

PLANNING COMMITTEE A

Date of Meeting: **THURSDAY, 11 MARCH 2021 TIME 7.30 PM**

PLACE: **MICROSOFT TEAMS REMOTE MEETING**

Members of the Committee are summoned to attend this meeting:

Membership

Councillors:

James-J Walsh (Chair)
Sophie Davis (Vice-Chair)
Obajimi Adefiranye
Patrick Codd
Liam Curran
Carl Handley
Octavia Holland
Pauline Morrison
John Paschoud
Luke Sorba

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.

Kim Wright
Chief Executive
Lewisham Town Hall
London SE6 4RU
Date: Tuesday, 2 March 2021

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	PLANNING COMMITTEE A	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 11 March 2021

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 A	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date: 11 March 2021

MINUTES

To approve the minutes of the meeting of Planning Committee A held on the 7 January 2021.

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**LEWISHAM COUNCIL
PLANNING COMMITTEE A
THURSDAY, 7 JANUARY 2021 AT 7.35 PM
MINUTES**

PRESENT: Councillor James-J Walsh (Chair), Councillors: Obajimi Adefiranye, Patrick Codd, Sophie Davis, Carl Handley, Pauline Morrison, John Paschoud and Luke Sorba.

APOLOGIES FOR ABSENCE: Councillors: Liam Curran and Octavia Holland.

OFFICERS: Development Management Team Leader (DMTL), Planning Officers (Officer), Committee Officer.

ALSO PRESENT: Legal Representative: Charles Merrett, Barrister from Francis Taylor Building on behalf of LBL.

**Item
No.**

1 Declarations of Interest

The Chair advised that although Councillor Sorba had referred Item 4 of the Agenda to Committee, there was no need for him to recuse himself from its' consideration, if he could confirm he had no interests. Councillor Sorba confirmed he had no interests.

2 Minutes

RESOLVED that the minutes of the Planning Committee A meeting held on 4 November 2020 be agreed and that the following text in those minutes, regarding Item 3 as follows:

‘...any works affecting the public highway should not hinder the movement of mobility scooters.’

be amended by Officers to:

‘...any works affecting the public highway and in particular the pavement should not hinder the movement of mobility scooters’

3 1 and 1a Malpas Road, London, SE4 1BP & 110 Lewisham Way, London, SE14 6NY

The Planning Officer, gave an illustrative presentation recommending the grant of planning permission for the demolition of the ancillary storage buildings, change of use and the construction of a part single/part 2 storey building to provide:

- 1 one bedroom flat and 1 one bedroom house at 1 Malpas Road SE4, together with the retention of the existing ground floor retail unit and the construction of an extension to the existing flat at second floor level at 110 Lewisham Way SE4.

The Committee noted the report and that the main issues were:

- Principle of Development
- Housing
- Urban Design
- Transport
- Impact on Adjoining Properties
- Natural Environment

Following the Officer's presentation, questions were raised by Members relating to: building dimensions, retail storage space, residential space, ceiling height and current application.

The Officer advised Members with regard to the building dimensions of the refused application the information would be located and shared later in the meeting.

The Chair advised the Committee that retail storage space was not a material consideration for the application before them. The DMTL reiterated the Chair's advice and advised that due to the change of use order from the previous year, the issue of retail storage space was not a material consideration. Members were also advised that the existing storage space could now be used for a range of commercial or business uses, under new Class E without further planning permission.

It was acknowledged by the Officer that transgressions existed with regard to the measurement of the unit's garden measuring 4 metres instead of the required 5 metres. Divergence from the specified unit height in planning policy was noted with regard to Unit 1a. The

Committee were informed that 75% of the floor space under planning policy was contributed to ceiling height.

The Officer confirmed that 1b Malpas Road did not form part of the current application under consideration. Although it did form part of a prior joint application brought before a Planning Committee.

Neither the applicant nor their agent were available to address the Committee. Members were advised of the reasons by Officers.

A local resident addressed the Committee. The resident advised Members of resident's objections to the proposal due to: changes to plans, consultation, development footprint, change of use, enclosure, outlook, boundary wall height, the sunlight/daylight report, windows, privacy, parking, cycle storage, noise disturbance, design, size, materials, safety, demolition works, and drainage.

There were no questions for the resident from Members.

Members put questions to the Officer regarding: traffic, height, consultation, overlooking, windows and drainage.

The Officer provided clarification to traffic concerns raised as outlined in the officer report. Explanation was given as to why certain streets were not included in the parking survey, which was in accordance with the highways officer's request. The Officer assured Members that cycle parking would be available and there would be an acceptable impact on parking stress. It was stated that measures would be implemented, to mitigate any parking impact.

The Officer referred to their presentation to clarify issues the resident raised, regarding windows located to the rear of the development. Members were informed that the windows would be glazed and would not open fully, which was a condition agreed. It was also noted that the windows would be in keeping with neighbouring buildings, with similar windows facing into their gardens.

The Committee were advised that the noise disturbance, was considered by officers to be acceptable.

The Officer provided clarification regarding the boundary height as detailed in the officer report. Members were advised the measurements were in keeping with the existing site situation.

It was confirmed by the Officer that no comments of support to the development were received from residents or local businesses.

Members were also advised this was not a material consideration to the application before them. The Officer also confirmed there were no

objections to the scheme from Transport for London (TfL) or the Highways Department.

Advice regarding overlooking and the windows opening mechanism was reiterated by the Officer. Members were also assured the windows would be glazed.

The Chair requested an informative to be included in the decision notice for soil pipes to be implemented on the development, to mitigate drainage issues raised by the resident. The Chair's request was noted by the Officer.

Brockley Ward Councillor Stephen Penfold addressed the Committee, under Standing Orders. Councillor Penfold was against the application. The Councillor cited DM Policy 32.4.e as detailed in the officer report and advised Members the development did not fulfil the local authority's requirements, to support single person dwellings. The Councillor voiced objections with regard to the proposed developments height. It was emphasised that the space requirements, as outlined by planning policy had not been met. The Councillor expressed the same concerns, with regard to the proposed outdoor space. The Councillor also raised concerns with regard to fly-tipping and the impact of parking on the local vicinity, in particular Luxmore Road.

The Officer advised Members that single person dwellings were subject to the requirement that they would have an exceptional design quality and be in highly accessible locations. Officers considered that the proposed development would meet the policy criteria in terms of exceptional design. The Officer informed the Committee that the internal design of the unit was also considered to have met the criteria as the unit would be oversized with a separate bedroom, dual aspect and private external amenity space. Officers felt the requirements of DM Policy 32.4.e had been satisfied.

Members were advised the site had a PTAL of 6a, indicating a highly accessible location. As such the proposal did not include any off-street parking, which was supported given the high PTAL rating. It was confirmed a CPZ did not operate on Malpas Road and therefore it was not possible to restrict cars from parking in the surrounding area. The Officer advised a Parking Stress Survey Report had been submitted to convey parking capacity in the surrounding area. He advised Luxmore Road had not been included in the Highway Departments calculations for parking stress. In response to the surveys findings, the applicant agreed to provide cycle storage, to be secured by condition.

The Officer addressed questions put to him earlier in the meeting with regard to: building dimensions and retail storage space. Members were the previous refused application conveyed a proposed development arranged over 3 storeys. However, the current application showed the proposed development arranged over 2 storeys. This constituted a significant material difference.

Clarification was provided to the Committee regarding where the cycle storage would be located in Unit 1a and Unit 1e's gardens. It was advised that officers felt there would be sufficient space.

During discussion, a Member shared concern regarding accommodation, noting the differences in unit size between the previous refused applications larger scale and the current applications smaller dimensions. However, Members agreed overall with the conditions to be imposed.

Members voted on the recommendation in the report with a result of 6 in favour of the proposal and 2 against.

RESOLVED

That it be noted that the Committee agreed to:

GRANT planning permission for the demolition of the ancillary storage buildings, change of use and the construction of a part single/part 2 storey building to provide:

- 1 one bedroom flat and 1 one bedroom house at 1 Malpas Road SE4, together with the retention of the existing ground floor retail unit and the construction of an extension to the existing flat at second floor level at 110 Lewisham Way SE4.

Subject to conditions and informatives outlined in the report.

4 60 Erlanger Road, London, SE14 5TG

The Planning Officer, gave an illustrative presentation recommending the grant of planning permission for the demolition of existing double garage and construction of a new outbuilding to the rear of 60 Erlanger Road, SE14.

The Committee noted the report and that the main issues were:

- Principle of Development
- Urban Design & Heritage
- Impact on Adjoining Properties

There were no questions for the Officer from Members.

The agent addressed the Committee. The agent described the development, advising of the applicant's intention to provide a gym and storage space. The agent also addressed issues such as footprint, height and cladding. With regard to cladding the agent acknowledged the objection from the Telegraph Hill Society (THS). It was advised that following the objection, the applicant had reverted back to the use of brick. In addition, the agent confirmed the roof of the development would be reverted back to slate. The agent also confirmed the outbuilding would be for incidental residential use only and there would be improvements to the appearance of the garden space. The agent stated that in response to the THS objections to the materials, the materials were changed. It was advised as a result the THS withdrew that objection. The agent concluded the current application would improve upon the 'dilapidated garages' and should be 'considered acceptable'.

There were no questions for the agent from Members.

Local residents addressed the Committee. The residents advised Members of their objections to the proposal due to inaccurate drawings. It was felt the drawings were deliberately inaccurate, to the applicants' advantage, as they reduced the size of the residents' garden. The residents advised the Committee they had submitted accurate copies of Land Registry plans of the land to Officers prior to the meeting. Members were advised that notations on the Land Registry plans stated no survey had taken place and these notations were removed by Officers when shared with the Committee. The residents stressed their concerns with regard to the footprint of the proposed development.

There were no questions for the residents from Members.

Members made enquiries to the Officer, in regard to: the drawings of the developments boundary, height and legal advice.

The Officer referred to the officer presentation to provide clarification regarding the building location and boundary. The Officer advised the Committee the building would not be any closer to the neighbouring building. The Officer provided further advice on how measurements had been calculated, as outlined in the officers' report.

The Officer concluded the development would be built on the applicants land.

The Officer confirmed the height of the development, noting it was also pitched away from the neighbour's house and garden. The Officer assured Members that officers felt the proposal was acceptable.

The legal representative provided further clarification on boundary disputes. It was advised such disputes would be an issue of land ownership. It would be relevant in terms of implementation. However in planning, such consideration could be set aside. This was because planning applications could be granted on land not owned by the applicant.

The Committee considered the submissions made at the meeting, and

RESOLVED - unanimously

That it be noted that the Committee agreed to:

GRANT planning permission for the demolition of existing double garage and construction of a new outbuilding to the rear of 60 Erlanger Road, SE14.

Subject to conditions and informatives outlined in the report.

The meeting closed at 9.20 pm.

Chair

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Committee	PLANNING COMMITTEE A	
Report Title	ANAYAH APARTMENTS, 54B TRUNDLEY'S ROAD, LONDON, SE8 5FB	
Ward	Evelyn Ward	
Contributors	Lewis Goodley	
Class	PART 1	11 MARCH 2021

<u>Reg. Nos.</u>	(A) DC/20/119188
<u>Application dated</u>	13.11.2020
<u>Applicant</u>	Proun Architects on behalf of IFBAA Investments Limited
<u>Proposal</u>	Prior Approval under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development Order 2015 (as amended)) for the construction of an additional storey to 54b Trundley's Road, SE8 to provide 1 x 1-bed and 2 x 2-bed flats.
<u>Background Papers</u>	(1) This is Background Papers List (2) Case File DE/191/54/TP (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	Area of Archaeological Priority; Air Quality Management Area.
<u>Screening</u>	N/A

1 SUMMARY

- 1 The application is taken to Planning Committee as there have been 11 individual objections.

2 SITE AND CONTEXT

- 2 The property comprises a modern purpose built part two, part three and part five storey residential building. The building although modern in appearance is broadly sympathetic in scale and architectural style to surrounding development.
- 3 The building steps down to the south to mirror the proportions of the adjacent terrace and does not exceed the height of the adjacent Vida House to the north.
- 4 To the south of the application site are two storey terraced late Victorian housing fronting Trundley's Road. The opposite side of the road is similar in character, with some modern in-fill houses constructed in the early 1990s. The site is adjoined by a recently constructed two storey end terraced house at 54A Trundley's Road. This property has a triangular footprint.

- 5 Trundley's Road is a busy local distributor road and a bus route. There are parking restrictions on the west side of the road. To the rear of the site are the London Overground Lines between New Cross/New Cross Gate/Queens Road and Surrey Quays.



Figure 1 – Site Location Plan.

- 6 The site falls within an Area of Archaeological Priority and Air Quality Management Area but is not subject to any other formal designations.
- 7 The site lies to the south of the Blackheath Point to Central London Designated Views of the London View Management Framework.
- 8 The site has a PTAL of 3.

3 RELEVANT PLANNING HISTORY

- 9 **DC/14/088613** - Demolition of the existing buildings at 54B Trundley's Road SE8 and the construction of a single storey to 5 storey block comprising 4 one bedroom, 20 two bedroom and 3 three bedroom self contained flats, together with a refuse store, cycle store, 3 wheelchair accessible parking spaces and associated landscaping. Approved 05/12/2014.
- 10 This application was subject to conditions and a legal agreement. No condition or clause removed the permitted development rights, with the exception of permitted development rights to the installation of rainwater pipes.
- 11 **DC/20/118212** - Prior Approval for the construction of an additional storey to 54b Trundley's Road, SE8 to provide 1 x 1-bed and 2 x 2-bed flats. Refused 03/11/2020.
- 12 The application was refused on the following grounds:
- Insufficient information has been provided to demonstrate that the development would not give rise to unacceptable impacts on on-street parking provision from

overspill parking within the vicinity of the site contrary to Paragraph 108 of the National Planning Policy Framework (2019) and Policy 14 'Sustainable movement and transport' of the Core Strategy (2011); and DM Policy 29 'Car parking' of the Development Management Local Plan (2014).

4 CURRENT PRIOR APPROVAL APPLICATION

4.1 THE PROPOSALS

- 13 Application to determine whether to grant prior approval for a proposed: New dwellinghouses on detached blocks of flats under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 20, Class A to create 1 additional storey to provide 3 dwellinghouses (1 x 1 bed and 2 x 2 bed).
- 14 The proposed one additional storey to the existing detached block of flats to provide new dwellinghouses is permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 20, Class A.
- 15 The proposed development would create three new dwellinghouses (1 x 1 bedroom and 2 x 2 bedroom flats).
- 16 The new single additional storey will be constructed in design, detail, appearance and materials to match the existing.



Figure 2 – proposed front elevation

4.2 COMPARISON WITH PREVIOUS SCHEME

- 17 As outlined in Section 3 above a previous Prior Approval application (LBL reference DC/20/118212' was refused on transport grounds only. This reason related to insufficient information being provided to demonstrate that the development proposals would not give rise to unacceptable impacts on on-street parking. All other matters, including appearance were considered acceptable.

- 18 The Applicant has now provided the necessary transport information. More detail is provided within the relevant transport section of the report below.
- 19 The application was not refused on design, amenity or any other reasons outlined in Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development Order 2015 (as amended)).

5 CONSULTATION

5.1 PRE-APPLICATION ENGAGEMENT

- 20 The regulations require no pre-application engagement. None was undertaken by the Applicant.

5.2 APPLICATION PUBLICITY

- 21 Consultation was undertaken in accordance with Schedule 2, Part 20, Class A Paragraph B (11) and (12).
- 22 All residents of the building were notified along with those adjoining the site. A site notice was displayed.
- 23 Paragraph B (15) (a) states that the local planning authority should take into account any representations made to them as a result of any consultation.
- 24 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 24/11/2020.
- 25 11 total valid objections were received from the occupiers from adjoining properties and nearby.

5.2.1 Comments in objection

Comment	Para where addressed
Dust and impact from construction	Para 112
Design/ External appearance not in keeping	Para 99-105
Transport Impact from the parking of additional on-street parking.	Para 87 -92
Loss of light to nearby properties.	Para 107 - 103

- 26 Comments relating to the maintenance and up-keep of the building are not material planning considerations for the purposes of this application.
- 27 Matters relating to planning enforcement have been passed to the planning enforcement team.

5.2.2 Local Meeting

- 28 In accordance with the Council's Statement of Community Involvement (SCI), a virtual Local Meeting was held on Monday 8th February 2021 at 7pm. Residents were invited via email to attend and submit questions before the meeting.

29 In total six people logged on to the meeting which was held via Zoom. The Applicant Team presented the development proposals, discussed the key issues and answered pre-submitted questions. Full details of the Virtual Local Meeting are in Appendix One.

5.3 INTERNAL CONSULTATION

30 Consultation was undertaken in accordance with Schedule 2, Part 20, Class A Paragraph B (11) and (12). The following internal consultees were notified on 24/11/2020:

31 Environmental Protection – Contamination: No objection, development at roof level.

32 Environmental Protection – Air Quality and Noise: No objection received, noted that no environmental construction management plan or construction management plan were not submitted as part of the application.

33 Environmental Resilience: No objection received.

34 Highways: raised no objections, noted that no details for cycle parking or refuse storage have been provided. Highways noted breaches of the original planning consent (DC/14/088613). These matters have been referred to the planning enforcement team and are not relevant to this Prior Approval Application.

5.4 EXTERNAL CONSULTATION

35 Consultation was undertaken in accordance with Schedule 2, Part 20, Class A, paragraph B(11) and (12). The following External Consultees were notified on 24/11/2020

36 Environment Agency: No objection, noted development is at fifth floor level.

37 Historic England: No objection received.

38 Deptford Neighbourhood Forum: No objection received.

6 POLICY CONTEXT

6.1 LEGISLATION

6.1.1 Town and Country Planning (General Permitted Development) Order 2015 (as amended)

39 On the 15th April 2015 The Town and Country Planning (General Permitted Development) (England) Order 2015 (subsequently amended) was formally brought into force.

40 Schedule 2, Part 20, Class A provides permitted development rights for new dwellinghouses on detached blocks of flats under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This was inserted on the 01 August 2020 by The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

- 41 Where any development under Class A is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—:
- (a) transport and highways impacts of the development;
 - (b) air traffic and defence asset impacts of the development;
 - (c) contamination risks in relation to the building;
 - (d) flooding risks in relation to the building;
 - (e) the external appearance of the building;
 - (f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
 - (g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light; and
 - (h) whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State and
 - (i) where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building

42 Paragraph B of Class A of Part 20 sets out the procedure for applications for prior approval under Part 20

Procedure

43 The applicant has submitted all the necessary information, plans and correct fee as outlined in Condition B (2) of Class A, Part 20.

Transport and Highway Impact

44 Paragraph B (5) states:

45 Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult—

46 where the increase or change relates to traffic entering or leaving a trunk road, the highway authority for the trunk road;

47 the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and

48 the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

49 Transport is covered at Chapter 9 as set out in the NPPF. Paragraph 102 of the document states transport issues should be considered from the earliest stages of plan-making and development proposals, so that opportunities to promote walking, cycling and public transport use are identified and pursued. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Flood Risk

50 Paragraph B (6) states:

51 Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency where the development is—

52 in an area within Flood Zone 2 or Flood Zone 3; or

53 in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

Air traffic and defence asset impacts of the development;

54 Paragraph B (7) states:

55 Where the application relates to prior approval as to the impact on air traffic or defence assets, the local planning authority must consult any relevant operators of aerodromes, technical sites or defence assets and where appropriate the Civil Aviation Authority and the Secretary of State for Defence.

56 Paragraph B (8) states:

57 Where an aerodrome, technical site or defence asset is identified on a safeguarding map provided to the local planning authority, the local planning authority must not grant prior approval contrary to the advice of the operator of the aerodrome, technical site or defence asset, the Civil Aviation Authority or the Secretary of State for Defence.

The provision of adequate natural light in all habitable rooms of the new dwellinghouses

58 Paragraph B (9) states:

59 Where the application relates to prior approval as to natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.

Whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State

60 Paragraph B (10) states:

61 Where the application relates to prior approval as to the impact on protected views, the local planning authority must consult Historic England, the Mayor of London and any local planning authorities identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State.

Contamination Risk

62 Paragraph B (15) (c) states that Part 2A of the 1990 Act defines “contaminated land”, and provides for the Secretary of State to issue guidance on how local authorities should determine which land is contaminated land and which is not. Detailed guidance has been provided within “Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance (DEFRA 2012).

6.2 MATERIAL CONSIDERATIONS

63 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.

64 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.

65 The weight given to a relevant material consideration is a matter of planning judgement, except where the weight that should be given to specific planning considerations is directed, for instance by the NPPF. 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 aforementioned directions and the test of reasonableness.

66 Only the material considerations outlined in Section 6.1 of this report, as prescribed by Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development Order 2015 (as amended)) are relevant to the determination of this application.

6.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

6.4 DEVELOPMENT PLAN

67 For the purposes of Prior Approval applications such as this, the Development Plan is the NPPF.

7 PLANNING CONSIDERATIONS

68 The development proposals can only be assessed against the legislation prescribed by Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development Order 2015 (as amended)) are relevant. Where necessary, the relevant policy tests lie within the NPPF. The legislation is discussed in turn below.

69 Where it states **Complies** in bold, Officers have assessed that the development proposals comply with the relevant section or subsection of Class A.

7.1 Development permitted:

Development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats, together with any or all—

- (a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
- (b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;
- (c) works for the construction of appropriate and safe access and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;
- (d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

70 **Complies.**

7.2 Development not permitted:

71 A.1. Development is not permitted by Class A if—

- (a) the permission to use any building as a dwellinghouse has been granted only by virtue of Class M, N, O, P, PA or Q of Part 3 of this Schedule;

72 **Complies.**

- (b) above ground level, the building is less than 3 storeys in height;

73 **Complies** – 5 storeys.

- (c) the building was constructed before 1st July 1948, or after 5th March 2018;

74 **Complies** – Applicant provided final competition building control certificate dated 18/01/2016

- (d) the additional storeys are constructed other than on the principal part of the building;

75 **Complies**

- (e) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of—
 - (i) 3 metres; or
 - (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building;

76 **Complies** – 3 metres.

- (f) the new dwellinghouses are not flats;

- 77 **Complies.**
- (g) the height of the highest part of the roof of the extended building would exceed the height of the highest part of the roof of the existing building by more than 7 metres (not including plant, in each case);
- 78 **Complies.**
- (h) the height of the highest part of the roof of the extended building (not including plant) would be greater than 30 metres;
- (iii) development under Class A.(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;
- 79 **Complies – 19.25 metres (stated on plans).**
- (j) development under Class A.(a) would consist of engineering operations other than works within the existing curtilage of the building to—
- (i) strengthen existing walls;
- (ii) strengthen existing foundations; or
- (iii) install or replace water, drainage, electricity, gas or other services;
- 80 **Complies – no other alterations shown.**
- (k) in the case of Class A.(b) development there is no existing plant on the building;
- 81 **Complies.**
- (l) in the case of Class A.(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the new building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;
- 82 **Complies – N/A.**
- (m) development under Class A.(c) would extend beyond the curtilage of the existing building;
- 83 **Complies.**
- (n) development under Class A.(d) would—
- (i) extend beyond the curtilage of the existing building;
- (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or
- (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building;
- 84 **Complies.**
- (o) the land or site on which the building is located, is or forms part of—

- (i) article 2(3) land;
- (ii) a site of special scientific interest;
- (iii) a listed building or land within its curtilage;
- (iv) a scheduled monument or land within its curtilage;
- (v) a safety hazard area;
- (vi) a military explosives storage area; or
- (vii) land within 3 kilometres of the perimeter of an aerodrome.

85 **Complies** – not subject to any of these designations.

7.3 Transport

86 Paragraph B 15(b) requires that the local planning authority must, when determining an application have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019, so far as relevant to the subject matter of the prior approval, as if the application were a planning application . Transport is covered in chapter 9 set out in the NPPF at paragraph 102. This paragraph states transport issues should be considered from the earliest stages, so that opportunities to promote walking, cycling and public transport use are identified and pursued.

87 The proposed development would be car free, in line with para 106 of the NPPF and the Publication London Plan (due to be adopted 2 March 2021). The Lewisham local development framework Core Strategy adopted in June 2011 suggests that the London Plan be used when assessing the required parking spaces to be provided on site. The London Plan states that “All developments in areas of good public transport accessibility (in all parts of London) should aim for significantly less than 1 space per unit”.

88 The application seeks approval for a development with no off-street parking spaces for the proposed units. The site has a PTAL rating of 3 (moderate). The site therefore does not have good access to public transport. Parking is limited along Trundley's Road due to its width and use for buses, while neighbouring side streets appear heavily parked. There is no controlled parking zone to help prevent overspill parking by limiting access to parking permits.

89 The Applicant has provided a parking survey which demonstrates that the new dwellings would not result in a harmful impact on on-street parking capacity as a consequence of overspill parking. The provision of three units is therefore unlikely to result in materially harmful impacts on on-street parking provision. Highways have responded that they raise no concerns or objections to the impact of this proposal, subject to conditions on cycle and refuse storage.

90 Storage for refuse bins and bicycles would be accommodated within the existing refuse and bike stores. A condition requiring more information is recommended.

91 A Construction Management Plan, as required by the regulations, should be imposed to ensure that construction impacts (including highway impacts) are controlled and appropriately mitigated.

7.4 Contamination and Air Pollution

- 92 Paragraph 120 of the NPPF states that planning decisions should ensure that new development is appropriate for its location.
- 93 Paragraph 181 of the NPPF states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones
- 94 Given the site relates to the top floor of a purpose-built modern residential building, it is considered that there is no substantive risk from contamination of the site. Environmental Protection Officers have confirmed this.
- 95 A Construction Management Plan, as required by the regulations, should be imposed to ensure that construction impacts (including dust and noise) are controlled and appropriately mitigated.

7.5 Flooding risk

- 96 The property is within a low flood risk area, Zone 1. The development would be on the fifth floor of the building.
- 97 The proposed development is therefore acceptable from a flooding perspective. The EA or the Council's climate resilience team have raised no objections.

7.6 The external appearance of the building

- 98 Paragraph B (15) (b) states that the local planning authority must, when determining an application have regard to the National Planning Policy Framework (2019) (NPPF).
- 99 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.
- 100 Paragraph 127 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 101 The proposed additional storey would be located to the top floor, set directly above the existing recessed 5th storey. The development would match the appearance of the existing top storey, utilising the same external materials and mirroring the fenestration.
- 102 Set back from the front elevation and side elevations, the additional storey would be accommodated without appearing incongruous or overly dominant. At street level, the projecting brick balconies would largely obscure the additional mass. Vida House, to the north, would obscure any long views of the building toward the site from that direction.
- 103 The proposed development would increase the height of the building but it would remain sympathetic to the host building. Importantly, the additional storey would not interrupt the stepping down of the building to the south or the overall composition or balance of the existing building. The relationship with the terrace to the south would be maintained.
- 104 The proposed development is therefore considered to be of a suitable external appearance and design.

7.7 The provision of adequate natural light in all habitable rooms of the new dwellinghouses;

105 All proposed dwellings and habitable rooms would be afforded adequate natural daylight, as demonstrated in the supporting information submitted by the Applicant.

7.8 Impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;

106 Paragraph 127 (f) of the NPPF states that planning decisions should ensure that a high standard of amenity for existing and future users is achieved.

107 The proposed development would be located directly above the existing top recessed floor. The massing of the development is therefore contained within the existing envelope of the building. This would ensure that there is no discernible loss of light or outlook for any of the windows below, at all levels.

108 Any increases in shadowing to the upper external terraces would replicate the established pattern of shadowing which already occurs from the building.

109 Located away from Vida House to the north and properties to the east, the proposed addition would not result in harmful loss of light to any nearby or adjacent properties.

110 All proposed windows would replicate the existing pattern of overlooking to adjacent buildings and thus have no materially harmful impact.

111 Noise and disturbance during construction is not specified as a material consideration by Class A, Part 20. Condition A.2 (3) requires the submission and approval of a management plan prior to commencement.

112 The proposed development is therefore considered acceptable in amenity, with no harmfully unacceptable impacts identified.

7.9 Whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State

113 The proposed development is located to the south of the Blackheath Point to Central London Designated Views protected vista. The addition of one storey will therefore have no impact on any protected views.

7.10 Where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building

114 The existing building is under 18 metres in height. This information is therefore not required.

8 LOCAL FINANCE CONSIDERATIONS

115 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).

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

117 The CIL is therefore a material consideration.

118 Lewisham CIL and MCIL 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

119 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.

120 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.

121 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.

122 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>

- 123 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
- 124 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>
- 125 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

- 126 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
- 127 This report has outlined the consultation that has been undertaken on the Prior Approval application and the opportunities for people to make representations to the Council as Local Planning Authority.
- 128 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.
- 129 This application has the legitimate aim of providing three new homes. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

130 This application has been considered in the light of Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development Order 2015 (as amended)).

131 Development is permitted by virtue of Class A. Officers have had regard to the relevant material considerations prescribed by the Order and consider these matters to be acceptable:

- (a) transport and highways impacts of the development;
- (b) air traffic and defence asset impacts of the development;
- (c) contamination risks in relation to the building;
- (d) flooding risks in relation to the building;
- (e) the external appearance of the building;
- (f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- (g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
- (h) whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012 issued by the Secretary of State; and
- (i) where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building.

12 RECOMMENDATION

132 That the Committee resolve to **GRANT** prior approval subject to the following conditions and informatives:

12.1 CONDITIONS

1) TIME LIMIT

The development under Class A is permitted subject to the condition that it must be completed within a period of 3 years starting with the date prior approval is granted.

Reason: To comply with Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development Order 2015 (as amended))

2) DEVELOP IN ACCORDANCE WITH APPROVED DRAWINGS

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

2760-L- 802; 2760-P- 801; 2760-P- 802 ; 2760-P- 803; 2760-P- 804 ; 2760-P- 805; 2760-P- 806; 2760-P- 821 ; 2760-P- 822; 2760-P- 823; 2760-P- 824; 2760-P- 825; 2760-P- 826; 2760-P- 827; 2760-L-801.

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) **CONSTRUCTION MANAGEMENT**

Before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated

Reason: In order that the local planning authority may be satisfied that the demolition and construction process is carried out in a manner which will minimise possible noise, disturbance and pollution to neighbouring properties and to comply with Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development Order 2015 (as amended)), Paragraph 181 of the National Planning Policy Framework (2019) and DM Policy 23 'air quality' of the Development Management Local Plan (2014).

4) **CYCLE PARKING**

- (a) Prior to first occupation, full details of the cycle parking facilities for 6 bikes shall be submitted to and approved in writing by the local planning authority.
- (b) No development shall commence on site until the full details of the cycle parking facilities have been submitted to and approved in writing by the local planning authority.
- (c) All cycle parking spaces shall be provided and made available for use prior to occupation of the development and maintained thereafter.

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

12.2 **INFORMATIVES**

- 1) 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>
- 2) The developer must notify the LPA of the completion of the development as soon as reasonably practical after completion. Notification must be in writing and should

include: (a) the name of the developer; (b) the address or location of the development and (c) the date of completion.

- 3) The development must be carried out in accordance with the details approved by the LPA.

Appendix One

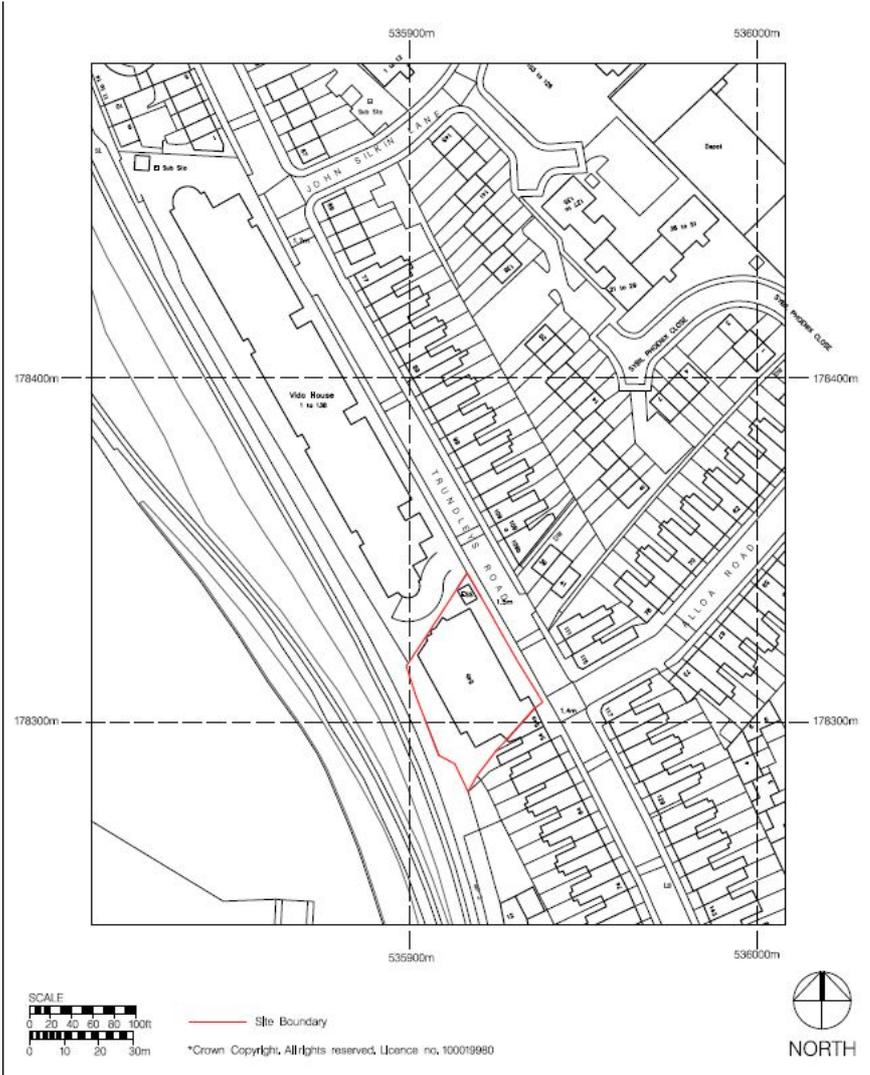
Details of Virtual Local Meeting

- 133 In accordance with the Council's Statement of Community Involvement (SCI), a virtual Local Meeting was held on Monday 8th February 2021 at 7pm. Residents were invited via email to attend and submit questions before the meeting.
- 134 In total six people logged on to the meeting which was held via Zoom. The Applicant Team presented the development proposals, discussed the key issues and answered pre-submitted questions.
- 135 The planning Officer outlined procedural matters and next steps.
- 136 After a presentation the Applicant answered the following pre-submitted questions (answered by Applicant):
- 137 Question 1 (Councillor Kelleher):
What measures will be undertaken to accommodate the additional homes?
- 138 Question 2 (Councillor Kelleher):
Why are open plan units proposed and are these appropriate given increased working from home?
- 139 *Questions from objectors*
- 140 Question 1:
One would presume you will need a crane situated on the road to carry out construction works. How will you maintain traffic control with the road blocked by a crane?
- 141 Question 2:
Adding a fifth floor to 54B Trundleys Road residential building will affect the current load on the building. How have you calculated the additional load on the foundations?
- 142 Question 3:
The southside of this residential building backs onto an open plan area. During high winds, the wind tends to damage high-rise buildings. Vida House which is next door, has seen damage to the roof, skylights and satellite dish.
Adding a fifth floor will primarily be exposed to greater risk. How are you prevent the structure from being damaged?
- 143 Question 4:
54B Trundleys Road building with a fifth floor will be higher than any other residential building in the area.

Why is it so important to build an additional floor causing disruption and aesthetically unpleasing when there is no real benefit to the area?

144 Question 5:

What improvements to the refuse store will be undertaken and how will the space be maintained?



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Committee	PLANNING COMMITTEE A	
Report Title	10 THORPEWOOD AVENUE, LONDON, SE26 4BX	
Ward	Forest Hill	
Contributors	Zahra Rad	
Class	PART 1	11 March 2021

<u>Reg. Nos.</u>	DC/20/118501
<u>Application dated</u>	23 September 2020
<u>Applicant</u>	Touska Architects
<u>Proposal</u>	The demolition of existing double garage and construction of a two storey two bedroom house to the side and rear of No 10 Thorpewood Avenue SE26 at lower ground and ground floor levels and adjustment to the existing dormer.
<u>Background Papers</u>	(1) Core Strategy (June 2011) (2) Case File LE/443/10/TP (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	PTAL 2 Existing Use C3
<u>Screening</u>	N/A

1 SUMMARY

- 1 This report sets out officer's recommendation for the above proposal. The case has been brought before Members for a decision as the recommendation is to be approved and there are two valid planning objections from individuals plus the Sydenham Society who have objected to the proposed development. In accordance with the extended delegated authority arrangements, this application has been reviewed by a chair person of one of the Council's planning committees who has confirmed they require the application to be decided by Members at Planning Committee.
- 2 Due to the Covid-19 pandemic officers have been unable to undertake a site visit to the property and as such, an assessment has been made using Google Maps and photos provided by the applicant.

2 SITE AND CONTEXT

Site description and current use

- 3 The application site is related to the double garage to the side of No 10 which is located on the Eastern side of Thorpewood Avenue. The garage is between No 10 and No 14, currently owned and used as a double garage by No 10. The application site (vacant plot No 12) shares a boundary with No 14 to the North which is a new modern design two storey dwellinghouse.

4 The site is 177.45m² in area.



Figure 1 Site Location Plan

Character of area

- 5 No 10 Thorpewood Avenue hosts a two storey semi-detached property, sharing a party wall with No 8 Thorpewood Avenue to the south. An attached single storey garage extends from the northern side elevation of the property, to the boundary with No 14 Thorpewood Avenue, sharing a party wall with the property at that address. The site has a large back garden, measuring approximately 28m long and 14m wide, and steps down from the house to the rear boundary. To the East, the rear of the back garden is bordered by four single garages on the southern boundary. One of these garages is owned by the applicant, and provides access to an access lane that opens on to Hassocks Close.
- 6 The street has a slight gradient, falling from the south to the north, which means the property at No10 is higher than the property at No14. All these properties front north-west on to Thorpewood Avenue and are setback approximately 5.5 – 6.0m away from the footpath on the side of the street. The sites themselves also fall substantially from the road boundary, to the rear boundaries that adjoin Baxter Fields to the east. Approximately half-way down the existing garden is a retaining wall, which essentially splits the garden into upper and lower sections.
- 7 The lower section of the garden have step access to Hassocks Close via the existing garage on the southern boundary.

Heritage/Archaeology

- 8 The property is not located within a conservation area, nor is it close to a listed building or non-designated heritage asset.

Surrounding area

- 9 The area is predominantly residential in nature and comprises of mostly detached and semi-detached properties.
- 10 The eastern side of this part of the street is characterised by a range of dwelling design styles and ages, including detached and semi-detached properties. Of particular note is

the adjacent property at No 14 which is a two-storey dwelling house of a 1960's modern design. The western side of the street is on a higher land gradient and is characterised by a more regular pattern of semi-detached properties, although there is still significant variation present.



Figure 2 Application Site and the adjacent neighbours from the rear

Local environment

- 11 Baxter Field is the nearest park which is located to the east side of the application site and is a designated Public Open Space. The application site is not located in a flood zone risk area, however, is located within 15m of Thames Waters underground water assets.

Transport

- 12 The property is located in a PTAL 2 area (bordering PTAL 3). The property at No10 has off-street parking spaces for four vehicles; two enclosed garages on Thorpewood Avenue and one in the garage at the back of the lower garden which has access from Hassocks Close, also, a driveway to the front which can accommodate one vehicle.

3 RELEVANT PLANNING HISTORY

- 13 **DC/20/115283** - The demolition of existing double garage and construction of a part lower ground/part one/part two storey two bedroom house to the side and rear of 10 Thorpewood Avenue SE26. Refused 06//04/2020 for the following reasons:

- The principle of the development would constitute the development of a private rear garden for a separate dwelling and is not supported. The development is

therefore contrary to Paragraph 127 and 130 of the National Planning Policy Framework (2019); Policy 7.4 'Local Character' and Policy D6 'Housing quality and standards' of the London Plan (2021); Spatial Policy 5 'Areas of Stability and Managed Change' and Policy 15 'High Quality Design for Lewisham' of the adopted Core Strategy (2011); DM Policy 33 'Development on Infill Sites, Backland Sites, Back Gardens and Amenity Areas' of the adopted Development Management Local Plan (November 2014).

- The proposed dwellinghouse due to its scale, form, appearance, and location and siting would result in an incongruent form of development that would fail to respect the prevailing character of the immediate streetscape. The development is therefore contrary to Paragraph 127 and 130 of the National Planning Policy Framework (2019); Policy 7.4 'Local Character' and Policy 7.6 'Architecture' of the London Plan (2016 Policy D6 'Housing quality and standards' of the London Plan (2021); Spatial Policy 5 'Areas of Stability and Managed Change' and Policy 15 'High Quality Design for Lewisham' of the adopted Core Strategy (2011); DM Policy 30 'Urban Design and Local Character' and DM Policy 33 'Development on Infill Sites, Backland Sites, Back Gardens and Amenity Areas' of the adopted Development Management Local Plan (November 2014).

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSALS

14 This application relates to the demolition of the existing garage between Nos 10 and 14, and the small extension at the back of the garage, plus the projected barrel vault part of the existing dormer from the side elevation would be cut back and reduced in size and subsequent construction of a new two storey single family dwellinghouse. The property would have two bedrooms to accommodate 4 person. It is noted that, according to the submitted plans the proposed scheme would be sharing open amenity space (back garden) with No 10 Thorpewood Avenue.

15 To the front the proposed scheme would appear to be single storey with a flat roof with two different levels. The taller part towards No 14 would have a height of 3.3m which is just 0.1m higher than the existing garage. The smaller part adjacent to No 10 would be 2.9m which would be 0.3m lower than the existing garage. To the front elevation an entrance door and side window, a small metal canopy would be introduced.



Figure 3 Proposed Front Elevation

- 16 Behind the front elevation a two storey building would be constructed in two sections. One part which is adjacent to No 14 and would repeat exactly the pattern of existing buildings at ground floor of No 14 including the courtyard, and the other part which would begin from the shared boundary with No14 and would extend towards the extension at the back of No 10 at the ground floor. This elevation to the rear would comprise of full height windows and doors with a small balcony facing the back garden.



Figure 4 Proposed 3D from rear

- 17 At the ground floor, would be one bedrooms a kitchen/dining, a bathroom, a courtyard and a balcony looking into the garden. The lower floor accessed via a spiral staircase would be level with the back garden and would comprise of a bedroom and en-suite, a living room facing the back garden and a set of doors providing access to the back garden. The rear elevation of the proposed development would align with the rear elevation of No 14.
- 18 The only alteration to the back garden at lower level would be introducing new lighting and insertion of cycle storage.

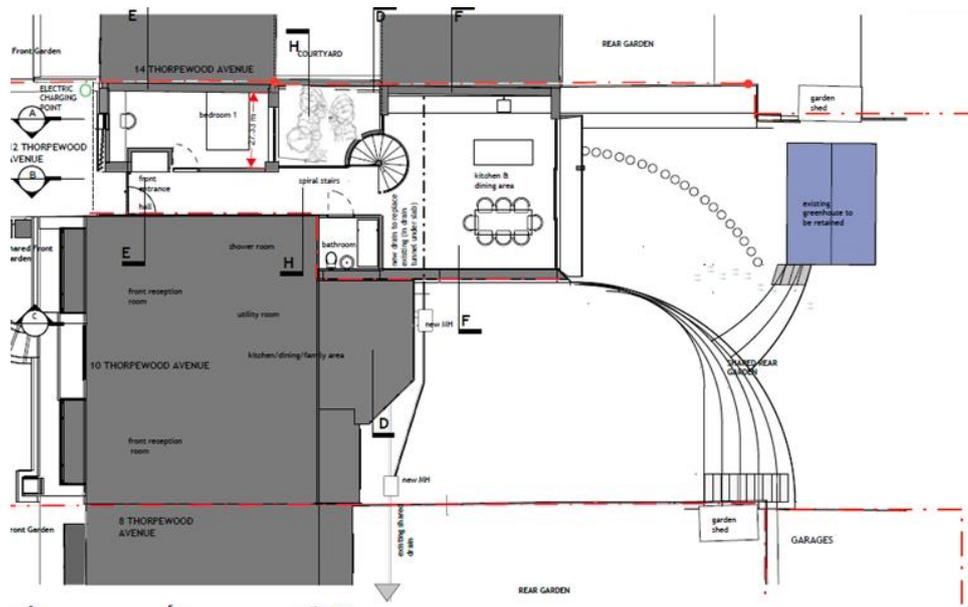


Figure 5 Proposed Ground Floor Plan

19 The proposed materials are

- External Walls To The Front: Brickwork Timber Screens Metal Coping;
- External Walls To The Side: Brickwork Metal Coping
- External Walls To The Rear: Brickwork Metal Coping
- Front Window: Mosaic Tesserae - In Lower Square of Window Frame
- Front Door: Metal-Faced Front Door With Leafshaped Cut-Outs
- Windows And Doors: PPC Aluminium
- Boundary: Timber Fences
- Vehicle Access: Block-Paviours
- Garage Doors: Brickwork, Metal Coping and Timber Screens
- Flat Roof: Glass, High-Performance Felt and Photovoltaic-Roofing Membrane
- Canopies: Metal Outer Surface with Timber Soffit or Inner Surface

4.2 COMPARISON WITH PREVIOUS SCHEME

20 The design concept and proposal within this application is entirely different from the refused proposal, DC/20/115283 dated on 06//04/2020 which proposed to use the land of the back garden as backland contrary to the DM policies.

21 The concept of replacing of the existing garage and construction of a two storey two bedroom dwellinghouse with amenity space has been retained within the current application.

22 Various aspects of the design concept in both applications are summarised as below:

Table 1: comparison designs DC/20/115283 vs the current one

Previous application DC/20/115283	Current application DC/20/118501
Introducing a large new footprint to the application site	Reducing 65% of the proposed footprint within the previous application, including reduce the submerged footprint.
Having a two storey to the side	Reducing height to the front elevation by introducing a submerged storey from the street level
A full width single storey at the rear of the back garden	This item is removed

23 In addition, several details such as balcony, green roof and other elements have been amended in line with the advice provided at a Pre-Application meeting.

5 CONSULTATION

5.1 PRE-APPLICATION ENGAGEMENT

- 24 PRE/20/117296 - Demolition and construction of a new family home. No written response.
- 25 The principle of residential development was supported, subject to high quality design. The new proposal within the Pre-Application reduced the mass and the bulk of the proposed dwelling in the refused application by removing the full width rear single storey and reduced the depth of the two storey element to the side.
- 26 Justification of new design solution resolving issues raised with previous planning application in response to design-related planning policies and DM33, backland, back-garden & infill developments.

5.2 APPLICATION PUBLICITY

- 27 A press notice was published on 29/09/2020.
- 28 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 29/09/2020.
- 29 Seven responses were received, comprising the Sydenham Society, 2 objections, 3 support and one letter of comments.

5.2.1 Comments in objection

Objection / concern raised	Para where addressed
<i>Housing</i>	
Over development	61 and 82
<i>Urban Design</i>	
Too bulky, removing the current gap.	82
Incongruous design, neither front façade nor rear façade carries any relation to the buildings around	66 and 67
Removing the current gap appearance and would harm the streetscene	67 and 84
The intention of having access to the garages at the rear of the property is not clear.	96 and 100
<i>Living conditions of neighbours</i>	
Privacy issue due to the difference level on No 14	114
disturbance/disruption/depreciation caused by the construction of a 2 storey house	127
Day light/sun light impact on No 14	122
Considerations for ground level change	129
<i>Highway and Transport</i>	

Objections to the use of the Close as construction site access.	122
Using Close would increase traffic and noise.	122
The traffic would also endanger the very old and youngest residents in Hassocks Close.	122, 142
<i>Natural environment</i>	
Changes to the wildlife of the garages at the rear by adding lighting.	142
<i>Other matters</i>	
Special measures such as underpinning, to prevent any movement of the external wall of No14.	35,129
Maintenance of the drainage and remaining the access of the existing manhole.	129
Increased traffic and noise would decrease the value of my house.	129
Complicated party wall arrangements with No 10	129
No plans showing the view of the proposed house from no. 14.	129
Single exit from the upper floors could also affect fire regulations.	129
No datum line shown in any of the application documents.	-

5.2.2 Comments in support

<i>Principle</i>
Principle of the new dwelling is supported.
Increasing housing supply, as a target of London Boroughs.
<i>Urban Design</i>
Support the design and believe it would pleasantly add to the aesthetics of this part of the street.
Support front facade will form an attractive addition and positive neighbourhood contribution
The modern dwelling massing responds well to adjacent scale/built forms and aligns with the contemporary nature of No 14 and nearby approved houses.

5.3 INTERNAL CONSULTATION

- 30 The following internal consultees were notified.
- 31 Highways officer: provided no objection subject to conditions and informatives
- 32 Environmental Protection: provided no comments

33 Ecology Officers: provided no objection subject to conditions

5.4 EXTERNAL CONSULTATION

34 The following External Consultees were notified:

35 Thames Water: raised no objections to the principle of the scheme, however, recommended several informatives.

6 POLICY CONTEXT

6.1 LEGISLATION

36 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

37 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.

38 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.

39 The weight given to a relevant material consideration is a matter of planning judgement, except where the weight that should be given to specific planning considerations is directed, for instance by the NPPF. 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 aforementioned directions and the test of reasonableness.

6.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

6.4 DEVELOPMENT PLAN

The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP). The London Plan (March 2016) will be replaced by the new London Plan on 2 March 2021. This report does not rely on any policies from the current London Plan that would differ materially from the new London Plan.
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)

- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

London Plan SPG/SPD:

- The control of dust and emissions during construction and demolition (July 2014)
- Housing (March 2016)

6.6 OTHER MATERIAL DOCUMENTS

- Publication London Plan (December 2020): On 29th January 2021, the Secretary of State wrote to the Mayor of London confirming all necessary directed modifications to the Intent to Publish London Plan (December 2020) had been conformed with, and confirmed the new London Plan could now be published. The Publication London Plan (PLP) is now a material consideration.
- The PLP will replace the current London Plan on 2 March 2021. This report sets out which PLP policies are relevant to this application and attributes those full weight.

7 PLANNING CONSIDERATIONS

40 The main issues are:

- Principle of Development
- Housing
- Urban Design
- Impact on Adjoining Properties
- Transport
- Natural Environment

7.1 PRINCIPLE OF DEVELOPMENT

General policy

41 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.

42 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.

43 The Publication London Plan (PLP) sets out a sequential spatial approach to making the best use of land set out in PLPP GG2 (Parts A to C) that should be followed.

Policy

44 The Publication London Plan at PLPP H1 and table 4.1 identifies a total ten year housing target for net housing completions (2019/20 – 2028/29) of 16,670 for Lewisham, equating to an annual target of 1,667. To help achieve this target, a strategic priority of the PLP is to increase the rate of housing delivery from small sites. PLPP H2 and table 4.2 sets a ten year minimum target of 3,790 homes on small sites for Lewisham. H2 states Boroughs should pro-actively support well-designed new homes on small sites (below 0.25ha). In doing so, Boroughs should recognise that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites.

45 Lewisham Core Strategy Spatial Policy 1 ‘Lewisham Spatial Strategy’ that links to Core Strategy Objective 2 ‘Housing Provision and Distribution’ supports the delivery of new housing to meet local need. Housing is therefore a priority use for the borough

46 DM Policy 33 States that if a site is considered suitable for development, planning permission will not be granted unless the proposed development is of the highest design quality and relates successfully and is sensitive to the existing design quality of the streetscape. This includes the spaces between buildings which may be as important as the character of the buildings themselves, and the size and proportions of adjacent buildings. Development on these sites must meet the policy requirements of DM Policy 30 (Urban design and local character), DM Policy 32 (Housing design, layout and space standards) and DM Policy 25 (Landscaping and trees).

47 DM Policy 33 sets out that infill sites are defined as sites within street frontages such as former builder’s yards, small workshops and garages, gaps in terraces and gardens to the side of houses. Infill sites may present urban design problems in harmonising the development with the existing built form. As an area of land with a street frontage, this site represents an infill site with residential development potential in theory, but the principle of development is assessed fully against DM33 as outlined above, the acceptability of the proposed development is dependent upon its ability to meet the policy tests.

7.1.1 Principle of development; Conclusions

48 The site will make a contribution towards meeting housing needs in a sustainable urban location, it is considered suitable for development in principle but whether or not the proposal is acceptable will depend upon it meeting the other tests for infill development set out in DM33 and the other policies stated above.

7.2 HOUSING

49 This section covers: (i) the contribution to housing supply, including density; (ii) the dwelling size mix; (iii) the standard of accommodation.

7.2.1 Contribution to housing supply

Policy

50 National and regional policy promotes the most efficient use of land.

- 51 The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. The NPPF sets out the need to deliver a wide choice of high quality homes widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
- 52 The NPPF encourage the efficient use of land subject to several criteria set out in paragraph 122. Paragraph 123 applies where there is an existing or anticipated shortage of land for meeting, identified housing needs and strongly encourage the optimal use of the potential of each site.
- 53 PLPP H1 and H2 seek to increase the housing supply and to optimise housing output.

Discussion

- 54 The proposed density is considered to be optimal for this site, as it is connected to the main roads, and public transport whilst being in a sustainable urban location therefore, this site meets the criteria to deliver housing on a small site and H2 applies and results in net additional housing provision. The proposed dwelling would contribute to the borough's housing supply and significant weight is given to this in assessment of the proposal.
- 55 Paragraph 2.0.3 PLPP stressed that where the suburban pattern of development has significant potential for appropriate intensification over time particularly for additional housing.

7.2.2 Residential Quality

General Policy

- 56 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 Publication London Plan (PLPP D6, the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA; Alterations and Extensions SPD 2019, LBL).
- 57 The main components of residential quality are: (i) space standards; (ii) outlook and privacy; (iii) overheating; (iv) daylight and sunlight; (v) noise and disturbance; (vi) accessibility and inclusivity.

Internal space standards

Policy

- 58 PLPP D6 seeks to achieve housing development with the highest quality internally and externally in relation to their context. Minimum space standards are set out in PLPP D6.
- 59 DM Policy 32 'Housing design, layout and space standards' and PLPP D6 'Housing quality and standards 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. In particular DM Policy 32 states that it will assess whether new housing development including conversions provide an appropriate level of residential quality and amenity in terms of size, a good outlook, with acceptable shape and layout of room, with main habitable rooms receiving direct sunlight and daylight, adequate privacy and storage facilities to ensure the long term sustainability and usability of the homes. Informed by the NPPF, the Mayors Housing SPG provides guidance on how to implement the housing policies in the London Plan

Discussion

60 The table below sets out proposed dwelling sizes.

Table 5: Internal space standards – proposed v target

Type	Criteria	Size	Required	Compliance
Two storey, two bedroom dwelling	Dwelling Size (2B4P)	103m ²	90m ²	Pass
	Bedroom 1	15.15m ² and 2.7m wide	7.5 m2 and at least 2.15m wide	Pass
	Bedroom 2	15.42 m ² and 2.7m wide	7.5m2 and is at least 2.15m wide	Pass
	Floor to ceiling height	Min. height at the first floor 2.5m And 2.7m at the ground floor	2.3m for at least 75%	Pass
	Built in storage	3.6m ²	3.5m ²	Pass
	Private amenity space	108m ² private courtyard plus the back garden	12m ²	Pass

61 The new dwelling would be a two storey 4p 2b with an area of 103m² and would provide a greater area than the minimum required Gross Internal Area of 90m². In this respect, the standard of amenity would be acceptable. The rooms are all of a good layout, and the individual bedrooms meet the standards. The minimum floor to ceiling height would be 2.7m at the lower ground floor and 2.5m at the ground floor, which meets the London Plan requirements.

External space standards

Policy

62 Standard 4.10.1 of the Mayor’s Housing SPG states that ‘a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant’. PLPP emphasises this minimum dimensions and states that the private open space must achieve a minimum depth and width of 1.5m.

Discussion

63 The area of the private rear garden for the new property is approximately 69 m² and the additional shared area of 50 % of the lower garden works out at approximately 103m². Altogether the total amenity space would work out at around 177.45m² including the courtyard which is more than the minimum standard indicated above.

Outlook & Privacy

Policy

64 PLPP D6 seeks high quality internal and external design of housing development and require developments to achieve ‘appropriate outlook, privacy and amenity’. Section D6 of the PLPP, seeks to maximise the provision of dual-aspect dwellings (i.e. with openable windows on opposite elevations).

65 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its future residents.

Discussion

66 The proposed scheme would demolish the existing double garage, and would construct an extension on the ground and lower ground floor levels. On the Northern flank it would align at the back with the rear elevation of No 14. The maximum height of the proposed front elevation would be slightly more than the existing garages (0.1m) and the projected part of the existing dormer would be removed, which would improve the sense of openness to the front and the streetscene.

67 In terms of privacy, the two storey would have windows and doors to the rear elevation and a balcony at the first floor which would face onto the back garden. This element of the scheme would be away from the shared boundary with No 14 by 1.4m and considering the existing windows to the rear of the main building, the gap between the building and the shared boundary and also the greenery the overlooking impact to the back garden of No 14 is acceptable.

68 The proposed dwelling would be dual aspect, and would provide good levels of daylight and sunlight and views from habitable spaces. The courtyard arrangement would mirror the existing courtyard at No 14, and would be considered acceptable.

69 The northern flank, which is the shared boundary of the proposed development with No 14 would follow the same pattern as No 14, and would create a courtyard/light well in the middle of this side elevation mirroring the existing courtyard at No 14. The architectural design of the proposed development is such as to ensure no harmful levels of overlooking would occur into the neighbouring property and vice versa.

Daylight and Sunlight

Policy

70 PLPP D1(6) requires development to achieve 'appropriate outlook, privacy and amenity'. DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of 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

71 Given the provided plans and sunlight/daylight assessment by the applicant, all habitable rooms would be provided with windows, and officers consider the levels of daylight and sunlight to be acceptable, in line with Policy DM32.

Summary of Residential Quality

72 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.

7.2.3 Housing conclusion

73 The proposal would deliver a single-family two storey, two bedroom dwelling, with an acceptable standard of residential amenity. It would contribute to the Borough's housing targets in a predominantly residential and sustainable location.

7.3 URBAN DESIGN

General Policy

- 74 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.
- 75 LPP 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. Policy D4 and D6 of the PLPP emphasis that 'The scrutiny of a proposed development's design should cover its layout, scale, height, density, land uses, materials, architectural treatment, detailing and landscaping'.
- 76 CSP 12 seeks to protect the character, historic interest and amenity of, and within, open spaces, as well as the effects of development outside their boundaries. CSP 15 outlines how the Council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites, is sensitive to the local context, and responds to local character.
- 77 DMP 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

- 78 The existing garage, the small extension at its back, and the projected part of the existing dormer extension would be demolished, to allow for the proposed scheme to gain width beyond the rear elevation of the existing garage extending it by 16m towards the back garden of No 10 to be aligned with the rear elevation of No 14.

7.3.1 Appearance and character

Policy

- 79 In addition to the policies set out above, DM Policy 32 on sub para 2.256 explains that Infill and backland development needs sensitive design in order to not detract from the character of the street scene, the architectural integrity and scale of adjacent buildings or from residential

Discussion

- 80 Concerns have been raised by the Sydenham Society that the scheme would unacceptably close the existing gap between Nos 10 and 14. Officers consider the scheme is suitably scaled for this location, having regard to the relationship of the site with: the frontage buildings on this side of Thorpewood Avenue; and the adjoining modern design property at No 14. Importantly, the maximum height to the front would be 3.3m (0.1m taller than the existing garage) and lowest part would be 2.9m which would be 0.3m lower than the existing height. Cutting back the projecting part of the dormer would improve the sense of openness. This design approach is considered suitable for this location. It is noted that there are various modern designs on this side of the road such as Nos 14 and 18.
- 81 The massing of the proposed new building with flat roof at two levels, would be lower than the adjacent main buildings at Nos 10 and 14 and would visibly create a distinct visual separation and contrast between old and new, without an adverse impact on the character of the area.

82 To the rear, the two storey elements would be only partially visible from Hassocks Close and the garages. However, the proposed development to the rear would align with the rear elevation of No 14 and the site is considered to be at a sufficient distance from the Close, with moderate width (6.7m), so as not to appear overbearing or intrusive. Given the length of the back garden and presence of greenery, the building is considered to be modest in scale and of high quality design and that it would not have adverse impact on the streetscene.

83 Overall, the height, scale and massing are considered to be appropriate for the site and surrounding area.

7.3.2 Detailing and Materials

Discussion

84 The pre-app advice related to this application had recommended a detailed schedule of materials which has been provided by the applicant for this application. The material to the front elevation would be a combination of bricks, timber and metal coping. The vertical timber cladding would be similar to No 14. To the rear elevation the walls would be, bricks with PPC aluminium framed windows and doors. The proposed materials would be different from the existing, but, it is considered acceptable as is high quality materials appropriate for the modern design.

85 Therefore, given the importance of the materials to the acceptability of the project, in order to ensure the high quality of design, it is recommended that a condition is added to secure materials and details.

7.3.3 Urban design conclusion

86 In summary, the proposed building is a high quality proposal. It is of an appropriate height and scale, and would use suitable materials; it is considered that the proposed scheme would uphold the character of the area and the streetscene. The design of the proposal is therefore acceptable, and in line with the aforementioned policies.

7.4 TRANSPORT IMPACT

General policy

87 PLPP T1 sets out the Mayor's strategic approach to transport which aims to encourage the closer integration of transport and development, as, more stress is on rebalancing the transport system towards walking, cycling and public transport (10.1.4), that encourage shifts to more sustainable modes and appropriate demand management; and promoting walking by ensuring an improved urban realm.

88 PLPP T6 Residential parking sets out in Table 10.3.1 that new residential development should not exceed the maximum parking standard 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.

89 CSP 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.

7.4.1 Servicing and refuse

Policy

- 90 DM Policy 29 requires new development to have no negative impact upon the safety and suitability of access and servicing. Standard 22 and 23 of the London Plan Housing SPG provides guidance on refuse for new residential development and references the British Standard BS5906:2005.

Discussion

- 91 An area is shown on the plan for the storage of refuse and recycling within the front forecourt, which would be ample space for one refuse and one recycling bin per property.
- 92 A condition is proposed to ensure the provision of this storage area prior to occupation of the development.

7.4.2 Car Parking

Policy

- 93 PLPP T6 states that car-free developments should be the starting point for all development proposals in places that are well-connected to public transport.

Discussion

- 94 The existing driveway would be retained to accommodate one vehicle parking to the front. As the proposal site is within PTAL2, the maximum allowance for off-street parking of up to 0.5 spaces per dwelling under the PLP applies, and Officers consider the approach to be acceptable. An electric charging point for vehicles would also to be introduced.
- 95 Objectors have raised concerns about increasing the traffic as a result of the proposed development. The existing driveway and the crossover would be part of the front garden of the new dwelling, and one vehicle could be parked on the front driveway. It is noted that there is a mature tree to the front of the proposal site. Officers had concerns regarding the impact of any widening or changes to allow more than one vehicle parking to the front which would have impact on the tree, it was confirmed by the applicant that no alteration and changes would be undertaken at the front garden.
- 96 Officers had concerns regarding the impact of the loss of the existing driveway space on occupiers at No10, and increase stress towards on-street parking. However, as No 10 has access to the rear garage at Hassocks Close, this impact is not expected to bring any addition stress to the street parking.

- 97 Summary

- 98 Officers are satisfied the proposal would not result in unacceptable overspill parking in the local area and consider no other mitigation measures are required.

7.4.3 Cycle Parking

Policy

- 99 Cycle storage space should be provided in accordance with PLPP T5, table 10.2 and London Cycle Design Standards. This is similar to LPP 6.9 stating that developments

should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards set out in Table 6.3; the main difference being table 10.2 increases the cycle parking standards above table 6.3.

Discussion

- 100 A large cycle storage is proposed in the lower level of the back garden adjacent to the existing garages at the Hassocks Close with access through the garage. There is ample space in the rear garden, rear garage or front forecourt to accommodate bicycle storage. The PLPP requires a minimum of two covered secure spaces per 2 bedroom dwellings. The proposal would comply with PLPP T5 and Highways officers considered this acceptable.

Summary

- 101 Officers consider the arrangements for cycle parking to be acceptable in principle. Should Members be minded to grant planning permission, a condition is recommended to secure further details of the structures and their construction prior to the occupation of the dwelling hereby proposed.

7.4.4 Servicing and refuse storage

Policy

- 102 PLPP D6(E) states housing should be designed with adequate and easily accessible storage space that supports the separate collection of dry recyclables and food waste as well as residual waste.
- 103 SPD guidance (2019) states that 'the Council specifies the type and number of receptacles to be used and where they should be placed in order to ensure compatibility with Council collection methods and to facilitate collections.'

Discussion

- 104 The submitted site plan indicates existing bin storage to the southwest of the application site. Objectors have raised concerns about the adequacy of this arrangement. Officers consider this area for bin storage is sufficient to accommodate the increased capacity for refuse and recycling; nevertheless, further information is required and would be secured by the condition to detail and secure the existing and proposed capacity for both refuse and recycling along with the appearance of any enclosure.

Summary

- 105 Officers are satisfied the proposal would adequately provide for refuse and recycling, subject to further details to be secured by condition.
- 106 DM Policy 29 requires new developments to have no negative impact upon the safety and suitability of access and servicing.

7.4.5 Transport Conclusion

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

7.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 108 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 PLPP D3, D6 and D14 and DM Policy 31 and 32.
- 109 DMP32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours.
- 110 The main impacts on amenity arise from: (i) overbearing sense of 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.

7.5.1 Enclosure and Outlook

Policy

- 111 Overbearing impact arising from the scale and position of blocks is subject to local context. Outlook is quoted as a distance between habitable rooms and boundaries.

Discussion

- 112 Officers considered the impact of the proposed development on the adjoining neighbours at Nos 10 and 14.
- 113 The new dwelling would project for 5.2m from the rear elevation of the main building at No 10 with a height of 5.8m. Concerns were regarding the impact of the new building on the windows to the rear at the main building. Considering the size of the back garden, the width of the property and also the direction of the sun, the impact of the new dwelling on the amenity of the occupiers of No 10 is considered as acceptable.
- 114 On the shared boundary with No 14, the proposed development would have the same height and would follow the same design, with a courtyard. To the rear, the back elevation of the proposed development would be flush with the rear elevation of No 14. Therefore considering the existing windows to the rear of the main building at No 10, the gap between the building and the shared boundary and also the greenery the impact in the sense of creating any overlooking to the back garden of No 14 would not be adverse and is acceptable.

Summary

- 115 The proposal would meet the objective in terms of enclosure and outlook. This is a planning merit to which great weight is given as it would not result in material harm to the living conditions of neighbours in terms of being overbearing, sense of enclosure and loss of outlook.

7.5.2 Privacy

- 116 Privacy standards refer to the distances between directly facing existing and new habitable spaces with windows and from shared boundaries where overlooking of amenity space might arise.

Discussion

117 Objections have been raised concerned with loss of privacy. The elevations facing the courtyard at No 14 have windows and doors looking into the courtyard. Officers note that, due to the existing high party wall, the windows at the lower floor would not create any overlooking. Windows at the ground floor could create some overlooking, but due to the distance and the existing party wall, it is considered that it would not have unacceptable impact on the privacy of occupants of No 14.

118 The proposed development is not expected to have any adverse impact on the amenities of the neighbours at the bottom of the back garden living at the properties in Hassock Close due to the existing greenery and the distance between the buildings.

Summary

119 It is acknowledged that the proposed extension would have some impacts upon the residential amenity, however these are not considered sufficient to warrant a refusal. Therefore, Officers consider the proposed extensions are acceptable in regards to the impacts upon neighbouring residential amenity.

7.5.3 Daylight and Sunlight

General policy

120 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards however this is not formal planning guidance and should be applied flexibly according to context.

121 PLPP D6(D) states the design of development should provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context.

Discussion

122 The rear elevation of the properties No 14 and No 10 are West facing, therefore, considering the width of the properties and large back gardens, it is not considered that the proposed development have any adverse impact on sunlight/daylight of the adjacent properties.

Summary

123 Given the above points, the new dwelling would not result in an unacceptable impact in terms of overshadowing, or loss of daylight and sunlight of its neighbours or neighbouring amenity and no mitigation measures are required.

7.5.4 Noise and disturbance

Policy

124 NPPG states LPAs should consider noise when new developments may create additional noise.

Discussion

125 The site is currently used as a double garage for No 10, a residential use. Therefore any noise and disturbance arising from the new dwelling would all be of a domestic nature, and in a residential setting such as this it would not result in unacceptable harm.

Summary

126 Should Members be minded to grant planning permission, a condition is recommended to secure a Construction Management Plan to minimise disturbance during construction.

7.5.5 Construction impacts

127 Concerns have been raised about the impact of the construction method on No 14 and objections were received raising the issues of adverse impact of the possibility of using the garage area at the back for construction purposes. Therefore a construction management plan would be submitted, which details how levels of disruption will be minimised. This would be subject to a condition to ensure it is adhered to during all construction works.

7.5.6 Impact on neighbours conclusion

128 Officers consider that the proposed development would not adversely impact the living conditions or amenities of the neighbours and the proposed scheme is considered to be acceptable.

129 It is noted that several objections have been raised such as party wall issues, maintenance of the drainage, and impact on the value of the property, which are not considered as planning concerns, as they are related to building control and Thames Water regarding which, informatives will be added accordingly.

7.6 NATURAL ENVIRONMENT

General Policy

130 Contributing to conserving and enhancing the natural environment and reducing pollution is a core principle for planning.

131 The NPPF and NPPG promote the conservation and enhancement of the natural environment (chapter 15) and set out several principles to support those objectives.

132 NPPF para 180 states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the sensitivity of the site or wider area to impacts that could arise from the development.

133 PLPP G6 and G7 sets out the Mayor of London's vision for Green Infrastructure as a multifunctional network that brings a wide range of benefits including among other things biodiversity, adapting to climate change, water management and individual and community health and well-being.

7.6.1 Green spaces and trees

Policy

134 S.197 of the Town and Country Planning Act gives LPAs specific duties in respect of trees.

135 PLPP under sub-paragraph C of Policy G7 Trees and woodlands stress is on protecting trees and where the removal of tree/s are necessary following a granted permission, an adequate replacement would need to be undertaken. .

136 Paragraph 170 of the NPPF (2019) requires that decisions should contribute to and enhance the natural and local environment. DM Policy 25 seeks to ensure that

applicants consider landscaping and trees as an integral part of the application and development process.

Discussion

137 The application site has large back garden with soft landscaping. Within the current application the only alteration to the landscaping is to introduce a curved design steps at the back of the main building.

138 It is noted that the rear garden benefits from different trees and greenery. The applicant confirms that the only tree which could be affected by the development would be a little cherry tree/shrub which is currently at the site near the rear. To ensure that in the case of the removal of any trees including this cherry tree, an informative would be added in order to secure replacing of any trees which would be removed during the construction period.

139 As discussed above in Transport section, it is confirmed by the applicant that no changes would be made to the front garden including the mature tree between the boarder of No 12 and No 14. Should Members be minded to grant planning permission, a condition is recommended to secure no alterations would be made to the front

7.6.2 Wildlife and Biodiversity

Policy

140 PLPP G6 (under sub-paragraph D states that 'Development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain'.

Discussion

141 The proposal would introduce new arrangement for the lighting at the rear garages, which is the only alteration to the lower back garden. Objections were received regarding the issue of lighting to the rear stating that the proposed lighting would change the current natural wild life environment at the back. It is also noted that, while the garages may be underused at present and this may have led to accommodating wildlife, the garage can be used more frequently without planning permission and therefore their impact would be outside of this planning proposals. Ecology Officers raised no objection to new lighting to the rear, however, in order to minimise the potential impact of the proposal on the natural wild life a condition would be added in regards to details of lighting were the Council minded to grant permission.

Conclusion

142 Officers consider that the proposed development would not adversely impact the green spaces, trees, and natural diversity and the proposed scheme is considered to be acceptable.

8 LOCAL FINANCE CONSIDERATIONS

143 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).

- 144 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 145 The CIL is therefore a material consideration.
- 146 £12,000 Lewisham 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

- 147 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. In summary, the Council must, in the exercise of its functions, have due regards 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.
- 148 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.
- 149 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>
- 150 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
- 151 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>

152 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

153 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

154 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.

155 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.

156 This application has the legitimate aim of providing a new building with residential uses. The rights potentially engaged by this application, including respect for private and family life, home and correspondence and the freedom to enjoy one's home are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

157 This application has been considered in the light of policies set out in the development plan and relevant policies of the Publication London Plan.

158 The proposed scheme presents planning merit: provision of homes in a sustainable urban location with access to public transport, local services and amenities. Substantial weight is given to these merits, and for these reasons, it is recommended that the development is approved.

12 RECOMMENDATION

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

12.1 CONDITIONS

1) FULL PLANNING PERMISSION TIME LIMIT

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) DEVELOP 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:

DESIGN AND ACCESS STATEMENT, Further Detail of Proposal Received 11 Feb 2021

12TA View 1 Proposed Rear Garden; Sketch from Rear Garden Of Proposed; 12TA E01C; 12TA E02C; 12TA E03C; 12TA E04A; 12TA P01C; 12TA P03C; 12TA P04 C; 12TA P07A; 12TA S01C; 12TA S02C; 12TA S03C; 12TA S04; 12TA S05; 12TA S06; 12TA T01; 12TA T02; 12TA T03; 3255401 Rev 0; Site Location Plan (received 23 Sep 2020)

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) CONSTRUCTION LOGISTICS MANAGEMENT PLAN

No development shall commence on site until a Construction Logistics Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall demonstrate the following:-

- (a) Rationalise travel and traffic routes to and from the site.
- (b) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction vehicle activity.
- (c) Measures to deal with safe pedestrian movement.

The measures specified in the approved details shall be implemented prior to commencement of development 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 T3 Transport capacity, connectivity and safeguarding, Policy T7 'Deliveries, Servicing and Construction' and Policy SI 1 'Improving Air Quality' of the Publication London Plan (2021).

4) EXTERNAL MATERIALS

No development **above ground** shall commence on site until a detailed schedule and specification and samples of all external materials and finishes, windows and external doors, roof coverings, other site specific features to be used on the building have been submitted to and following a site visit, approved in writing by

the local planning authority. The development shall be carried out in accordance with the approved details.

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

5) LIVING ROOF

- (a) The development shall be constructed with a biodiversity living roof laid out in accordance with plan nos. 1001 - Rev C; 1003 - Rev C; 1004 - Rev C; 1010 - Rev C; 1013 - Rev C; 1014 - Rev C; 1020 - Rev C; 1021 - Rev C; 1022 - Rev C; 1023 - Rev C; 1024 - Rev C; 1025 - Rev C (received 01 May 2020) and 0004 Indicative_Section_D4 (received 08 Jan 2020) hereby approved and maintained thereafter.
- (b) The living roofs shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.
- (c) Evidence that the roof has been installed in accordance with (a) shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved.

Reason: To comply with Policies G1 Green infrastructure, G5 Urban greening, Policy SI 12 Flood risk management, Policy SI 13 Sustainable drainage and Policy G6 Biodiversity and access to nature in the Publication London Plan, Policy 10 managing and reducing flood risk and Policy 12 Open space and environmental assets of the Core Strategy (June 2011), and DM Policy 24 Biodiversity, living roofs and artificial playing pitches of the Development Management Local Plan (November 2014).

6) CYCLE PARKING PROVISION

- (a) Prior to first occupation, full details of the cycle parking facilities and bin storage shall be submitted to and approved in writing by the local planning authority.
- (c) All cycle parking spaces and bin storage shall be provided and made available for use prior to occupation of the development and maintained thereafter.

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

7) REMOVAL OF PD RIGHTS (EXTENSIONS)

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

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

FURTHER DETAILS AND PROVISION OF REFUSE STORAGE

(a) No development (above ground level / beyond the superstructure) shall commence until details of proposals for the storage of refuse and recycling facilities have been submitted to and approved in writing by the local planning authority.

(b) The facilities as approved under part (a) shall be provided in full prior to occupation of the development and shall thereafter be permanently retained and maintained.

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

FURTHER DETAILS OF 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 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 comply with Policy G6 Biodiversity and access to nature in the Publication London Plan, DM Policy 27 Lighting of the Development Management Local Plan (November 2014).

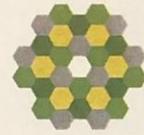
12.2 INFORMATIVES

- 1) **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.

- 2) You are advised that due to the proximity of the proposed new dwelling and shared boundary wall with the existing buildings particularly at No14 Thorpewood Avenue, Party Wall Agreements will be required between adjoining neighbours to address development close to shared boundaries. This is a civil matter between landowners and not something the Council can advise on.
- 3) The proposed lighting to the rear should be sensitive to the current wild life in order to preserve and enhance natural environment at the back.
- 4) You are advised that you should be in contact with Thames Water in the early stage
https://urldefense.proofpoint.com/v2/url?u=http-3A__www.thameswater.co.uk&d=DwIFaQ&c=OMjwGp47Ad5otWI0__lpOg&r=A6bK4sK7myXptjA_uaaZPj7OE6BO0ng5QMu-6ha_RdQ&m=lhAO3zquogMXIlf1d4OXJdXCAElpeSuHC7jzwWZkkgU&s=YCtMBLHQe0tMX7jjCMJibt9Gzm93VUX4VHcYT2DixuY&e=
- 5) 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.
- 6) You are advised that any works associated with the implementation of this permission (including the demolition of any existing buildings or structures) will constitute commencement of development. Further, all pre commencement conditions attached to this permission must be discharged, by way of a written approval in the form of an application to the Planning Authority, before any such works of demolition take place
- 7) 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>

Land Registry
Official copy of
title plan

Title number **TGL321495**
Ordnance Survey map reference **TQ3472NE**
Scale **1:1250**
Administrative area **Lewisham**



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This official copy issued on 5 June 2009 shows the state of this title plan on 5 June 2009 at 10:05:40. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale.

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Committee	PLANNING COMMITTEE A	
Report Title	70 Deptford High Street	
Ward	New Cross	
Contributors	Alfie Williams	
Class	PART 1	11 MARCH 2021

<u>Reg. Nos.</u>	DC/20/118795
<u>Application dated</u>	14.10.2020
<u>Applicant</u>	East Kent Leasing Ltd
<u>Proposal</u>	The change of use of 70 Deptford High Street SE8 to an amusement centre - adult gaming (sui generis)
<u>Background Papers</u>	(1) Case File DE/156/70/TP (2) Core Strategy (June 2011) (3) Development Management Local Plan (November 2014) (4) The London Plan (March 2016)
<u>Designation</u>	Deptford District Centre Primary Shopping Frontage Area of Archaeological Priority Deptford High Street Conservation Area Deptford Neighbourhood Forum Flood Risk Zone 2 PTAL 6a

1 SUMMARY

- 1 This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision on the request of a local Ward Councillor.

2 SITE AND CONTEXT

Site description and current use

- 2 The application site is a three storey over basement late Victorian building, located on the eastern side of Deptford High Street, north of the junction with Hales Street. The building is comprised of a commercial unit at basement and ground floor level with residential accommodation above. This application relates to the commercial unit only. The ground floor unit was in use as a betting shop from 2004 until 2019 but is now vacant. The building has a modern blue coloured metal shopfront with a marble stall riser and timber fascia. The upper floors feature facing London stock bricks and timber sash windows.

Character of area

- 3 The surrounding area is predominantly commercial in character owing to its designation as a Major District Centre, with residential accommodation confined to the upper floors of the buildings. The high street south of the train station (including the application site) is designated as Primary Shopping Frontage, with the area to the north designated as Secondary Shopping Frontage. As a result the high street features a relatively high concentration of retail uses. The High Street also features a street market on Wednesday, Friday and Saturdays and has 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.

Figure 1: extract from Local Plan policies map showing Major District Centre and primary shopping frontage designation: site of 70 Deptford High Street edged in red



Heritage/archaeology

- 4 The property is located within the Deptford High Street and St Paul's Conservation Area. 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

- 5 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

- 6 DC/04/57834: The construction of a single storey extension to the rear of 70 Deptford High Street SE8 – refused 5 November 2004.

- 7 DC/04/58600: The construction of a single storey extension to the rear of 70 Deptford High Street SE8, to provide a staff room with toilet – granted 3 February 2005.
- 8 DC/10/75772: The installation of a new shop front at 70 Deptford High Street SE8 – granted 26 March 2012.

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSALS

- 9 The proposed development would see a change of use of the commercial unit from betting shop (Sui Generis) to an adult gaming centre (Sui Generis). The layout of the unit would remain largely as existing with the basement retained for storage and the ground floor accommodating the adult gaming centre. A small office area would be created at ground floor level. No external changes are proposed as part of this application.

5 CONSULTATION

5.1 APPLICATION PUBLICITY

- 10 Site notices were displayed and a press notice was published on 28 October 2020. Letters were also sent to residents and business in the surrounding area as well as the relevant ward Councillors and amenity societies on 23 October 2020.
- 11 Seven responses were received from local residents, comprising seven objections.
- 12 The Deptford Society supported by the Deptford High Street Association also raised objections to the application.
- 13 Cllr Dromey also supported the objection submitted by the Deptford Society. These objections along with those of local residents are summarised below.

5.1.1 Comments in objection

Comment	Para where addressed
Principle of the proposed use	35-36
Impact on the high street	37
Impact to the Conservation Area	46- 47
Opening hours	59

- 14 Other matters were also raised within they objections but are not main considerations for this application. These are addressed below:
- 15 *Crime and anti-social behaviour:* It is recognised that crime and fear of crime are generally material considerations in the assessment of planning applications as is made clear by paragraph 91 of the NPPF. However, gambling uses are licenced and these matters are adequately addressed by the assessment of licencing applications.
- 16 An Adult Gaming Premises Licence for the unit was granted at the Lewisham Licencing Committee Meeting held on 3 November 2020. The Committee approved the licence subject to 31 conditions, the majority of which relate to crime prevention and CCTV. The

licence also restricts the opening hours to 9:00 – 23:00 and requires a door supervisor at all times. See Appendix 1 for the Gambling Licence and Appendix 2 for the Committee Report.

- 17 *Community Benefit:* There is no requirement in policy for development to be beneficial to the wider community and therefore the absence of any obvious community benefit is not a consideration for this application.

5.2 INTERNAL CONSULTATION

- 18 The following internal consultees were notified on 30 October 2020.

19 Highways: no comments.

20 Conservation: no objections.

6 POLICY CONTEXT

6.1 LEGISLATION

21 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).

22 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

23 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.

24 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.

The weight given to a relevant material consideration is a matter of planning judgement, except where the weight that should be given to specific planning considerations is directed, for instance by the NPPF. 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 aforementioned directions and the test of reasonableness.

6.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

6.4 DEVELOPMENT PLAN

25 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP). The London Plan (March 2016) will be replaced by the new London Plan on 2 March 2021. This report does not rely on any policies from the current London Plan that would differ materially from the new London Plan.
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

26 Lewisham SPD:

- Deptford High Street and St Paul's Church Conservation Area Supplementary Planning Document (2019)

27 London Plan SPG:

- Culture & Night Time Economy (November 2017)

6.6 OTHER MATERIAL DOCUMENTS

- Publication London Plan (December 2020): On 29th January 2021, the Secretary of State wrote to the Mayor of London confirming all necessary directed modifications to the Intent to Publish London Plan (December 2020) had been conformed with, and confirmed the new London Plan could now be published. The Publication London Plan (PLP) is now a material consideration.
- The PLP will replace the current London Plan on 2 March 2021. This report sets out which PLP policies are relevant to this application and attributes those full weight.

7 PLANNING CONSIDERATIONS

28 The main issues are:

- Principle of Development
- Urban Design & Heritage
- Transport
- Impact on Adjoining Properties

7.1 PRINCIPLE OF DEVELOPMENT

General policy

- 29 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.
- 30 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.
- 31 The Publication London Plan (PLP) sets out a sequential spatial approach to making the best use of land set out in PLPP GG2 (Parts A to C) that should be followed.

Policy

- 32 PLPP SD6 states that the vitality and viability of London's varied town centres should be promoted and enhanced.
- 33 CSP 6 designates primary and secondary frontages within the Major and District town centres to ensure essential services are maintained.
- 34 DMP 14 aims to protect retail uses and imposes criteria for assessing changes of use involving the loss of retail units within primary, secondary and non-designated shopping frontages. DMP 14 does not impose any restriction on changes of use affecting non-retail uses.

Discussion

- 35 The commercial unit is currently vacant and was last used as a betting shop (Sui Generis). The betting shop use does not benefit from any protection or restrictions on changes of use within national, regional or local policy. As such, the loss of the existing betting shop use would not conflict with the development plan and is therefore not objectionable.
- 36 In regard to the proposed use, there are no policies preventing changes of use to adult gaming centres. However, the Publication London Plan (December 2020) at paragraph 6.9.5 does identify the harm that can arise from an overconcentration of certain uses and highlights gambling uses such as betting shops and amusement centres within those potentially harmful uses. The Development Management Local Plan at paragraph 2.101 similarly identifies the detrimental impacts that can arise from an overconcentration of these type of uses.
- 37 The proposed adult gaming centre would replace a similar gambling use and as such would not result in a net increase to the number of gambling establishments on Deptford High Street. For that reason, Officers are satisfied that the proposed development would not be harmful to the vitality or viability of the Deptford High Street or the wider Deptford District Centre.

7.1.1 Principle of development conclusions

- 38 The proposed change of use would not result in the loss of a retail unit and neither would it increase the concentration of gambling uses within the high street. The proposed development would therefore be compliant with the principles of PLPP SD6, CSP 6 and DMP 14.

7.2 URBAN DESIGN & HERITAGE

General Policy

39 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.

7.2.1 Impact on Heritage Assets

Policy

40 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

41 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

42 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.

43 LPP 7.8 states that development should among other things conserve and incorporate heritage assets where appropriate. Where it would affect heritage assets, development should be sympathetic to their form, scale, materials and architectural details. PLPP HC1 states that development proposals affecting heritage assets, and their settings, should conserve their significance.

44 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.

45 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.

Discussion

46 The proposed development does not include any external alterations to the building thereby minimising any significant impacts to the character and appearance of the Deptford High Street and St Paul's Conservation Area. Officers consider that there would be some modest benefit from activating a vacant unit and adding to the vitality of the area.

47 Alterations to the shopfront and the addition of signage would likely require planning permission and/or Advertisement Consent. An informative is recommended advising the applicant to engage with the Council's pre-application service prior to making any external alterations to the building.

Summary

48 Officers, having regard to the statutory duties in respect of Conservation Areas in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant

paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would preserve the character and appearance of The Deptford High Street and St Paul's Conservation Area.

7.3 TRANSPORT IMPACT

General policy

49 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 102. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and a choice of transport modes.

50 Para 109 states "Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

51 PLPP T1 states that all development should make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes, and ensure that any impacts on London's transport networks and supporting infrastructure are mitigated.

52 The Core Strategy, at Objective 9 and CSP14, reflects the national and regional priorities.

Discussion

53 The site is located within a highly accessible town centre location served by a train station, DLR station and several bus routes. This is reflected in the PTAL rating of 6a, which is the second highest possible. Therefore, any impact to the local transport network and local capacity would be negligible.

54 The proposed gaming centre is similar in character to the lawful betting shop use and so there is not likely to be a significant difference in terms of the servicing and waste management requirements. As such, it is considered that the unit could retain the existing arrangement.

7.3.1 Transport impact conclusion

55 The proposed development is considered acceptable in transport terms and is therefore compliant with the development plan.

7.4 LIVING CONDITIONS OF NEIGHBOURS

General Policy

56 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.

Policy

57 PLPP HC6 states that the night-time economy should be managed through an integrated approach to planning and licensing.

Discussion

58 No external alterations are proposed as part of the application and therefore there would be no change in terms of loss of outlook, light or privacy at the neighbouring properties.

59 In regard to noise and disturbance, the proposed adult gaming centre is considered to have similar impacts to that of a betting shop and therefore the impact is considered acceptable. The Publication London Plan at Policy HC6 instructs local planning authorities to take an integrated approach to planning and licensing. The gambling licence for the premises, granted by Lewisham Council's Licensing Committee on 3 November 2020 and into force on 11 December 2020 (see Appendices), restricts opening hours to 9:00-23:00. A condition is therefore recommended imposing the same opening hours.

7.4.1 Impact on neighbours conclusion

60 The proposed development is assessed to be acceptable in terms of the impact to the living conditions of the neighbouring properties subject to a condition restricting the opening hours.

7.5 FLOOD RISK

61 The NPPF para 155 expects inappropriate development in areas at risk of flooding to be avoided by directing development away from areas at highest risk. Para 163 states development should only be allowed in areas at risk of flooding where mitigation measure can be included.

62 LPP 7.13 expects development to contribute to safety, security and resilience to emergency, including flooding.

Discussion

63 The application site is located within Flood Risk Zone 2. A Flood Risk Assessment has been submitted confirming that the development would follow the Environment Agency's standing advice for changes of use. Officers are therefore content that the proposed development would be acceptable in terms of flood risk vulnerability.

8 LOCAL FINANCE CONSIDERATIONS

64 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).

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

66 The CIL is therefore a material consideration and the applicant has completed the relevant form. In this case the proposed development would not be CIL liable as the change of use does not include extensions.

9 EQUALITIES CONSIDERATIONS

67 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.

68 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.

69 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.

70 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>

71 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

72 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>

73 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

74 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

75 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.

76 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.

77 This application has the legitimate aim of changing the use of the building. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

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

79 The proposed change of use would not conflict with the Development Plan in terms of the loss of the existing betting shop use or by introducing an over concentration of gambling uses within Deptford High Street. The impacts to the Deptford High Street Conservation Area, the local transport network and the living conditions of the neighbouring properties have been considered and are assessed to be acceptable. Therefore, the application is recommended for approval subject to conditions.

12 RECOMMENDATION

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

12.1 CONDITIONS

1) **FULL PLANNING PERMISSION TIME LIMIT**

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) **APPROVED PLANS**

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

20005/001 (Existing Ground floor & basement Plans); 20005/001 (Proposed Ground floor & basement Plans);

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.

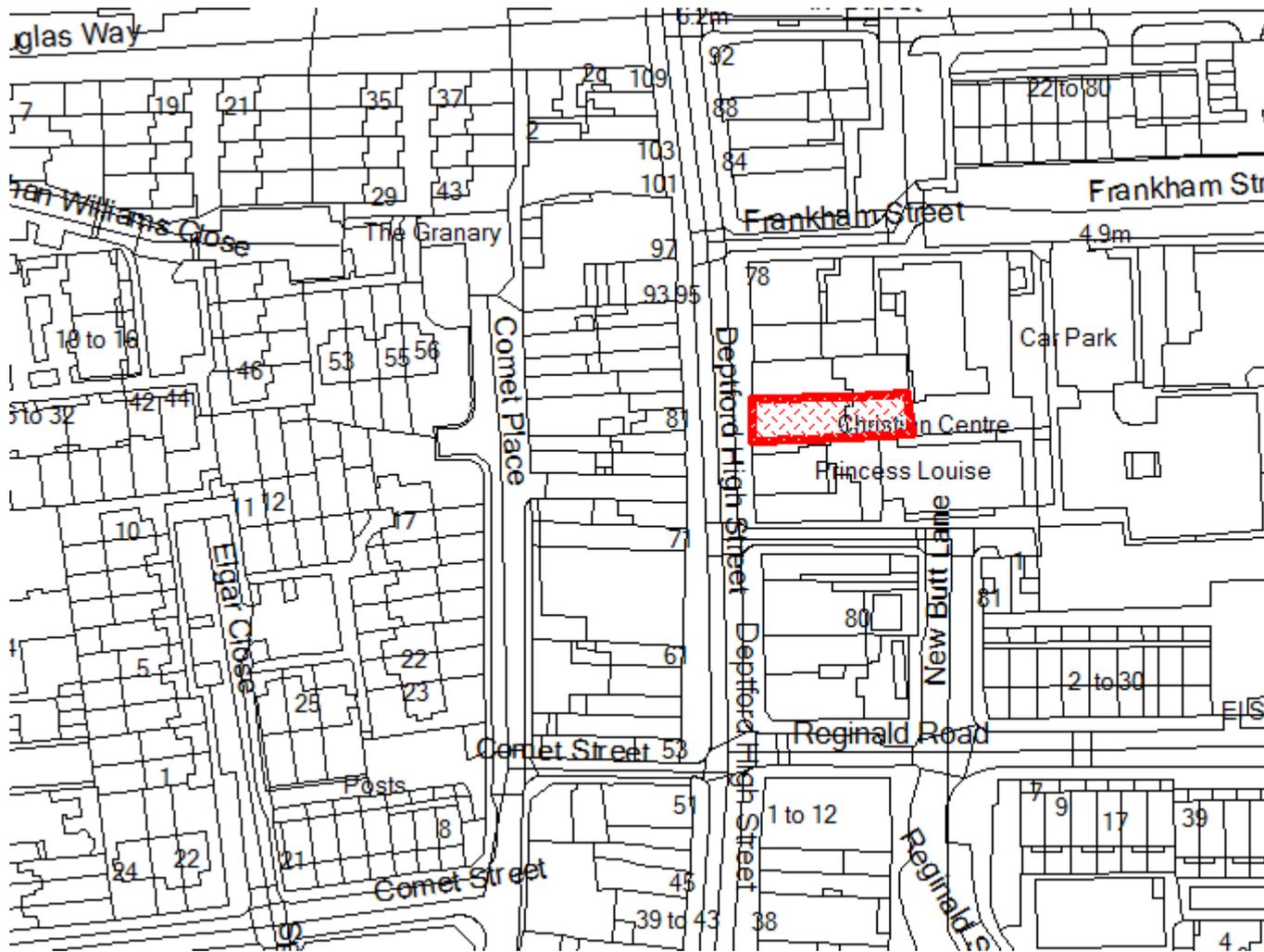
3) **OPENING HOURS**

The premises shall only be operational between the hours of 09:00 and 23:00 Monday to Sunday

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with DM Policy 14 District centres shopping frontages of the Development Management Local Plan (November 2014).

12.2 INFORMATIVES

- 1) **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.
- 2) You are advised to engage with the Council's pre-application service prior to undertaking any external works to the shopfront including the display of new advertisements.



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ADULT GAMING CENTRE PREMISES LICENCE

Licence No: GPL112

This licence is issued under section 164 of the Gambling Act 2005 by
the
London Borough of Lewisham

Part 1 – Details of person to whom licence is issued

This premises licence is issued to: **East Kent Leasing Ltd**

Of the following address:

**Rotunda House
Unit H Concept Court
Shearway Business Park
Folkestone CT19 4RH**

Who holds an operating licence which has been given the following operating licence number by the Gambling Commission: **000-034401-N-315687**

Part 2 – Details of the premises in respect of which the licence is issued

Facilities for gambling may be provided in accordance with this licence on the following premises:

**Palace Amusements
70 Deptford High Street
London
SE8 4RT**

Part 3 – Premises Licence Details

The licence came into effect on: **11th December 2020**

Hours of Operation at Premises: **9:00 – 23:00 Monday - Sunday**

This licence is of unlimited duration

The following conditions have been attached to the licence by the issuing authority under section 169(1)(a) of the Gambling Act 2005:

See Annex 1

A scale plan is attached to this licence under Annex 2

Signed on behalf of the Licensing Authority

Directorate for Community Services
Crime, Enforcement & Regulation Service
Licensing Authority
Holbeach Office, 9 Holbeach Road
London, SE6 4TW

Proper Officer for Licensing
London Borough of Lewisham



Annex 1: Conditions of Licence

Door Supervisor

1. The Premises shall employ a door supervisor for the duration of premises opening hours (9:00 – 23:00).

CCTV

2. CCTV shall be installed to Home Office Guidance standards and maintained in a good working condition and recordings shall be kept for 31 days and shall be made available to police and local authority licensing officers with minimum delay if requested.
2. A CCTV camera shall be installed to cover
 - a) All entry and exit points to and from the premises enabling frontal identification of every person entering under any light conditions
 - b) The areas of the premises to which the public have access (excluding toilets)
 - c) Gaming machines and any counter area
3. An overt CCTV monitor to be installed, able to be seen by customers.
4. The premises shall display notices near the entrance of the venue stating that CCTV is in operation.

Crime Prevention

5. The following crime prevention measures shall be implemented:
 - A time delay safe with deposit slot and anti-fishing mechanisms must be used at the counter till area
 - Regular robbery awareness and cash handling training shall be given to all staff.
6. The Licensee shall maintain 'Challenge 25 Refusals' register at the premises. The register shall be produced to the police or licensing authority forthwith on request.
7. Prominent signage and notices advertising the Challenge 25 will be displayed showing the operation of such policy.
8. Third party testing on age restricted sales systems purchasing shall take at least twice a year and the results shall be provided to the Licensing Authority upon request.
9. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
10. A maglock shall be installed and maintained on the main entrance/exit to the premises and which will be operable from the ground floor by staff. The maglock shall be in operation at staff's discretion from 09.00 hours to 22:00 hours. Outside these hours, the mag lock must be in operation at all times.
11. The entrance door shall remain closed during any licensable activity except for the entry and egress of customers/staff.
12. A suitable intruder alarm complete with panic button shall be fitted and maintained.
13. A fire alarm and smoke detections system will be installed.
14. The licensee will ensure that customer toilets are checked every hour for

evidence of drug taking and alcohol consumption. Toilet checks are to be recorded on documents stating the time and member of staff who made the checks.

15. Toilet doors remain locked. Access to them is to be given by staff only.
16. An incident log shall be maintained and made available on request to an authorised Local Authority officer or the Police which will record the following;
 - a) All crimes reported to the venue;
 - b) Any complaints or incidents regarding crime and disorder;
 - c) Refusals and banned customers
 - d) Any faults in the CCTV system; and
 - e) Any visit by a relevant authority or emergency service.
17. The Licensee shall implement a policy of banning any customers who engage in crime or disorder within or outside the premises.
18. The licensee will refuse entry to customers who appear to be under the influence of alcohol or drugs.
19. Prominent GamCare documentation will be displayed at the premises.

Staff Training

20. The licensee shall: provide training on the specific local risks to the licensing objectives that have been identified for these premises as part of the staff induction training programme and periodically provide refresher training to all of its staff working at these premises on the specific local risks to the licensing objectives. Participation in this training shall be formally recorded on each member of staffs training records which, if requested will be presented to the Licensing Authority as soon as practicable.
21. The Licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in this training shall be formally recorded and the records produced to the police or licensing authority upon request.
22. New and seasonal staff must attend induction training and receive refresher training every six months.

Homeless and Street Drinking

23. The Licensee shall place a notice visible from the exterior of the premises stating that customers drinking alcohol outside the premises is not permitted and those who do so will be banned from the premises.
24. The Licensee shall take all reasonable steps to prevent street drinking of alcohol directly outside the premises and to ban from the premises those who do so.
25. The Licensee shall place a notice visible from the exterior of the premises stating that anyone drinking alcohol outside the premises is not permitted and those who do so will be banned from the premises. The admission policy will include refusal if known/identified as a Street drinker.
26. The Licensee shall risk assess the number of staff required to staff the premises at any one time and will also risk assess the need for SIA door staff.

Neighbourhood liaison

27. The Licensee will make available a contact number for local residents to enable the local residents to contact the premises.
28. The Licensee will contact Bench Outreach and local charities identified by the Licensee as working with people with mental health issues and gambling addiction issues on a quarterly basis to work in partnership and identify local issues and a contact telephone number will be made available to such organisations.
29. The Licensee will ensure that the outside areas of the premises are monitored so as to ensure that all reasonable efforts are made to prevent any crime, disorder, anti-social behaviour being connected to the premises.
30. The Licensee shall provide the Licensing Authority with their compliance/operating manual which sets out all of the premises policies to meet the regulatory requirements under the Gambling Act 2005 and shall provide a copy of any update or revision as soon as practicable following the implementation of that change.

ATM

31. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.



SUMMARY OF THE TERMS AND CONDITIONS OF A PREMISES LICENCE

This is issued under section 164 of the Gambling Act 2005 by the London Borough of Lewisham

This summary is issued to:
East Kent Leasing Ltd

Of the following address:
**Rotunda House
Unit H Concept Court
Shearway Business Park
Folkestone CT19 4RH**

A premises licence of the following type:
Adult Gaming Centre

Has been issued in respect of the following premises:
Palace Amusements, 70 Deptford High Street, London SE8 4RT

Between the Hours of:
9:00 – 23:00 Monday – Sunday

Summary of the Terms and Conditions of the Premises Licence

1. The premises licence will run in perpetuity unless:
 - The Secretary of State prescribes a period after which the licence will expire under section 191 of the Gambling Act 2005;
 - The licence holder surrenders the licence under section 192 of the Gambling Act 2005;
 - The licence lapses under section 194 of the Gambling Act 2005.
2. The premises licence applies only in relation to the premises specified in Part 2 of the licence and may not be varied so that it applies to any other premises (except in the case of a converted casino premises licence).
3. The premises licence authorises the premises to be used for **Adult Gaming Centre**
4. The premises licence is subject to:
 - Any conditions specified on the face of the licence as being attached under section 169 (1) of the Gambling Act 2005;
 - Any other conditions attached to the licence by virtue of regulations made under sections 1967 & 1968 of the Gambling Act 2005 (other than any conditions under section 168 which have been excluded by the licensing authority); and
 - Any conditions attached to the licence by virtue of specific provision of The Gambling Act 2005.
5. In particular, it is a condition of the premises licence under section 185 of the Gambling Act 2005 that the holder keeps the licence on the premises and arranges for it to be made available on request to a constable, enforcement officer or local authority officer. The holder of the licence commits an offence if he fails to comply with this condition.

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Licensing Committee

Report title: Palace Amusements, 70 Deptford High Street, SE8 4RT

Date: 3 November 2020

Key decision: No.

Class: Part 1.

Ward(s) affected: New Cross

Contributors: Community Services – Crime, Enforcement & Regulation Service, Head of Law.

Outline and recommendations

Determination of New Premises Licence Application submitted by East Kent Leasing Ltd.

After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the Licensing Objectives.

Timeline of engagement and decision-making

The Application was advertised in accordance with regulation 12 of the Gambling Act 2005.

The last day for representations was 25 August 2020.

This matter must be heard as soon as is reasonably practicable after the expiry of any period for representations.

The report was deferred on 6 October 2020 to this meeting.

1. Summary

1.1. East Kent Leasing Ltd have applied for a new Premises Licence for the purposes of the following activity:

Adult Gaming Centre

24 hours 7 days a week

- 1.2. Representations were received from four interested persons on the grounds of all the licensing objectives. The representations received from interested parties have been examined by Officers and are considered not to be vexatious or frivolous. These representations were all received within the specified time.
- 1.3. Conditions were agreed between the applicant, Police and Crime, Enforcement & Regulation Service.

2. Recommendations

- 2.1 After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the prevention of crime and disorder and public nuisance.
- 2.2 On considering an application for a premises licence (whether at a hearing or not) a licensing authority shall—
 - (a) grant it, or
 - (b) reject it.
- 2.3 Either party has a right of appeal to the Magistrates Court against a decision which should be submitted to the court within 21 days of the date of the decision letter.

3. Policy Context

- 3.1. Decisions by Members of the Licensing Committee should have regard to the Gambling Act 2005 and the promotion of the three Licensing Objectives at all times, which includes the following:
 - (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - (b) ensuring that gambling is conducted in a fair and open way, and
 - (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 3.2. Members should also have regard to the Licensing Authority's Statement of Gambling Policy 2019-22.
- 3.3. Decisions made will link in with the following objectives under the Council's Corporate Strategy – Building an Inclusive Local Economy and Building Safer Communities.

4. Financial implications

- 4.1. Applicants have the right of appeal against any decision by the Licensing Committee. Therefore there would likely be costs for the Authority in seeking legal support should an appeal be brought by the applicant.

5. Legal implications

- 5.1 The Licensing Authority is a public authority under the Human Rights Act 1998. Therefore the licensing authority is required to act compatibly with the convention rights in the exercise of their functions. Article 6 (1) of the Convention provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law.
- 5.2 A Premises Licence is a possession for the purpose of the Human Rights Act 1998. The

right to hold a licence is a qualified rather than an absolute right. Therefore the right to hold a licence may be interfered with if it affects the interests of local residents or others. Such interference may be justified if it is necessary and proportionate to promote the licensing objectives.

6. Equalities implications

- 6.1 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.2 In summary, the Council must, in the exercise of its functions, 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 those who do not.
- 6.3 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.
- 6.4 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 6.5 The Equality and Human Rights Commission has 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:
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- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>
- 6.6 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: A guide for public authorities](#)
 - [Objectives and the equality duty. A guide for public authorities](#)
 - [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

- 6.7 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#h1>

7. Climate change and environmental implications

- 7.1. Any decision made by Members must fall in line with the Gambling Act 2005, to that end there are no climate change or environmental considerations.

8. Crime and disorder implications

- 8.1. Under the Gambling Act 2005, one of the 3 licensing objectives is preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- 8.2. It is the a requirement of the Gambing Act 2005 that any decision made by the Licensing Committee must not negatively impact on the Licensing objectives.

9. Background papers

- 9.1. Application and Risk Assessment received 29 July 2020
- 9.2. Representations as served.

10. Glossary

Term	Definition
Adult Gaming Centre	Adult gaming centres, often called arcades, allows you to offer an unlimited number of category C and D gaming machines and up to 20% of your total number of machines, can be of category B3 or B4. The premises is for those aged 18 and over only.
Appeal	asking a court to overturn a lower court's decision. If the decision of a court is disputed it may be possible to ask a higher court to consider the case again by lodging an appeal.
Gaming & game of chance	In the Gambling Act 2005 "gaming" means playing a game of chance for a prize. A "game of chance"— (a)includes— - a game that involves both an element of chance and an element of skill, -a game that involves an element of chance that can be eliminated by superlative skill, and -a game that is presented as involving an element of chance, but (b)does not include a sport.

Term	Definition
Adult Gaming Centre	Adult gaming centres, often called arcades, allows you to offer an unlimited number of category C and D gaming machines and up to 20% of your total number of machines, can be of category B3 or B4. The premises is for those aged 18 and over only.
Licence	an authority to do something.
Licensee	the holder of a licence to do something.
Licensing Authority	The Council (London Borough of Lewisham) Under section 2 of the 2005 Act, the licensing authority's area is the area for which the authority acts.
Licence Objectives	Under section 1 of the 2005 Act the Licensing Authority must promote the following 3 objectives <ul style="list-style-type: none"> • preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, • ensuring that gambling is conducted in a fair and open way, and • protecting children and other vulnerable persons from being harmed or exploited by gambling.
Interested Person	A person who lives in the vicinity of the premises A body who represents the persons who live in that vicinity A person involved in a business in that vicinity A body representing businesses in that vicinity An elected member of the council
Relevant Representation	A representation that is specific to the premises in question, related to the four licensing objectives and/or the local licensing policy.
Responsible Authorities	Public bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows: <ul style="list-style-type: none"> • LBL Childrens Services • The Gambling Commission • HM Revenue and Customers • LBL Licensing Authority • LBL Planning Authority • Environmental Protection (noise) • London Fire Brigade

11. Report author and contact

- 11.1. Lisa Hooper, Crime, Enforcement & Regulation Manager,
lisa.hooper@lewisham.gov.uk, 020 8314 6324.