached to the permission for the submission of a Travel Plan prior to occupation. The proposed external alterations would not have a detrimental impact on neighbouring amenity.

7.3 On balance, Officers consider that proposed alteration and change of use from residential (Use Class C3) to a Day Care Nursery (Use Class D1), together with the construction of single storey extensions to the side and a disabled access ramp to the front would be acceptable, subject to the Unilateral Undertaking outlined above.

## **8.0 Summary of Reasons for Grant of Planning Permission**

8.1 It is considered that the proposal satisfies the Council's Land Use and environmental criteria and is acceptable in principle, being in accordance with Objective 11: Community Well Being, Policy 8 Sustainable Design and Construction, Policy 15 High quality design for Lewisham and Policy 19 Provision and Maintenance of Community and recreational facilities in the adopted Core Strategy (June 2011), and saved Policy URB 3 Urban Design, URB 6 Alterations and Extensions, ENV.PRO 11 Noise Generating Development, HSG 1 Prevention of Loss of Housing, HSG 4 Residential Amenity and LCE 1 Location of New and Improved Leisure, Community and Recreation Facilities in the adopted Unitary Development Plan (July 2004).

8.2 It is considered that the proposal is appropriate in terms of its form and design and would not result in material harm to the appearance or character of the surrounding area, or the amenities of neighbouring occupiers. The proposal is thereby in accordance with Objective 11: Community Well Being, Policy 8 Sustainable Design and Construction, Policy 15 High quality design for Lewisham and Policy 19 Provision and Maintenance of Community and recreational facilities in the adopted Core Strategy (June 2011), and saved Policy URB 3 Urban Design, URB 6 Alterations and Extensions, ENV.PRO 11 Noise Generating Development, HSG 1 Prevention of Loss of Housing, HSG 4 Residential Amenity and LCE 1 Location of New and Improved Leisure, Community and Recreation Facilities in the adopted Unitary Development Plan (July 2004).

## 9.0 **RECOMMENDATION**

9.1 Upon the submission of a satisfactory Unilateral Undertaking in relation to the matters set out above in paragraph 6.24 authorise the Head of Planning to Grant Permission subject to the following conditions:-

- (1) No new external finishes, including works of making good, shall be carried out other than in materials to match the existing, unless the local planning authority agrees in writing to any variation.

### Reason

To ensure that the proposed development is in keeping with the existing building and does not prejudice the appearance of the locality and to comply with Policy 15 High quality design for Lewisham of the adopted Core Strategy (June 2011) and Policy URB 3 Urban Design in the adopted Unitary Development Plan (July 2004).

- (2) The use hereby permitted shall not operate on any Saturday, Sunday or Bank Holiday and after the hours of 18:00 pm and before 8:00am on Mondays to Fridays.

### Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to comply with Policies ENV.PRO 9 Potentially Polluting Uses, ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

- (3) The maximum number of children on the site at any one time shall not exceed 21.

### Reason

To ensure that the intensity of the use does not cause an unacceptable loss of amenity to neighbouring residential properties, and to comply with saved policy HSG 4 Residential Amenity in the Unitary Development Plan (July 2004).

- (4) The premises shall be used as a day nursery for children aged between 3 months -2 years and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

### Reason

To ensure that any other use of the building would be suitable in this predominantly residential area and to protect the amenities of the occupiers of neighbouring premises and the area generally and to comply with saved policies ENV.PRO 11 Noise Generating Development and HSG 4 Residential Amenity in the adopted Unitary Development Plan (July 2004).

- (5) A Travel Plan for the school shall be submitted to and approved in writing by the Council prior to the commencement of the nursery use (Class D1) hereby approved and the approved Travel Plan shall be complied with. The Travel Plan shall include a car parking management strategy, specify initiatives to be adopted by the new development to encourage access to the site by a variety of non-car means and shall specify a monitoring and review mechanism to ensure compliance with the Travel Plan objectives.

Reason

To protect the amenities of neighbouring residents, ensure traffic safety and to promote 'Green' travel.

## Appendix 1:

### Minutes of Local Meeting.

#### Local Meeting DC/12/79857 129 Woodyates Road SE12

On the 14 August 2012, a local meeting was held at the Civic Suite Lewisham Town Hall, regarding the submission of a planning application proposing:- The alteration and change of use including the garage at 129 Woodyates Road SE12, from residential (Use Class C3) to a Day Care Nursery (Use Class D1), together with the construction of single storey extensions to the side and a disabled access ramp to the front.

14 letters received objecting to the proposal.

The panel comprised of:

Cllr Mallory (Chair) **(CllrM)**

Anita Modi (Applicant – Little Pumpkins Nursery) **(AM)**

Dean Nicol (Applicant) **(DN)**

Charles Kijjambu (Agent) **(CK)**

Michelle Leadbeatter (Little Pumpkins Nursery) **(ML)**

Stephanie Gardiner (Planning Officer) **(SG)**

Tabitha Lythe (Planning Officer) **(TL)**

Three local residents signed the attendance sheet **(R)**

#### 7.00pm

Cllr opened the meeting by explaining the procedures of the local meeting. He invited the planning officer (SG) and Applicants to present the application.

Dean Nicol and Charles Kijjambu provided a detailed history to the application submission setting out the development of Little Pumpkins Nursery and the work that has been done preparing for submission of the application (Looking at alternative D1 sites, Travel surveys with nursery users, assessment of local need). They outlined that a previous application for a change of use to a nursery at 129 Woodyates Road had been approved in 2007 and this was a reapplication.

The applicants outlined the main areas of objection from local residents (Traffic, noise and safety). The applicants explained the OFSTED inspection and that their approval considered areas such safety. The applicants then focuses on the nursery opposite at 88 Woodyates Road, which is also owned by Little Pumpkins. They achieved OFSTED approval in 2007.

(R ) Does inspection from OFSTED include environmental safety and child safety?

(DN) Both – Children and the Environment. No objections raised previously in the 2007 application about noise, parking and safety.

(R) Was application at 129 made after 88 Woodyates?

(DN & AM) Yes – Explained the reasons needed for expansion to 129. Increased waiting list. Government cuts to sure start have increased demand in the local area, more space was needed for younger children.

(R ) Have you reduced prices?

(AM) Yes – We're lowest priced nursery in the local area. We're parents ourselves and understand the local need.

(R ) In terms of your catchment, where does the closest child come from?

(AM & ML) Gavestone Road. Most children come from the local area.

(R ) How many children would the nursery have?

(AM) 21 babies between 3-24months. 88 Woodyates has children between 2-5years.

(Cllr M) Would the youngest at 88 be moved over to 129 to make room for older children?

(AM) Yes. We have looked at alternative D1 uses within the area but none were suitable.

(R ) Concerns about two commercial premises so close together. Parking is already an issue with parents parking across drives and very close to the junction. The road is a rat run and the corner is dangerous with fast moving traffic coming off Westhorne Avenue. Staff parking could also be a problem.

(AM) We are changing our prospectus to ensure parents are aware of parking and to be mindful of our neighbours. My job is to ensure there is no dangerous parking by staff. Three members of staff drive. Parent pick up and drop off times are staggered between 8-10am and 4-6pm. We can look at erecting signs/notices outside the property to make people aware.

(Cllr M) Stopped questions as discussions had started before the presentation by the applicants had been completed.

(CK) Outlined methods for noise mitigation. The outdoor play time can be staggered. The property has good insulation/doubled glazed. A residential unit could have babies anyway.

Traffic concerns: There is already considerable traffic noise from Westhorne Avenue and at peak times there are tailbacks that pass Woodyates Road. Carried out surveys at peak times and observed traffic flow.

(R ) Where you there during mornings and afternoons? After 4pm?

(CK) Yes – Our Surveys have shown 70% of nursery users travel on foot.

(R ) Where is the furthest child located?

(AM) Eltham – Outlined directions parents travel from. Parents are having to travel further because of funding cuts to Sure Start.

- (Cllr M) How do you market?
- (AM) Leaflets and Google.
- (R) Parking is an issue, they park close and on the red lines.
- (Cllr M) Planning can't take into account irresponsible parents.
- (DN) We're keen on looking into new signage to stop irresponsible parking.
- (R) There is information from schools that show parents will drop off their children by car if it is easier. Even if they live close by. Traffic has increased over the past few years and many people use the road as a rat run. The traffic calming measures don't do anything. Many lorries and cars along Westhorne Avenue exceed speed limit and there have been accidents. One car went into the boundary wall of 129 Woodyates. If a lorry is travelling at speed and hits the wall, debris could be propelled through the window or serious damage could be done to the house and children.
- (R) What about a camera?
- (Cllr M) Even as Red Route, TFL are unlikely to fund that.
- (DN) I see your point about location of property and potential for accidents. We could look at a protective barrier.
- (Cllr M) Further details about a protective barrier may be needed at a later stage.
- (SG) A barrier or wall would need a separate application and design would be a major consideration.
- (R) We don't want parking restrictions in the area as parking is already a problem.
- (SG) If the application were to be approved then a Travel Management plan could be conditioned before the use commenced.
- (R) Is it possible parking to change to allow two wheels on the pavement?
- (Cllr M) It would be a new consultation exercise by Highways.
- (R) What about white lines?
- (Cllr M) This still doesn't stop irresponsible parking in front of schools.
- (AN, CK & DN) We can look/think about safety and management improvement.
- (Cllr M) I don't oppose the idea of a nursery, but do have concerns about parking and safety especially regarding the wall accident. Would this have to be a separate application?
- (SG) Yes and design would be an issue.
- (R) Still not happy about the safety being so close to such a busy road.

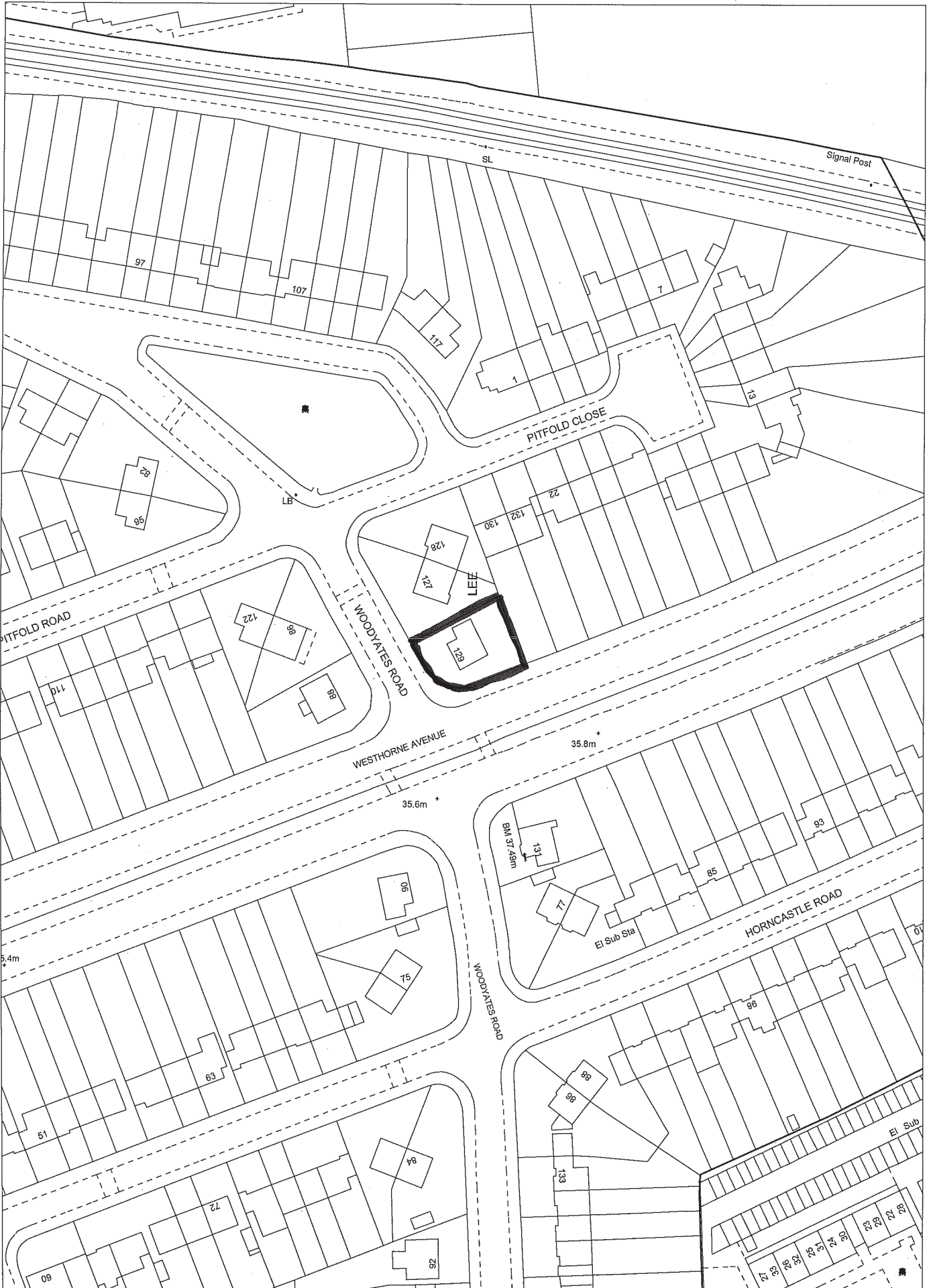
- (TL) They could have used another D1 premises and that location could have been unsafe but the use class is there.
- (DN) We have looked at other alternatives – none were suitable.
- (CK) There is nursery on St Mildred's that is right on the busy road and is not set back. We have a good set back from the road.

**8.00pm**

**Cllr Mallory closed the meeting.**



129 WOODYATES ROAD, LONDON, SE12 9JH



This page is intentionally left blank

Committee	PLANNING COMMITTEE C	
Report Title	5 & 6 BEVERLEY COURT, BREAKSPEARS ROAD, SE4 1UN REQUEST NOT TO PURSUE ENFORCEMENT ACTION	
Ward	Brockley	
Contributors	Gemma Barnes and Phil Ashford	
Class	PART 1	08 November 2012

Background Papers

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

Designation

Adopted UDP - Existing Use  
Brockley Conservation Area  
Brockley Article 4 Direction  
PTAL 3/4

**1.0 Introduction**

- 1.1 This report deals with a breach of planning control at Nos. 5 and 6 Beverley Court, in relation to the unauthorised replacement of windows at both of the properties and whether it is expedient for the Council to instigate formal enforcement action.

**2.0 Property/Site Description**

- 2.1 Beverley Court is a post war development built on previously undeveloped land used as a nursery until the 1950's. It consists of three terraces of small two storey houses finished in white painted render, enclosing a pleasant planted parking courtyard. It is located behind the area's principal streets and alongside the railway line.
- 2.2 The original windows are a mixture of timber framed side hung casement windows, and fixed casements with top lights pivoting outwards, subdivided by glazing bars into small panes.
- 2.3 Nos. 5 and 6 are located within the first terrace of properties running north to south close to the entrance into Beverley Court although the terrace is not visible from Breakspears Road. The terrace backs onto a row of garages which are accessed via Wickham Road.
- 2.4 Although Beverley Court is a private road and there is a lockable gate at the Wickham Road frontage which restricts vehicular access to residents only it is possible for pedestrians to gain access at this point. A locked gate prevents pedestrians using Beverley Court as a through-route but residents can use the gate to the side of No.7 to gain access to the garages and Wickham Road. There is a sign stating that Beverley Court is a private road on the Breakspears Road frontage but no gate to prevent vehicular or pedestrian access at this point. Consequently as the ability exists for the public to enter Beverley Court from Breakspears Road the

development falls within the definition of a public highway and is therefore covered by the Brockley Article 4 Direction.

### **3.0 Relevant Planning History**

3.1 **DC/10/74744:** The construction of a single storey conservatory to the rear of 5 Beverley Court, Breakspears Road SE4. Granted. The officers report for this application refers to the Article 4 Direction being in place.

3.2 **DC/08/65899:** The installation of timber double glazed replacement windows in the elevations of 1 Beverley Court, Breakspears Road SE4. Granted.

### **4.0 Policy Context**

#### National Planning Policy Framework (March 2012)

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

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

4.3 With regard to enforcement Paragraph 207 of the NPPF states:-

*"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning decisions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."*

4.4 In addition, Circular 10/97: Enforcing Planning Control: legislative provisions and procedural requirements (2006) is relevant.

#### London Plan (July 2011)

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

Policy 7.1 Building London's neighbourhoods and communities  
Policy 7.4 Local character  
Policy 7.6 Architecture  
Policy 7.8 Heritage assets and archaeology

#### 4.6 Adopted UDP (July 2004)

URB 3 Urban Design  
URB 6 Extensions and Alterations  
HSG 4 Residential Amenity  
URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas

#### 4.7 Core Strategy

The Core Strategy was adopted on 29<sup>th</sup> June 2011.

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

Objective 1: Physical and socio-economic benefits  
Objective 10: Protect and enhance Lewisham's character  
Spatial Policy 1: Lewisham Spatial Policy  
Spatial Policy 5: Areas of Stability and Managed Change  
Policy 15: High quality design for Lewisham  
Policy 16: Conservation areas, heritage assets and the historic environment

4.8 Residential Standards Supplementary Planning Document (2006).

4.9 Brockley Conservation Area Character Appraisal (2005).

4.10 Brockley Conservation Area Supplementary Planning Document (2005).

#### **5.0 Consideration of Enforcement Action**

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

##### Breach

5.2 A complaint was received in March 2011 alleging replacement UPVc windows had been installed at No.5 Beverley Court.

5.3 The Council undertook a site inspection where it was established that all of the original windows within the front and rear elevations and the front door had been replaced at No. 5 Beverley Court and the ground floor windows in the front and rear elevations had been replaced at No.6. The replacements were UPVc.

5.4 The Council wrote to the Occupiers of the Nos. 5 and 6 inviting a retrospective planning application for retention of the windows but advising that due the properties being sited within a Conservation Area an application for retention of UPVc windows would be unlikely to be approved (letter sent November 2011).

- 5.5 Upon receipt of the Council's letter the Occupier of No.5 contacted the Council to advise that she had previously sought advice from the Councils Conservation Team as to whether planning permission would be required for replacement of the windows. The reason clarification was sought was because the windows would only be visible from a private road so it was unclear whether the Article 4 Direction would apply.
- 5.6 A Conservation Officer responded to this query (February 2011) advising that planning permission would not be required on the grounds of the Article 4 Direction not covering private roads. The occupier of the property relied on this advice and proceeded to replace fenestration in the front and rear elevations of the property.
- 5.7 The occupier of No.6 also sought advice from the Councils Conservation Team as to whether planning permission would be required for replacement windows and front door on the grounds that she had seen the advice given to No.5. Again confirmation from the same officer was provided that planning permission would not be required.
- 5.8 Upon further investigation it became clear that the advice given by the Conservation Officer to both of the above enquires was incorrect. A further letter was sent to both Nos. 5 and 6 Beverley Court (March 2012) stating that incorrect advice had previously been given in respect of whether Beverley Court as a private Road is covered by the Article 4 Direction. The letter clarified the position as follows:
- "Private roads are not excluded from the definition of a highway in planning legislation. A footpath or road is considered to be a highway even if not publically maintained, where members of the public are able to pass and re-pass (ie: able to access the footpath or road). Beverley Court although not publically maintained, is accessible to members of the public on foot and by car and therefore does fall within the definition of a highway for the purposes of planning. As such Beverley Court is covered by the Article 4 Direction"*.
- 5.9 The letter confirmed that the previous advice given by the Conservation Officer was incorrect and that informal advice does not constitute a Lawful Development Certificate and would not override the need for a planning application to be submitted. A further request was made for an application to be submitted to enable a full assessment of the impact of the development to be undertaken but it was reiterated that the Council do not normally grant planning permission for UPVc windows in conservation areas.
- 5.10 In April 2012 the Council wrote to occupiers of all of the properties in Beverley Court to confirm that the properties are covered by the Brockley Article 4 Direction.
- 5.11 Between April and June 2012 the Council engaged in various correspondence with the Occupiers of Nos. 5 and 6 in respect of this matter including correspondence submitted via a legal representative and Joan Ruddock MP.
- 5.12 Although retrospective applications were not submitted the Council's Conservation Team undertook further analysis of the impact of the unauthorised windows in order to establish what action, if any, should be taken to remedy the breach of planning control. As a result of this assessment it was concluded that the harm of the UPVc windows in this location is not that significant to justify enforcement action. The occupiers of Nos. 5 and 6 were notified by way of a response to a corporate

complaint on 21 June 2012, that it was the view of officers that further enforcement action would not be taken and that a report would be presented to the Planning Committee for their consideration and agreement.

- 5.13 To date no retrospective application has been submitted to regularise the breach of planning control at Nos. 5 or 6 Beverley Court.
- 5.14 Whilst a breach of planning control has taken place for the reasons set out in this report it is the officers recommendation that no further action be taken. It is important to note that the properties are covered by an Article 4 Direction and the Council is not necessarily estopped from taking enforcement action where informal advice has been given by an officer if the level of harm caused by the breach of planning control warrants enforcement action being taken.

## **6.0 Planning Considerations**

6.1 The main planning considerations are :

- Visual impact of operational development including the impact on the Brockley Conservation Area;
- Impact on neighbouring amenity.

### Visual impact

- 6.2 National and local planning policies place considerable emphasis on the importance of achieving high quality design that complements existing development, established townscape and character. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. New development must conserve the significance of heritage assets and their setting. When critiquing design, local planning authorities must take a proportionate approach to the type of development proposed and its context.
- 6.3 An important consideration when determining the acceptability of replacement windows in a conservation area is the visual impact on the property and how this will affect the character and appearance of the conservation area.
- 6.4 The character of the conservation area is set out in the Brockley Conservation Area Character Appraisal, and guidance on development is provided in the associated Supplementary Planning Document, both adopted in December 2005.
- 6.5 In summary the appraisal explains that the conservation area was built up by a number of speculative developers between the 1830's and early 1900s, with the majority of the area constructed in the 1870s and 1880s. The houses were built in a variety of architectural styles popular in the mid to late Victorian period and display good quality Italianate stucco and Gothic terracotta detailing.
- 6.6 The character of the area is that of a large Victorian suburb for the middle classes. Houses tend to be large and set in wide tree-lined roads with extensive front and rear gardens, some with mews to the rear, adding to the area's spacious and leafy appearance. Houses were constructed in a variety of forms, notably in short terraces, in semi-detached pairs and to a lesser extent free standing villas.

- 6.7 In contrast Beverley Court is a post war development built on previously undeveloped land used as a nursery until the 1950's. It consists of three terraces of small two storey houses finished in white painted render, enclosing a pleasant planted parking courtyard. It is located behind the area's principal streets and alongside the railway line.
- 6.8 While it continues the principle of suburban development it is quite distinct in scale, layout and design from the principal character of the conservation area and the properties are not visible from the streets which generate the area's character. Although of pleasant character its contribution to the heritage significance of the conservation area is considered to be a modest one.
- 6.9 The Article 4 Direction came into effect in January 2006 and followed on from the work on the conservation area appraisal. Part of the research underpinning the appraisal involved a survey of alterations to the Victorian properties (not including Beverley Court) in the conservation area which demonstrated that the extent of unsympathetic alterations taking place was beginning to erode the character of the conservation area, hence justifying the removal of the householders permitted development rights to make alterations visible from a highway without planning permission.
- 6.10 The associated SPD states at page 4 under windows "*Upvc will not be permitted .....[because] ....very much at odds with the character of historic buildings*", a category Beverley Court does not fall into.
- 6.11 In conclusion the UPVc windows installed are not considered to harm the heritage significance of the conservation area, because of both Beverley Court's isolated location away from the historically significant streets of the conservation area and the modest contribution that it makes to character. In terms of the character of Beverley Court itself the use of alternative window materials are not considered inappropriate subject to the proportions and glazing patterns reflecting those of the original windows, which in the case of Nos. 5 and 6 they do.
- 6.12 Taking account of the above it is considered that if a planning application were to be submitted for retention of the UPVc windows it is likely to be approved.
- 6.13 It is important to note that the Article 4 Direction is considered to be important for Beverley Court as the properties do make a modest contribution to the special interest of the Brockley Conservation Area. This small infill development has its own merits which should be afforded protection through the Article 4 Direction. In respect of windows, due to the lack of visibility it is considered that the change of materials for the windows would not be harmful to the character and appearance of Beverley Court nor the wider Conservation Area but this is in the context of maintaining coherence and consistency in the form and detailing of Beverley Court, which is its greatest strength.
- 6.14 When granting planning permission for windows the Council would wish to retain a degree of control that would ensure that any new windows retain the original glazing pattern and a consistent opening pattern. The same applies for changes of doors, roof covering, type and height of front boundaries, the insertion of rooflights, addition of dormers and changes to the exterior finish (the facades of Beverley Court are traditionally painted). Consequently the Article 4 Direction remains relevant, justified and of value for maintaining Beverley Court's own integrity. The



decision to take no further action in this instance would not prejudice future control over alterations to dwellings in Beverley Court. Neither would it prejudice the determination for applications for UPVc windows if the detailed form and design of the window was not deemed to be acceptable.

#### Impact on neighbours

- 6.15 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, overbearing impact, overlooking, loss of privacy and general noise and disturbance. It is not considered that the proposal would adversely affect neighbouring amenity in this respect.
- 6.16 However, officers are aware that the Article 4 Direction has prevented other residents in Beverley Court from inserting replacement UPVc windows, some occupiers have chosen to replace their windows with timber whilst others have installed secondary glazing. Such measures may have resulted in additional expense for those occupiers which is regrettable. However, this in itself is not sufficient reason to pursue enforcement action in this instance, when a thorough and recent assessment of the impact of UPVc windows in this location has revealed that, in principle UPVc windows would be acceptable provided they are of suitable design. Planning records show that no applications have been submitted for UPVc windows in Beverley Court and therefore until this time no formal determination of the appropriateness of UPVc windows in this location has been issued.

#### Summary

- 6.17 Overall for the reasons stated the windows in situ at Nos. 5 and 6 Beverley Court are not considered to result in harm to the character and appearance of the host buildings or the Brockley Conservation Area. Consequently it is not expedient to take any further action.

### **7.0 Legal Implications**

- 7.1 Government Policy advice to local planning authorities on the use of their enforcement powers is set out in The National Planning Policy Framework (March 2012). Local planning authorities have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest.
- 7.2 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.
- 7.3 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.
- 7.4 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.

- 7.5 For the reasons stated it is not considered appropriate or necessary in this case to take further enforcement action.

## **8.0 Human Rights Implications**

- 8.1 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

- 8.2 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.
- 8.3 In relation to Article 8 in particular consideration has been given to the personal circumstances of the occupiers of the residential premises as well as occupiers of neighbouring dwellings. Clearly the decision to take no further action will not impact upon the human rights of the occupiers of Nos. 5 and 6 Beverley Court.
- 8.4 Despite the fact that other residents in Beverley Court have taken an alternative approach to window replacements because of the Article 4 Direction this is itself is not a reason to pursue enforcement action where there is insufficient harm being caused. The decision to take no further action in this instance will not impact upon the human rights of other residents in Beverley Court.

## **9.0 Equalities Implications**

- 9.1 The Council has considered the public sector equality duty under section 149 of the Equalities Act 2010 and in the exercise of its functions to have due regard to the

need to eliminate discrimination, harassment and victimisation and any other conduct which is prohibited under this Act and to foster good relations between persons who share a relevant protected characteristic and those who do not share it. The new duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex and sexual orientation.

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

9.3 It is considered that in this matter there is no known impact on equality by recommending that no further action be taken.

## **10.0 Conclusion**

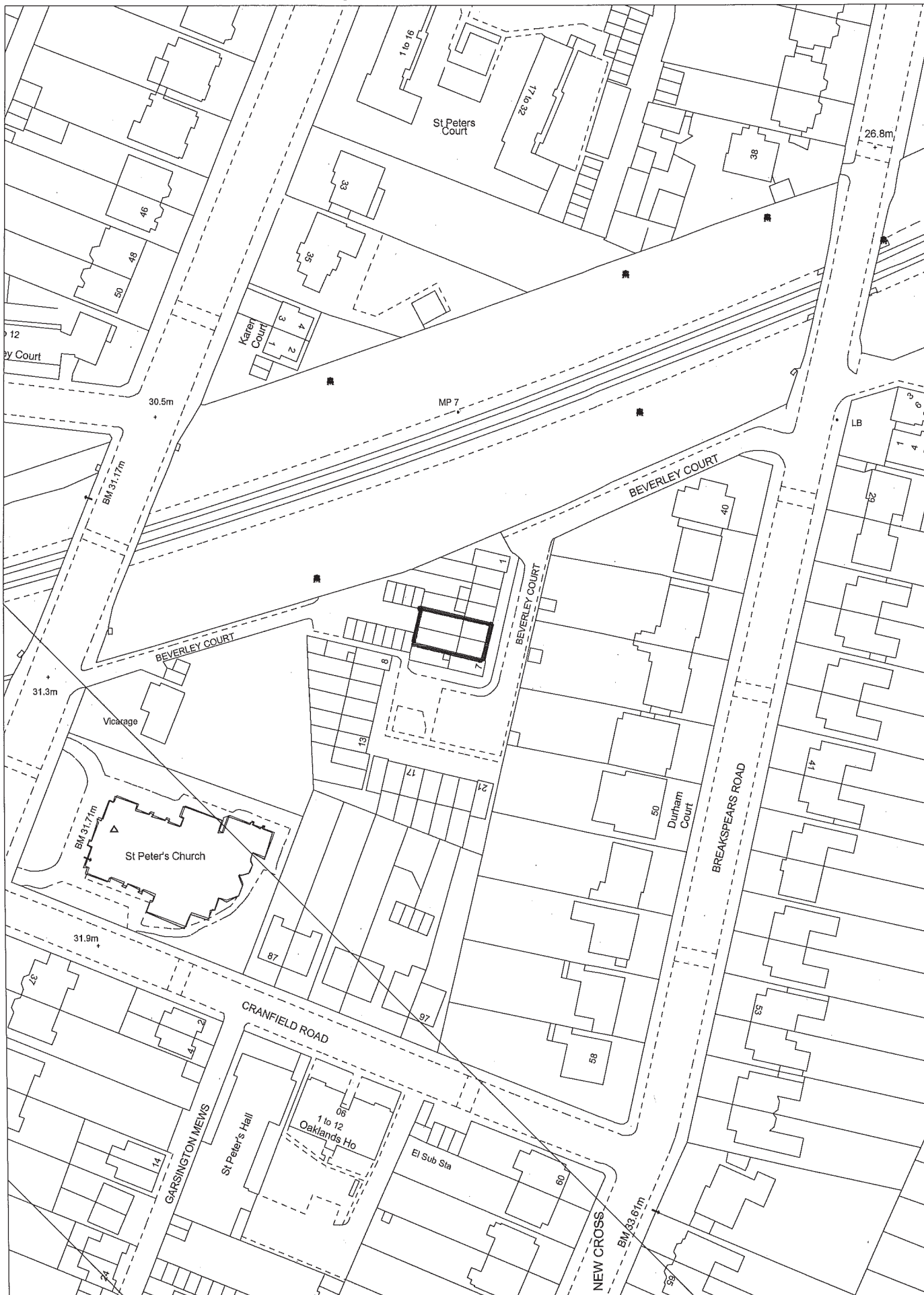
10.1 The breach of planning control at Nos. 5 and 6 Beverley Court does not result in harm to the character and appearance of the host building or the conservation area. Furthermore the windows do not cause harm to neighbouring amenity and it is not therefore in the public interest to pursue further enforcement action.

## **11.0 RECOMMENDATION**

11.1 AUTHORISE THE HEAD OF PLANNING to take no further action in respect of the unauthorised windows and doors at Nos. 5 and 6 Beverley Court.

This page is intentionally left blank

# 5 & 6 Beverley Court, Breakspears Road, SE4 1UN



This page is intentionally left blank