

PLANNING COMMITTEE B

Date of Meeting: **THURSDAY, 17 OCTOBER 2019 TIME 7.30 PM**

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

Members of the Committee are summoned to attend this meeting:

**Membership
Councillors:**

**Aisling Gallagher (Chair)
Alan Smith (Vice-Chair)
Suzannah Clarke
Silvana Kelleher
John Muldoon
Leo Gibbons
Mark Ingleby
Jim Mallory
Sakina Sheikh**

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

**Janet Senior
Acting Chief Executive
Lewisham Town Hall
London SE6 4RU
Date: Tuesday, 8 October 2019**

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Committee	PLANNING COMMITTEE (ABC)	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 17 October 2019

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

(1) Personal interests

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

- (a) Disclosable pecuniary interests
- (b) Other registerable interests
- (c) Non-registerable interests

(2) Disclosable pecuniary interests are defined by regulation as:-

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

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

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

(3) Other registerable interests

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

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

(4) Non registerable interests

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

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

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.

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

(6) Sensitive information

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

(7) Exempt categories

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

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

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Committee	PLANNING COMMITTEE B	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date 17 October 2019

MINUTES

To approve the minutes of the meeting of Planning Committee B held on the 5 September 2019.

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MINUTES OF MEETING OF PLANNING COMMITTEE B

Thursday, 5 September 2019 at 7.30 pm

PRESENT: Councillors Alan Smith (Vice-Chair), Suzannah Clarke, Silvana Kelleher, John Muldoon, Mark Ingleby and Jim Mallory

APOLOGIES: Councillor Aisling Gallagher

OFFICERS: Senior Group Manager, Senior Planning Officer, and Committee Officer.

ALSO PRESENT: Horatio Waller – External Legal Representative

At the start of the meeting, the Vice-Chair, Councillor Smith, announced the procedure that would be followed for considering the planning applications. The Vice-Chair introduced those present at the meeting.

1. **Declarations of Interests**

Councillor Muldoon declared a personal, prejudicial interest in item 5, 3 -7 Cheseman Street as a company for which he worked, had a professional relationship with one of the Applicants and he withdrew from the meeting during consideration of the item.

2. **Minutes**

Resolved –

That the minutes of the meeting of the Planning Committee B held on 18 July 2019 be agreed and signed as a true and accurate record.

3. **Heathside and Lethbridge Committee Report**

The Senior Planning Officer gave an illustrative presentation to the report, recommending to the Committee to approve the discharge of Condition 2 (Reserved Matters) subject to the conditions and informatives outlined in the report.

The Committee noted the report, and that the main planning considerations specific to the application were related to the design of the building, the external appearance, and landscaping of public and private areas on the proposed site.

In response to questions raised, the Officer advised the Committee that the majority of affordable housing had been delivered during the earlier phases of the regeneration work. As an indication, phases 1 – 4 delivered the required affordable housing units. It was confirmed that the play areas within the development were accessible, with no cost to the occupants. The Officer added that steps had also been taken to make the areas safe, with a view to discourage potential anti-social behaviours in the environmental surrounds.

The agent for the applicant also addressed the meeting, with a suggestion to the Committee to approve the proposal in the report, as extensive site and public consultations had been carried out by the developer prior to submitting the application.

The Committee made enquiries and received confirmation by the agent that the developer undertook a rigorous process to review the development plans, with a view to deliver high quality homes to residents. Thus, high quality materials would continue to be used in the construction by the developer. The agent further confirmed to the Committee that a huge part of the development plan was geared towards supporting plant bio-diversity from the Sites of Importance for Nature Conservation (SINC) area to the park. Thus, it was unlikely that native trees would not be removed. However, out of 43 trees earmarked to be felled, 29 would be lost to the footprint of the building, including non-native sycamore trees, and the remaining 14 would be removed because of disease.

The Officer also responded to questions raised, advising the Committee that the sunlight and daylight provision was reasonable. In particular, it would be impossible to meet 100% Building Research Establishments (BRE) requirements. Thus information that 88% of the units met the BRE requirement was deemed acceptable for a scheme of this nature in an urban setting.

A resident also addressed the Committee, advising that she was representing Morgan Hill residents. She expressed appreciation for officers' support received during the consultation process. However, residents continued to be opposed to the proposal because the concerns they raised about ecological issues and overlooking had not been addressed. Specific to the issue of overlooking, the representative stated that it should be noted that the application site was too close to residential dwellings on Morgan Hill. Thus, residents were concerned that proposed construction works would create subsidence to houses on a slope to the application site.

The Committee considered the submissions made at the meeting, and

RESOLVED – Unanimously

That full planning permission be **GRANTED** for the approval of reserved matters (condition 30) in relation to Phases 5 and 6 of the Heathside and Lethbridge Estate redevelopment comprising the construction of buildings ranging from six to seventeen (Phase 5) and seven to eight (Phase 6) storeys in height to provide 443 residential units, parking, new landscaping and other associated works, in relation to the development approved under Section 73 of the Town and Country Planning Act 1990 for minor material amendments to the planning permission DC/09/72554 dated 22 March 2010, as amended by: DC/10/75267 dated 29 September 2010, DC/10/75395 dated 27 January 2011, DC/12/81165 dated 24 January 2013, DC/14/087835 dated 18 August 2014, DC/14/087335 dated 28 October 2014, DC/15/090624 dated 21 April 2015, DC/15/092670 dated 21 August 2015, DC/17/101616 dated 19 June 2017, DC/17/101686 dated 24 August 2017, DC/17/104709 dated 1 December 2017, DC/18/106053 dated 29 March 2018 and DC/18/107715 dated 12 April 2019, for the redevelopment of the Heathside and Lethbridge Estates, Blackheath Hill and Lewisham Road SE10, comprising outline

planning permission (Phases 2-6) for up to 512 square metres of retail floor space, 768 square metres of:

- community floor space
- an energy centre
- 1,054 residential units in buildings ranging from 3 to 17 storeys in height, together with car and cycle parking, associated highway infrastructure, public realm works.
- provision of open space and detailed planning permission (Phase 1) for the redevelopment of land fronting onto Blackheath Hill for 138 residential units in buildings ranging from 4 to 7 storeys in height, together with car and cycle

And a requirement that officers should formulate a condition in relation to:

- SINC Slope
Before any work, the developer to submit a management plan prior to removal of any trees on the slope within the SINC detailing the measures which will be put in place to ensure the stability of the slope is safeguarded.

Reason: To ensure that the neighbouring properties are not damaged or affected by the proposed works.

4. 402-404 Evelyn Street, London, SE8 5QL

The Senior Planning Officer gave an illustrative presentation to the report, recommending to the Committee to grant approval for the construction of a three storey building on the site of 402-404 Evelyn Street, SE8, to provide 4 commercial units at ground floor, 2 one bedroom and 6 two bedroom self-contained flats on the upper floors, together with the provision of green roof, bin storage and cycle parking spaces to the rear.

In response to questions raised, the Officer advised the Committee that a condition was in place to ensure that materials to be used during the construction of the site would be of the highest quality. The Officer clarified to the Committee that the proposed development would provide employment opportunities for residents. The Committee was further advised that to apply a condition on potential rent levels for commercial units was not a planning consideration. However, a change of use in the future by the developer in relation to the commercial units might require a planning application.

The Committee noted further responses by the Officer that the Delivery Management Plan had a provision for dealing with trade waste from commercial units. However, it may not be possible to include a condition to limit vehicles weighing 1½ tons during the construction work. Legal advice was sought on the matter, and it was clarified that a condition to address this concern could be added in the event planning permission was granted.

The applicant also responded to questions raised, advising the Committee that consultations with residents were ongoing as part of the application process which commenced in 2010. The applicant stated that he was pleased with revisions to the Construction Management Plan in liaison with local authority officers.

In response to further enquiry, the applicant gave an assurance to the Committee that commercial use of the proposed units would not change to residential, and that he was willing for a condition to be applied in that regard. It was stated that the use of HGVs during operation of the site was unlikely because the commercial units to be constructed would be relatively small in size. Thus, mini-transit vans would be used by businesses. However, a monitoring device could be installed to alleviate resident's concerns about vibrations from vehicles when the commercial units become operational.

The Committee considered the submissions made at the meeting, and

RESOLVED – Unanimously

That full planning permission be **GRANTED** for the construction of a three storey building on the site of 402-404 Evelyn Street, SE8, to provide 4 commercial units at ground floor, 2 one bedroom and 6 two bedroom self-contained flats on the upper floors, together with the provision of green roof, bin storage and cycle parking spaces to the rear,

And a requirement that officers should formulate conditions in relation to safeguarding the ground floor units for the proposed commercial uses, and conditions requiring the approval of a delivery management plan (to include details of refuse servicing) and a construction management plan.

5. **3-7 Cheseman St report**

The Service Group Manager gave an illustrative presentation to the report, recommending to the Committee to grant planning permission for the demolition of the existing garages at the rear of 3-7 Cheseman Street SE26 and the construction of a single storey building to provide 2, two bedroom self-contained dwellings amenity space, together with the provision of cycle parking spaces and refuse and recycling stores.

In response to questions raised the Manager confirmed that the development was single storey and the ground would be levelled, making some areas lower than at present. It was clarified that the matured trees shown in the drawing plans were planted in properties close to the application site.

The Manager also noted a suggestion by the Committee, confirming that the proposed building would be constructed in accordance with building control regulations. However, an additional condition would be added to the construction details to secure the stability of existing buildings during excavation work on the proposed site.

A resident addressed the meeting, advising the Committee that 33 homes existed opposite the application site. Thus, the new construction would create an overdevelopment in the established environment, resulting in traffic and parking problems. The resident was of a view that the congestion that the additional development would create could also result in hazard due to limited access by emergency service vehicles into the area.

Commenting on statements by the resident, the Committee made further enquiries. In response, the Manager stated that the implementation of a Controlled Parking Zone in the environment to the application site could not be justified, as only 3 units would have parking facility. However, established double yellow lines in the area would help with traffic management controls.

The Committee considered the submissions made at the meeting, and

RESOLVED – Unanimously

That full planning permission be **GRANTED** for the Demolition of the existing garages at the rear of 3-7 Cheseman Street SE26 and the construction of a single storey building to provide 2, two bedroom self-contained dwellings amenity space, together with the provision of cycle parking spaces and refuse and recycling stores.

- To provide four commercial units (Use Class A1, A2, A3 and B1) at the ground floor and residential flats above.
- To provide a total of eight residential flats over the two floors, comprising of two 1-bed and six 2-bed units.

And requirements for:

- A condition requiring submission of a tree protection management plan for approval by the Local Planning Authority prior to commencement of the development, in order to ensure trees in adjacent gardens are protected during construction of the site.
- Another condition requiring submission of measures to be undertaken to ensure ground stability will be safeguarded during the construction process for approval of Local Planning Authority (to be informed by a ground survey).

The meeting closed at 9.15pm

Chair

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Committee	PLANNING COMMITTEE B	
Report Title	125-131 Kirkdale, SE26 4QJ	
Ward	Forest Hill	
Contributors	Samuel James	
Class	PART 1	17 October 2019

<u>Reg. Nos.</u>	DC/19/112637
<u>Application dated</u>	24 April 2019
<u>Applicant</u>	Tim Cropper on Behalf of Bernard Construction UK LLP
<u>Applicants Plan Nos.</u>	P2-05; P2-06; P3-01 Rev.A; PA-02; A2-01 Rev.A; A4-01 Rev.C; A4-02 Rev.A; A4-03 Rev.A; A6-03; NOV-XX-XX-DR-M-5701; 615/SE26/20/1_SLP01; Construction Management Plan (Bernard Construction); Kitchen Ventilation (Novo); Local Labour Strategy (Bernard Construction dated Nov 2017); Noise and Vibration Assessment (Hepworth Acoustics dated November 2017); Planning & Design Statement (Bernard Construction dated June 2019); Service management plan (Bernard Construction); Front Elevation Rendering
<u>Proposal</u>	Part retrospective application for the construction of a part three, part four storey building comprising 2x one bedroom and 6x two bedroom self-contained flats (Class C3), and a public house (Class A4) with ancillary floorspace at ground floor level, together with associated cycle and refuse storage, and amenity space.
<u>Background Papers</u>	(1) Core Strategy (adopted June 2011) (2) Development Management Local Plan (adopted November 2014) (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	PTAL 4

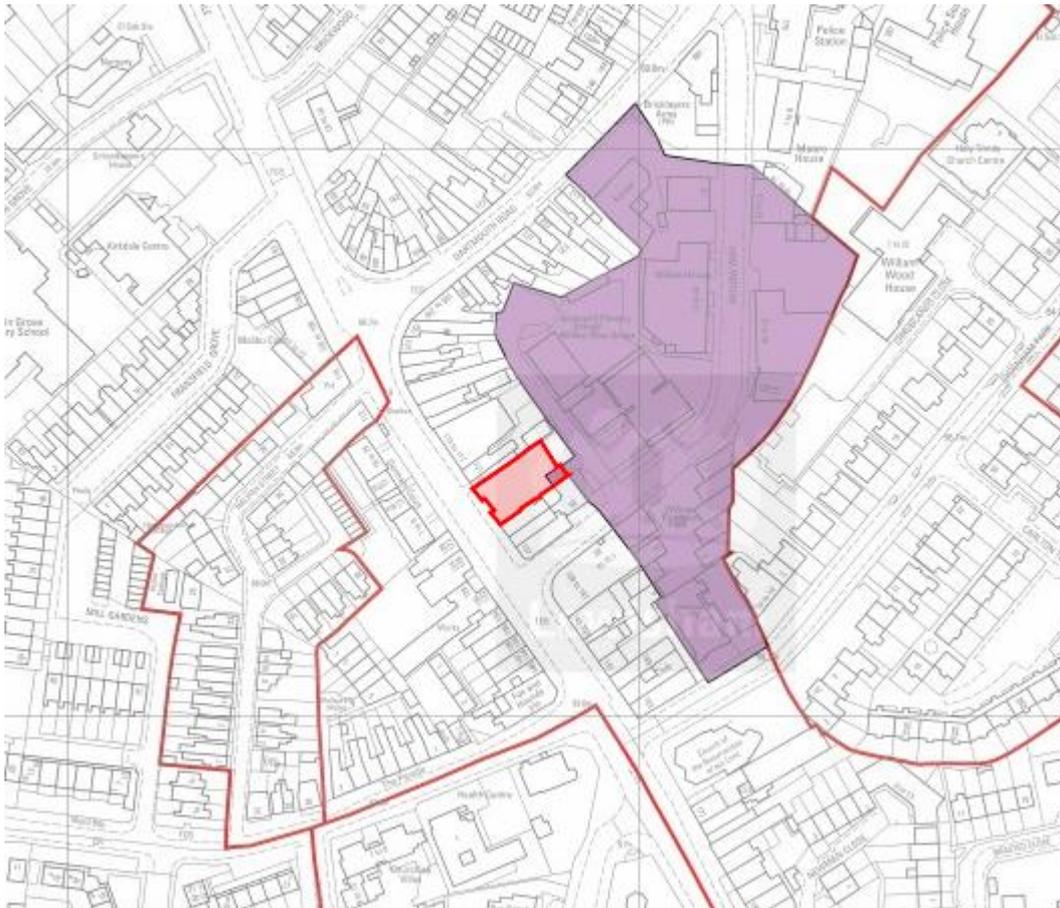
1 SUMMARY

- 1 This report sets out Officer's recommendations for the above proposal. The application is before members for a decision as the recommendation is to approve and there are three valid planning objections, including one from the Sydenham Society, an amenity society as defined by Lewisham's constitution.

2 SITE AND CONTEXT

Site description

- 2 The site is the former Windmill Public House (Use Class A4), located on the east side of Kirkdale (see map extract below), which was a part two/ part three-storey building constructed as a purpose built 'Wetherspoon's' pub in 2000.



Map 1: site location plan. 125-131 Kirkdale edged in red

- 3 Building works have begun following grant of planning permission DC/16/099356, and the shell of a three storey, plus lower ground level building is largely complete.

Character of area

- 4 Kirkdale is a local shopping parade and hence ground floor commercial units with residential uses above dominate the character. The parade is generally well occupied towards Sydenham; however, a number of units are vacant further west of the site towards the junction with Dartmouth Road.

Heritage/archaeology

- 5 The site is not located in a conservation area, however the Halifax Street Conservation Area is located approximately 40m to the north west, and Sydenham Park Conservation Area is approximately 50m to the east and south.
- 6 Furthermore, Grade II Listed Buildings are located on Kirkdale opposite the site. These buildings are located at 124-128 Kirkdale (known as such, listing No.1080021) and 134-146 Kirkdale (known as "High Street Buildings", listing No.1392512).

Transport

- 7 Kirkdale is a classified 'B' road with parking restrictions along most of the road, as well as part of Willow Way and Dartmouth Road. The site has a PTAL value of 4, or Good.

Sydenham Station is located approximately 700m from the site with bus routes along Kirkdale and Dartmouth Road. Overall, the accessibility of the site is good.

3 RELEVANT PLANNING HISTORY

- 8 **DC/99/44839:** Planning permission was granted in 1999 for the demolition of buildings and the construction of a two-storey building incorporating the Windmill Public House at 125-131 Kirkdale.
- 9 **DC/16/099356:** Demolition of the existing Windmill Public House at 125-131 Kirkdale SE26 and the construction of a part three/part four storey building comprising 2 one bedroom and 7 two bedroom self-contained residential units (Class C3), and a public house (Class A4) with ancillary floorspace at ground floor, together with associated cycle parking, landscaping, and amenity space. **Granted 1 August 2017**, subject to 33 conditions.
- 10 **DC/17/104760:** Details submitted in compliance with Conditions 3 (Local Labour Strategy), 4 (Construction Management Plan), 5 (Noise), 6 (Details of soundproofing), 7 (Noise from Fixed Plant), 10 (Materials), 13 (Refuse and Recycling), 14 (Cycle Storage), 15 (Hard Standing), 16 (Soft Landscaping) and 19 (Light Spillage) of Planning Permission DC/16/099356 dated 1st August 2017, for the Demolition of the existing Windmill Public House at 125-131 Kirkdale SE26 and the construction of a part three/part four storey building comprising 2 one bedroom and 7 two bedroom self-contained residential units (Class C3), and a public house (Class A4) with ancillary floorspace at ground floor, together with associated cycle parking, landscaping, and amenity space. **Refused 6 March 2018** due to insufficient information to allow discharge of conditions 3, 4, 7b, 10, and 13.
- 11 **DC/18/106077:** An application submitted under Section 96a of the Town & Country Planning Act 1990 for a non-material amendment in connection with planning permission DC/16/099356 dated 01 August 2017 for the Demolition of the existing Windmill Public House at 125-131 Kirkdale SE26 and the construction of a part three/part four storey building comprising 2 one bedroom and 7 two bedroom self-contained residential units (Class C3), and a public house (Class A4) with ancillary floorspace at ground floor, together with associated cycle parking, landscaping, and amenity space, *in order to allow amendments to the wording of Conditions 11(a) and 33*. **Granted 21 August 2018**.
- 12 **DC/18/108840:** An application submitted under Section 73 of the Town & Country Planning Act 1990 for a Minor Material Amendment in connection with the planning permission DC/16/099356, dated 01 August 2017 for 'Demolition of the existing Windmill Public House at 125-131 Kirkdale SE26 and the construction of a part three/part four storey building comprising 2 one bedroom and 7 two bedroom self-contained residential units (Class C3), and a public house (Class A4) with ancillary floorspace at ground floor, together with associated cycle parking, landscaping, and amenity space', *in order to vary condition 2 (approved plans) to amend the external wall layout, internal layout, and alter the height and elevations of the approved building, together with excavation works to the rear*. **Refused under delegated powers 21 November 2018. Reasons:**
1. *The proposed changes to the approved development, including to its massing and scale, internal arrangements, alterations to the rear elevation, increase in size of A4 unit, reduction of glazing, alterations to style of fenestration and material detailing, together with the decrease in floor to ceiling heights has resulted in a significant departure from the original high quality design and standard of accommodation. The proposed changes would result in a building that is substantially different from that approved, and would compromise the original intent of the previously approved scheme that was informed by the surrounding context and character and as such is contrary to Policy 3.5 'Quality and design of housing developments' of the London*

Plan (March 2016), Policy 15 'High quality design' for Lewisham of the Core Strategy (June 2011), DM Policy 30 'Urban design and local character', ' 32 'Housing Design, Layout and Space Standards' of the Development Management Local Plan (November 2014).

2. *The proposed amendment to the south facing courtyard elevation, bringing the structure and windows closer to the rear elevation of No.123 Kirkdale, would increase the sense of enclosure and overbearingness felt by occupiers of that property, as well as allowing significantly greater overlooking opportunities, to the detriment of the privacy of both properties' occupiers' privacy, materially harming the residential amenity of No.123 Kirkdale and future residents of flats Apt B-01 and Apt B-03, contrary to Policy 3.5 'Quality and design of housing developments' of the London Plan (March 2016), Policy 15 'High quality design' for Lewisham of the Core Strategy (June 2011), DM Policy 30 'Urban design and local character', ' 32 'Housing Design, Layout and Space Standards' of the Development Management Local Plan (November 2014).*

13 This refusal decision is currently being appealed to the Planning Inspectorate under reference number APP/C5690/W/19/3226795. At the time of writing, this decision has not yet been made.

14 During the course of the above Section 73 application, it became apparent that the shell and footprint of the building had already been built to the plans that were being applied for.

15 Therefore, following refusal, the Council's enforcement team were notified of a breach of planning. Works stopped and the applicant sought pre-application advice on how to rectify the situation. A meeting was held on 15th March 2019, and advice was given regarding the detailed design, and further information that would be required to demonstrate the impacts on neighbouring amenity, this resulted in the submission of the current application.

4 CURRENT PLANNING APPLICATION

16 This full application has been submitted following the demolition of the former Windmill Public House, and the partial construction of a three storey, plus lower ground level building – so this is a part-retrospective proposal as the works have started but are not complete.

17 The red line plan of the site has changed since the previous permission was granted (DC/16/099356). This is allegedly due to errors in measuring the original building and site when the surveys were carried out by the previous owner of the site. The site was found to be narrower than previously identified.

18 The building now proposed would comprise a public house (Use Class A4) at ground floor level with an internal area of 356m² together with services and storage at lower ground level.

19 There would be eight self-contained residential units (note one less unit than the extant permission - DC/16/099356) above in the form of two x one bedroom, and six x two bedroom self-contained flats. Four of the flats would be accessed from the rear from Willow Way, and four would be accessed from Kirkdale at the front.

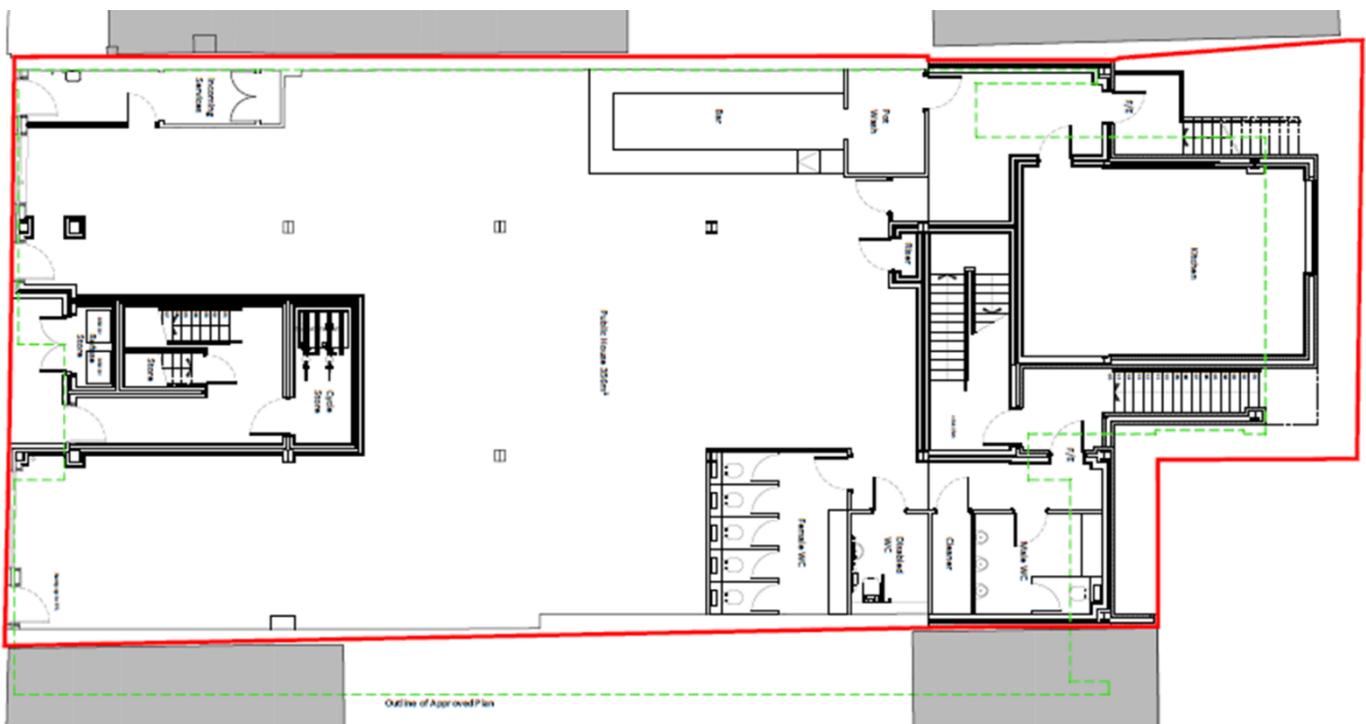
20 All units would be provided with private amenity space. The first floor units would each be provided with a private first floor level courtyard gardens as well as balconies on the opposite elevation. The second floor units would benefit from balcony terraces.

21 The proposal would provide no off street parking. 17 associated dry and secure cycle parking spaces would be provided close to the front and rear entrances of the building, as would refuse and recycling storage provision for the residential units. 11 cycle parking spaces would be provided for the pub use, as well as a commercial refuse store to the rear of the building.

4.1 COMPARISON WITH THE ORIGINAL PERMISSION

22 The red line plan of the site has changed, since the grant of planning permission DC/16/099356, due to an updated site survey, which found the site was narrower than previously identified by the previous owner's survey. Differences between the approved plans for DC/16/099356 and the current proposal are as follows:

- There is one less residential dwelling proposed
- **Lower Ground:**
 - Addition of separate lower ground level (incorporated as a lower section of ground floor previously). This includes a storage area, cellar, utility meters, and a refuse and cycle store to serve the residential units. It projects 1.4m - 2m further to the rear when compared to the approved ground floor plan;
 - Additional door to the rear and reorganisation of entrances
 - Introduction of a lobby and staircase leading up to the main ground floor providing access through the rear of the building to the Block B residential units, as well as a fire escape for the pub.
- **Ground:**



Plan 1: Ground floor plan comparison (green dash is approved plan)

- 1.4m additional projection at the rear;
- Amended public house layout;
- Kitchen and male WCs moved to rear section;
- Amended residential entrance at front section;

- Cycle store added to entrance way;
- Additional servicing door to Kirkdale.
- **First:**
 - Rear section front (courtyard) elevation shifted up to 5.6m southwards (at west side);
 - Re-configuration of flat layouts, and
 - Introduction of screening to prevent overlooking from rear north facing elevation towards rear window of No 123 Kirkdale.
- **Second:**



Plan 2: Comparison of first/second floor levels (green dash is existing permission)

- Terraces at rear of rear section moved and increased in size.
- Reconfigured flat layouts
- **Front Elevation:**
 - The height of the front elevation would remain as approved, but the width reduced by 0.75m;
 - Balconies and glazed doors to front reduced in width;
 - Alteration of fenestration alignment;
 - Previously metal railings shown to front balconies replaced with glass balustrades;
 - Reduction in size of shopfront windows to front of A4 unit at ground floor level.
- **Rear Elevation**
 - Reduced in height by 1.7m and no staggered height;
 - Width reduced by 1.6m;
 - Smaller windows, glazed doors and balconies serving residential units.

- Altered residential entrance

5 CONSULTATION

5.1 APPLICATION PUBLICITY

23 The Council's consultation was undertaken in accordance with the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

24 Letters were sent to adjoining residents in the surrounding area and the relevant ward Councillors on 18/06/2019. The applicant displayed a site notice on 10/07/2019. There were reports the site notice was removed after a few days; however, all adjoining addresses were consulted, and statutory consultation requirements and those in the Council's adopted Statement of Community Involvement have been met.

5.1.1 Comments in objection

25 Two responses were received from individual households objecting to the proposal, and one was received from the Sydenham Society.

Comment	Para where addressed
Insufficient parking in surrounding area	133
Insufficient refuse/recycling storage provision	138

26 A number of other comments were also raised as follows:

27 *Works have already caused considerable disruption:* This does not relate to the current application, and has therefore Officers do not consider this material to the current proposal.

28 *Questions fire escape arrangements, is it DDA compliant:* This matter would be dealt with by the building control application.

29 Sydenham Society Comments

Material planning consideration	Para where addressed
Marketing has not been ongoing, marketing evidence wrong	55
Pub area is now too small and ceilings too low	52, 53
Façade would have a blank, heavy presence on the high street. Appears designed as two separate units.	99
Does not 'build out crime'.	103
No space for smokers so will restrict pedestrian flow.	54
New entrances further restrict pavement and bus stop.	Front elevation does not protrude further than previously approved DC/16/099356

Residential balconies at front noisy and polluted	81, 84
Impacts from Willow Way site on future residents in terms of noise + disturbance.	These impacts would be the same as the previous approval DC/16/099356
Room sizes appear small	65-71
Lack of natural light to courtyard gardens and courtyard facing habitable rooms.	80
Balconies at the front would be afforded no privacy.	81
Habitable windows of block A & B appear too close together.	75-77

5.2 INTERNAL CONSULTATION

30 The following internal consultees were notified on 18/06/2019.

31 Highways officer: Did not comment. Officers consider the comments from previous application are still relevant.

32 Environmental Health: Noise assessment is acceptable, subject to compliance with recommendations of the report.

6 POLICY CONTEXT

6.1 LEGISLATION

33 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

6.2 MATERIAL CONSIDERATIONS

34 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

35 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

36 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

6.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance

6.4 DEVELOPMENT PLAN

37 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

38 Lewisham SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

39 London Plan SPG/SPD

- Sustainable Design and Construction (April 2014)
- Housing (March 2016)

6.6 OTHER MATERIAL CONSIDERATIONS

40 The Mayor of London published a draft London Plan on 29 November 2017 and minor modifications were published on 13 August. The Examination in Public commenced on 15 January 2019 and concluded on 22 May 2019. This document now has some limited weight as a material consideration when determining planning applications but does not form part of the development plan. The relevant draft policies are discussed within the report (DLPP).

7 PLANNING CONSIDERATIONS

41 The main issues are:

- Principle of Development (including extant permission)
- Housing
- Urban Design
- Living conditions of neighbours
- Transport

7.1 PRINCIPLE OF DEVELOPMENT

General policy

42 The National Planning Policy Framework (NPPF) at Paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

43 Lewisham is defined as an Inner London borough in the London Plan. LPP 2.9 sets out the Mayor of London's vision for Inner London. This includes among other things sustaining and enhancing its recent economic and demographic growth; supporting and sustaining existing and new communities; addressing its unique concentrations of

deprivation; ensuring the availability of appropriate workspaces for the area's changing economy; and improving quality of life and health.

Policy

- 44 The National Planning Policy Framework (NPPF) speaks of the need for delivering a wide choice of high quality homes, which meet identified local needs (in accordance with the evidence base) and widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
- 45 The current London Plan outlines through Policy 3.3, 3.5 and 3.8 that there is a pressing need for more homes in London and that a genuine choice of new homes should be supported which are of the highest quality and of varying sized and tenures in accordance with Local Development Frameworks. Residential developments should enhance the quality of local places and take account of the physical context, character, density, tenure and mix of the neighbouring environment.
- 46 Locally, Core Strategy Policy 1 Housing provision, mix, and affordability sets out that housing developments will be expected to provide an appropriate mix of dwellings having regard to criteria such as the physical character of the building and site and location of schools, shops, open space and other infrastructure requirements (such as transport links).
- 47 Core Strategy Policy 19 states the Council will apply the London Plan policies relating to community facilities to ensure there is no net loss of facilities.
- 48 DM Policy 20 Public houses seeks to protect public houses from a change of use unless it can be proven that the use is no longer financially viable. Emerging Draft London Plan policy D12 Agent of Change seeks to ensure new noise-sensitive development takes responsibility for mitigating the impact from existing noise and other nuisance generating activities to ensure they remain viable. Emerging Draft London Plan policy HC7 Protecting Public Houses seeks to protect public houses where, amongst other things, they have heritage, economic, social or cultural value to local communities. Development proposals that would compromise the operation or viability of the public house should be resisted. To overcome this, developers must put in place measures that would mitigate the impacts of noise and other nuisance for new residents.

Discussion

- 49 Every application is assessed on its individual merits. However a material consideration in the determination of this planning application is that permission was previously granted for a similar scheme under planning permission DC/16/099356 dated 1 August 2017. While this permission was not implemented (as the works were not in accordance with the approved plans), this permission is extant until 1 August 2020.

Loss of pre-existing building

- 50 During assessment of the above application the principle of the demolition of the existing Windmill Pub building was considered to be acceptable and in compliance with core planning principles of the NPPF, Core Strategy Policy 15 and DM Policy 30. As part of this application, only the partial demolition is proposed (retrospectively). There are no material considerations which would change the acceptability of the partial loss of the building, subject to re-provision of A4 space at ground floor level, since the previous application was determined, and therefore the principle of the loss of the previously existing building is acceptable.

Public House Use

- 51 The extant planning permission (DC/16/099356) proposed 368m² of A4 public house floorspace, with 238m² being customer floorspace (not accounting for kitchen and toilet area).
- 52 This proposal is for 356m² A4 floorspace as noted on the plans, but this does not account for the cellar or commercial refuse store at lower ground level, which measure 20m² and is functional to the use, so should count in the A4 floorspace provision, so the total provision would be 376m². Furthermore, 265m² would be customer floorspace (not accounting for kitchen and toilet floorspace), therefore the provision of A4 floorspace would be acceptable, as it would be greater than the currently approved floorspace, in-line with Policy 20 of the Development Management Local Plan.
- 53 An objector has raised concern that the pub now proposed is too small, and the ceilings would be too low. The floor to ceiling height would be 3m, and the customer floor area of the pub is equal to that which was previously approved. It is unknown whether 'in-ceiling' servicing has been accounted for in the section drawing, but when accounting for this, the floor to ceiling height would still be at least 2.4m, which is judged to be acceptable.
- 54 An objector has raised concern about the lack of outside space for the pub use, specifically with regard to smokers. As there is no end user for the pub, it is not possible to seek information on how this will be managed at this stage. However if members were minded, a condition requiring submission of a management plan to be submitted in this respect could be added. Furthermore, once an end user has been found for the pub, there would be a separate licensing application, which is the appropriate legislation to control such matters.
- 55 Objectors have claimed that the pub has never been properly marketed as such, and this is why no end user has yet been found. No change of use is proposed here, nor any loss of public house (A4) floorspace that has not already been approved, and therefore no marketing evidence is required to be submitted, and this objection is not relevant to the current decision. In reaching this conclusion, officers have given very significant weight to the presence of an extant planning permission and the fact the previous pub has already been demolished.

Principle of mixed use development, including residential

- 56 The principle of a mixed use building consisting of a pub at ground floor level with residential above has been accepted under the original planning permission.
- 57 There are no changed material planning policies or changed relevant material considerations since the original planning permission. Therefore the site remains suitable for mixed use including residential development. Kirkdale is mixed use in character and the eight new units presents no in principle land use conflict, and would provide new homes in a sustainable urban location, in compliance with national, London and Lewisham Policies.
- 58 As this is a new building, it can be designed and constructed to avoid unacceptable transmission of sound and vibration. This means the pub use can be compatible with the residential use above.

7.1.1 Principle of development conclusion

- 59 In light of the above, the Council supports development of the application site for mixed use redevelopment in principle. In reaching this conclusion officers have given significant weight to the extant planning permission.

7.2 HOUSING

7.3 This section covers: (i) residential quality and (ii) the dwelling size mix;

7.3.1 Residential Quality

General Policy

60 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a ‘high standard’ of amenity for existing and future users. This is reflected in relevant policies of the London Plan (LPP 3.5), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA; Alterations and Extensions SPD 2019, LBL).

61 The main components of residential quality are: (i) space standards; (ii) outlook and privacy; (iii) daylight and sunlight; (iv) noise impacts.

Internal space standards

Policy

62 London Plan Policy 3.5 sets out the minimum floor space standards for new houses relative to the number of occupants. However, in 2015, the ‘Technical housing standards – nationally described space standards’ were introduced. The alterations to the London Housing SPG adopted these standards. The technical housing standards will therefore be applied in this instance. These standards are reflected in the local policy.

63 DM Policy 32 ‘Housing design, layout and space standards’ and Policy 3.5 ‘Quality and design of housing developments’ of the London Plan requires housing development to be of the highest quality internally, externally and in relation to their context. These policies set out the requirements with regards to housing design, seeking to ensure the long term sustainability of the new housing provision. Informed by the NPPF, the Mayors Housing SPG provides guidance on how to implement the housing policies in the London Plan. In particular, it provides detail on how to carry forward the Mayor’s view that “providing good homes for Londoners is not just about numbers. The quality and design of homes, and the facilities provided for those living in them, are vital to ensuring good liveable neighbourhoods”.

Discussion

64 The table below sets out the proposal against minimum space standards.

	Unit type	Unit size (GIA) (sqm)	Room sizes (metres squared)	Floor to ceiling heights (metres)	Amenity space (m. squared)	Compliance
A-01	1b2p	51	Double bed – 11.5	2.4	23 (ctyard) 3.8 (terrace)	Pass
A-02	2b4p	71	Bedroom 1 – 11 Bedroom 2 – 11.8	2.4	4.9 (terrace) 18.7 (ctyard)	Fail double bedroom 1 by 0.5m ²
B-01	2b4p	74	Bedroom 1 – 11.3 Bedroom 2 – 13.5	2.4	8.4 (terrace) 15.4 (ctyard)	Pass
B-02	2b4p	70	Bedroom 1 – 12	2.4	5 (terrace)	Pass

			Bedroom 2 – 11.2		22 (ctyard)	
A-03	1b2p	52	Double Bed – 11.5	2.4	3.8 (terrace)	Fail amenity by 1.2m ²
A-04	2b4p	72.5	Bedroom 1 – 11.1 Bedroom 2 – 11.7	2.4	4.7 (terrace)	Fail double bedroom 1 by 0.4m ² and amenity by 2.3m ²
B-03	2b4p	73.3	Bedroom 1 – 12.4 Bedroom 2 – 13.7	2.4	8.5 (terrace)	Pass
B-04	2b4p	70	Bedroom 1 - 12.3 Bedroom 2 - 11	2.4	5.5 (terrace)	Fail bedroom 2 by 0.5m and amenity by 1.5m ²

- 65 The proposed dwellings would all provide at least the minimum values required for overall floor area for their respective sizes. Three out of the six proposed two bedroom apartments have one bedroom that would fall short of the minimum floorspace for a double bedroom by approximately 0.5m. In each of the cases where the minimum bedroom size is not met, those bedrooms are also served by en-suite bathrooms and external terrace areas, which have not been included in the values calculated above. Furthermore the shortfalls are relatively minor, so considering these facts together, on a balance the proposed shortfalls in bedroom size are considered acceptable in this case and to not be so contrary to Policy DM32 to warrant refusal on this basis, when balanced against the other merits of the proposal, particularly the provision of 8 new dwellings.
- 66 It is also noted that three of the proposed dwellings would not be provided with the minimum required amenity area floorspace. These are all at second floor level, and therefore the opportunities for creating larger amenity spaces is limited. In the case of apartment A-03, the 1.2m shortfall is considered to be acceptable, as this is a one bedroom dwelling, and the overall internal floorspace is 2m² greater than the minimum required floorspace. This dwelling overall is considered to provide a good level of amenity otherwise, so in this case the shortfall in provision of external amenity space is justified.
- 67 In the case of apartment A-04, the shortfall is 2.3m². This dwelling provides an additional 2.5m of overall internal floor area than is required for a 2 bedroom 4 person dwelling, and overall the standard of amenity provided would be high, so this shortfall is considered to be acceptable on a balance.
- 68 In the case of apartment B-03, the shortfall is 1.5m². This dwelling provides the minimum required floorspace of 70m² required for a 2 bed 4 person dwelling, so this shortfall would not be provided internally. However, the site is constrained to its existing footprint, and this apartment is at second floor level. The terrace that has been proposed is constrained by the red line boundary of the site, and has used all of the space available to this apartment.
- 69 It should also be noted that there is public green space available 0.3 miles away at Baxter Field, and the Albion Millennium Park. Slightly further afield is Sydenham Wells Park approximately 0.5 miles away, and Mayow park, which is 0.7 miles away. It is considered that on a balance, with all other apartments complying with Policy DM32, and with a range of public outdoor amenity spaces available within walking distance the small shortfalls in provision of amenity space identified would be acceptable.

70 Notwithstanding the above assessment, it is acknowledged that the London Plan Housing SPD (2016) states that the standards should be the minimum provided. However, an exception may be made for very small schemes (for example, of less than 10 units) that have significant site constraints, which is the case here. In this case, it is considered justifiable to make a judgment about compliance with the space standards against wider policy issues, such as housing delivery and viability, and on this balance, the proposal is policy compliant.

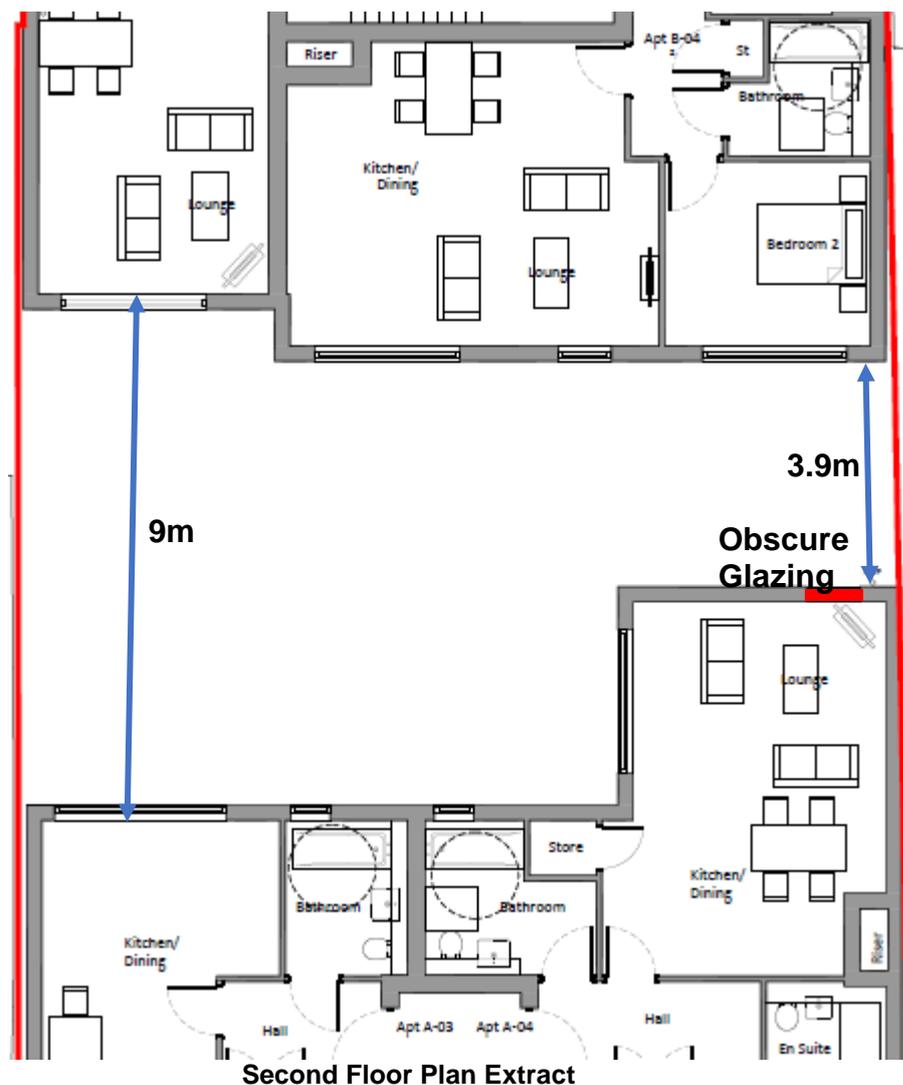
71 In conclusion, the floor areas and size of dwellings provided would be acceptable, in line with Policy DM32.

Outlook & Privacy

Policy

72 London Plan Policy 3.5 seeks high quality internal and external design of housing development. Emerging draft London Plan Policy D1(8) requires development to achieve ‘appropriate outlook, privacy and amenity’. Within the same document, policy D4 seeks to maximise the provision of dual-aspect dwellings (i.e. with two openable windows).

73 DM Policy 32(1)(b) expects new developments to provide a ‘satisfactory level’ of privacy, outlook and natural lighting for its future residents.



Discussion

- 74 Each of the proposed dwellings would be dual aspect, and be provided with good levels of outlook and views from habitable spaces. The outlook provided is therefore considered to be acceptable.
- 75 Block A and B at their closest point are separated by 3.9m. At first floor level, screening between the courtyard gardens would ensure no overlooking between the habitable rooms, and this screening would be secured by condition. At second floor level, bedroom 2 of apartment B-04 would be just 3.9m from a window serving the Lounge of apartment A-04. The lounge window in A-04 is a secondary window, and a larger window serves it to the side. In order to minimise these overlooking impacts a condition requiring the secondary window to be obscure glazed and fixed shut up to 1.7m is recommended to be added to the permission.
- 76 The living space/kitchen window of apartment B-03 would be 9m from the living space/kitchen window for apartment A-03. This is significantly below usually acceptable distances of between 18-21m, although the Housing SPG advises against adhering rigidly to such measurements. In this instance, the living space/kitchen in A-03 is dual aspect with its principal outlook to the front, which would reduce the mutual overlooking. Considering the constraints of the site, and the use of the affected rooms, likely kitchen area to living area based on indicative layouts, this would be acceptable on balance.
- 77 Other facing habitable windows on the second floor would be at oblique angles and not directly facing, similar to the original permission, so the impacts would be acceptable. In light of this, appropriate outlook, privacy and ventilation is considered to be provided to future occupiers of these units.

Daylight and Sunlight

Policy

- 78 London Plan Policy 3.5 seeks high quality internal and external design of housing development. Emerging draft London Plan Policy D1(8) requires development to achieve 'appropriate outlook, privacy and amenity'. DM Policy 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its future residents. The London Housing SPD and the Lewisham Alterations and Extensions SPD promote access to sunlight and natural daylight as important amenity factors, particularly to living spaces.

Discussion

- 79 Given the dual aspect, North/south orientation, and the good levels of glazing proposed, the dwellings would be provided with good levels of natural daylight and sunlight. All habitable rooms would be provided with at least one window, and officers consider the levels of daylight and sunlight to be provided would be acceptable.
- 80 Due to the nature of the development, the upper floors would effectively form two separate blocks lying approximately nine metres from one another. The central courtyard spaces serving the first floor units would be enclosed and mostly overshadowed by the second and third floor elements and adjoining buildings, thereby receiving limited sunlight apart from morning hours. The dual aspect units would benefit from terraces/ balconies to the front and rear, which would be afforded sufficient natural light.
- 81 Concern has been raised regarding the amenity provided to the balconies at the front, in terms of privacy, pollution and noise. As the balconies are inset, they would be provided with a level of visual screening, and the glass balustrade would provide some level of

noise protection. As this property is not in an identified Air Quality Management Area, the levels of pollution present would not be harmful to warrant refusal application, based on the air quality for users of the balconies. Furthermore, balconies to the front were approved in the original planning permission.

82 Overall the levels of daylight and sunlight provided would be acceptable, in line with Policy DM32.

Noise Impacts

83 As this is a proposal for a mixed use building, the impact of the proposed public house use on the residential units above must be considered. A new building is proposed, so it has been designed with soundproofing between the pub and the first floor level. Details have been submitted for this, and the environmental health officer has been consulted and raised no objections. This is controlled by condition 6.

84 Furthermore, Condition 3 requires the building to be designed to provide insulation against external noise and vibration. The details secured by this condition have been checked by the environmental health officer, who raises no objections.

Unit Mix

85 The proposed mix of dwellings (2x one bed, two person & 6x two bed, four person units) is acceptable for this location, considering the existing site constraints and location. Furthermore it is noted that the extant permission proposed 2x one bed, and 7x two bed units, which is a similar mix to the current proposal.

Summary of Residential Quality

86 Officers are satisfied that the design and layout of the proposed units would be suitable and the proposal would provide an acceptable standard of residential accommodation in accordance with the above policies.

7.3.2 Housing conclusion

87 The proposal would deliver 8 dwellings, all with an acceptable standard of residential amenity. The dwelling mix of 2 one-bedroom units and 6 two-bedroom units is judged to be appropriate given the mix of homes in the area. The proposal is therefore considered acceptable in this regard, and in accordance with aforementioned policies.

7.4 URBAN DESIGN

General Policy

88 The NPPF at para 124 states the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

89 London Plan Policy 7.4 requires development to have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. It is also required that in areas of poor or ill-defined character, new development should build on the positive elements that can contribute to establishing an enhanced character for the future function of the area. Policy 7.6 seeks the highest quality materials and design appropriate to its context.

90 Core Strategy Policy 15 outlines how the Council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to the local context and responds to local character.

91 DM Policy 30 requires planning applications to demonstrate a site specific response which creates a positive relationship with the existing townscape whereby the height, scale and mass of the proposed development relates to the urban typology of the area.

Discussion

92 The site is located within a shopping parade and subsequently is defined by mixed use buildings incorporating ground floor commercial and upper floor residential, sometimes ancillary to the ground floor business.

93 In terms of the wider streetscene, the development on the northern side of Kirkdale moving towards Sydenham has a cohesive character, such as the consistent three storey scale and breaks in floor height as the topography slopes eastwards.

94 The adjoining development to the west is more mixed. For instance, the directly adjoining development is formed of an original set back two-storey building with a projecting shop front whilst the next building is a three-storey modern development with minimal window fenestration. The building widths have also been disturbed through poor material and shop front articulation, creating bulky and visually dominant elements that fill large areas of the parade. Subsequently, the cohesion to this side of the development and beyond is less.

95 The area at the rear is generally disjointed, and somewhat industrial in appearance, therefore any new development would require a considered approach that would contribute to enhancing the overall character.

7.4.1 Height, scale and massing

96 In terms of height and massing, the three storey height would respect the adjoining three-storey building, and the width of the building would remain as originally existing, so this is appropriate for the site. The simple form of the building is considered to integrate well with the streetscene, and it does not cause any significant harm.

97 Notwithstanding the above assessment, this proposal has generally reduced the height of the building, and there is no significant difference in the massing compared to the approved DC/16/099356. From the front there would not be a noticeable difference in height or massing, or the relationship to adjoining buildings. The building's depth would be increased at lower ground and ground level, however this would not have a harmful impact on the appearance of the building. The current proposal has been assessed against the relevant DM Policies 30 and 33 and CS15, and is considered to be acceptable in terms of its height and massing.

7.4.2 Elevational treatments

98 The proposed front elevation consists of two large shopfront windows at ground floor level serving the pub, two separate entrance doors to the pub, an inset entrance to the front block (A) apartments which also includes a refuse and cycle store for those units, and an 'incoming services' door for the pub.

99 The proposed front elevation includes a clear delineated residential entrance, and two separate entrances to the pub. The shopfront windows and glazed entrance doors would allow a good degree of visual permeability at ground floor level into the pub-space, creating the active frontage, which will add to the character and vitality of the shopping parade, in accordance with DM Policy 19. Furthermore, full details of the proposed shopfront, are recommended to be submitted to and approved in writing to the Council, prior to its installation, which will ensure a high quality frontage is installed. This is set out in Condition 7 below.

- 100 The upper floor consists of four large openings with glass balustrades which serve the terraces, a central vertical window spanning the first and second floors serving the stairwell, and four casement windows serving bedrooms to the flats. The fenestration pattern aligns with the adjoining three-storey building at No.133 Kirkdale, and although the windows are larger, this does not have a harmful visual impact, and these larger windows increase the standard of accommodation of the dwellings.
- 101 The rear elevation appears as four storeys in height due to the lower ground level which exits at street level at the rear and it is roughly L-Shaped, to account for the site as indicated by the red line. The lower ground level consists of a service door to the residential bike and refuse stores and meters within the inset section. The entrance to the block 'B' flats would be adjacent to this, served by a door in the side elevation, leading to a stairwell which acts as a fire escape to the pub at ground level, and leads to the residential flats on first and second floor level. A full height window serving the lobby is proposed in the rear elevation.
- 102 Next to the stairwell lobby, which is served by a full height window, would be a store room, with a large window and entrance door, which would help ensure the entrance level on the rear elevation is active, and provides some natural surveillance to what is currently an under-surveyed space.
- 103 One objection related to the design failing to 'design out crime'. The proposal would increase the natural surveillance at the rear on Willow Way, by introducing a good level of glazing to this elevation. Furthermore, a condition requiring submission of a lighting scheme to light the rear of the property at night will be added to the permission.
- 104 The upper floors of the rear elevation consists of windows serving the pub at ground floor level (appears as first floor from rear), and a fire escape door from the kitchen of the pub. The upper two residential floors consist of three large openings on each floor serving the external terraces, and one smaller casement window serving bathrooms.
- 105 It is considered that the rear elevation has been well designed to appear as a safe and welcoming residential entrance, despite the fact that the rear of these properties currently has a relatively industrial character, and this would have a positive impact on the character and appearance of the rear of the properties along this parade, enhancing the area.
- 106 The materials used are two tones of bricks, which adds some interest to the elevations, together with the fenestration.
- 107 The materials are already in place, and these are considered to be high quality and durable. They are consistent with the indicative materials approved under the existing permission, and are therefore acceptable.
- 108 Furthermore the active shopfront of the pub would ensure vitality and interest is retained at this section of the parade.

7.4.3 Urban Design conclusion

- 109 In summary the proposed building is of an appropriate height, scale and massing for the context, and the elevation treatments result in a high quality standard of design, as required by NPPF paragraph 124, Core Strategy Policy 15 and DM Policies 30 and 32.

7.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 110 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. This is reflected in relevant policies of the London Plan (LP7.6), the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (Housing SPD 2017, GLA; Residential Standards SPD 2012, LBL).
- 111 DMP32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours.
- 112 The main impacts on amenity arise from: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas; and (iv) noise and disturbance.
- 113 The surrounding area includes residential units above the ground floor commercial properties.
- 114 To the east is 133 Kirkdale and 54 Willow Way, which have windows in the front and rear elevation that sits perpendicular to the subject site. To the west is 123 Kirkdale, which has windows in the front elevation and rear elevation perpendicular to the site. The nearest existing window is a first floor opening.

7.5.1 Enclosure and Outlook, Daylight and Sunlight

- 115 *123 Kirkdale* (to the west of the site): No.123 is a 2-storey building and there is a residential window facing rearwards at first floor level, perpendicular to the site approximately 1m from the boundary. Before demolition of the former Windmill pub, there was an approximate 12.5m deep wall directly adjacent to this window, which would have completely restricted the outlook towards the host site and there would have been an existing sense of enclosure felt.
- 116 The proposed building would be at the same height as previously approved at this section, and the courtyard would break up the massing, allowing more light and outlook to this window than the previous Windmill Pub building would have allowed so the impacts are acceptable.
- 117 *133 Kirkdale* (to the east of the site): The closest window in No.133 Kirkdale would be approximately 2m from the side elevation of the proposal building. This is a sufficient distance from the building to ensure there would be no significant harmful increase in enclosure or loss of outlook. Furthermore, the previous existing building would have had a similar impact to this proposal, as the scale of built form has not increased so much that it would be harmful.
- 118 Notwithstanding the above, this proposal would be just 1.5m deeper than the existing planning permission, which would not have any significant impacts considering the overall scale of development.
- 119 *54 Willow Way*: this building has a first floor window that is perpendicular to the proposed development. Comparing the existing permission to this proposal, the protrusion past this window would be reduced in the current proposal, meaning the impacts would be less than those previously approved. These impacts were previously considered to be acceptable, and therefore remain acceptable. It should also be noted that No.54 Willow does not appear to be a residential dwelling, based on officers site visit.

7.5.2 Privacy

- 120 In terms of privacy, the main impact would be to No.123 Kirkdale. In order to ensure no harmful overlooking impacts between the proposed flat B-01 and No.123 Kirkdale,

slatted timber fencing is proposed. This boundary treatment will ensure that no harmful levels of overlooking are established. A condition requiring submission of details for the boundary treatment is recommended to be added as a pre-occupation condition of development should the proposal be approved.

- 121 There are not considered to be any other overlooking concerns to existing dwellings due to the layout of the proposed buildings.

Noise and disturbance impacts

- 122 The proposed building has been designed to incorporate soundproofing between the proposed pub at ground floor level, and all other walls which are party residential. Condition 4 requires compliance with the submitted details which demonstrate this will be installed and retained, which will ensure the amenity of existing adjoining residential units would be protected.

7.5.3 Construction impacts

- 123 Concern has been raised from an adjoining neighbour that the construction works that have already taken place have been disruptive, and that this will continue if the application is approved. A level of disruption is to be expected whilst building works are ongoing, and this cannot be avoided. A construction management plan has been submitted, which details how levels of disruption will be minimised.

7.5.4 Living conditions of neighbours conclusion

- 124 For the reasons as stated above, the living conditions of neighbours would not be affected by harmful loss of daylight, sunlight, outlook or privacy. The amenity impacts to adjoining occupiers is therefore considered to be acceptable.

7.6 TRANSPORT IMPACTS

General Policy

- 125 Policy 6.1 of the London Plan (2016) sets out the Mayor's strategic approach to transport which aims to encourage the closer integration of transport and development. This is to be achieved by encouraging patterns and nodes of development that reduce the need to travel, especially by car; seeking to improve the capacity and accessibility of public transport, walking and cycling; supporting measures that encourage shifts to more sustainable modes and appropriate demand management; and promoting walking by ensuring an improved urban realm.
- 126 Current adopted London Plan Policy 6.13 seeks to ensure a balance is struck to prevent excessive car parking provision that can undermine cycling, walking and public transport use. Through the use of travel plans, it aims to reduce reliance on private means of transport.
- 127 Core Strategy Policy 14 'Sustainable movement and transport' promotes more sustainable transport choices through walking, cycling and public transport. It adopts a restricted approach on parking to aid the promotion of sustainable transport and ensuring all new and existing developments of a certain size have travel plans.

7.6.1 Public transport

- 128 The application site is well connected to the wider public transport network with a PTAL rating of 4. There are bus stops directly outside the property with links into Sydenham, Forest Hill and Crystal Palace, and Sydenham Rail station is approximately 600m away.

129 The transport impacts of a nine unit mixed use residential scheme with a pub at ground floor level was considered acceptable in the original permission. The reduction to eight units is therefore also considered acceptable now.

7.6.2 Car Parking

130 There is no off street parking proposed, in line with the original planning permission . A parking survey supported this at the time, and it is not considered likely that there have been material changes to the area which would have significantly increased parking stress in that time period. Furthermore, since the previous decision was made, Draft London plan policies, which are now a material consideration with some weight, have been published.

131 Draft London Plan Policy T6 states that car-free development should be the starting point for all development in areas that are well-connected by public transport. It goes on to state that 'car parking should be restricted in line with levels of existing and future public transport and accessibility'. The Policy goes on to state in Table 10.3 (Maximum residential parking standards) that the maximum parking provision for Inner London areas with a PTAL of 4 or more should be Car Free. Therefore, a car free development is more supportable now than when the previous car free development was approved. The Highways Officer raised no objection to car free development in the preceding application, which was for one less unit.

132 On balance of the good PTAL rating of the site and the availability of good public transport, existing and emergent London Plan Policies, a car free scheme is considered acceptable, and compliant with Policy DM14, London Plan Policy 6.13, and draft London Policy T6.

7.6.3 Cycle Parking

133 Policy 6.9 Cycling states that developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards set out in Table 6.3 and the guidance set out in the London Cycle Design Standards (or subsequent revisions).

134 The proposal includes cycle parking for five bikes in the front entrance lobby, and 12 at the rear at lower ground level for the residential units. This meets the standards.

135 The proposal also includes space for 11 bicycle parking for the Pub use. This meets the relevant standards.

136 The cycle parking arrangements are therefore considered to be acceptable, and in line with Policy 14 of the Lewisham Core Strategy.

7.6.4 Servicing and Refuse Storage

137 A commercial bin store for three x 1200 bins would be provided at the rear at lower ground floor level, and a separate store for two x 770l bins would be provided for the rear residential units. There is a space for collection on Willow way for these. Another residential bin store is proposed to the front of the property (two x 330l) for the residential units in the front block (A), for on-street collection. These refuse storage and collection arrangements would be acceptable.

138 Deliveries would be carried out at the rear of the property on Willow Way which has vehicular access. An indicative servicing plan has been submitted, however a full delivery and servicing plan is recommended to be conditioned.

7.6.5 Transport conclusion

139 The proposal would have an acceptable impact on transport in terms of encouraging sustainable modes of movement and accommodating the sites servicing needs, subject to conditions.

8 LOCAL FINANCE CONSIDERATIONS

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

- 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
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

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

142 The CIL is therefore a material consideration.

£80,150 Lewisham CIL and £52,249.04 Mayoral CIL is estimated to be payable on this application, subject to any valid applications for relief or exemption, and the applicant has completed the relevant form. This would be confirmed at a later date in a Liability Notice.

9 EQUALITIES CONSIDERATIONS

143 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

144 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

145 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

146 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that

are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

147 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

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

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

10 HUMAN RIGHTS IMPLICATIONS

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

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

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

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

11 CONCLUSION

- 153 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 154 Officer's consider the proposed development is acceptable in principle, would have a positive impact on character of the application site and surrounding area, would provide an acceptable standard of residential amenity and would have no significantly harmful impact on the living conditions of neighbouring residents. The scheme is therefore acceptable and in line with the relevant national, London, and Lewisham Planning policies.
- 155 The proposal is recommended for approval, subject to the conditions below.

12 RECOMMENDATION

- 156 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

12.1 CONDITIONS

1. STANDARD TIME CONDITION

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

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

2. DEVELOPMENT IN ACCORDANCE WITH APPROVED PLANS

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

P2-05; P2-06; P3-01 Rev.A; PA-02; A2-01 Rev.A; A4-01 Rev.C; A4-02 Rev.A; A4-03 Rev.A; A6-03; NOV-XX-XX-DR-M-5701; 615/SE26/20/1_SLP01

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. BUILDING FABRIC SOUND INSULATION

- (a) The building shall be designed so as to provide sound insulation against external noise and vibration, to achieve levels not exceeding 30dB LAeq (night) and 45dB LAm_{ax} (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with window shut and other means of ventilation provided. External amenity areas shall be designed to achieve levels not exceeding 55 dB LAeq (day) and the evaluation of human exposure to vibration within the building shall not exceed the Vibration dose values criteria 'Low probability of adverse comment' as defined BS6472.
- (b) Following implementation of the sound insulation scheme pursuant to part (a), a compliance report, prepared by a suitably qualified sound engineer, must be submitted to and approved in writing by the Local Planning Authority.

- (c) The development shall not be occupied until the sound insulation scheme and all recommendations outlined in the submitted Noise and Vibration Assessment (Hepworth Acoustics dated November 2019), and any subsequent recommendations arising from the compliance report pursuant to part (b) have been implemented in full. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details.

Reason: To safeguard the amenities of the occupiers of the proposed dwellings and to comply with DM Policy 26 Noise and vibration, DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, and DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

4. SOUNDPROOFING BETWEEN RESIDENTIAL AND COMMERCIAL

- (a) The development shall be designed to incorporate soundproofing of a specification for sound insulation against airborne noise to meet $D'nT,w + Ctr$ dB of not less than 55 for walls and/or ceilings where residential parties non domestic.
- (b) Following implementation of the soundproofing pursuant to part (a), a compliance report, prepared by a suitably qualified sound engineer, must be submitted to and approved in writing by the Local Planning Authority.
- (c) The development shall not be occupied until the soundproofing and all recommendations outlined in the submitted Noise and Vibration Assessment (Hepworth Acoustics dated November 2019), and any subsequent recommendations arising from the compliance report pursuant to part (b) have been implemented in full. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details.

Reason: In the interests of residential amenity and to comply with DM Policy 26 Noise and vibration, DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, and DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

5. CONTROL OF NOISE AND VIBRATION FROM PLANT

- (a) The rating level of the noise emitted from fixed plant on the site shall be 5dB below the existing background level at any time. The noise levels shall be determined at the façade of any noise sensitive property. The measurements and assessments shall be made according to BS4142:2014.
- (b) The development shall not be occupied until the sound insulation scheme and all recommendations outlined in the submitted Noise and Vibration Assessment (Hepworth Acoustics dated November 2019) have implemented in their entirety. Thereafter the scheme shall be maintained in perpetuity.

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

6. COMMERCIAL FIT OUT OF PUBLIC HOUSE

- (a) Prior to installation of the internal fit-out of the public house, plans (1:50 scale) with details showing the physical fit out, including but not limited to floor finish, ceilings, ventilation, sanitary ware and entrances for the A4 Public House hereby approved must be submitted to and approved in writing by the local planning authority.
- (b) No residential dwellings whatsoever shall be occupied until the internal fit out of the public house has been completed in full accordance with the approved details and shall be maintained for the life of the development.

Reason: To ensure that the fit-out of the units is sufficient to ensure that they are an attractive and commercially viable option and to demonstrate the developers commitment to delivering the public house (Use Class A4) as part of this development in accordance with Policy 19 Provision and maintenance of community and recreational facilities of the Lewisham Core Strategy (2011) and Policy 20 Public Houses of the Development Management Local Plan (2014).

7. SHOPFRONT DETAILS

- (a) Prior to first residential occupation, plans and sectional details at a scale of 1:10 or 1:20 showing the proposed shop fronts must be submitted to and approved in writing by the local planning authority. Such information should demonstrate the location of the fascia sign, the window system, the stall riser (if included), canopies, awnings and the entrance.
- (b) The development shall be constructed in full accordance with the approved details.

Reason: In order that the local planning authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 19 Shopfronts, signs and hoardings.

8. REFUSE AND RECYCLING STORAGE

The refuse and recycling storage facilities as shown on plan No.P2-05 shall be provided in full prior to occupation of the development and shall thereafter be permanently retained and maintained.

Reason: In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character and Core Strategy Policy 13 Addressing Lewisham waste management requirements (2011).

9. CYCLE PARKING

The cycle parking facilities as shown on plan No.P2-05 shall be provided in full prior to first residential occupation of the development and shall thereafter be permanently retained and maintained.

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

10. HARD LANDSCAPING

- (a) Prior to occupation of the development drawings showing hard landscaping of any part of the site not occupied by buildings (including details of the permeability of hard surfaces) shall be submitted and approved in writing by the local planning authority.
- (b) All hard landscaping works which form part of the approved scheme under part (a) shall be completed prior to occupation of the development.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies 5.12 Flood risk management and 5.13 Sustainable Drainage in the London Plan (2015), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

11. BOUNDARY TREATMENTS

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

Reason: To ensure that the boundary treatment is of adequate design in the interests of visual and residential amenity and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

12. VENTILATION AND EXTRACTION SYSTEM

- (a) Detailed plans and a specification of the appearance of and the equipment comprising a ventilation system which shall include measures to alleviate noise, vibration, fumes and odours (and incorporating active carbon filters, silencer(s) and anti-vibration mountings where necessary) shall be submitted to and approved in writing by the local planning authority.
- (b) The ventilation system shall be installed in accordance with the approved plans and specification before use of the A4 Public House hereby permitted first commences and shall thereafter be permanently maintained in accordance with the approved specification.

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with Policy 17 Restaurants and cafes (A3 uses) and drinking establishments (A4 uses) of the Development Management Local Plan (November 2014).

13. EXTERNAL LIGHTING

- (a) Prior to occupation of the development, a scheme for any external lighting that is to be installed at the site, including measures to prevent light spillage shall be submitted to and approved in writing by the local planning authority.
- (b) Any such external lighting as approved under part (a) shall be installed prior to residential occupation in accordance with the approved drawings and such directional hoods shall be retained permanently.

- (c) The applicant should demonstrate that the proposed lighting is the minimum needed for security and working purposes and that the proposals minimise pollution from glare and spillage.

Reason: In order that the local planning authority may be satisfied that the lighting is installed and maintained in a manner which will minimise possible light pollution to the night sky and neighbouring properties, and to ensure a secure and welcoming entrance to future residents in compliance with DM Policy 27 Lighting and DM Policy 32 Housing Design and Space Standards of the Development Management Local Plan (November 2014).

14. DEIVERY AND SERVICING

- (a) The development shall not be occupied until a Delivery and Servicing Plan has been submitted to and approved in writing by the local planning authority.
- (b) The plan shall demonstrate the expected number and time of delivery and servicing trips to the site, with the aim of reducing the impact of servicing activity. It should also include scaled swept path drawings, showing how delivery and refuse vehicles will enter and egress from Willow Way.
- (c) The approved Delivery and Servicing Plan shall be implemented in full accordance with the approved details from the first occupation of the development and shall be adhered to in perpetuity.

Reason: In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

15. SATELLITE DISHES

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

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

16. PLUMBING & PIPES

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

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

17. OBSCURE GLAZED WINDOW

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the living room and bathroom windows to Apartment A-04, and the bathroom window to Apartment A-03 to be installed at second floor level in the north facing courtyard

elevation of the building hereby approved shall be fitted as obscure glazed and fixed shut up to 1.7m above finished floor level and retained in perpetuity.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

18. RETENTION OF AMENITY SPACE

The whole of the amenity space (including roof terraces and balconies) as shown on drawing No.PA-02 hereby approved shall be installed prior to residential occupation and retained permanently for the benefit of the occupiers of the residential units hereby permitted.

Reason: In order that the local planning authority may be satisfied as to the amenity space provision in the scheme and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 32 Housing Design, layout and space standards of the Development Management Local Plan (November 2014).

19. DELIVERY HOURS

No deliveries shall be taken at or despatched from the site other than between the hours of 7 am and 8 pm on Mondays to Fridays, 8 am and 1 pm on Saturdays, or at any time on Sundays or Public Holidays.

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

20. OPENING HOURS OF PUBLIC HOUSE

The A4 premises shall only be open for customer business between the hours of 08.00 and 00.00 on any day of the week.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, DM Policy 32 Housing design, layout and space standards, DM Policy 16 Local shopping parades and corner shops, DM Policy 17 Restaurants and cafes (A3 uses), and drinking establishments (A4 uses) of the Development Management Local Plan (November 2014).

21. MUSIC AND AMPLIFIED SOUND

No music, amplified sound system shall be used which is audible outside the premises or within adjoining buildings.

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

22. OUTDOOR AREA MANAGEMENT PLAN

- (a) Details of any designated outdoor areas for customer use relating to the A4 Public House, including a management plan setting out measures including preventative measures to safeguard neighbouring amenity and established review mechanisms, shall be submitted to and approved in writing by the local planning authority prior to first occupation of the commercial unit. Any approved plan shall be maintained in perpetuity unless with the approval of the local planning authority.
- (b) The management plan shall be fully implemented prior to first use of the public house, and evidence shall be submitted to the local planning authority within 6 months of first occupation of the commercial premises to demonstrate compliance.

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

23. PARKING PERMIT RESTRICTION

No developer, owner or occupier of any part of the development hereby permitted, with the exception of disabled persons, shall seek, or will be allowed, to obtain a parking permit within the Controlled Parking Zone in which the development site is situated.

Reason: To ensure the proposed dwellings do not have an unacceptable impact on parking stress in the surrounding area, and in compliance with London Plan Policy 6.13, Draft London Plan Policy T6, Core Strategy Policy 14 Sustainable Movement and Transport and DM Policy 29 Car parking.

24. CONSTRUCTION MANAGEMENT PLAN COMPLIANCE

The works shall be constructed in full accordance with the measures specified in the submitted Construction Management Plan (Bernard Construction) and shall be adhered to during the period of construction.

Reason: In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011), and Policy 5.3 Sustainable design and construction, Policy 6.3 Assessing effects of development on transport capacity and Policy 7.14 Improving air quality of the London Plan (2015).

Informatives

- A. **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive and proactive discussions took place with the applicant prior to the application being submitted through a pre-application discussion. As the proposal was in accordance with these discussions and was in accordance with the Development Plan, no contact was made with the applicant prior to determination.
- B. As you are aware the approved development is liable to pay the Community Infrastructure Levy (CIL) which will be payable on commencement of the development. An '**assumption of liability form**' must be completed and before development commences you must submit a '**CIL Commencement Notice form**' to the council. You should note that any claims for relief, where they apply, must be submitted and determined prior to commencement of the development. Failure to follow the CIL payment process may result in penalties. More information on CIL is available at: - <http://www.lewisham.gov.uk/myservices/planning/apply-for->

[planning-permission/application-process/Pages/Community-Infrastructure-Levy.aspx](#)

- C. You are advised that all construction work should be undertaken in accordance with the "London Borough of Lewisham Code of Practice for Control of Pollution and Noise from Demolition and Construction Sites" available on the Lewisham web page.
- D. You are advised to contact the Council's Drainage Design team on 020 8314 2036 prior to the commencement of work.
- E. The assessment of the light spill and lux level at the window of the nearest residential premises shall follow the guidance provided in The Institution of Lighting Engineers, Guidance Notes for the Reduction of Obtrusive Light.
- F. The applicant be advised that the implementation of the proposal will require approval by the Council of a Street naming & Numbering application. Application forms are available on the Council's web site.
- G. The weighted standardised level difference (D'nT,W + Ctr) is quoted according to the relevant part of the BS EN ISO 717 series. To guarantee achieving this level of sound insulation, the applicant is advised to employ a reputable noise consultant details of which can be found on the Association of Noise Consultants website.

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Committee	PLANNING COMMITTEE B	
Report Title	37 Deptford High Street, London, SE8 4AD	
Ward	New Cross	
Contributors	Alfie Williams	
Class	PART 1	17 October 2019

Reg. Nos. DC/19/112017

Application dated 24.04.19

Applicant Isla Ray Ltd

Proposal An application submitted under Section 73 of the Town & Country Planning Act 1990 for a Minor Material Amendment in connection with the Prior Approval (DC/17/104830) dated 26 January 2018 for the change of use the ground floor of 37 Deptford High Street, SE8, from retail use (Class A1) to restaurant/cafe use (Class A3) :- in order to allow a variation of Condition (2) for the hours of opening to increase to midnight on Thursdays and 1am Friday and Saturday nights (i.e. 1am on Saturday and 1am on Sunday).

Plan Numbers Site Location Plan; Heritage Statement; Design And Access Statement; Supporting Letter;

Background Papers

- (1) Case File DE/156/37/TP
- (2) Core Strategy (June 2011)
- (3) Development Management Local Plan (November 2014)
- (4) The London Plan (March 2016)

Designation

Deptford District Centre
Primary Shopping Frontage
Area of Archaeological Priority
Deptford High Street Conservation Area
Deptford Neighbourhood Forum
PTAL 6a

1 SUMMARY

- 1 This report sets out Officer's recommendation for the above proposal. The report has been brought before members for a decision as there are three or more valid planning objections.

2 SITE AND CONTEXT

Site description and current use

- 2 The application site is the ground floor of a three storey terraced property located on the western side of Deptford High Street. The ground floor is in use as a restaurant/café, known as Isla Ray, following prior approval for a change of use from retail granted in January 2018. The first and second floors of the property are in residential use and do not form part of this application.
- 3 At ground floor level the property has a timber shopfront painted black with painted logo and lettering on the fascia. The shopfront features three large glazed panels and a door aligned to the right. On the floors above the property is painted white and has uPVC casement windows.
- 4 To the rear of the property is a large yard. The area immediately to the rear of the property is in use as an outdoor seating area, with the rear part of the yard used for servicing and refuse. The side of the yard provides access to the flat above via timber staircase adjacent to the seating area. The flat is set back from the rear elevation of the ground floor shop due to a large single storey rear extension.

Character of area

- 5 The surrounding area is predominantly commercial in character owing to its designation as a Major District Centre (see map below).



Map 1: extract from Local Plan policies map showing Major District Centre designation: site of 37 Deptford High Street edged in red

- 6 The area south of the train station is Primary Shopping Frontage, with the area to the north Secondary Shopping Frontage, resulting in a relatively high concentration of retail uses. The High Street also features a vibrant night-time economy, mainly concentrated on Resolution Way and the Market Yard, with many restaurants, bars, pubs, nightclubs and music venues bringing activity in the evening. Residential use is confined to the upper floors of buildings.

Heritage/archaeology

- 7 The property is located within the Deptford High Street Conservation Area and dates from the late 1700s. The building was almost certainly originally built as a house and features a three bay frontage with blank window recesses over the original entrance bay. The property forms part of a group comprising Nos 33-37 Deptford High Street. Nos 33 and 35 still retain their original double span pantile roofs. It is not statutory or locally listed.
- 8 Deptford High Street is characterised by modestly scaled buildings, generally between one and four storeys in height and built on narrow plots with uninterrupted frontages, which create a strong sense of enclosure. London stock brick is the dominant material; however, there are a variety of finishes to the front elevations, including render, paint, and artwork.

Transport

- 9 The property is located within a highly accessible location (PTAL 6a) with Deptford Station and Deptford Bridge DLR Station within short walking distance. The area is also served by 24 hour public transport including several night-bus routes on New Cross Road and a tube service from New Cross Gate Station, approximately 1.1km away.

3 RELEVANT PLANNING HISTORY

- 10 In October 2011, Planning Permission (DC/11/077795) was granted for the change of use from amusement centre to a retail Jewellers and pawnbrokers (use class A1).
- 11 In June 2017, prior approval under Class C of Part 3 of Schedule 2 of the General Permitted Development Order (DC/17/100997) for a change of use from retail use (Class A1) to restaurant/cafe use (Class A3) was refused as the cumulative floor space of the existing building changing use under Class C would have exceeded the 150 square metres limit.
- 12 In January 2018, prior approval under Class C of Part 3 of Schedule 2 of the General Permitted Development Order for a change of use from retail use (Class A1) to restaurant/cafe use (Class A3) was granted (DC/17/104830) subject to conditions relating to (1) sound insulation (including the approval of further details), (2) opening hours and (3) control of amplified music. Condition 2 of this permission is the subject of this application.
- 13 In May 2018, Condition (1) of that permission (further details of sound insulation) was discharged.
- 14 In July 2018, planning permission was granted for the use of part of the yard area at the rear of 37 Deptford High Street SE8 as a sitting out area (DC/18/106939) subject to a condition restricting the operating hours until 9pm.
- 15 In August 2019, planning permission was granted for an increase to the area of the outdoor seating area in the rear yard (DC/19/112466).

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSALS

16 The application is for a minor-material amendment to the prior approval application granted permission in January 2018 to allow a change of use from retail (Use Class A1) to a restaurant/café (Use Class A3). The amendment concerns Condition 2 of the permission, which restricts the opening hours until 11pm, full wording below:

The premises shall only be open for customer business between the hours of 9am to 11pm on everyday of the week.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, DM Policy 14 District centres shopping frontages, DM Policy 17 Restaurants and cafes (A3 uses), and drinking establishments (A4 uses) of the Development Management Local Plan (November 2014)

17 The proposed amendment would see an extension to the opening hours until midnight on Thursdays and 1am Friday and Saturday nights (i.e. 1am on Saturday and 1am on Sunday). The extension to the opening hours only applies to the inside area. The operating hours for the outdoor seating would remain 9am until 9pm.

5 CONSULTATION

5.1 APPLICATION PUBLICITY

18 Site notices were displayed on 5 June 2019 and a press notice was published on 5 June 2019.

19 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 29 May 2019.

20 Three responses were received, comprising three objections.

5.1.1 Objections

Material planning consideration	Para where addressed
Harm to residential character	40-44
Noise and disturbance	46-48

5.2 INTERNAL CONSULTATION

21 The following internal consultees were notified on 29 May 2019.

22 Environmental Health: raised no objections to the application as the increase to the opening hours would accord with the change to the licence.

23 Conservation: raised no objections.

6 POLICY CONTEXT

6.1 LEGISLATION

24 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

25 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

6.2 MATERIAL CONSIDERATIONS

26 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

27 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

28 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

6.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance

6.4 DEVELOPMENT PLAN

29 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

30 London Plan SPG/SPD:

- Town Centres (July 2014)
- Culture & Night Time Economy (November 2017)

6.6 OTHER MATERIAL CONSIDERATIONS

31 The Mayor of London published a draft London Plan on 29 November 2017 and minor modifications were published on 13 August. The Examination in Public commenced on 15 January 2019 and concluded on 22 May 2019. This document now has some limited weight as a material consideration when determining planning applications but does not

form part of the development plan. The relevant draft policies are discussed within the report (DLPP).

7 PLANNING CONSIDERATIONS

32 The main issues are:

- Principle of Development
- Impact on Adjoining Properties

7.1 BACKGROUND

General policy

33 The National Planning Policy Framework (NPPF) at Paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

34 Lewisham is defined as an Inner London borough in the London Plan. LPP 2.9 sets out the Mayor of London's vision for Inner London. This includes among other things sustaining and enhancing its recent economic and demographic growth; supporting and sustaining existing and new communities; addressing its unique concentrations of deprivation; ensuring the availability of appropriate workspaces for the area's changing economy; and improving quality of life and health.

Policy

35 Section 73 of the Town and County Planning Act 1990 allows Local Planning Authorities the power to grant a fresh permission for the development of land without complying with conditions previously imposed. Guidance for determining s.73 applications is set out in the NPPG, which states that a minor material amendment is one "whose scale and nature results in a development which is not substantially different from the one which has been approved".

Discussion

36 The development, which the application under s.73 seeks to amend, has by definition been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations in this case are narrow and only the amendments being applied for should be considered at this stage. Since the original planning permission will still be capable of implementation, the only the practical consequences of imposing a revised opening hours condition should be considered. As such, the assessment pivots on the relative merit or harm of allowing the premises to remain open until the hours proposed in their application rather than 11 o'clock

37 When determining the application the LPA have to consider the application in the light of current policy and other relevant material considerations. The LPA therefore has to make a decision focusing on national or local policies, which might have changed since the original grant of planning permission as well as the merits of the changes sought.

38 Officers are satisfied that the impact of the proposed amendments are minor material in the context of the original application and no material changes to planning policy or other relevant material considerations have occurred since the original permission was granted.

39 Therefore, the principle of the minor material amendment is considered acceptable. The material planning consideration relevant to this application is the impact of the extended hours on the living conditions of the neighbouring properties.

7.2 PRINCIPLE OF DEVELOPMENT

Policy

40 The Mayor of London's Culture & Night-Time Economy SPG defines the night-time as taking place between 6pm and 6am and estimates that the night-time economy is worth £26bn and accounts for 1 in 8 jobs and 10% of employment in town centres.

41 LPP 4.6 states that local authorities should identify, manage and co-ordinate strategic and more local clusters of evening and night time entertainment activities. CS Spatial Policy 2 identifies Deptford District Centre as a location for major new retail and leisure development, including contributions towards the local night-time economy.

42 The draft London Plan encourages greater support for the night-time economy. DLPP HC6 recognises the night-time economy as being increasingly important to London's economy and emphasises the importance of promoting London as a 24-hour city. It states boroughs should (B)(1) promote the night –time economy in places such as this with access via Night Buses.

43 HC6 sets out different areas of night-time activity function at different scales that have different catchments. The policy classifies three distinct categories, N1 Areas of international or national significance, N2 Areas of regional or sub-regional significance and N3 Areas with more than local significance. Figure 7.7 of the draft London Plan identifies Deptford District Centre as an NT3 Area. NT3 Areas generally draw visitors from other parts of London and tend to feature smaller venues and premises. Promoting and managing the night-time economy within Deptford is therefore an important consideration for development effecting restaurants, bars, pubs, nightclubs and music venues.

Discussion

44 There is a clear policy objective within London Plan, the SPG, the emerging London Plan, the Core Strategy to support the night-time economy, with the Deptford District Centre identified as an location for the concentration of these uses. The proposed increase to the opening hours would enhance the contribution the business would make to night-time economy within Deptford, adding to the vibrancy and vitality of the high street, and as such would be compliant with the principles of the aforementioned policies.

7.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

45 DMP 17 states that changes of use to restaurants and cafés (A3) and drinking establishments (A4) will only be considered acceptable where there is no harm to the living conditions of nearby residents, including that created by noise and disturbance from users and their vehicles, smell, litter and unneighbourly opening hours.

7.3.1 Noise and disturbance

46 Officers recognise that Deptford High Street is a mixed-use location with residential accommodation on some upper floors and on side streets, and therefore there is a need to balance the promotion of the night-time economy with the impact to residential amenity. However, there is an expectation that night time activity is more acceptable in a

district centre such as this than in wholly residential areas. Local residents objecting to the proposal have noted the potential for increased disturbances arising from music, customers leaving the premises and late night servicing and disposal of refuse.

47 The increase to the opening hours would be confined to Thursdays, capped at 12am and Fridays and Saturdays, capped at 1am, which is compliant with the licence and in keeping with many of the other similar uses located within the local area. The proposed opening hours are therefore judged to be appropriate for a busy town centre location and would not result in disturbances above the typical levels and times currently experience on Deptford High Street. As such officers are satisfied that disturbances resulting from customers leaving the premises at these later times would be acceptable.

48 In terms of disturbance resulting from within the premises, conditions were imposed on the original permission restricting the use of amplified music. Further, a condition for sound insulation was discharged following consultation with the Environmental Health Department. Officers are of the view that any disturbance from (1) noise break-out from the bar; and (2) noise and/or vibrations transmitted through the structure would not harm the living conditions of neighbours. Therefore the change to the hours would be acceptable from this perspective, and no additional sound insulation would be required. Furthermore, the increase to the opening hours would not apply to the outdoor seating area, which is restricted to 9pm.

7.3.2 Impact on neighbours conclusion

49 The proposed amendment would comply with the policy objective to support the night-time economy of Deptford. The opening hours are broadly in keeping with the typical operating hours of other similar uses on Deptford High Street. Therefore, the extension to the opening hours is not considered to generate disturbances above typical levels and the conditions and restrictions imposed on the original permission and use of the outdoor area are considered sufficient to safeguard the amenity of the adjoining properties.

8 LOCAL FINANCE CONSIDERATIONS

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

- 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
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

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

52 The CIL is therefore a material consideration and the applicant has completed the relevant form.

9 EQUALITIES CONSIDERATIONS

53 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 54 In summary, the Council must, in the exercise of its function, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic and those who do not;
 - foster good relations between people who share a protected characteristic and persons who do not share it.

55 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

56 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

57 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

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

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

10 HUMAN RIGHTS IMPLICATIONS

60 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here

means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

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

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

11 CONCLUSION

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

64 The proposed extension to the opening hours of the restaurants is considered to be appropriate for the Deptford District Centre and as such is not considered to be harmful to the amenity of the neighbouring residential properties.

12 RECOMMENDATION

65 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

12.1 CONDITIONS

1) SOUND INSULATION

The soundproofing shall be retained permanently in accordance with the details as approved in permission DC/19/106558.

Reason: In the interests of residential amenity and to comply with DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

2) OPENING HOURS

The premises shall only be open for customer business between the hours of 9am to 11pm Sunday to Wednesday, 9am to 12am Thursday and 9am to 1am Friday and Saturday

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, DM Policy 14 District centres shopping frontages, DM Policy 17 Restaurants and cafes (A3 uses), and drinking

establishments (A4 uses) of the Development Management Local Plan (November 2014)

3) AMPLIFIED SOUND

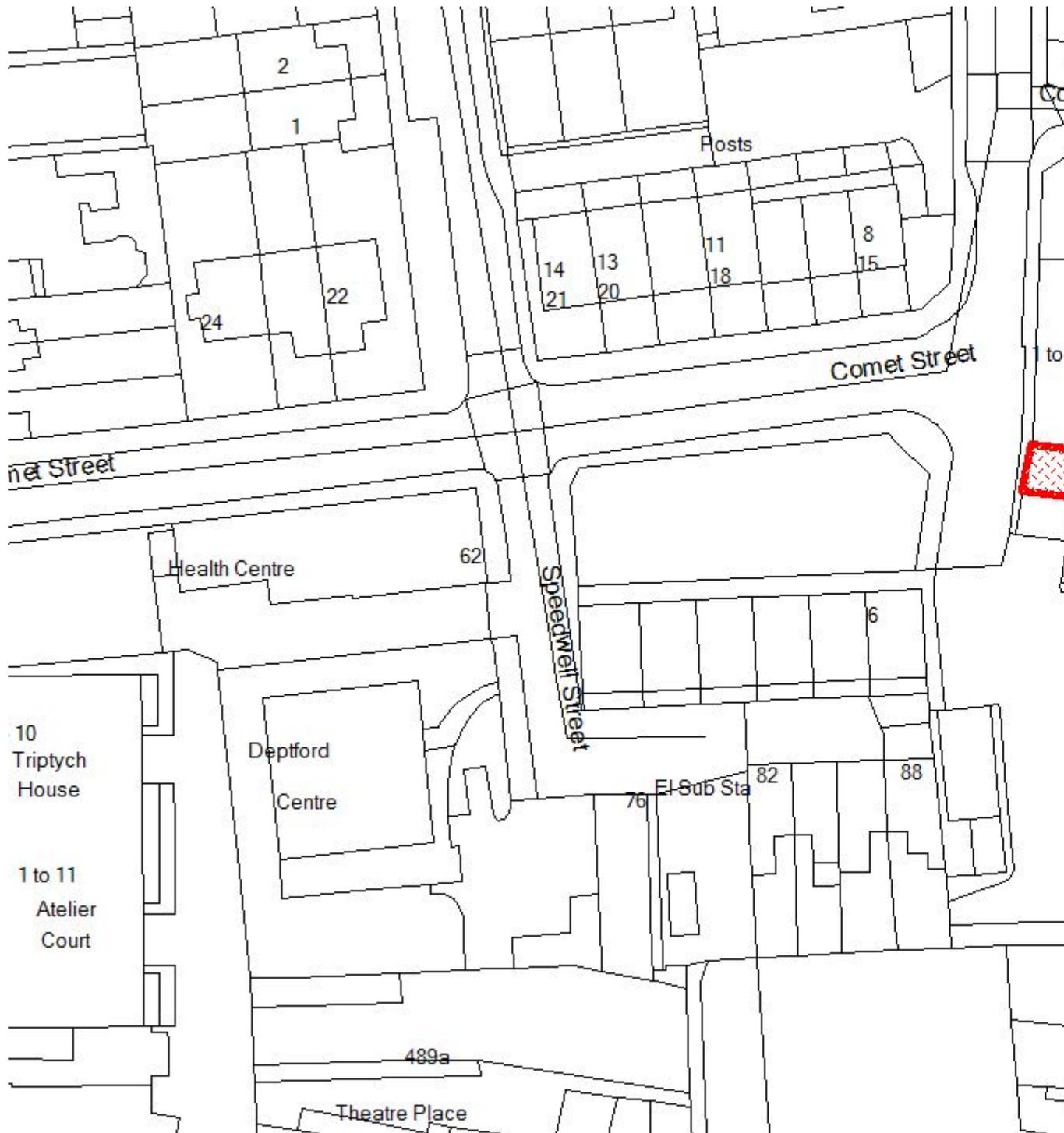
No music, amplified sound system or other form of loud noise (such as singing or chanting) shall be used or generated which is audible outside the premises or within adjoining buildings.

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

12.2 INFORMATIVES

Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.

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