

PLANNING COMMITTEE A

Date of Meeting: **THURSDAY, 17 MARCH 2022 TIME 7.30 PM**

PLACE: **COUNCIL CHAMBERS, COUNCIL CHAMBERS,
CIVIC SUITE, LEWISHAM TOWN HALL,
CATFORD, SE6 4RU**

Members of the Committee are summoned to attend this meeting:

**Membership
Councillors:**

**James-J Walsh (Chair)
James Royston (Vice-Chair)
Obajimi Adefiranye
Liam Curran
Sophie Davis
Carl Handley
Octavia Holland
Jonathan Slater
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, 8 March 2022**

**For further information please contact:
Claudette Minott Committee Officer
2nd Floor Civic Suite
Catford Road SE6 4RU**

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	PLANNING COMMITTEE A	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 17 March 2022

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 17 March 2022

MINUTES

To approve the minutes of the meeting of Planning Committee A held on the 24 January 2022.

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**LEWISHAM COUNCIL
PLANNING COMMITTEE A
THURSDAY, 24 JANUARY 2022 AT 7.33 PM
MINUTES**

IN ATTENDANCE: Councillor James-J Walsh (Chair), Councillors: James Royston (Vice-Chair), Obajimi Adefiranye and Luke Sorba

MEMBER(S) UNDER STANDING ORDERS ALSO IN ATTENDANCE: N/A

MEMBER(S) OF THE COMMITTEE ALSO JOINING THE MEETING VIRTUALLY: Sophie Davis

MEMBER(S) UNDER STANDING ORDERS ALSO JOINING THE MEETING VIRTUALLY: N/A

NB: Those Councillors listed as joining virtually were not in attendance for the purposes of the meeting being quorate, any decisions taken, or to satisfy the requirements of s85 Local Government Act 1972.

OFFICER(S) ALSO JOINING THE MEETING VIRTUALLY: Development Management Team Leader (DMTL), Planning Officers, Joy Ukadike, Senior Planning Lawyer

Clerk: Committee Officers

Apologies were received on behalf of Councillors: Liam Curran, Carl Handley and Jonathan Slater

**Item
No.**

1 Declarations of Interest

None

2 Minutes

RESOLVED that the minutes of the Planning Committee A meeting held on the 26 October 2021 be agreed.

3 433 New Cross Road, London, SE14 6TD

The Planning Officer gave an illustrative presentation, recommending the grant of planning permission for the proposal, as outlined in the Officer's report.

The Committee noted the report and that the main issues were:
Principle of Development • Housing • Urban Design • Impact on Adjoining Properties • Transport • Sustainable Development
• Natural Environment • Planning Obligations

Following the Officers presentation, Members questions related to space.

The Officer advised officers were confident with the measurements provided in the plan, by the development's architect. It was felt there would be enough space.

The agent addressed the Committee and described the application site. The applicant discussed: collaboration process and engagement with the local authority, design issues and the visual enhancement to the area.

Questions were put to the agent by the Committee members related to: viability, accessibility, daylight/sunlight,

The agent advised Members that the creation of 8 units on the development, instead of the proposed 9, would have a negative effect on financial viability of the development. The agent acknowledged the need for affordable housing and advised Members the applicant was disappointed, that they would not be able to provide 10 or more units, due to the negative effect on the developments' viability.

The Officer provided clarification with regard to accessibility, as outlined in the Officer's report.

A representative with objections addressed the Committee. The representative discussed: light, privacy, balcony, and design.

No questions were put to the representative by the Committee.

The following member's questions put to the Officer related to: height, overlooking, design, materials, parking, cycle storage security and space.

The Officer advised the Committee that the developer was limited to 9 units due to space constraints and it was not possible to builder a taller scheme. The maximum allowance for the development, had been reached.

Members were advised by the Officer that, the already existing overlooking to gardens, was not considered harmful by officers. The Committee were also advised the balcony was not built higher, as that would be intrusive. The screening instead, created no harm. The Committee were informed all design measures taken, were in keeping with planning policy.

The Officer confirmed London stock brick would be used, to match the existing brickwork in the vicinity. There would also be the use of zinc on the top floor, to provide visual interest and to provide vertical differentiation between the top, middle and bottom of the development. Assurance was given by the Officer that materials, were of good quality.

Members were informed by the Officer that there were existing short stay parking to the front of 445 New Cross Road. The Committee were assured that Transport for London (TfL), were satisfied that the existing five spaces on site, would accommodate the parking requirement for the development.

The Committee were advised that although the cycle store would open directly onto the public realm, increased passive surveillance provided by the new residential accommodation, would help mitigate security concerns. It was also advised that details of other security measures would be agreed, with the applicant.

Members were advised that the majority of the proposed units would feature private external amenity space that either met or exceeded the space standard set out in LPP D6. The two exceptions would be Units 7 and 9, located on the upper floors of the existing building. It would not be possible to provide balconies to those units, due to potential overlooking to the neighbouring gardens.

During the Members discussion, concerns were raised again with regard to the units that did not have external space, but were not compensated internally. It was felt by Members that this was not compliant with planning policy.

As a result, a Member proposed a motion to refuse the proposal on this basis, with wording for the refusal to be delegated to planning officers. The motion was seconded by another Member.

Members voted on whether to refuse the recommendation in the report. As there was a tie, the Chair cast the deciding vote, with a result of 3 in favour of refusal and 2 in favour of granting the recommendation in the report. It was

RESOLVED

That it be noted that the Committee agreed to:

REFUSE planning permission for the demolition of the existing extension to the rear of 433 New Cross Road SE14 and the change of use, alterations and rear extensions to the existing building, together with the construction of a 5 storey building at the rear of the site with access onto Glenville Grove to provide 9 self-contained flats incorporating balconies and terraces, provision cycle store, bin store and plant structure in the centre of the site (to be accessed directly off Mornington Road) for the following reason:

- The impact on the standard of the residential accommodation would on balance, be negative as the proposal would:
 - Fail to provide external amenity space without equivalent internal compensation for Units 7 and 9.

4 3 Arbuthnot Road, London, SE14 5LS

The Planning Officer gave an illustrative presentation, recommending the grant of planning permission for the proposal as outlined in the Officer's report.

The Committee noted the report and that the main issues were: Principle of Development • Urban Design and impact on heritage assets • Living Conditions of the Neighbours.

No questions were put to the Officer by the Committee.

The agent addressed the Committee and described the application site. The applicant discussed: design, scale, footprint, boundaries, daylight, height, drainage and materials.

No questions were put to the agent by the Committee.

A representative from the Telegraph Hill Society (THS/Society), with objections addressed the Committee. The representative discussed: materials, design, preservation of character, conservation area. The representative also discussed a refused application, that went to the Planning Inspectorate.

After the representative addressed the Committee, Members asked questions that related to: the Society, protection as opposed to conservation.

The representative assured the Committee that the next THS meeting with select committees, would be in April 2022. Members were also assured that the THS encouraged the democratic process, by sending emails inviting involvement and by hosting public events. It was acknowledged that the Society had not held an AGM recently. The Officer cited Article 4 to advise that parts of buildings in conservation areas, not facing the public realm could be removed. This was because they were not protected by conservation policy. The Officer noted the application discussed by the Society, was dismissed on appeal. The Officer advised the current application was not comparable to the application appeal discussed by the Society, as the changes in the current application, were not viewable to the public. The DMTL provided support to the Officers advice, by noting that the application appeal referred to by the THS representative, related to a change to the window of a development that would have been visible in the public realm. The DMTL stated that in the case of the current application under consideration, no such harm would occur.

During the Members discussion, the Chair raised concerns regarding amenity societies, continually attending meetings to raise concerns with regard to conservation of properties, when any change was undertaken. Concern was raised with regard to the effect on tax payers, as a result of such objections. The Chair noted that often historic buildings, benefitted from modernisation, noting palaces as an example. The Chair thanked the Officer and the DMTL for the clarification they provided on the matter of conservation.

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 construction of a single storey rear and side infill extension at 3 Arbuthnot Road, SE14.

Subject to conditions and informatives outlined in the report

5 36 Gellatly Road, London, SE14 5TT

The Planning Officer gave an illustrative presentation, recommending the grant of planning permission for the proposal as outlined in the Officer's report.

The Committee noted the report and that the main issues were:
Principle of Development • Urban Design and impact on heritage assets • Living Conditions of the Neighbours.

No questions were put to the Officer by the Committee.

Neither the agent nor the applicant, attended the meeting.

Following the advice provided by the Officer and DMTL for the application considered under item 4 of the meeting Agenda, the representative from THS, withdrew their objections to the current application, under consideration.

The Committee considered the submission made at the meeting, and

RESOLVED - unanimously

That it be noted that the Committee agreed to:

GRANT planning permission for the construction of a single storey infill extension at the rear of 36 Gellatly Road, SE14, together with the demolition of the existing rear extension, insertion of rooflights to the outrigger roof slopes, and installation of replacement timber sash windows at the front and rear elevation and replacement of the slate roof tiles.

Subject to conditions and informatives outlined in the report

6 Ground Flat, 5 Glensdale Road, London, SE4 1UE

The Planning Officer gave an illustrative presentation, recommending the grant of planning permission for the proposal as outlined in the Officer's report.

The Committee noted the report and that the main issues were:
Principle of Development • Urban Design and Impact on Heritage Assets • Transport Impact • Living Conditions of the Neighbours
• Sustainable Development • Natural Environment

Question put to the Officer by the Committee related to access, developer, trees and conservation.

The Officer advised the current existing access track was acceptable. Clarification was provided by the Officer, with regard to the identity of the developer, as outlined in the Officers' report.

Members were advised by the Officer, that there would be no impact on conservation or the Brockley conservation area, with regard to the rear wall of the development.

The Committee were assured by the Officer that the applicant would agree to soft landscaping, that would compensate for the removal of the existing tree on the application site.

The applicant addressed the Committee and described the application proposal. The applicant discussed: use of space, off-street parking, electric car charger space, biodiversity, design and pleasant views for neighbours.

No questions were put to the applicant by the Committee members.

A representative with objections addressed the Committee. The representative discussed:

There were no representatives with objections, at the meeting.

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 rear garden wall to create a parking space and other works to improve the garden at Ground Floor Flat, 5 Glensdale Road SE4.

Subject to conditions and informatives outlined in the report

The meeting closed at 9.12 pm.

Chair

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Planning Committee A

139-145 Deptford High Street, London, SE8 3NU

Date: 17 March 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Evelyn

Contributors: Alfie Williams

Outline and recommendations

This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to the submission of an objection from a local resident and an objection from the Deptford Society.

Application details

Application reference number(s): DC/21/124318

Application Date: 15 November 2021

Applicant: Novel Pubs Limited

Proposal: An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments for the variation of Condition (6) in connection with the planning permission (DC/20/117216) dated 27 August 2020 for the change of use of 139-145 Deptford High Street SE8 from retail (Use Class A1) into a drinking establishment with food and an ancillary retail element (Use Class A4), together with the installation of a external extractors and flue on the side elevation and 5 new uprights to existing shopfront **in order to allow: opening hours of 10am to 12am Sunday, 9am to 12am Monday to Wednesday, 9am to 1am Thursday, 9am to 1am Friday and 10am to 1am Saturday.**

Background Papers: (1) Submission Drawings
(2) Submission technical reports and supporting documents
(3) Internal consultee responses
(4) External consultee responses

Designation: Air Quality Management Area
Area of Archaeological Priority
Deptford District Centre
Deptford High Street and St Paul's Church Conservation Area
Deptford Neighbourhood Forum
Secondary Shopping Frontage
PTAL 5

1 SITE AND CONTEXT

Site description and current use

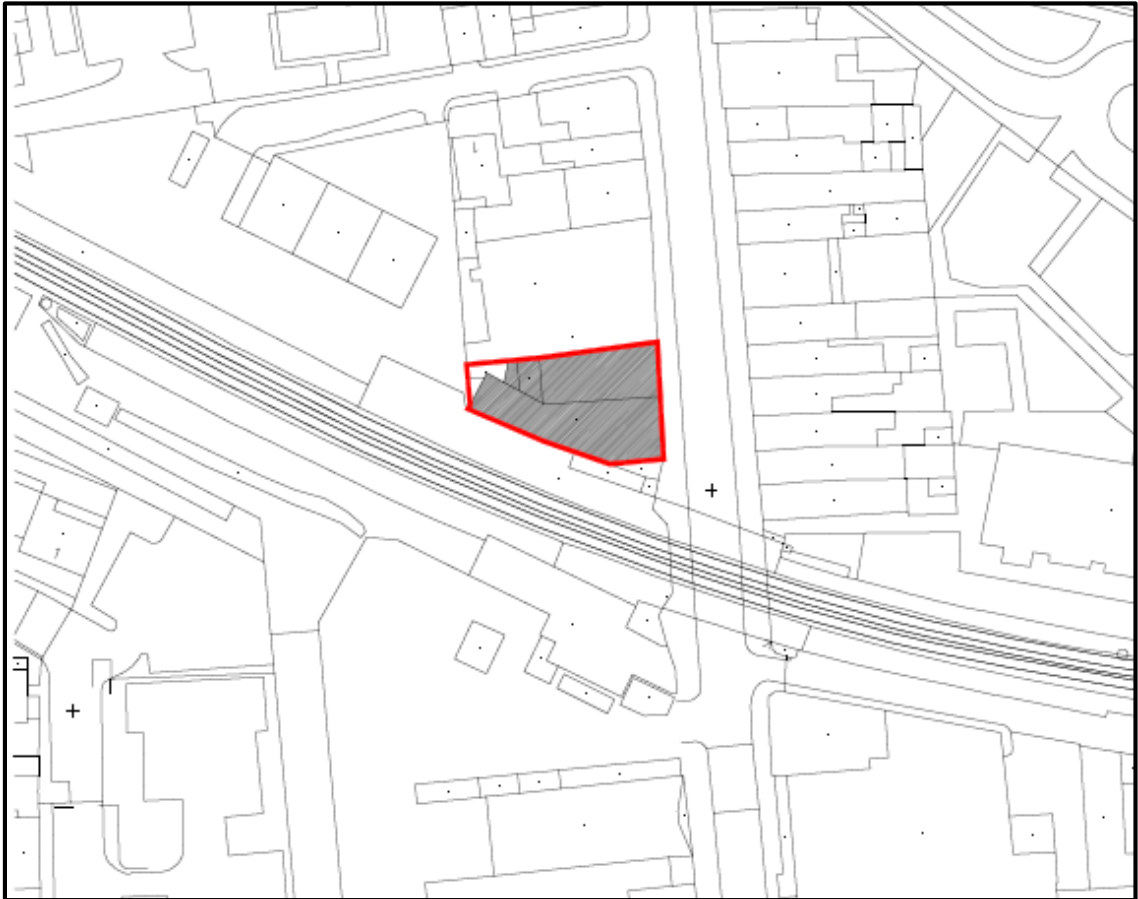
- 1 The application site is a post-war two storey end of terrace property located on the western side Deptford High Street. The property has been in use as a public house since October 2020 following a change of use granted in August 2020. The pub operation includes a kitchen providing Japanese food and board game room. The ground floor level also features a small independent unit in use as a vape shop. At first floor level are two flats, which are accessed independently of the public house. This application relates to the ground floor retail unit only.
- 2 The front façade of the property is single storey with the first floor set back from the front. The property has a rendered front elevation painted dark grey with white painted signage, a stall riser, timber windows and aluminium doors.

Figure 1. Site Location Plan

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Character of area

- 3 This application site is set within a parade of shops, predominately in retail use. The parades feature a mix of uses including retail, cafés, restaurants and bars, typically with residential uses above.
- 4 The surrounding area is predominantly commercial in character owing to its designation as a Major District Centre. The high street south of the train station is designated as Primary Shopping Frontage. The application site is located within the area to the north of the train station, which is 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 restaurants, bars and pubs bringing activity in the evening.

Heritage/archaeology

- 5 The site is located within Deptford High Street CA in the High Street Character Area. However, the building is not statutory or locally listed. The building is of little architectural merit but it is identified as a positive contributor within the conservation area appraisal. This is largely due to its contribution to the continuous building line and uses of the street.

Transport

- 6 The property is located within a highly accessible location (PTAL 5) with Deptford Station and Deptford Bridge DLR Station within short walking distance. The area is also served

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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.

2 RELEVANT PLANNING HISTORY

Application site

- 7 ENF/16/00237: Enforcement investigation into alleged unauthorised change of to an estate agency and unauthorised shopfront – No action taken.
- 8 ENF/16/00364: Enforcement investigation into unauthorised illuminated signs – No action taken.
- 9 DC/17/101485: Advertisement Consent Application for the installation of replacement fascia design, a projecting sign and external illumination at 139-143 Deptford High Street SE8 - refused and dismissed on appeal.
- 10 DC/17/101486: Advertisement consent for the installation of replacement fascia design at 139-143 Deptford High Street SE8 – refused.
- 11 DC/18/106036: The installation of replacement shopfront windows and shutters at 139-143 Deptford High Street SE8 – granted 13 June 2018
- 12 DC/18/105945: The display of a replacement fascia sign at 139-143 Deptford High Street SE8 – granted 12 October 2018.
- 13 DC/20/117216: Change of use of 139-145 Deptford High Street SE8 from retail (Use Class A1) into a drinking establishment with food and an ancillary retail element (Use Class A4), together with the installation of an external extractor and flue on the side elevation and 5 new uplights to existing shopfront – granted 27 August 2020.
- 14 DC/20/117217: The display of 3 externally illuminated fascia signs on the front of 139-145 Deptford High Street SE8 – granted 27 August 2020.
- 15 DC/20/118717: Details submitted in compliance with Condition 3 Soundproofing of the planning permission DC/20/117216 dated 27 August 2020 for the change of use of 139-145 Deptford High Street SE8 from retail (Use Class A1) into a drinking establishment with food and an ancillary retail element (Use Class A4), together with the installation of external extractors and flue on the side elevation and 5 new uplights to existing shopfront – granted 11 December 2020.

Relevant decisions on Deptford High Street

- 16 DC/19/112017: An application submitted under Section 73 of the Town & Country Planning Act 1990 for a Minor Material Amendment in connection with the Prior Approval (DC/17/104830) dated 26 January 2018 for the change of use the ground floor of 37 Deptford High Street, SE8, from retail use (Class A1) to restaurant/cafe use (Class A3) :- **in order to allow a variation of Condition (2) for the hours of opening to increase to midnight on Thursdays and 1am Friday and Saturday nights (i.e. 1am on Saturday and 1am on Sunday)** – granted 18 October 2019.
- 17 DC/19/113703: An application submitted under Section 73 of the Town and Country Planning Act 1990 for a Minor Material Amendment in connection with planning permission DC/19/111751 dated 9th July 2019 for, "Retrospective change of use of 29

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Deptford High Street, SE8 from retail (Use Class A1) to drinking establishment (Use Class A4)" **in order to vary condition 2 (opening hours) and amend the opening hours of the premises to 8am to 11pm Sunday to Wednesday, 8am to 12am Thursday and 8am to 1am Friday and Saturday** – granted 30 September 2020.

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

18 The application is for a minor-material amendment to the planning permission granted in August 2020 that allowed the change of use of the property to a Public House. The amendment concerns Condition 6 of the permission. Condition 6 currently reads:

The premises shall only be open for customer business between the hours of 10am to 11pm Sunday, 9am to 11pm Monday to Wednesday, 9am to 12am Thursday, 9am to 1am Friday and 10am to 1am Saturday.

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

19 The proposed amendment would see an extension to the opening hours and would now read as follows (changes indicated in bold):

*The premises shall only be open for customer business between the hours of 10am to **12am** Sunday, 9am to **12am** Monday to Wednesday, 9am to **1am** Thursday, 9am to 1am Friday and 10am to 1am Saturday.*

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 130 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, DM Policy 14 District centres shopping frontages, DM Policy 17 Restaurants and cafes (A3 uses), and drinking establishments (A4 uses) of the Development Management Local Plan (November 2014)

20 The proposal originally included an extension to the opening hours until 2am on Fridays and Saturdays but was withdrawn following discussions with Officers.

4 CONSULTATION

4.1 APPLICATION PUBLICITY

21 Site notices were displayed and a press notice was published on 24 November 2021.

22 Letters were sent also to residents and business in the surrounding area as well as to the relevant ward Councillors on and the Deptford Society on 17 November 2021.

23 One objection was received from a local resident citing concerns with noise and disturbance.

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24 The Deptford Society have also raised objections to the development due to the impact to the living conditions of local residents from increased noise and disturbance.

4.2 INTERNAL CONSULTATION

25 The following internal consultees were notified on 17 November 2021:

26 Conservation: did not respond.

27 Environmental Protection: confirmed that they had no objection.

28 Highways: did not respond.

4.3 EXTERNAL CONSULTATION

29 The following External Consultees were notified on 17 November 2021:

30 Network Rail: confirmed no objection.

5 POLICY CONTEXT

5.1 LEGISLATION

31 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).

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

5.2 MATERIAL CONSIDERATIONS

33 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.

34 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.

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

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)

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

5.4 DEVELOPMENT PLAN

36 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- 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)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

37 Lewisham SPD:

- Deptford High Street and St Paul's Church Conservation Area Character Appraisal (2019).

6 PLANNING CONSIDERATIONS

38 The main issues are:

- Principle of Development
- Impact on Adjoining Properties

6.1 PRINCIPLE OF DEVELOPMENT

General policy

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

40 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.

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

Policy

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- 42 CS Spatial Policy 2 designated Deptford as a District Centre and identifies the location for major new retail and leisure development, including contributions towards the local night-time economy.
- 43 LPP HC6 recognises the night-time economy as being increasingly important to London's economy and emphasises the importance of promoting London as a 24-hour city. Policy HC6 highlights that areas of night-time activity function at different scales that have different catchments. The policy classifies three distinct categories, N1 Areas of international or national significance, N2 Areas of regional or sub-regional significance and N3 Areas with more than local significance. Deptford is identified as an NT3 Area.
- 44 Discussion
The development, which the application under s.73 seeks to amend, has by definition been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations in this case are narrow and only the amendments being applied for should be considered at this stage. Since the original planning permission has been implemented, only the material consequences of imposing a revised opening hours condition should be considered. As such, the assessment pivots on the relative merit or harm of allowing the premises to remain open until the hours proposed in the application.
- 45 When determining the application the LPA have to consider the application in the light of current policy and other relevant material considerations. The LPA therefore has to make a decision focusing on national or local policies, which might have changed since the original grant of planning permission as well as the merits of the changes sought.
- 46 Officers are satisfied that the impact of the proposed amendments are minor material in the context of the original application and no material changes to planning policy or other relevant material considerations have occurred since the original permission was granted that would have a significant impact on the assessment of the application.
- 47 There is a clear policy objective within the London Plan (HC6) and the Core Strategy (Spatial Policy 2) to support the night-time economy, with the Deptford District Centre identified as a location for the concentration of these uses. The proposed increase to the opening hours would result in modest enhancement to the contribution the business would make to night-time economy within Deptford, which carries weight within the overall planning balance.

6.1.1 Principle of development conclusions

- 48 The principle of the minor material amendment is considered acceptable. The additional opening hours would result in a modest enhancement to the night-time economy of Deptford, which is planning merit of the application carrying weight within the overall planning balance. This is subject to an assessment of the impact of the extended hours to the living conditions of the neighbouring properties

6.2 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 49 NPPF para 130 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.

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Policy

- 50 PPG states LPAs should consider noise when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment.
- 51 Noise can constitute a statutory nuisance and is subject to the provisions of the Environmental Protection Act 1990 and other relevant law. This includes noise affecting balconies and gardens.
- 52 Planning controls the effect of noise from external sources on residential uses and noise transmission between different uses. The relevant standard is BS: 8233:2014. This states the internal noise levels within living rooms must not exceed 35dB(A) during the daytime (0700-2300) and 30 dB(A) in bedrooms during the night-time (2300-0700). With respect to external areas, BS 8233:2014 recommends that external noise level does not exceed 50dB LAeq,T with an upper guideline of value of 55dB LAeq,T
- 53 A range of other legislation provides environmental protection, principally the Control of Pollution Act. It is established planning practice to avoid duplicating the control given by other legislation.
- 54 DMP 17 states that changes of use to restaurants, cafés and drinking establishments will only be considered acceptable where there is no harm to the living conditions of nearby residents, including that created by noise and disturbance from users and their vehicles, smell, litter and unneighbourly opening hours.
- 55 DMP 26 attempts to reduce excessive noise or vibration that can be detrimental to human health and well-being
- 56 In order to manage the night-time economy Policy HC6 advises that there should be an integrated approach to planning and licensing.

Discussion

- 57 LPP HC6 highlights that the impacts of the night-time economy require sensitive management to ensure that the correct balance is reached between promoting the night-time economy and protecting the amenity of residential accommodation. Potential noise impacts and disturbances could arise from structural noise and vibration transference to adjoining buildings and the floors above and noise break in to the windows of the surrounding properties from the bar or from users of the bar outside the premises.
- 58 Officers recognise that Deptford High Street is a mixed-use location with residential accommodation on some upper floors and on side streets. However, there is also a need to acknowledge that the local noise environment within district centres differs from that of a wholly residential areas due to the greater levels of noise generated by commercial uses, traffic and larger numbers of people using the area. Therefore, typical background noise levels and the potential for disturbance are higher within town centres with activity also generally expected at later hours. Assessments of appropriate noise and disturbance level should therefore be adjusted accordingly
- 59 In trying to strike an appropriate balance LPP HC6 promotes taking an integrated approach to planning and licensing. On 16 December 2021 Lewisham Licencing committee approved the extension of the opening hours subject to a series of conditions including measures intended to manage the premises and prevent disturbances to local

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residents (see appendix 1 attached). The licence also imposes conditions intended to prevent crime and other anti-social behaviour.

60 The opening hours now proposed by this application would be consistent with the premises licence. Officers consider the approach recommended by the London Plan to be suitable here and are satisfied that the proposed opening hours would achieve an appropriate balance between promoting the night-time economy and safeguarding the amenity of the residential accommodation on Deptford High Street. In coming to this conclusion, Officers have given weight to the 1am opening time already in operation on Fridays and Saturdays at both the application site and at other premises on Deptford High Street, most notably at Nos 29 and 37, which have been granted within the past three years (see paras 16-17).

61 As identified above potential noise impacts are not limited to noise breakout and the noise environment on Deptford High Street with structural noise and vibration also a likely consequence. The impacts to the first floor flats from internal noise and vibration transference were subject to Condition 3 of the parent planning permission and required details of the sound insulation and a sound limiting device for the sound system. Condition 3 reads as follows:

(a) The development shall be designed to incorporate soundproofing of a specification for sound insulation against airborne noise to meet $D'nT,w + Ctr$ dB of not less than 55 for walls and/or ceilings where residential parties non domestic use. Details of the proposed soundproofing and any sound limiting device required for the sound system shall be submitted to and approved in writing by the local planning authority.

(b) No occupation of the development hereby approved shall occur until an acoustic compliance report has been submitted to and approved in writing by the local planning authority. The acoustic compliance report shall confirm that all recommended sound insulation measures approved under part (a) of this condition have been implemented in their entirety and that sound testing of the implemented works has been undertaken to demonstrate sound insulation against airborne noise to meet $D'nT,w + Ctr$ dB of not less than 55 for walls and/or ceilings where residential parties non domestic use.

(c) The approved soundproofing and sound limiting measures shall be retained permanently in accordance with the approved details.

62 An application to discharge the condition was approved in December 2020 (ref DC/20/118717) in consultation with Environmental Protection Officers. Environmental Protection Officers were satisfied that the proposed noise attenuation measures would be effective in mitigating noise break-out from the bar and noise and/or vibrations transmitted through the structure. The impacts were tested against noise standards for the daytime (0700-2300) and night-time (2300-0700) and therefore additional measures would not be required for the extended opening hours.

6.2.1 Impact on neighbours conclusion

63 The amendment is assessed to be acceptable in regard to the impacts to the living conditions of the neighbouring residential properties.

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7 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.

67 £0 Lewisham CIL and £0 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.

8 EQUALITIES CONSIDERATIONS

68 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.

69 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.

70 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.

71 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

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guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

- 72 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
- 73 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>
- 74 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

9 HUMAN RIGHTS IMPLICATIONS

- 75 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
- 76 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.
- 77 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.

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78 This application has the legitimate aim of extending the opening hours of the premises. 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.

10 CONCLUSION

79 This application has been considered in the light of policies set out in the development plan and other material considerations. Officers conclude that the extended opening hours for the public house are acceptable, achieving an appropriate balance between the requirement to promote the night-time economy of the Deptford District Centre and the requirement to protect the amenity of local residents.

11 RECOMMENDATION

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

11.1 CONDITIONS

1. 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:

Approved by planning permission DC/20/117216 dated 27 August 2020

659-100 Rev P1; 659-101 Rev P1; 659-102 Rev P1; 659-103 Rev P1; 659-110 Rev P1; 659-111 Rev P1; 659-120 Rev P1; 659-121 Rev P1; 659-201 Rev P1; 659-202 Rev P1 659-203 Rev P1 659-210 Rev P1; 659-211 Rev P1; 659-220 Rev P1; 659-221 Rev P1.

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. SOUNDPROOFING

The soundproofing and sound limiting measures shall be retained permanently in accordance with the details approved by application reference DC/20/118717 dated 11 December 2020.

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Reason: In the interests of residential amenity and to comply with DM Policy 14 District centre shopping frontages and DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

4. REFUSE MANAGEMENT

The Waste Management Strategy detailed at Paragraphs 4.16 and 4.17 of the Planning, Design & Heritage Statement (Knights PLC, June 2020) 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) Policies 17 Restaurants and cafés (A3 uses) and drinking establishments (A4 uses) and 30 Urban design and local character, and Policy 13 Addressing Lewishams waste management requirements of the Core Strategy (2011).

5. VENTILATION EQUIPMENT

The ventilation and extraction system and flue, hereby approved shall be installed in accordance with the approved plans and specification provided at Appendix 3 (Parts 1-7) of the Planning, Design & Heritage Statement (Knights PLC, June 2020), before use of the development hereby permitted first commences and shall thereafter be permanently maintained in accordance with the approved specification.

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

6. OPENING HOURS

The premises shall only be open for customer business between the hours of 10am to 12am Sunday, 9am to 12am Monday to Wednesday, 9am to 1am Thursday, 9am to 1am Friday and 10am to 1am Saturday.

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

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11.2 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 discussions took place which resulted in further information being submitted.

12 BACKGROUND PAPERS

- (1) Submission Drawings
- (2) Submission technical reports and supporting documents
- (3) Internal consultee responses
- (4) External consultee responses

13 REPORT AUTHOR AND CONTACT

Report Author: Alfie Williams (Senior Planning Officer)

Email: alfie.williams@lewisham.gov.uk

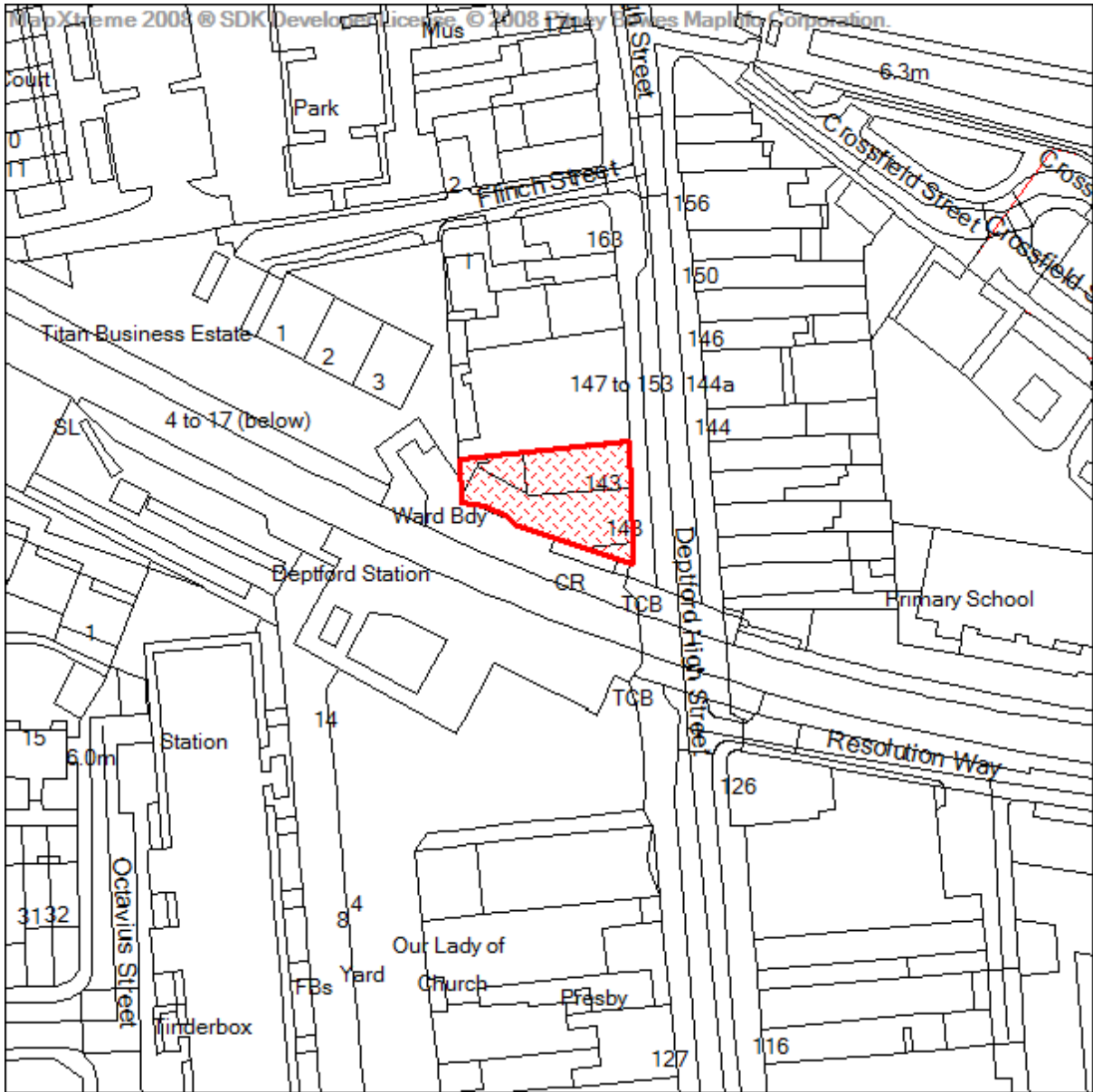
Telephone: 020 8314 9336

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Appendix 1 – Licencing Decision Letter



**Committee Officer
Governance Support**
Civic Suite
Catford Road
London SE6 4RU

Direct Line (020) 8314 7369

Date: 21 December 2021
Ref: Clare Weaser

All Interested Parties

Dear Sir/Madam,

**Licensing Committee 16 December 2021 – Badger Badger 139-145
Deptford High Street SE8 3NU**

I am writing to everyone who made a relevant representation in respect of the application made by Novel Pubs Ltd for a Premises Licence at Badger Badger 139-145 Deptford High Street SE8 3NU.

In the matter of this application for a Premises Licence, the Committee has considered all the relevant representations made by all parties.

The Committee has made the following determination with a view to ensuring the promotion of the licensing objectives in accordance with the provisions of the Secretary of State's guidance and the principles of our licensing policy:

With a view to ensuring the promotion of the licensing objectives, in accordance with the provisions of the statutory guidance and the principles of our licensing policy, the application was GRANTED with the conditions attached and hours as follows:

Live Music

23:00 – 00:00	Monday
23:00 – 00:00	Tuesday
23:00 – 00:00	Wednesday
23:00 – 01:00	Thursday
23:00 – 01:00	Friday
23:00 – 01:00	Saturday
23:00 – 00:00	Sunday

Recorded Music

23:00 – 00:00	Monday
23:00 – 00:00	Tuesday
23:00 – 00:00	Wednesday
23:00 – 01:00	Thursday
23:00 – 01:00	Friday
23:00 – 01:00	Saturday
23:00 – 00:00	Sunday

Late Night Refreshment

23:00 – 00:00	Monday
23:00 – 00:00	Tuesday
23:00 – 00:00	Wednesday
23:00 – 01:00	Thursday
23:00 – 01:00	Friday
23:00 – 01:00	Saturday
23:00 – 00:00	Sunday

Sale of Alcohol for consumption on the premises

09:00 – 23:30	Monday
09:00 – 23:30	Tuesday
09:00 – 23:30	Wednesday
09:00 – 00:30	Thursday
09:00 – 01:00	Friday
09:00 – 01:00	Saturday
09:00 – 23:30	Sunday

Seasonal Variation

Licensable activity from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

In coming to a determination the Committee considered the following matters:

1. Members of the Committee noted the representations made on behalf of the applicant. Badger Badger had been an active participant within the Deptford community engaging with local residents, charities and council initiatives.
2. The Committee noted further that Badger Badger had an excellent record for upholding their licensing responsibilities at night. The applicant acknowledged the concerns of neighbours and had engaged an extra door team member to manage noise outside the premises.
3. Members of the Committee noted management had worked with responsible authorities and accepted all recommendations made by the Crime Enforcement and Regulatory Service and Police. The applicant

believed that the High Street could be very noisy at the weekend evenings and their security team had been a positive influence on the area.

4. Members of the Committee considered representations made by a local resident and the Deptford Society who believed that the character of the area needed to be understood. The Deptford Society were of the view that Deptford High Street, although busy during the day, at night there was low ambient noise. It was their strong belief that this should be considered seriously when extending licensing hours. In addition the premises was located within a local hub as outlined in the Licensing Policy.
5. The Committee noted that residents agreed that the premises were well managed. Their main concerns were regarding the noise created by patrons leaving the area late at night as they walked through footpaths close to their homes. Local markets set up from 6am and if a licence was granted until 02.30, then residents would only have 3 ½ hours peaceful sleep.
6. Deptford was a deprived area and the Deptford Society believed that residents should be supported. There should be a balance between success of local businesses and the right of residents to lead a peaceful life.
7. Members of the Committee noted that there had not been any representations from regulatory authorities and agreed that the granting of the premises licence with the revised hours and raft of conditions, would ensure that the four licensing objectives were upheld.

An appeal against this decision may be made to the Magistrates' Court within 21 days from the date of this letter.

Yours sincerely,

Clare Weaser
Clerk to the Licensing Committee

Conditions for Badger, Badger 139-145 Deptford High Street SE8 3NU

The premises shall install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorized officer throughout the preceding 31 day period. The CCTV system should be updated and maintained according to police recommendations.

A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member must be able to show a Police or authorized council officer recent data or footage with the absolute minimum of delay when requested.

The CCTV must cover all areas of the venue that the public have access to. There should be no obstructions to any internal camera that creates areas that are not wholly covered by CCTV, apart from within toilet cubicles and directly covering men's urinals.

The smoking area must be covered by CCTV that is to the same standards as the internal CCTV system.

The premises shall prominently display signage at all entrances informing customers: -

(‘All persons entering this premise are liable to be searched. Agreement to search is a condition of entry. If persons do not consent, entry may be refused.)

(All persons entering the premise will produce identification when asked to do so),

(Police may be called if drugs or weapons are found.)

(CCTV is in operation throughout this premises and is made available to the police.)

(Any person found carrying weapons or illegal drugs will be permanently excluded and the police will be informed.)

(‘Management reserve the right to refuse entry’)

A minimum of 2 SIA registered door staff, of which one (1) must be female and are all employed by an Accredited Contractor Scheme (ACS) registered company. They must be on duty on Thursday, Friday and Saturday from 21:00hrs until 30 minutes past closing time, when the Business is open beyond Midnight and when conducting licensable activities or private events.

Any door staff to be responsible for numbers in smoking area and keeping it within agreed numbers as set out in this licence.

A register should be completed by the DPS/ duty manager/ nominated staff member at the commencement of work by each member of security staff and details recorded should include; full name, SIA badge number, time of commencement and completion of duties. The security operative should then sign their name.

Door staff should wear their identification badge at all times when working at the premises.

Any SIA door staff should make written record of any incidents that happen on the Premises, while they are on duty, including where Police are called upon to attend and investigate any crimes being recorded.

All persons entering or re-entering the premises shall be searched by an SIA trained member of staff and monitored by the premises CCTV system.

No more than 10 customers to be allowed outside the front of the premises to smoke or drink at any time.

No customers will be allowed to take drinks outside into the front or rear outside areas after 2200hrs.

The license holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so that there is no public nuisance or obstruction to the public highway, and use barriers if required to ensure public safety or obstruction.

There shall be no admittance or re-admittance to the premises on Thursday, Friday and Saturday after Midnight unless leaving the premises to smoke.

Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

Patrons permitted to temporarily leave and then re-enter the premises (including the smoking area) e.g. to smoke, shall not be permitted to take drinks or containers with them.

No customers shall be permitted to leave the premise with any glass containers. No alcohol to be sold for consumption off the premises.

Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.

The smoking areas shall be kept clean and well swept to ensure environment and local areas are tidy and litter/ cigarette waste to be disposed of in correct dustbins/ashtrays provided. Door staff/ Staff should ensure compliance and monitoring of smoking areas.

No children under the age of 18 will be permitted on the premises beyond 2200hrs, unless accompanied by an adult.

An incident log shall be kept at the premises, and made available on request to an authorized officer of the Council or the Police, which will record the following:

- (a) All crimes reported to the venue
- (b) All ejections of patrons
- (c) Any complaints received
- (d) Any incidents of disorder
- (e) All seizures of drugs or offensive weapons
- (f) Any faults in the CCTV system or searching equipment or scanning equipment
- (g) Any refusal of the sale of alcohol
- (h) Any visit by a relevant authority or emergency service.
- (l) advertise a number for complaints from the public and all complaints to be recorded in the incident book.

A record book of banned individuals shall be held by the SIA registered door supervisors at the front door and will be made available to Police and Council upon request.

The premises shall have a written dispersal policy including addressing parked or stationary vehicles across the outside the front of the premises, and ensuring public footpath is not blocked. All door staff shall be knowledgeable of this policy and able to enforce it.

The license holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services. This to encourage dispersal at close of Business.

A noise limiter must be fitted and maintained within the premises. The level of this meter must be set in accordance with required legislation and standards by a qualified acoustic engineer, as so not to cause a noise nuisance. The limiter must be sealed in such a way that no unauthorised person can tamper with it. All amplified music played at the premises must be passed through the noise limiter. An annual calibration of the noise limiter must take place by a qualified acoustic engineer and recorded in the incident book.

An appropriately qualified acoustic engineer* must be engaged to carry out an acoustic report for both sound insulation, egress and dispersal with appropriate recommendations as to how statutory nuisance can be mitigated appropriately, within 1 month of the licence being granted. A copy of the report must be sent to the licencing authority within 2 months of the licence grant date. Any recommendations to improve noise management to ensure a

nuisance does not occur to neighbouring properties must be implemented with 3 months of the licence grant date.

*defined as a member of the Association of Noise Consultants.

Doors and windows to remain closed after 2100hrs to ensure noise is kept to levels that will not impact the local community.

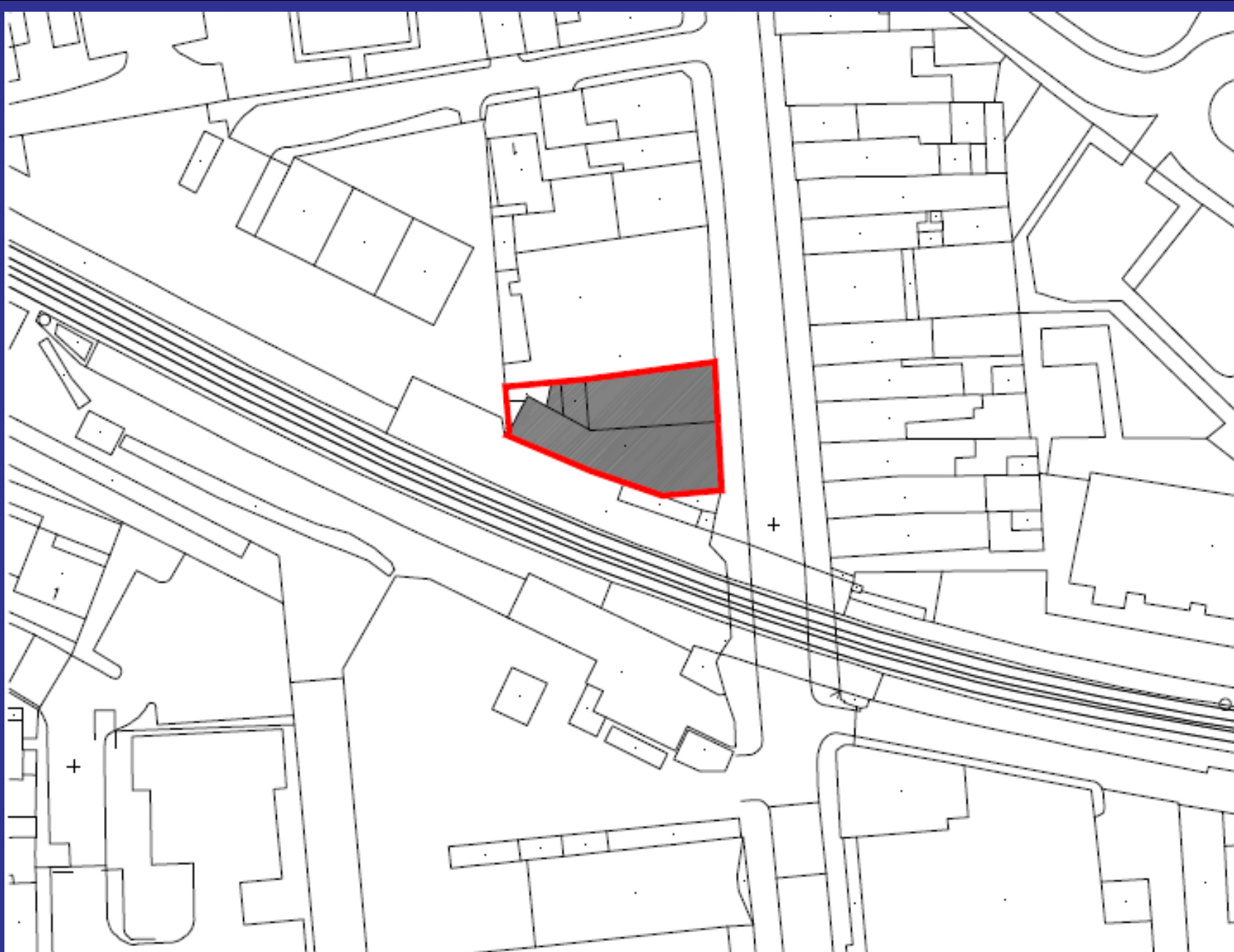
Management should keep staff records/Immigration checks and ensure all employees have permitted documentation to allow them to Work and reside in the UK. When Police and LA visit staff have to produce suitable Identification when requested to show compliance.

139-145 Deptford High Street
London
SE8

Application No. DC/21/

This presentation forms no part of a planning application
and is for information only.

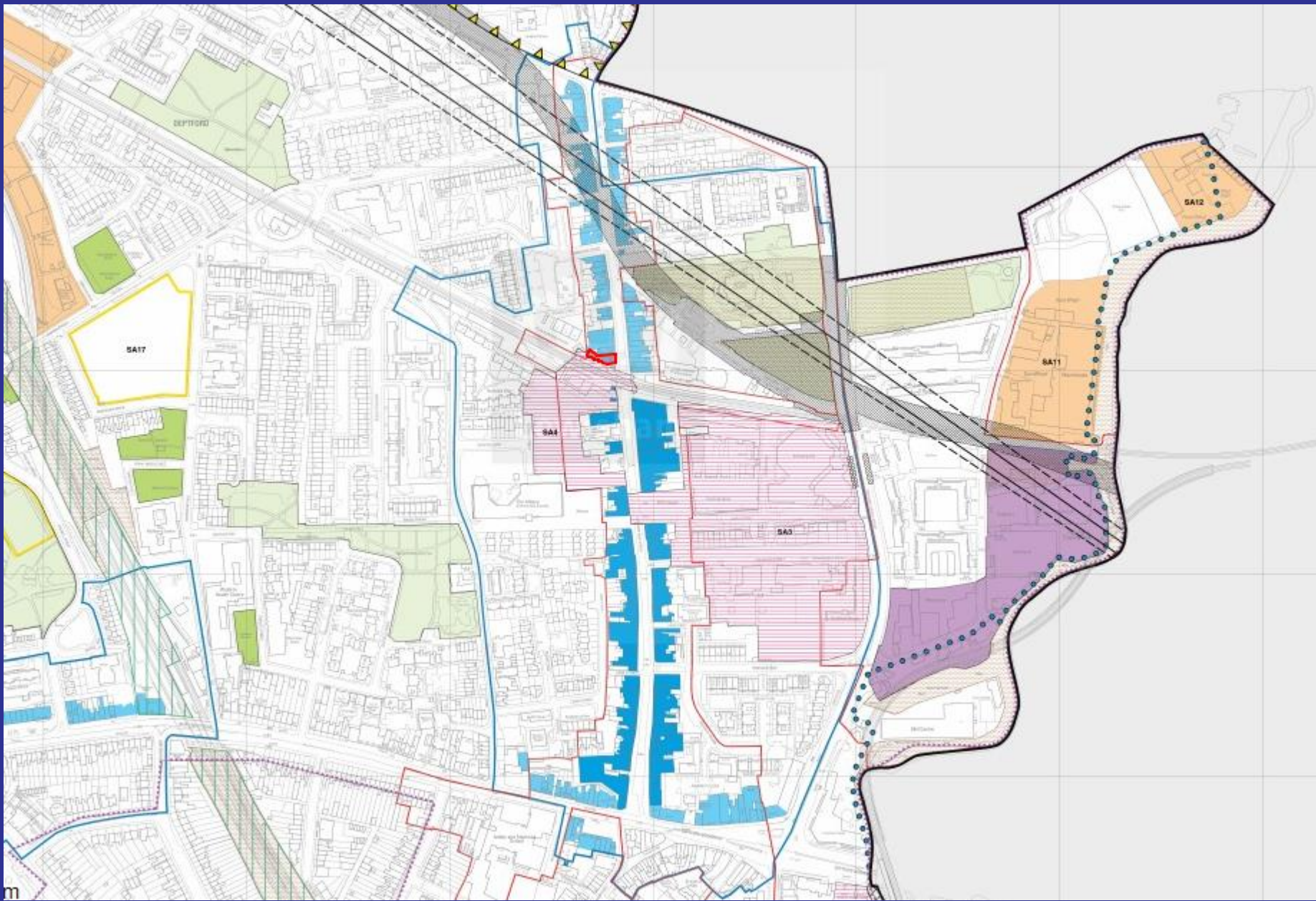
An application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation of Condition (6) in connection with the planning permission (DC/20/117216) dated 27 August 2020 for the change of use of 139-145 Deptford High Street SE8 from retail (Use Class A1) into a drinking establishment with food and an ancillary retail element (Use Class A4), together with the installation of a external extractors and flue on the side elevation and 5 new uplights to existing shopfront **in order to allow: opening hours of 10am to 12am Sunday, 9am to 12am Monday to Wednesday, 9am to 1am Thursday, 9am to 1am Friday and 10am to 1am Saturday.**







139 Deptford High St



MAIN PLANNING CONSIDERATIONS

- Principle of Development
- Living Conditions of Neighbouring Properties

END OF PRESENTATION



Planning Committee A

1 Deptford Broadway, London, SE8 4PA

Date: 17 March 2022

Key decision: No.

Class: Part 1

Ward(s) affected: New Cross

Contributors: Alfie Williams

Outline and recommendations

This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to the submission of three individual objections and one petition signed by eight residents.

Application details

Application reference number(s): DC/21/122258

Application Date: 16 June 2021

Applicant: Mr Godley

Proposal: An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments for the variation or removal of Condition (5) in connection with the planning permission DC/01/048403 dated 16 May 2001 for the alterations and conversion of the upper floors of the Centurion Public House, 1 Deptford Broadway SE8 to provide 6, one bedroom self-contained flats, together with the construction of an extension to the rear at second and third floor levels and alterations to the elevations including installation of new doors and windows and use of the basement to a bar/restaurant (Use Class A3) **in order to allow hours of operation until 1am.**

Background Papers:

- (1) Submission Drawings
- (2) Submission technical reports and supporting documents
- (3) Internal consultee responses
- (4) External consultee responses

Designation:

Air Quality Management Area
Area of Archaeological Priority
Deptford District Centre
Deptford High Street and St Paul's Church Conservation Area
Deptford Neighbourhood Forum
Secondary Shopping Frontage
PTAL 6a

1 SITE AND CONTEXT

Site description and current use

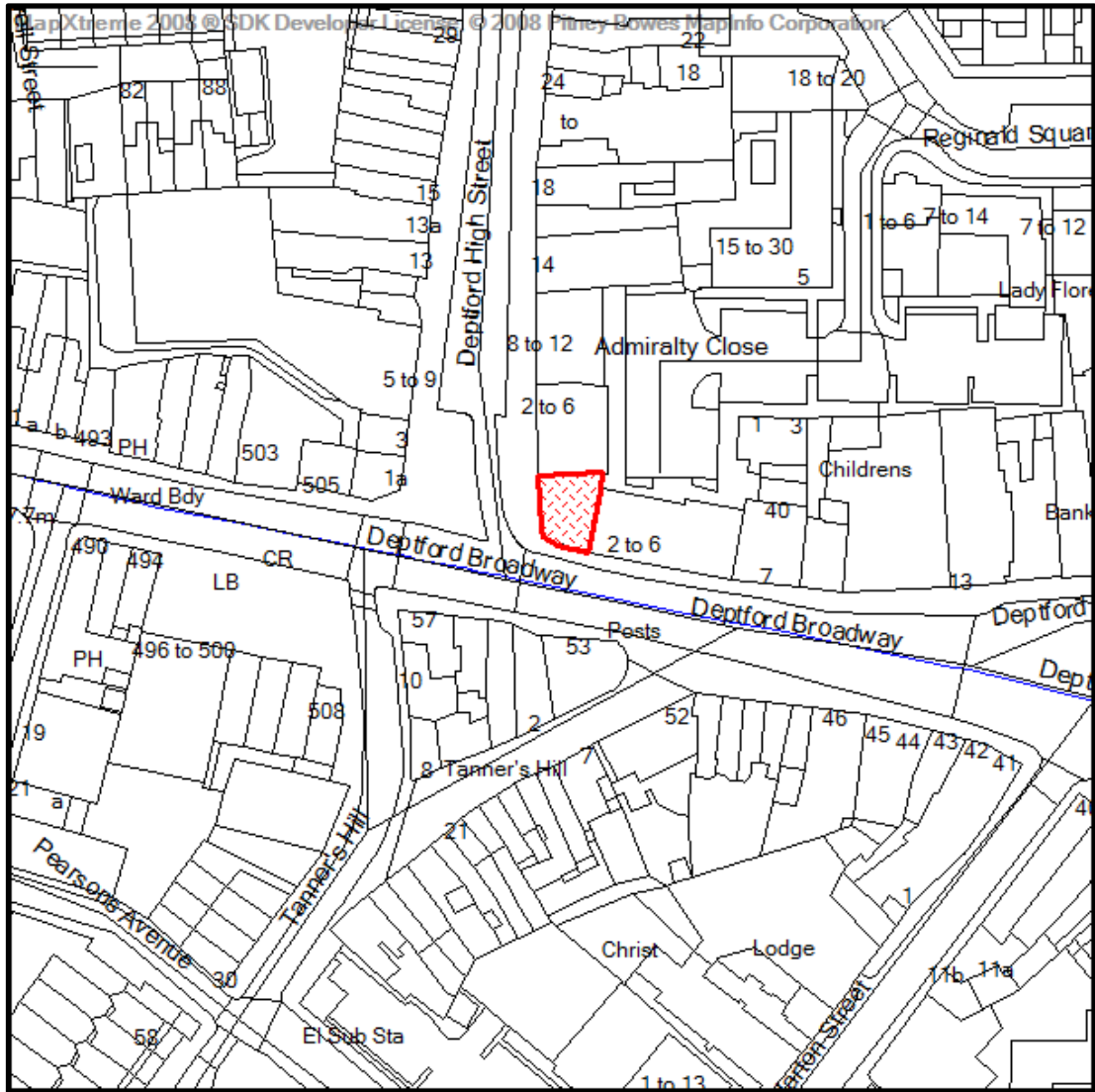
- 0 The subject site is the former Centurion Pub, now known as M'Arks of Deptford in use as a bar with food offering. The property is a four storey Victorian building located on a corner plot with frontages onto both Deptford High Street (eastern side) and Deptford Broadway. The bar is located at ground floor level with self-contained residential accommodation on the floors above.
- 1 The building is constructed of red bricks with a contemporary shopfront and awning at ground floor level. The floors above have arched openings housing timber sash windows with arched stucco headers. The façade is also embellished by corncicing. The property has a mansard roof with a slate covering punctuated by dormers.

Figure 1. Site Location Plan

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Character of area

2

3

Nearby properties around the junction of Deptford Broadway and Deptford High Street, have a similar arrangement to the application site with commercial premises on the ground floor and residential units above. The parades feature a mix of uses including retail, cafés, restaurants and bars. The surrounding area is therefore mainly commercial in character and is designated as a Major District Centre.

4

The area of Deptford High Street south of the train station is designated as Primary Shopping Frontage. The Northern side of Deptford Broadway at the intersection with Deptford High Street is designated as secondary shopping frontage. As a result the area features a relatively high concentration of retail uses. Deptford 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 restaurants, bars and pubs bringing activity in the evening.

Heritage/archaeology

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- 5 The subject site is located within the Deptford High Street and St Paul's Church Conservation Area but is not subject to an Article 4 direction. The building is not statutory or locally listed.

Transport

- 6 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.

2 RELEVANT PLANNING HISTORY

Application site

- 7 DC/01/048043: The alterations and conversion of the upper floors of the Centurion Public House, 1 Deptford Broadway SE8 to provide 6, one bedroom self-contained flats, together with the construction of an extension to the rear at second and third floor levels and alterations to the elevations including installation of new doors and windows and use of the basement to a bar/restaurant (Use Class A3) – granted on 16 May 2001.
- 8 DC/06/063633: Details of soundproofing submitted in compliance with Condition (6) of the planning permission dated 9 May 2001 for the alterations and conversion of the upper floors of the Centurion Public House, 1 Deptford Broadway SE8 to provide 6 one bedroom self-contained flats, together the construction of an extension to the rear at second and third floor levels and alterations to the elevations including installation of new doors and windows and use of the basement to a bar/restaurant (Use Class A3) – granted 4 January 2007.
- 9 DC/18/106308: The installation of one externally illuminated powder-coated aluminium fascia sign, and one non-illuminated projecting hanging sign at 1 Deptford Broadway, SE8 – granted 7 June 2019.
- 10 DC/18/106311: The installation of an awning projecting from the ground floor commercial premises at 1 Deptford Broadway, SE8 – granted 7 June 2019.

Relevant decisions on Deptford High Street

- 11 DC/19/112017: An application submitted under Section 73 of the Town & Country Planning Act 1990 for a Minor Material Amendment in connection with the Prior Approval (DC/17/104830) dated 26 January 2018 for the change of use the ground floor of 37 Deptford High Street, SE8, from retail use (Class A1) to restaurant/cafe use (Class A3) :- **in order to allow a variation of Condition (2) for the hours of opening to increase to midnight on Thursdays and 1am Friday and Saturday nights (i.e. 1am on Saturday and 1am on Sunday)** – granted 18 October 2019.
- 12 DC/19/113703: An application submitted under Section 73 of the Town and Country Planning Act 1990 for a Minor Material Amendment in connection with planning permission DC/19/111751 dated 9th July 2019 for, "Retrospective change of use of 29 Deptford High Street, SE8 from retail (Use Class A1) to drinking establishment (Use Class A4)" **in order to vary condition 2 (opening hours) and amend the opening hours of the premises to 8am to 11pm Sunday to Wednesday, 8am to 12am Thursday and 8am to 1am Friday and Saturday** – granted 30 September 2020.

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- 13 DC/20/117216: Change of use of 139-145 Deptford High Street SE8 from retail (Use Class A1) into a drinking establishment with food and an ancillary retail element (Use Class A4), together with the installation of an external extractors and flue on the side elevation and 5 new uprights to existing shopfront – granted 27 August 2020.

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 14 The application is for a minor-material amendment to the planning permission granted in May 2001 (ref DC/01/048043). The amendment concerns Additional Condition 5 of the permission. Additional Condition 5 currently reads:

The ground floor and basement premises shall not be open for customer business between the hours of 12 midnight and 8 am on any day of the week.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to comply with Policies ENV.PRO 13: Noise and Other Nuisances and SHP 14: Restaurants and Take Away Hot Food Shops in the Council's Unitary Development Plan.

- 15 The proposed amendment would see an extension to the opening hours and would now read as follows:

The premises shall only be open for customer business between the hours of 8am and 1am on any day of the week.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 130 of the National Planning Policy Framework, Policy HC6 Supporting the night-time economy of the London Plan (March 2021) and DM Policies 14 District centres shopping frontages, DM Policy 17 Restaurants and cafes (A3 uses), and drinking establishments (A4 uses) and 26 Noise and Vibration of the Development Management Local Plan (November 2014)

- 16 The proposal originally included an extension to the opening hours until 3am but was amended following discussions with Officers.

4 CONSULTATION

4.1 APPLICATION PUBLICITY

- 17 Site notices were displayed and a press notice was published on 1 September 2021.
- 18 Letters were sent also to residents and business in the surrounding area as well as to the relevant ward Councillors on and the Deptford Society on 26 August 2021.
- 19 The Deptford Society raised concerns with the description of development during the initial consultation. This was subsequently amended to make clear that the proposal was for an extension to the opening hours and a second period of consultation was undertaken. The Society submitted comments requesting clarifications relating to the

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management strategy for the premises, the position of entrances and how the applicant will deal with refuse.

20 Three objections and a petition signed by eight people were received from local resident citing concerns with anti-social behaviour and noise and disturbance.

21 The objections also raise concerns with the impact of the rear extension. The rear extension formed part of the parent permission and is not being applied for within this application. For the avoidance of doubt this application relates to the opening hours of the bar only.

4.2 INTERNAL CONSULTATION

22 The following internal consultees were notified on 25 August 2021:

23 Conservation: requested that the impact to the amenity of the residential accommodation is assessed.

24 Environmental Protection: requested a condition for sound insulation.

5 POLICY CONTEXT

5.1 LEGISLATION

25 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).

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

5.2 MATERIAL CONSIDERATIONS

27 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.

28 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.

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

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)

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

5.4 DEVELOPMENT PLAN

30 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- 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)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

31 Lewisham SPD:

- Deptford High Street and St Paul's Church Conservation Area Character Appraisal (2019).

6 PLANNING CONSIDERATIONS

32 The main issues are:

- Principle of Development
- Impact on Adjoining Properties

6.1 PRINCIPLE OF DEVELOPMENT

General policy

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

34 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.

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

Policy

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- 36 CS Spatial Policy 2 designated Deptford as a District Centre and identifies the location for major new retail and leisure development, including contributions towards the local night-time economy.
- 37 LPP HC6 recognises the night-time economy as being increasingly important to London's economy and emphasises the importance of promoting London as a 24-hour city. Policy HC6 highlights that areas of night-time activity function at different scales that have different catchments. The policy classifies three distinct categories, N1 Areas of international or national significance, N2 Areas of regional or sub-regional significance and N3 Areas with more than local significance. Deptford is identified as an NT3 Area..

Discussion

- 38 The development, which the application under s.73 seeks to amend, has by definition been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations in this case are narrow and only the amendments being applied for should be considered at this stage. Since the original planning permission has been implemented, only the material consequences of imposing a revised opening hours condition should be considered. As such, the assessment pivots on the relative merit or harm of allowing the premises to remain open until the hours proposed in the application.
- 39 When determining the application the LPA have to consider the application in the light of current policy and other relevant material considerations. The LPA therefore has to make a decision focusing on national or local policies, which might have changed since the original grant of planning permission as well as the merits of the changes sought.
- 40 Officers are satisfied that the impact of the proposed amendments are minor material in the context of the original application and no material changes to planning policy or other relevant material considerations have occurred since the original permission was granted that would have a significant impact on the assessment of the application.
- 41 There is a clear policy objective within the London Plan (HC6) and the Core Strategy (Spatial Policy 2) to support the night-time economy, with the Deptford District Centre identified as a location for the concentration of these uses. The proposed increase to the opening hours would result in modest enhancement to the contribution the business would make to night-time economy within Deptford, which carries weight within the overall planning balance.

6.1.1 Principle of development conclusions

- 42 The principle of the minor material amendment is considered acceptable and the additional opening hours would result in a modest enhancement to the night-time economy of Deptford, which is planning merit of the application carrying weight within the overall planning balance. This is subject to an assessment of the impact of the extended hours to the living conditions of the neighbouring properties

6.2 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 43 NPPF para 130 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.

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Policy

- 44 PPG states LPAs should consider noise when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment.
- 45 Noise can constitute a statutory nuisance and is subject to the provisions of the Environmental Protection Act 1990 and other relevant law. This includes noise affecting balconies and gardens.
- 46 Planning controls the effect of noise from external sources on residential uses and noise transmission between different uses. The relevant standard is BS: 8233:2014. This states the internal noise levels within living rooms must not exceed 35dB(A) during the daytime (0700-2300) and 30 dB(A) in bedrooms during the night-time (2300-0700). With respect to external areas, BS 8233:2014 recommends that external noise level does not exceed 50dB LAeq,T with an upper guideline of value of 55dB LAeq,T
- 47 A range of other legislation provides environmental protection, principally the Control of Pollution Act. It is established planning practice to avoid duplicating the control given by other legislation.
- 48 DMP 17 states that changes of use to restaurants, cafés and drinking establishments will only be considered acceptable where there is no harm to the living conditions of nearby residents, including that created by noise and disturbance from users and their vehicles, smell, litter and unneighbourly opening hours.
- 49 DMP 26 attempts to reduce excessive noise or vibration that can be detrimental to human health and well-being
- 50 Policy HC6 advises that In order to manage the impacts of the night-time economy there should be an integrated approach to planning and licensing.

Discussion

- 51 LPP HC6 highlights that the impacts of the night-time economy require sensitive management to ensure that the correct balance is reached between promoting the night-time economy and protecting the amenity of residential accommodation. Potential noise impacts and disturbances could arise from structural noise and vibration transference to adjoining buildings and the floors above and noise break in to the windows of the surrounding properties from the bar or from users of the bar outside the premises.
- 52 Officers recognise that Deptford High Street is a mixed-use location with residential accommodation on some upper floors and on side streets. However, there is also a need to acknowledge that the local noise environment within district centres differs from that of a wholly residential areas due to the greater levels of noise generated by commercial uses, traffic and larger numbers of people using the area. Therefore, typical background noise levels and the potential for disturbance are higher within town centres with activity also generally expected at later hours. Assessments of appropriate noise and disturbance levels should therefore be adjusted accordingly.
- 53 In trying to strike an appropriate balance LPP HC6 promotes taking an integrated approach to planning and licensing. At the time of writing an application for a new licence has not been submitted. The current operators of the premises have an existing licence to operate until midnight in accordance with the planning condition. The Licencing Team have received one noise complaint relating to the current operators,

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which related to loud music on a Friday and Saturday. This has ceased following a site visit from Licencing Officers and there have been no further complaints received. Although, Officers understand that there was a history of complaints against previous operators of the site as referenced in the objections. As these are historic complaints against previous operators they are not considered material to this application. Officers are satisfied that any future breach of the licence or planning condition would be adequately addressed by enforcement.

- 54 A recent decision made by the licencing committee (16 December 2021) allowed opening hours until 1am Thursday to Saturday at 139-145 Deptford High Street. The extension to the opening hours until 1am would therefore be consistent with the general approach being taken by licencing, as advised by LPP HC6. Therefore, Officers are satisfied that the proposed opening hours would achieve an appropriate balance between promoting the night-time economy and safeguarding the amenity of the residential accommodation on Deptford High Street. In coming to this conclusion, Officers have given weight to the 1am opening time already in operation on Fridays and Saturdays on Deptford High Street, most notably at Nos 29, 37 and 139-149, which have been all been granted within the past three years (see paras 11-13).
- 55 Officers are satisfied that further details of the management of the premises and refuse collection are not required given that the increase to the opening hours is relatively modest and the management of the premises has not been subject to extensive numbers of complaints.
- 56 As identified above, potential noise impacts are not limited to noise breakout and the noise environment in the surrounding area, with structural noise and vibration also a likely consequence. The impact to the adjoining residential accommodation via structural transference were subject to Additional Condition 6 of the parent planning permission, which required details of the proposed noise attenuation for the building. Additional Condition 6 reads as follows:
- Full written details, including relevant drawings and specifications of:-*
- (a) The existing construction of the ceilings and floor separating the residential accommodation hereby permitted and the ground floor of the premises; and*
- (b) The proposed works of soundproofing against airborne and impact sound shall be submitted to and approved in writing by the local planning authority*
- The use hereby permitted shall not commence until the soundproofing works have been implemented in accordance with the approved details. The soundproofing shall be retained permanently with the approved details.*
- 57 An application to discharge Additional Condition 6 was approved in January 2007 (ref DC/06/063633). The Officers Report for the application states that Environmental Health Officers reviewed the sound insulation and mitigation measures and considered the details acceptable. The guidelines for acceptable noise levels at night-time covers the period between 2300-0700 and therefore the change in opening hours from midnight until 1am would not require additional mitigation measures.
- 58 The objections raised the issue of Anti-Social behaviour. Anti-social behaviour and crime are material considerations in the assessment of planning applications as is made clear by paragraph 91 of the NPPF. None of the incidents of anti-social behaviour raised within the objections relate to the current operator and mainly relate to previous operators, the neighbouring bar or general night-time activity on Deptford High Street.

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Furthermore, the one licencing compliant against the current operators concerns noise as detailed in para 53 above. As discussed above, drinking establishments are licenced and Officers are satisfied that concerns with crime and anti-social behaviour can adequately addressed by the assessment of any future licencing applications.

6.2.1 Impact on neighbours conclusion

59 The amendment is assessed to be acceptable in regard to the impacts to the living conditions of the neighbouring residential properties.

7 LOCAL FINANCE CONSIDERATIONS

60 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).

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

62 The CIL is therefore a material consideration.

63 £0 Lewisham CIL and £0 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.

8 EQUALITIES CONSIDERATIONS

64 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.

65 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.

66 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.

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- 67 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>
- 68 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
- 69 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>
- 70 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

9 HUMAN RIGHTS IMPLICATIONS

- 71 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
- 72 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.

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- 73 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.
- 74 This application has the legitimate aim of extending the opening hours of the premises. 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.

10 CONCLUSION

- 75 This application has been considered in the light of policies set out in the development plan and other material considerations. Officers conclude that the extended opening hours for the bar are acceptable, achieving an appropriate balance between the requirement to promote the night-time economy of the Deptford District Centre and the requirement to protect the amenity of local residents.

11 RECOMMENDATION

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

11.1 CONDITIONS

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

Reason: To ensure that the 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.

2. No new brickwork, including works of making good, shall be carried out other than in materials, bonding and pointing to match the existing facing work, unless the local planning authority agrees in writing to any variation.

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.

3. All new window and door openings shall be provided with reveals, lintel detailing, arches and cills to match those originally provided on the existing building.

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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.

4. No plumbing or pipes, other than rainwater pipes, shall be fixed on the front elevation of the buildings.

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. The premises shall only be open for customer business between the hours of 8am and 1am on any day of the week.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 130 of the National Planning Policy Framework, Policy HC6 Supporting the night-time economy of the London Plan (March 2021) and DM Policies 14 District centres shopping frontages, 17 Restaurants and cafes (A3 uses), and drinking establishments (A4 uses) and 26 Noise and Vibration of the Development Management Local Plan (November 2014).

6. The soundproofing measures shall be retained permanently in accordance with the details approved by application reference DC/06/063633 dated 4 January 2007.

Reason: In the interests of residential amenity and to comply with DM Policy 14 District centre shopping frontages and DM Policy 26 Noise and vibration of the Development Management Local Plan (November 2014).

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

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 174 of the National Planning Policy Framework and DM Policies 26 Noise and Vibration and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

8. The approved noise protection measures shall be retained permanently in accordance with the details approved by application reference DC/06/063634 dated 12 July 2007.

Reason: In the interests of residential amenity and to comply with DM Policies 14 District centre shopping frontages, 17 Restaurants and cafes (A3 uses), and drinking establishments (A4 uses), 26 Noise and vibration, 32 Housing design, layout and space standards, of the Development Management Local Plan (November 2014).

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11.2 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 discussions took place which resulted in further information being submitted.

12 BACKGROUND PAPERS

- (1) Submission Drawings
- (2) Submission technical reports and supporting documents
- (3) Internal consultee responses
- (4) External consultee responses

13 REPORT AUTHOR AND CONTACT

Report Author: Alfie Williams (Senior Planning Officer)

Email: alfie.williams@lewisham.gov.uk

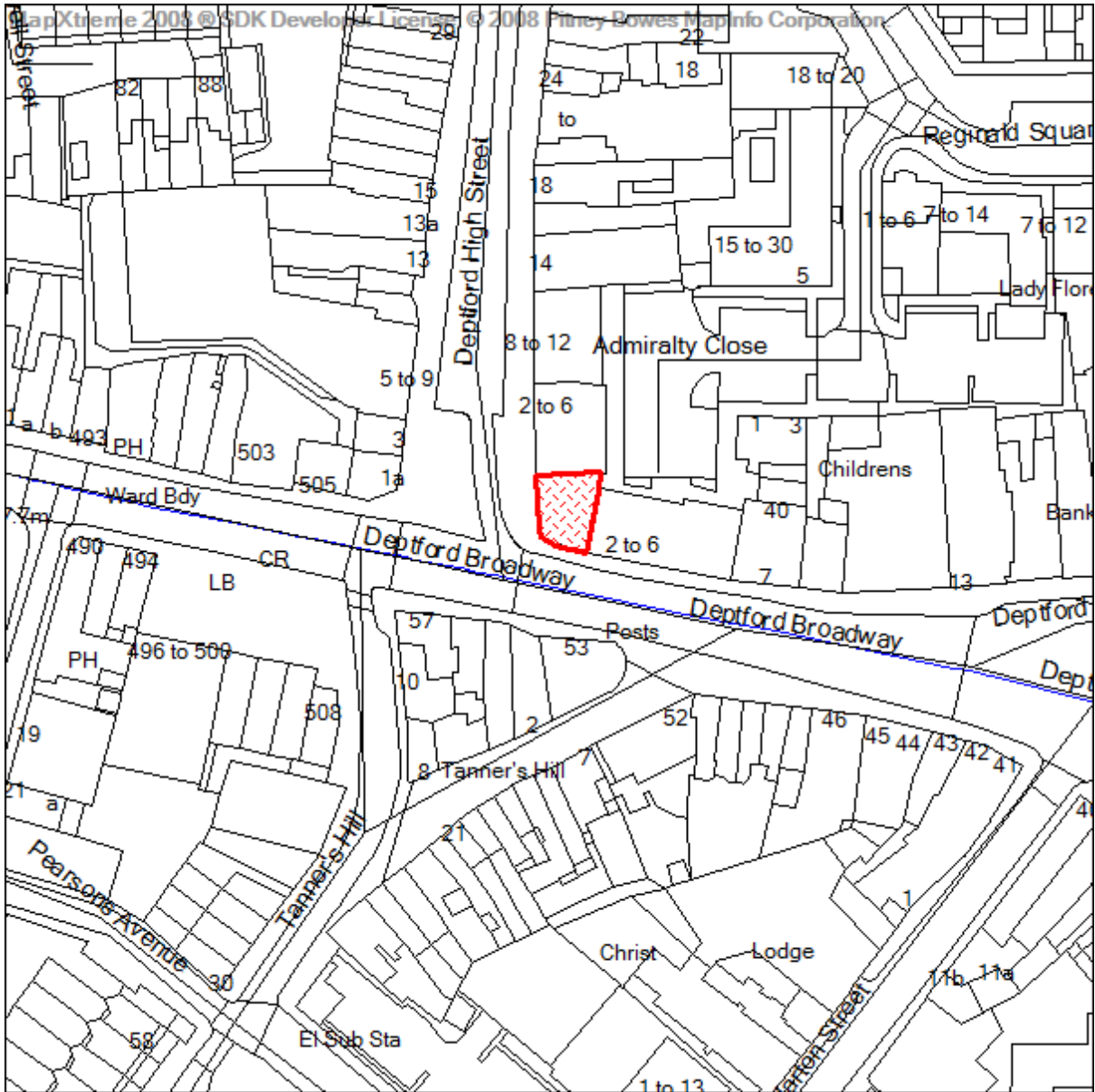
Telephone: 020 8314 9336

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1 Deptford Broadway

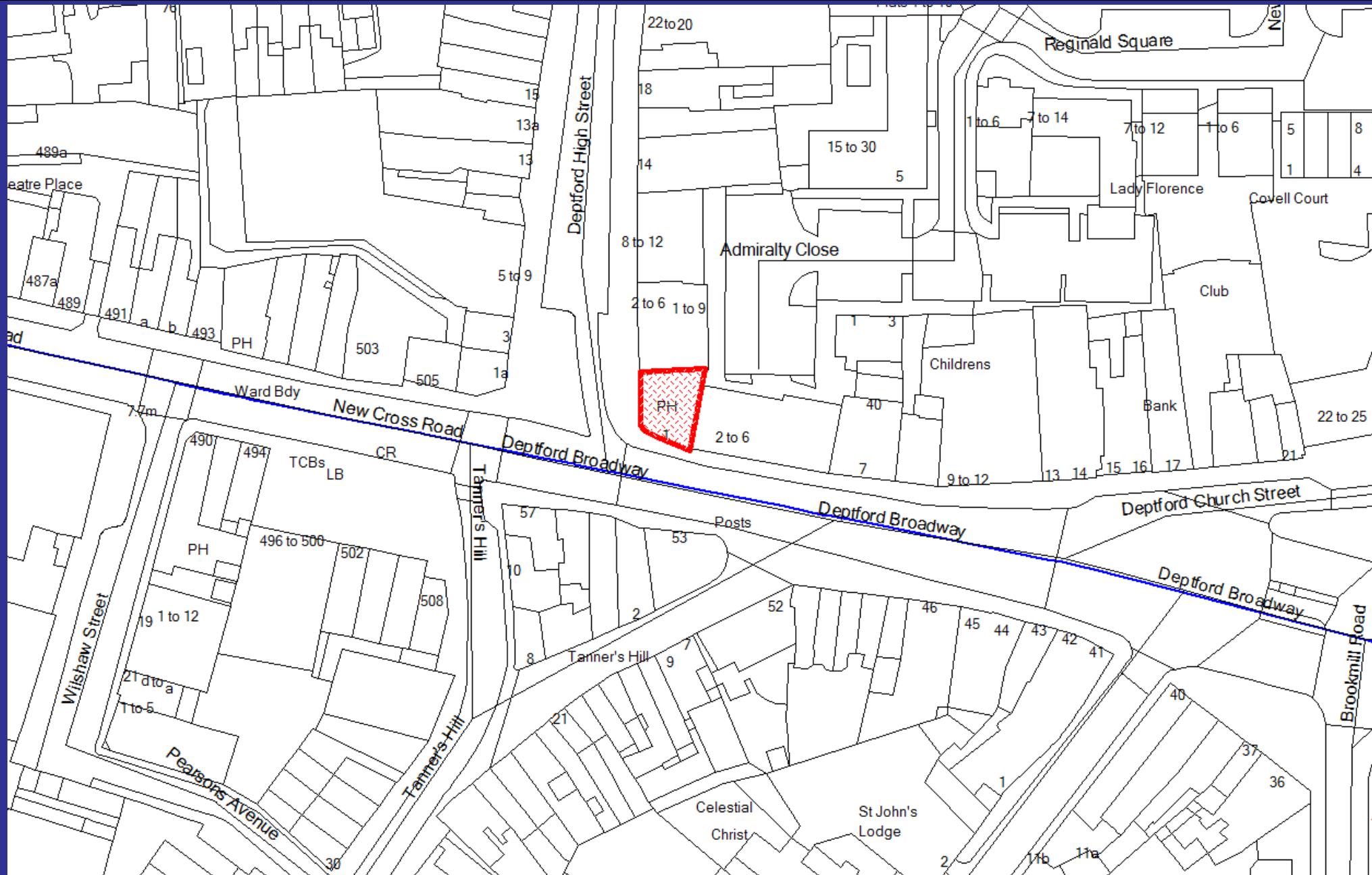
London

SE8 4PA

Application No. DC/21/122258

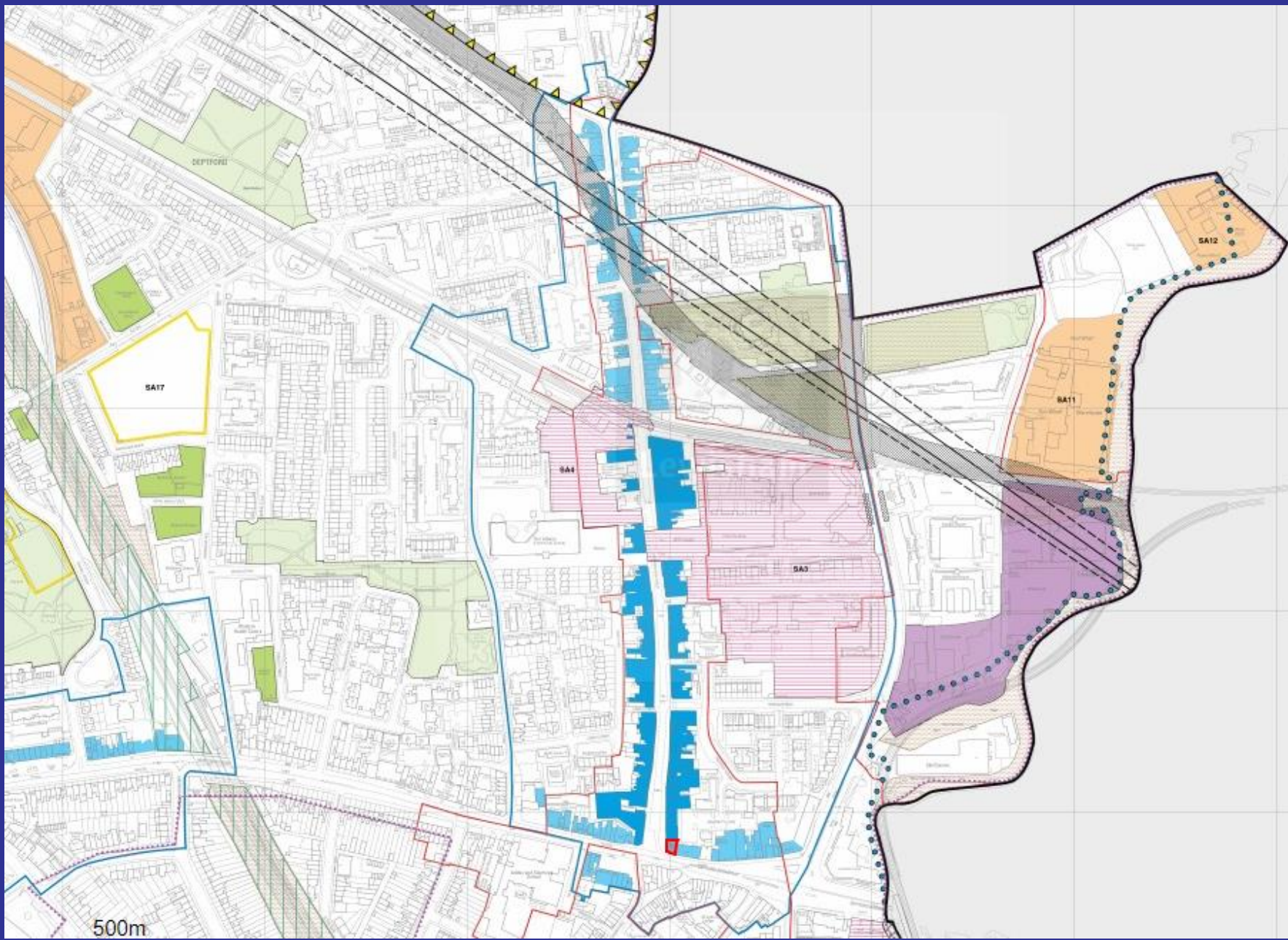
This presentation forms no part of a planning application
and is for information only.

An application submitted under Section 73 of the Town and Country Planning Act 1990 for the variation or removal of Condition (5) in connection with the planning permission DC/01/048403 dated 16 May 2001 for the alterations and conversion of the upper floors of the Centurion Public House, 1 Deptford Broadway SE8 to provide 6, one bedroom self-contained flats, together the construction of an extension to the rear at second and third floor levels and alterations to the elevations including installation of new doors and windows and use of the basement to a bar/restaurant (Use Class A3) **in order to allow hours of operation until 1am.**









Deptford District Centre Outlined in blue (site outlined in bold red)

MAIN PLANNING CONSIDERATIONS

- Principle of Development
- Living Conditions of Neighbouring Properties

END OF PRESENTATION



Planning Committee A

54 Venner Road

Date: 17 March 2022

Key decision: No

Class: Part 1

Ward(s) affected: Sydenham

Contributors: Samuel James

Outline and recommendations

The application is reported to committee as there have been over three planning objections.
The application is recommended for approval.

Application details

Application reference number(s): DC/21/123295

Application Date: 26 August 2021

Applicant: Money Tree Development Ltd.

Proposal: The construction of first and second floor extensions including the addition of balconies to the rear, a two storey 'bay' extension to the front, the construction of an additional storey and elevational treatments in connection with the refurbishment of and alterations to the four existing dwellings at 54 Venner Road, SE26, together with the construction of a two storey building at the rear to provide 1x one bedroom, and 1x two bedroom self contained dwellings, the provision of cycle parking, refuse and recycling storage and landscaping works.

Background Papers: (1) Submission Drawings
(2) Submission technical reports and documents
(3) Internal consultee responses
(4) Statutory consultee responses

Designation: PTAL 5

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site is located on the west side of the northern part of Venner Road in between the junctions with Sydenham Road (A212) to the north and Tredown Road to the south. The property itself, called Barclay Court, is a three storey 1960s flat-roofed apartment building built of gault brick masonry in stretcher bond and comprised of 4 self-contained flats. The property benefits from a large extension to the rear.
- 2 The far-end of the site is sectioned off with fencing, this used to be a set of three garages constructed in the 1960s according to Council records, but these have since been demolished, and the area now contains self-seeded shrubbery, a tree and a shed as well as rubbish and debris. The near end is paved, and is in use as amenity space for the existing flats.
- 3 The site area is 0.038ha and is therefore a Small Site for the purposes of LP H2 and Lewisham's Small Sites SPD.

Character of area

- 4 The property sits at a point in the street where there are considerable variations in character. To the north, on the west side of Venner Road, is the two-storey modern housing of Canal Walk, constructed in the 1970s. The form of the development is of two rows of small two-storey properties in tandem. The front properties face directly onto Venner Road and are numbered 2-46 Venner Road, whilst the row of properties to the rear are numbered 1-24 (consecutive) Canal Walk. (Note that 46 Venner Road is the

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property immediately to the north of 54 Venner Road, i.e. there are no buildings with the numbers 48-52 Venner Road.)

- 5 To the south of the host property are traditional Victorian semi-detached properties. On the east side of Venner Road more substantial flatted blocks, in the form of Waverley Court to the north-east and The Firs opposite. To the rear of the application property is the four-track Sydenham railway line, running in a deep and wide cutting.

Heritage/archaeology

- 6 The site is not located within a conservation area, nor is it in the vicinity of any listed buildings.
- 7 The site is not within a known area of archaeological interest.

Surrounding area

- 8 The site adjoins the railway embankment at the rear.
- 9 Sydenham Town Centre is located approximately 200m to the north.
- 10 Alexandra Recreation Ground is approximately 550m walk to the east, and Mayow Park is approximately 650m walk to the north. Crystal Palace Park is approximately 1km to the south west.

Local environment

- 11 The railway land to the rear of the property is designated as a Green Corridor and a Site of Importance for Nature Conservation (SINC).
- 12 The site is in flood zone risk area 1 meaning the risk of river flooding is low.
- 13 There is a designated open space deficiency in surrounding area.

Transport

- 14 The site has a PTAL rating of 5 on a scale of 1-6, where 1 indicates poor access to public transport, and therefore accessibility to public transport is very good.

2 RELEVANT PLANNING HISTORY

- 15 **DC/15/093615:** The construction of two new residential units to the rear of 54 Venner Road including associated cycle parking and refuse storage. **Refused for the following reasons:**

- The proposed development, involving the back garden/communal amenity area as originally designed is considered unacceptable in principle due to the harmful effect to the urban perimeter block typology in which the site is located. The proposal is considered an overdevelopment of the site, unacceptable in principle and harmful to the character and appearance of the wider locality and the rear garden setting.

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- The proposed development results in a poor standard of accommodation by reason of failing to meet minimum dwelling sizes and floor to ceiling clearances. It would also provide limited outlook to the rear habitable rooms and to the front as well as overlooking of neighbouring properties; particularly no. 54 and 46 Venner Road would result in an unacceptable impact on the amenity of neighbours and future occupiers. In addition, the siting and the design of the development due to its location on the shared boundaries with no. 46 and 56 Venner Road would result in an unbearable level of enclosure and overlooking on adjoining neighbours.
- The proposed design by reason of massing and scale, siting, detailed design, material choice, articulation would be highly incongruous with the surrounding area and is not considered to be a high quality design which has a very poor relationship with the prevalent architectural character found in the surrounding area.

16 **DC/15/091499** - The construction of a part-one/ part two/ part three-storey extension to the rear of 54 Venner Road, SE26, and the reconfiguration of the existing units to provide 2, one bedroom, and 2, two bedroom self-contained flats, together with the provision of refuse and secure cycle stores – **Granted 3 December 2015. Implemented.**

17 **DC/07/66494/X**: The construction of a two bedroom single storey plus roofspace house in the rear garden of 54 Venner Road SE26, together with provision of 1 car parking space. **Granted 22 October 2007.**

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

18 The proposal is for the construction of a two storey building consisting of 1x one bedroom, and 1x two bedroom self-contained dwellings, together with the following extensions and alterations to the existing building in connection with the refurbishment of and alterations to the four existing flats:

- A first and second storey extension to the rear, above existing single storey extension including the addition of balconies
- Roof extension to add an additional storey, and enlarge the existing top floor flat
- Construction of two storey bay extension to the front elevation, removal of existing cladding, replacement of windows and external doors, and new rendering
- Provision of cycle parking, refuse and recycling storage and landscaping works

4 CONSULTATION

4.1 APPLICATION PUBLICITY

19 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 15th September 2021.

20 Three responses received, comprising three objections.

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4.1.1 Comments in objection

Comment	Para where addressed
Overdevelopment of small site, increased density compared to surrounding development	55
Scale, mass and proximity of proposed rear building	100
Parking stress	141
Overlooking and loss of privacy	157
Overshadowing + loss of light	165
Visually overbearing impact	147

4.2 INTERNAL CONSULTATION

21 The following internal consultees were notified on 15th September 2021.

22 Highways: No objections subject to conditions, see Section 6.4 for further details.

23 Ecology Officer: Concern was initially raised regarding the Preliminary Ecological Survey that had been submitted and further information was requested. Following receipt of additional information, no objections are raised, subject to conditions. See from para 186 for further details.

4.3 EXTERNAL CONSULTATION

24 The following External Consultees were notified on 15th September 2021:

25 National Rail: Provided comments that the applicant will need to engage with their asset protection team in order to carry out the works, due to the proximity to the railway boundary.

5 POLICY CONTEXT

5.1 LEGISLATION

26 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).

5.2 MATERIAL CONSIDERATIONS

27 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.

28 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.

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

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

30 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- 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)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

31 Lewisham SPG/SPD:

- Small Sites Supplementary Planning Document (October 2021)
- Alterations and Extensions Supplementary Planning Document (April 2019)
- Planning Obligations Supplementary Planning Document (February 2015)

32 London Plan SPG/SPD:

- Planning for Equality and Diversity in London (October 2007)
- London's Foundations (2012)
- All London Green Grid (March 2012)
- Play and Informal Recreation (September 2012)
- Character and Context (June 2014)
- The control of dust and emissions during construction and demolition (July 2014)
- Accessible London: Achieving an Inclusive Environment (October 2014)
- Housing (March 2016)
- Homes for Londoners: Affordable Housing & Viability (August 2017)
- Energy Assessment Guidance (October 2018)

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6 PLANNING CONSIDERATIONS

33 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

34 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.

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

Policy

36 The London Plan at Table 4.1 sets a 10 year housing completion target of 16,670 new homes between 2019 and 2029 for Lewisham, and London Plan Policy H1 requires boroughs to optimise the potential for housing delivery on all suitable and available brownfield sites through their planning decisions.

37 LPPH2 LPP H2 states that boroughs should increase the contribution of small sites (below 0.25 hectares) to meeting London's housing needs and sets a ten year target for Lewisham of 3,790 new homes on these kinds of sites.

38 The National Planning Policy Framework (NPPF 2021) speaks of the need for delivering a wide choice of high quality homes, which meet identified local needs (in accordance with the evidence base), widen opportunities for home ownership, and create sustainable, inclusive and mixed communities.

39 NPPF Chapter 11 outlines that planning decisions should make effective use of land by promoting and supporting under-utilised land and buildings, particularly where they would contribute to housing need and where sites could be used more effectively.

40 Lewisham Core Strategy Spatial Policy 1 'Lewisham Spatial Strategy' which links to Core Strategy Objective 2 'Housing Provision and Distribution' supports the delivery of new housing to meet local need. The Core Strategy recognises the Borough's need for housing and outlines the objectives to achieve 18,165 new dwellings between 2009/2010 and 2025.

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41 DMP33 states new development on backland sites will only be permitted where they provide: a proper means of access and servicing which is convenient and safe for pedestrians; no significant loss of privacy, amenity, and no loss of security for adjoining houses and rear gardens and; appropriate amenity space in line with the policy requirements in DM Policy 32 (Housing design, layout and space standards).

6.1.1 Principle of development discussion

42 The proposal includes extensions and alterations to the existing building, which is currently in use as 4 self-contained flats, as well as the construction of a building to the rear containing 2 self-contained flats.

43 The principle of alterations and extensions to the existing building is acceptable.

44 The area to the rear, on which the two new flats are proposed to be built, appears as part of the residential garden of the host dwelling; however it is fenced off and has been for a significant period of time. Further, according to Council records it used to contain three garages, approved to be built in the 1960s, which have since been demolished. It is also clear from permission DC/07/66494 that at that time, the Council accepted this parcel of land as a development site.

45 Officers consider that the rear parcel of land was unlikely to have been used as a residential garden for a very significant period of time. This is also clear from Google Satellite imagery, and photos provided which show this area to be fenced off and covered in debris and vegetation.

46 Considering the above, the area to the rear is considered a backland, small development site, as defined by Development Management Policy 33 (DM33); it is not considered existing residential amenity space. New development on sites of this type will only be permitted where they provide: a proper means of access and servicing which is convenient and safe for pedestrians; no significant loss of privacy, amenity, and no loss of security for adjoining houses and rear gardens and; appropriate amenity space in line with the policy requirements in DM Policy 32 (Housing design, layout and space standards). These matters are addressed below.

47 The site would make a valuable contribution towards meeting housing needs as identified in the London Plan and optimise housing potential. The proposal would make more efficient use of the land and officers therefore support the principle of development.

48 The acceptability of the proposed development is subject to a residential scheme of an appropriate design and scale, whilst ensuring that neighbouring amenity is maintained, and a good standard of accommodation is provided to future residents.

6.2 HOUSING

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

6.2.1 Contribution to housing supply

Policy

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

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- 51 LPP D2 sets out that the density of development proposals should consider, and be linked to, the provision of future planned levels of infrastructure and be proportionate to the site's connectivity and accessibility by walking, cycling and public transport to jobs and services (including both PTAL and access to local services).
- 52 LPP D3 states that all development must make the best use of land by following a design-led approach that optimises the capacity of sites. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity.
- 53 London Plan Policies H1 and D6 support the most efficient use of land and development at the optimum density. Defining optimum is particular to each site and is the result of the design-led approach. Consideration should be given to: (i) the site context; (ii) its connectivity and accessibility by walking and cycling and existing and planned public transport (including PTAL); and (iii) the capacity of surrounding infrastructure.

Discussion

- 54 Table 6.1 below sets out the measures of density criteria required by the supporting text to LPP D3 (para 3.3.22 of the LP) for all sites with new residential units.

Table [6.1]: Measures of Density

Criteria	Proposed Value	Existing	Criteria / area	Existing
Site Area (ha)	0.038	0.038	N/A	N/A
Units	7	5	184	132
Habitable rooms	13	9	342	238
Bedrooms	8	6	210	158
Bedspaces	11	8	289	210

Summary

- 55 Policy D6 of the London Plan states for London to accommodate the growth identified in this Plan in an inclusive and responsible way every new development needs to make the most efficient use of land. This will mean developing at densities above those of the surrounding area on most sites. The design of the development must optimise density.
- 56 Whether the scale of development is appropriate for the site and surrounding area, the impact on neighbouring occupiers, and accessibility are all relevant factors when determining optimum density, and these are considered in following sections of this report. Subject to assessment of these matters, which follows, Officers conclude this proposal would optimise the site capacity in a way compliant with the London Plan.

6.2.2 Dwelling Size

Policy

- 57 National and regional policy avoids specifying prescriptive dwelling size mixes for market and intermediate homes.

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- 58 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.
- 59 London Plan Policy H12 sets out that an appropriate mix of unit sizes should be informed by several criteria set out in the policy.
- 60 Determining an appropriate mix of dwelling sizes for a site depend on several criteria in CSP 1, relating to: (i) the site's character and context; (ii) previous or existing use of the site; (iii) access to amenity space for family dwellings; (iv) likely parking demand; (v) local housing mix and population density; and (vi) social and other infrastructure availability and requirements.
- 61 Development Management DM Policy 32 sets out how to achieve high quality design and internal layout of new development.

Discussion

- 62 The proposal includes the refurbishment and alterations to the four existing flats. The two ground floor flats are to be retained as single person dwellings, the first floor flat as a two bedroom, three person dwelling, and the second floor flat would be extended to provide a two bedroom, four person dwelling.
- 63 The proposed building to the rear would provide a one bedroom, two person dwelling and a two bedroom, three person dwelling.

6.2.3 Residential Quality

General Policy

- 64 NPPF para 130 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. This is reflected in relevant policies of the London Plan (LPP D6), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA; Alterations and Extensions SPD 2019, LBL).
- 65 The main components of residential quality in this case are: (i) space standards; (ii) outlook and privacy; (iii) daylight and sunlight; (iv) external space standards (v) noise and disturbance

Internal space standards

Policy

- 66 The 'Technical housing standards – nationally described space standards' sets out the minimum floorspace requirements for dwellings.
- 67 DMP 32 'Housing design, layout and space standards' and LPD6 of the London Plan require 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.

Discussion

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68 The table below sets out proposed dwelling sizes for the new build and extended unit.

Table [2]: Internal space standards – New Built units proposed v target

Unit No.	Unit type (<i>min req GIA</i>)	Unit size (GIA) (sqm)	Floor to ceiling heights (metres)	Amenity space (m. squared)	Compliance
4 (2 nd and 3 rd)	2b4p (79)	91.8	2.3	9.5 + communal (7)	Yes
5 (New Build g)	1b2p (50)	52	2.3	9.8 (5)	Yes
6 (New Build 1 st)	2b3p (61)	62.6	2.3	5.9 (6)	Yes

69 The proposed new units would all exceed the minimum requirements in terms of overall floor areas, and in terms of the sizes of individual bedrooms.

70 The existing ground floor, single person flats are not proposed to be altered in size, and would remain as existing overall, however they would be internally renovated, and new windows provided, which is expected to improve the overall standard of accommodation.

71 It is considered that future occupiers would be provided with a high standard of residential amenity, in line with policy DM32.

Outlook & Privacy

Policy

72 London Plan Policy D1(8) requires development to achieve ‘appropriate outlook, privacy and amenity’. Within the same document, policy D4 seeks to maximise the provision of dual-aspect dwellings (i.e. with openable windows on different elevations).

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

Discussion

74 Given the at least dual aspect dwellings, and the good amount of glazing proposed to all habitable rooms, the dwellings would all be provided with good levels of outlook. All habitable rooms would be provided with windows, and officers consider the levels of outlook to be provided would be acceptable.

75 Proposed new build, Unit 6, has 2 bedrooms proposed at first floor level, and the windows face towards the existing building at a distance of 14m between directly facing bedroom windows of Unit 3. The Small Sites SPD (2021) states distances between the principal windows serving habitable rooms should generally exceed 16m, however flexibility can be applied for new dwellings constructed within the boundary of an existing property.

76 As in this case the proposed building would be built within the curtilage of the existing building and because it would be a bedroom facing a bedroom, the relationship is considered acceptable.

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- 77 The access to communal front door for the existing block runs past the front window of unit 2; however this is an existing situation and therefore not within scope for change.
- 78 Overall the levels outlook and privacy provided to future residents would be acceptable, in line with Policy DM32.

Daylight and Sunlight

Policy

- 79 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. LPP Table 3.2 states that site layout, orientation and design of dwellings should provide privacy and adequate daylight for residents.

Discussion

- 80 The proposed dwellings would all be provided with good levels of glazing, and they would all have windows on at least 2 elevations. Due to the good levels of glazing proposed, residents would be provided with acceptable levels of natural daylight and sunlight.

External space standards

Policy

- 81 LPPD6H requires all new one bedroom dwellings to be provided with at least 5m² private external amenity space, and another 1m² for each additional occupant.

Discussion

- 82 The new and extended dwellings would be provided with an excess of the minimum required private amenity space in the form of terraces or balconies.
- 83 The two existing ground floor flats would not be provided with private amenity space, but the existing flats do not have private amenity space. The existing flats have access to the communal space at the rear. This space would be improved through high quality landscaping, and therefore the amenity access of these flats would be improved upon compared to the existing situation.
- 84 To ensure the proposed communal amenity area is high quality and usable, the final scheme of landscaping is proposed to be secured by condition.

Noise and Disturbance

Policy

- 85 DMP26 requires new noise sensitive developments to be located away from existing or planned sources of noise pollution, except if it can be demonstrated through design or mitigation that internal and external noise levels can be satisfactorily controlled and managed by the noise sensitive development and there will be no adverse impact on the continued operation of any existing or proposed business or operation.

Discussion

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- 86 The proposal is for residential development in a residential area, and therefore the level of noise and disturbance felt by future occupants would likely be acceptable, as it would be similar to existing properties built along Canal Walk, which are at a similar distance to the railway line.
- 87 However it is noted that because the proposed new dwellings to the rear are located close to the railway, unless suitable mitigation is provided, the noise caused could result in unsatisfactory living conditions. For this reason, officers recommend a scheme of soundproofing of these dwellings to be submitted for approval, prior to commencement of above-ground works. This would ensure any noise from the railway line is suitably mitigated.

Summary of Residential Quality

- 88 The proposed units would be of a high quality standard of accommodation and meet with the quality considerations of the London Plan and local policy and guidance.

6.2.4 Housing conclusion

- 89 The proposal would contribute to the Borough's housing targets in a residential location, making the most efficient use of land and optimising density. The existing units would be improved, and two new units would be provided.

6.3 URBAN DESIGN

Policy

- 90 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 91 Policies D1 and D2 of the London Plan (2021), require development to have regard to the form, function and structure of an area and the scale, mass and orientation of surrounding buildings.
- 92 London Plan Policy D3 states that development should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions. Proposals should be of high quality, with architecture that pays attention to detail, and gives thorough consideration to the practicality of use, flexibility, safety and building lifespan through appropriate construction methods and the use of attractive, robust materials which weather and mature well.
- 93 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 and is sensitive to the local context and responds to local character.
- 94 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.

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95 The Small Sites SPD provides guidance for the redevelopment of small infill sites (maximum 0.25ha). Sections 28 is of particular relevance.

Discussion

96 *Proposed Roof Extension:* The proposed roof extension would be set in from the side elevations by 0.6m, and set back from the front elevation by 2.5m. It would be finished in timber style cladding. The set-backs from the elevations below, and the use of a lightweight material would ensure the proposed extension remains subordinate to the main building, and would not result in a dominating effect. The overall height of the building would exceed the neighbouring No.56 by 0.3m.

97 *Elevation Alterations:* The proposal also includes a two storey bay window extension to the front elevation, which would be finished in perforated brickwork, and would include new windows to the centre of the front elevation. The front elevation would be partially rendered, and some original brickwork will remain.

98 The side elevations and rear elevations would also be partially rendered. Overall the proposed alterations elevations are considered to improve the appearance of the existing building.

99 *Proposed rear extension:* The proposal includes a 1.85m deep rear extension at first and second storey level, and the addition of a balcony at first floor level. The extension is of a moderate scale, and be finished in matching materials and therefore would have an acceptable impact on the appearance of the host property.

100 *Proposed new building to the rear:* Due to the siting of the proposed rear building, it would be considered as backland development, in reference to Policy DM33 and it is accepted by officers that this area to the rear is not existing residential amenity space. This is because it used to be the site of three garages, which have since been demolished, and has clearly been sectioned off from the remainder of the garden of the application site for a number of years.

101 DM33 states that New development on sites of this type will only be permitted where they provide: a) a proper means of access and servicing which is convenient and safe both for drivers and pedestrians; b) no significant loss of privacy, amenity, and no loss of security for adjoining houses and rear gardens; and c) appropriate amenity space in line with the policy requirements in DM Policy 32 (Housing design, layout and space standards).

102 Regarding point (a) of DM33, the proposed access is via the side of the existing building, and no vehicle access would be provided. The access is suitably convenient for future residents, but to ensure it would be safe during the night, a scheme of external lighting is proposed to be secured by condition.

103 With regard to point (b) the impact to neighbours is assessed in the relevant following section of this report. Regarding point (c) the proposed dwellings would all be provided with acceptable amenity space for future residents, as set out at paragraph 82 above.

104 Regarding the form and scale, the simple, flat roof form, and moderate scale of the proposed building is considered appropriate for the site, and the building would be in a similar position, and of a similar footprint to the existing residential dwellings of Canal Walk, to the rear of 46 – 28 Venner Road. The flat roof would sit below the roofline of the

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adjoining building, and the front elevation would be set back to provide a level of subservience.

- 105 The proposed materials would be a mixture of charred timber cladding, and some brickwork which would match the main building. The side facing No.56 would feature a green wall, and the building would have a green roof. Officers consider the timber cladding and green roof and wall would soften the appearance of the building, and ensure it would appear appropriate for its backland setting adjacent to the residential garden of No.56.
- 106 It is therefore considered that the design of the proposed building would respect the height, massing and scale of surrounding buildings, and would be a high quality addition, which would have a positive impact on the character and appearance of the area.

6.3.1 Layout and landscaping

Policy

- 107 DMP 25 requires the submission of a landscape scheme, including 5 years of management and maintenance of high quality hard and soft landscapes and trees.
- 108 Policy DM32 requires the siting and layout of new residential development to respond positively to the site specific constraints and opportunities as well as to the existing context of the surrounding area. They must also meet the functional needs of future residents.

Discussion

- 109 The proposal includes significant improvements to landscaping across the site. Several planting boxes, including shrubbery and trees are proposed, as well as a lawned area, and two benches.
- 110 Currently the rear amenity area has a depth of approximately 5.5m, and it consists of majority hardstanding. The end half of the area to the rear has been fenced off for a significant length of time, and the most recently known use of this part of the site according to Council records, prior to it being fenced off and left derelict was as 3 garages.
- 111 The proposed new communal amenity space would have a depth of approximately 6.5m, and the new soft landscaping would result in this being a more pleasant and usable space for future residents. The communal space would be available for use by all residents.
- 112 The use of the rear end of the site as a residential property is a more optimal use of this part of the site.
- 113 Overall the proposed layout makes good use of the site, and the proposed landscaping would improve the appearance of the site, subject to assessment of the final scheme of landscaping, which would be secured as a pre-occupation condition in consultation with the Council's arboricultural officer.

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6.3.2 Urban design conclusion

114 In summary, the proposed extensions, and the new building are considered to be a high quality, site specific response. The new building is of a height and scale for the backland setting, and would use high quality materials. The design of the proposal is therefore acceptable, and in line with the aforementioned policies.

6.4 TRANSPORT IMPACT

General policy

115 NPPF Paragraph 110 states that planning decisions should ensure safe and suitable access to the site for all users, and that any significant impacts from the development on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree.

116 Para 111 of the NPPF states ‘Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or on the residual cumulative impacts on the road network would be severe’.

117 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.

118 The site has a PTAL rating of 5, on a scale of 0 (worst) to 6b (best) accessibility to public transport, meaning it is has an average accessibility to public transport.

6.4.1 Access

Policy

119 The NPPF requires safe and suitable access for all users. Paragraph 110 states that in assessing application for development it should be ensured that appropriate opportunities to promote suitable transport modes can – or have been taken up and that amongst other things safe and suitable access to the site can be achieved for all users. Paragraph 111 states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

120 LP Policy T6, CS Policy 14 and DMLP Policy 29 identifies that car limited development is be supported.

Discussion

121 Existing pedestrian accessibility to the site is considered to be good and the proposed rear building is suitably accessible via the existing access to the side.

122 No vehicular access is proposed. There is an existing crossover providing vehicle access to the front driveway, and towards the rear of the site, which would once have accessed the previously existing garages.

123 As no off-street parking is proposed, it would be a condition of development that the crossover is removed prior to first occupation of the development.

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124 To ensure pedestrian access to the rear of the site is suitably safe, particularly during the night, details of external lighting are proposed to be secured by condition.

6.4.2 Local Transport Network

Policy

125 Policy T4 of the London Plan states consideration of the cumulative impacts of development on public transport and the road network capacity including walking and cycling, as well as associated effects on public health, should be taken into account and mitigated.

Discussion

126 Due to the scale of development, which includes two new residential properties, the proposal would not have a significant impact on the local transport network in terms of capacity of the road network, or public transport.

127 The site is not in a controlled parking zone, and no additional on-site parking is proposed. One off-street parking space would be removed from the site. No parking survey has been submitted with the application, but Highways officers have made an assessment of the on-street parking situation. They comment that it is evident that there appears to be considerable parking stress in the surrounding area, and Officers note there is no Controlled Parking Zone on this road. The proposal would increase the number of dwellings on site from four to six, whilst also removing an off-street space that could have been used by residents. However, in light of very good accessibility of the site the proposal is likely to be acceptable with regards to its impact on local parking stress, and officers would not expect a full parking survey to be carried out.

128 Officers note that while one off-street parking space would be removed from the site, in effect the removal of the crossover would create an additional on-street space, so there would be a net neutral impact on existing parking provision. Officers are of the view that, due to the very good public transport accessibility of the site, the lack of provision of off-street car parking would not result in harmful levels of parking stress in the surrounding area.

129 A Construction Management would be secured by condition, to ensure the impacts of construction vehicles on the local highway network would be acceptable.

6.4.3 Servicing and refuse

Policy

130 The NPPF states development should allow for the efficient delivery of goods and access by service and emergency vehicles.

131 DM Policy 32 requires new developments to have appropriate regard for servicing of residential units, including refuse.

132 Storage facilities for waste and recycling containers should meet at least BS5906:2005 Code of Practice for waste management in Buildings in accordance with London Plan Housing Supplementary Planning Guidance (2016) standard 23.

Discussion

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- 133 The proposal includes provision for the storage of refuse for each dwelling, in a large store towards the front of the site. The positioning and size of the bin stores appears to be acceptable, however final details of these are recommended to be secured by condition to ensure an acceptable final appearance, and to ensure the bin store is enclosed.

6.4.4 Transport modes

Walking and cycling

Policy

- 134 Policy T5 of the Publication London Plan states development proposals should create a healthy environment in which people choose to cycle, and should provide cycle parking in accordance with the minimum standards set out in table 10.2.

- 135 Development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring area. Development should create places that are safe, secure and attractive, minimising the scope for conflicts between pedestrians, cyclists and vehicles.

Discussion

- 136 The site is in a residential street and is well accessible for pedestrians. The two new dwellings would be accessed to the side of the existing building, and this access route is considered to be suitable, and accessible.

- 137 The proposals would provide 10 long stay spaces and 2 short stay spaces in a communal store on the ground floor in accordance with London Plan requirements. However the spacing between the stands should be 1m and should be amended. This can be secured via planning condition. A revised scaled plan should be provided to ensure the cycle parking provision and design in accordance with the London Cycle Design Guide

Public transport

Policy

- 138 LPPT4 states development proposals should reflect and be integrated with current and planned transport access, capacity and connectivity. The cumulative impacts of development on public transport and the road network capacity including walking and cycling, as well as associated effects on public health, should be taken into account and mitigated.

Discussion

- 139 It is considered that the scale of development (2 additional units) would have a negligible impact on the local public transport network, and that the site is suitably accessible for residential development of this scale.

- 140 Regarding the cumulative impacts of development on the local transport network, CIL would be chargeable on this scheme, which in the future could be used to contribute to development of the local transport network.

Private cars

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Policy

- 141 Policy T6 of the London Plan states that car parking should be restricted in line with levels of existing and future public transport accessibility and connectivity. Car-free development should be the starting point for all development proposals in places that are well-connected by public transport with developments elsewhere designed to provide the minimum necessary parking ('car-lite').

Discussion

- 142 No parking is proposed and the site has a PTAL rating of 5. The existing crossover to the site would be removed.
- 143 The proposals are car free which is in accordance with Policy T6 of the London Plan. Considering the site is well connected to public transport, the proposed car-free nature of the scheme is acceptable.

6.4.5 Transport impact conclusion

- 144 The proposed residential development would have an acceptable impact on the surrounding transport network. The pedestrian access would result in no material safety implications, and the development would have no significant impact on the wider transport network, in line with the relevant local and national policies.

6.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 145 NPPF para 130 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 PLPPD3, the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (Housing SPD 2017, GLA).
- 146 The main impacts on amenity arise from: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas; and (iv) noise and disturbance.

6.5.1 Enclosure and Outlook

Policy

- 147 Policy DM32 expects new residential development to result in no harmful increased sense of enclosure and no significant loss of outlook to neighbouring dwellings.

Discussion

- 148 *Proposed extensions to existing building:* The proposed rear extension at first and second floor level would have a moderate depth of 1.8m beyond the existing rear elevation. Due to the moderate increase in depth, and the separation distance of 3.5m to No.46 Venner Road, the extension would not result in significant harm to the outlook of this property, and nor would it result in a harmful increased sense of enclosure.

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- 149 Regarding the impact to No.56, the rear building line of extension would be set behind the existing three storey projection at this property by approximately 3m, and therefore it would not result in harm to the amenities of this property.
- 150 *Proposed building to the rear:* The rear building would be set behind the front elevation of No.24 Canal Walk by at least 1.25m, so would not impact on the front windows of this property. The rear elevation of the building would extend beyond the rear elevation of No.24 by approximately 2.8m and there would be a separation distance of 1.4m. The proposed building would therefore be visible, however a 45 degree sight line taken from the closest ground floor window suggests that this would not have a harmful impact on outlook and therefore officers do not consider that this would result in a harmful enclosing effect.
- 151 Regarding the impact to No.56, the proposed building would be a minimum distance of 7.5m to the ground floor rear facing window in the single storey rear projection at No.56. This is relatively close, and the proposed building will be visible from the neighbouring property, having an impact on outlook. However officers note the presence of heavy and tall vegetation along the shared boundary, which officers consider would have a similar impact on the outlook from this window.
- 152 Therefore the proposed building would have a similar impact on outlook as the existing hedging and vegetation, and officers consider the proposed building would not result in a harmful increased sense of enclosure to No.56 as a result. Officers note the inclusion of a green wall would further reduce the visual impacts of the proposed building. Further, the proposed building would be set further back, and away from the boundary than the existing vegetation.
- 153 In light of the above, the impact of the proposal on neighbouring outlook and sense of enclosure would be acceptable, and in line with the relevant aforementioned policies.

6.5.2 Privacy

Policy

- 154 DMP32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours.
- 155 The Small Sites SPD (2021) states that in general terms, the privacy of the first 10m of rear gardens (defined as the area of rear garden extending 10m beyond the furthest rear part of the dwelling, for the width of the main part of that property) should be protected from direct overlooking from habitable room windows of new dwellings. To protect these areas, conventional windows (ie. vertically aligned with clear glass) should be located more than 6m from the rear edge of this 10m privacy area.
- 156 It also states there should be no less than 16m between new and existing principal facing windows at upper levels, unless steps are taken to achieve privacy in some other way.

Discussion

- 157 *Impacts to No.24 Canal Walk:* The proposed rear extension to the main building would result in rear facing windows being 1.8m closer to the windows in the front elevation of No.24. Furthermore, the addition of the first floor balcony could have an impact on privacy of this property. The applicant has submitted details of privacy screening of the

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first and second storey windows, which would block the direct line of sight to this property, thereby reducing the impacts that would result from these windows being closer.

- 158 The proposed first floor balcony is proposed to have screening up to 1.7m on each side, which would ensure it does not result in harmful overlooking of No.24.
- 159 The proposed rear window of the roof extension would be set further back than existing second floor windows, and the line of sight would be interrupted by the building envelope below, so whilst this window is large, it would not result in harmful levels of overlooking to No.24.
- 160 *Impacts to No.56 Venner Road:* The proposed first floor front elevation windows of the new building to the rear would be approximately 8m from the ground floor window, and 12m and 13m from the first and second floor rear facing windows of No.56, which could result in harmful levels of overlooking if no mitigation were in place. The applicant has agreed submitted details of screening to these windows which would interrupt the direct line of sight into the rear windows of No.56, reducing the impacts, and officers consider this to be acceptable.
- 161 *Impacts to No.46 Venner Road:* The separation distance would be 19.5m to the closest window at No.46, and the impacts of this would be acceptable.
- 162 In light of the above, the impact to neighbouring privacy would be acceptable, subject to suitable details of screening being submitted, and would be in line with the relevant policies and guidance set out above.

6.5.3 Daylight and Sunlight

Policy

- 163 The Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight' 2011, sets out standardised criteria for the assessment of planning applications including the 25 degree, and 45 degree 'rules'.
- 164 The GLA states that 'An appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves.' (GLA, 2017, Housing SPG, para 1.3.45).

Discussion

- 165 *Proposed extensions to existing building:* No.46 is to the north of the proposed extension. Due to the limited additional depth of 1.8m and the significant separation distance of 5.1m between the buildings, officers are satisfied the impact on daylight and sunlight to No.46 would not be significantly harmful. 45 degree lines taken from the first and second floor windows of No.46 further suggest the impacts would be acceptable.
- 166 Officers are satisfied that due to the separation distance to No.24 Canal Walk that there would be no significant impact on daylight and sunlight to this property due to the rear extension.
- 167 *Proposed new building to the rear:* No.24 Canal Walk is to the north of the proposed new building to the rear, and the proposed building would protrude beyond its rear elevation

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of by approximately 2.7m. However, due to the separation distance of approximately 1.3m between the buildings and, and 3m to the nearest affected ground floor window, officers are satisfied there would not be a significantly harmful impact to the daylight and sunlight received at No.24. Furthermore, 45 degree lines taken from the closest affected window further suggest that the impacts would be acceptable on daylight and sunlight.

Summary

- 168 Officers have assessed the impact of the proposal on the levels of sunlight and daylight to neighbouring properties using the appropriate 45 degree guide test, and their professional planning judgement, and are satisfied that the impacts would not be significantly harmful. Overall, the impact on neighbouring daylight and sunlight would be acceptable, in line with the above mentioned policies.

6.5.4 Noise and disturbance

Policy

- 169 DM policy 32 requires new residential development to be neighbourly, and development in residential areas should not result in harm to existing residents through unsociable noise and disturbance.

Discussion

- 170 Two additional residential dwellings are unlikely to generate a significantly higher level of comings and goings and general residential activity than the existing residential properties on the site, and as this is a residential proposal, in a residential area the proposed use is compatible and the levels of domestic noise generated are unlikely to be significantly harmful to neighbouring residents.

6.5.5 Impact on neighbours conclusion

- 171 The impact on neighbouring residential amenity has been assessed against the relevant policies and guidance, and no significant harm has been identified to neighbouring occupiers' residential amenity.

6.6 NATURAL ENVIRONMENT

General Policy

- 172 Contributing to conserving and enhancing the natural environment and reducing pollution is a core principle for planning.
- 173 The NPPF and NPPG promote the conservation and enhancement of the natural environment (chapter 15) and set out several principles to support those objectives.
- 174 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard to the purpose of conserving biodiversity.
- 175 The NPPF at para 174 states decisions should minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. At para 175, it sets out principles which LPAs should apply when determining applications in respect of biodiversity.

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176 NPPF para 185 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.

6.6.1 Urban Greening

Policy

177 CSP 12 seeks to preserve or enhance local biodiversity.

178 DMP 24 requires all new development to take full account of biodiversity in development design, ensuring the delivery of benefits and minimising of potential impacts on the natural environment.

Discussion

179 Final details of the proposed green wall and biodiverse extensive green roof, as well as proposed numbers and species of replanting on the site are recommended to be secured by condition. It is appropriate to condition the living walls and roof in light of the extent to which the existing surface is proposed to be replaced with impermeable surfaces.

180 To ensure the final scheme of soft landscaping is acceptable, and contains appropriate numbers and species of plants, final details are recommended to be secured by condition.

6.6.2 Trees and Ecology

Policy

181 Paragraph 131 of the NPPF (2021) states trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning decisions should ensure that opportunities are taken to incorporate trees elsewhere in developments, that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.

182 DMP 25 states that development schemes should not result in an unacceptable loss of trees, especially those that make a significant contribution to the character or appearance of an area, unless they are considered dangerous to the public by an approved Arboricultural Survey. Where trees are removed as part of new development, replacement planting will normally be required. New or replacement species should be selected to avoid the risk of decline or death arising from increases in non-native pests and diseases.

Discussion

183 The proposal includes the removal of one tree on site to make way for the proposed development, identified in the submitted Schedule of Trees as T01, a Category C sycamore tree. The removal is required to make way for the proposed building at the rear. As this tree is only of moderate value (Class C) its removal is considered acceptable in this case, on the condition that two semi-mature trees are re-planted on site as part of the final landscaping scheme.

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- 184 The submitted landscaping scheme is indicative at this stage. It is noted that one additional semi-mature tree is indicated on the plan, and several smaller shrubs and plants, and areas of turf. Further details of the proposed scheme of soft landscaping and planting, including a further replacement tree and maintenance, is recommended to be secured by condition. This would be determined in consultation with the Council's arboricultural officer
- 185 The submitted tree survey indicates a number of trees close to the site boundary, but has stated that at the time of the survey, the area was inaccessible to allow a full survey to be completed. To ensure none of the off-site trees along the railway embankment are harmed or damaged, a condition requiring submission of a full arboricultural impact assessment, and tree protection plan for all off-site trees close to the boundary is recommended, and the details would need to be submitted prior to commencement of development.
- 186 A preliminary Ecological Appraisal has been submitted in support of the proposed development. The Council's Ecology officer was consulted, and provided comments which raised initial concerns regarding the impact to nearby SINC's, as well as possible impacts to bats and birds. They also stated that further information regarding the proposed green roof and wall would be required. Following receipt of these comments, the applicant submitted a revised Ecological Appraisal, which addressed the concerns that had been raised.
- 187 Following receipt of further information the ecology officer has confirmed their concerns had been addressed, subject to submission of further information, which will be secured by condition.
- 188 Furthermore details of the proposed scheme of external lighting, to include measures to protect nocturnal wildlife are also recommended to be secured by condition. A full scheme of measures to protect and enhance ecology is recommended to be secured by condition, and this will require full details of the measures recommended by the submitted Ecology Appraisal.
- 189 Subject to suitable details being submitted with regards to proposed landscaping, tree planting, and ecological enhancements, the impacts to the ecology and trees are considered to be acceptable.

6.6.3 Natural Environment conclusion

- 190 The impact on ecology and biodiversity on the site would not be harmful, subject to the final details of the proposed on-site ecological enhancements as mitigation.
- 191 On a balance, whilst one lower quality tree on site would be lost, this is mitigated by proposed replanting and considering the wider benefits of the proposal, namely its contribution to the Borough's housing targets in a predominantly residential and sustainable urban location, whilst making the most efficient use of land and optimising density, this loss is acceptable, subject to final details of the proposed soft landscaping.

7 LOCAL FINANCE CONSIDERATIONS

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

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- 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).

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

194 The CIL is therefore a material consideration.

195 £12,558 Lewisham CIL (£70pm²) and £6,279 (£35pm²) 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.

8 EQUALITIES CONSIDERATIONS

196 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.

197 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.

198 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.

199 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>

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

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- 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

201 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>

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

9 HUMAN RIGHTS IMPLICATIONS

203 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

204 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.

205 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.

206 This application has the legitimate aim of providing a new building with residential use and extensions to an existing residential building. The rights potentially engaged by this application are not considered to be unlawfully interfered with by this proposal.

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10 CONCLUSION

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

208 The proposed residential development would achieve a number of the urban design and spatial planning objectives set out in the Core Strategy, including the following planning merits to which significant weight is attached:

- Optimising the housing potential of an underused residential site, and providing two additional units of market housing;
- Improving existing residential dwellings;
- Comprising appropriate scaled and high quality extensions and alterations, and a new building that takes account of the existing context;

209 The scale of the proposed development is acceptable, and has been designed to respond to the context and constraints including adjacent residential development.

210 The proposal would maximise the potential of the site and the development would provide a high standard of accommodation for future residents.

211 Given the acceptability of the proposed use and policy compliance, the proposal is considered to be in accordance with the development plan as a whole.

212 The revised NPPF is underpinned by a presumption in favour of sustainable development. Officers consider that with the recommended mitigation, planning conditions and obligations in place, the scheme is consistent with national policy

213 In light of the above, the application is recommended for approval.

11 RECOMMENDATION

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

11.1 CONDITIONS

1. 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:

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A-01.011 Rev.P5; A-01.012 Rev.P6; A-01.013 Rev.P7; A-01.014 Rev.P5; A-01.016 Rev.P3; A-01.010 Rev.P4 Received 16 February 2022;

Construction Method Statement; PlantBox Green Wall System (Hedera Screens); Green Roof Maintenance Guide (Bauder, November 2020) Received 20 January 2022; Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey + Appendix 2: Schedule of Trees (Arbtech, 17 January 2022); WE Wildflower Blanket System (Bauder, November 2020) Received 18 January 2022;

A-01.001; A-01.002; A-01.003; A-01.004; A-01.005; A-01.015 Rev.P3; A-01.017; A-01.018; A-01.019; Energy Statement (NRG, August 2021); Site Waste and Management Plan; Transport Statement (GTA, August 2021) Received 2 September 2021

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 and Environmental Management Plan**

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

- (a) Dust mitigation measures.
- (b) Details of measures to ensure the protection of wildlife and ecology during the construction process, as recommended by the submitted Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey (Arbtech, 17 Jan 2022).
- (c) The location and operation of plant and wheel washing facilities.
- (d) Details of best practical measures to be employed to mitigate noise and vibration arising out of the construction process.
- (e) Details of construction traffic movements including cumulative impacts which shall demonstrate the following:-
 - (i) Rationalise travel and traffic routes to and from the site.
 - (ii) 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 related activity.
 - (iii) Measures to deal with safe pedestrian movement.
- (f) Security Management (to minimise risks to unauthorised personnel).
- (g) Details of the training of site operatives to follow the Construction Management Plan requirements and any Environmental Management Plan requirements.

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 protect ecology, in compliance with Policy SI1 Improving air quality, Policy G6 Biodiversity and access to nature and Policy T7 Deliveries, servicing and construction of the London Plan (March 2021) and Policy 12 Open space and environmental assets of the Core Strategy

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(June 2011), and DM Policy 24 Biodiversity, living roofs and artificial playing pitches and local character of the Development Management Local Plan (November 2014).

4. **Site Contamination**

- (a) No development or phase of development (including demolition of existing buildings and structures, except where enabling works for site investigation has been agreed by the local planning authority) shall commence until :-
- (i) A desk top study and site assessment to survey and characterise the nature and extent of contamination and its effect (whether on or off-site) and a conceptual site model have been submitted to and approved in writing by the local planning authority.
 - (ii) A site investigation report to characterise and risk assess the site which shall include the gas, hydrological and contamination status, specifying rationale; and recommendations for treatment for contamination encountered (whether by remedial works or not) has been submitted to and approved in writing by the Council.
 - (iii) The required remediation scheme implemented in full.
- (b) If during any works on the site, contamination is encountered which has not previously been identified (“the new contamination”) the Council shall be notified immediately and the terms of paragraph (a), shall apply to the new contamination. No further works shall take place on that part of the site or adjacent areas affected, until the requirements of paragraph (a) have been complied with in relation to the new contamination.
- (c) The development shall not be occupied until a closure report has been submitted to and approved in writing by the Council.

This shall include verification of all measures, or treatments as required in (Section (a) i & ii) and relevant correspondence (including other regulating authorities and stakeholders involved with the remediation works) to verify compliance requirements, necessary for the remediation of the site have been implemented in full.

The closure report shall include verification details of both the remediation and post-remediation sampling/works, carried out (including waste materials removed from the site); and before placement of any soil/materials is undertaken on site, all imported or reused soil material must conform to current soil quality requirements as agreed by the authority. Inherent to the above, is the provision of any required documentation, certification and monitoring, to facilitate condition requirements.

Reason: To ensure that the local planning authority may be satisfied that potential site contamination is identified and remedied in view of the historical use(s) of the site, which may have included industrial processes and to comply with DM Policy 28 Contaminated Land of the Development Management Local Plan (November 2014).

5. **Materials Details**

- (a) Notwithstanding the details hereby approved, no development above ground level shall commence until a full specification of all external materials to be used, as well as detailed plans at a scale of 1:20 showing windows, doors, balconies, entrances, and important joints have been submitted to and approved in writing by the local planning authority.

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- (b) The development shall be carried out in accordance with the approved details.

Reason: In order that the local planning authority may be satisfied as to the detailed treatment of the proposal 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.

6. **SUDS**

- (a) No development above ground level shall commence on site until a scheme for surface water management, including specifications of the surface treatments and sustainable urban drainage solutions, has been submitted to and approved in writing by the local planning authority.
- (b) The development shall be carried out in accordance with the approved scheme and thereafter the approved scheme is to be retained in accordance with the details approved therein.

Reason: To prevent the increased risk of flooding and to improve water quality in accordance with Policy SI 12 Flood risk management in the London Plan (March 2021) and Objective 6: Flood risk reduction and water management and Core Strategy Policy 10:Managing and reducing the risk of flooding (2011).

7. **Refuse Storage and Management**

- (a) No development above ground level shall commence until full details of proposals for the storage and collection of refuse and recycling facilities for each residential unit hereby approved, 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).

8. **Cycle Parking**

- (a) Prior to first occupation, full details of the cycle parking facilities shall be submitted to and approved in writing by the local planning authority. Such details shall include provision for 12 cycles in compliance with the London Cycling Design Standards and shall be secure and covered.
- (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.

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- (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 T5 cycling and Table 10.2 of the London Plan (March 2021) and Policy 14: Sustainable movement and transport of the Core Strategy (2011).

9. **Hard Landscaping**

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

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies SI 12 Flood risk management in the London Plan (March 2021), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

10. **Arboricultural Impact Assessment**

- (a) No development shall take place until a full Arboricultural Impact Assessment (AIA) has been submitted to and approved in writing by the local planning authority. Such study shall consider the exact relationship between the proposed development and any existing trees on the site and adjacent sites which may be affected, in line with the recommendations of BS 5837:2012 (Trees in Relation to design, demolition and construction - Recommendations).

The AIA should include survey data on all trees on the site and those which could be affected on adjacent sites, with reference to the British Standard and assess all interfaces between the development and trees, their root zones and their crowns and branches, i.e.:-

- Protection of trees within total exclusion zones.
- The location and type of protective fencing.
- The location of the main sewerage and water services in relation to trees.
- The location of all other underground services, i.e. gas, electricity and telecommunications.
- The locations of roads, pathways, parking and other hard surfaces in relation to tree root zones.
- Provision of design and engineering solutions to the above, for example, thrust boring for service runs; the use of porous surfaces for roads etc. and the remedial work to maintain tree health such as irrigation and fertilisation systems; the use of geotextile membranes to control root spread.
- Suggested locations for the site compound, office, parking and site access.
- The replacement planting necessary to compensate for any necessary losses.

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(b) Drawings should also be submitted to show the location of any protective fencing, site compounds, means of access etc. and the study should contain a method statement for arboricultural works which would apply to the site.

(c) The development shall be implemented in accordance with the approved AIS.

Reason: To safeguard the health and safety of trees during building operations and the visual amenities of the area generally and to comply with Policy 12 Open space and environmental assets of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

11. **Tree Protection Plan**

No development shall commence on site until a Tree Protection Plan (TPP) has been submitted to and approved by the Council. The TPP should follow the recommendations set out in BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations). The TPP should clearly indicate on a dimensioned plan superimposed on the building layout plan and in a written schedule details of the location and form of protective barriers to form a construction exclusion zone, the extent and type of ground protection measures, and any additional measures needed to protect vulnerable sections of trees and their root protection areas where construction activity cannot be fully or permanently excluded.

Reason: To safeguard the health and safety of trees during building operations and the visual amenities of the area generally and to comply with Policy 12 Open space and environmental assets of the Core Strategy (June 2011), and DM Policy 25 Landscaping and trees and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

12. **Soft Landscaping**

(a) A scheme of soft landscaping (including details of any trees or hedges to be retained and proposed plant numbers, species, location and size of trees and tree pits) and details of the management and maintenance of the landscaping for a period of five years shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works. Such details shall include at least two replacement semi-mature trees the species of which shall follow the principle of right tree, right place.

(b) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal including adequate replacement of the mature tree to be removed and to comply with Core Strategy Policy 12 Open space and environmental assets, Policy 15 High quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 25 Landscaping and trees and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

13. **Boundary treatment**

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

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

14. **Ecological enhancements**

- (a) Full details of the ecological protection and enhancement measures to be provided as part of the development hereby approved shall be submitted to and approved in writing by the local planning authority prior to commencement of above ground works and shall be installed prior to residential occupation of the buildings and maintained in perpetuity.

- (b) The ecological enhancements shall include as a minimum:

- Bird boxes for swifts on suitable trees and/or within the fabric of the building
- Bat boxes on suitable trees and/or within the fabric of the building
- Log piles placed on site and/or on the green roof
- Gaps between boundary fences to allow wildlife to move between adjoining sites
- Wildlife-friendly planting scheme
- Maintenance and enhancement the western boundary vegetation to provide screening of the railway embankment
- Lighting plan that is direct and of low light spill, to minimise illumination of the railway embankment

Reason: As recommended by the submitted Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey (Arbtech, 17 Jan 2022) and to comply with Policy G6 Biodiversity and access to nature of the London Plan (2021), Policy 12 Open space and environmental assets of the Core Strategy (June 2011), and DM Policy 24 Biodiversity, living roofs and artificial playing pitches and local character of the Development Management Local Plan (November 2014).

15. **Living Roof and Green Wall Details**

- (a) Full details of the proposed biodiversity living roof and green wall as indicated on plan nos. DR.A.01.020 Rev.P2; A-01.014 Rev.P4; General Maintenance Green Roof Extensive System and Wildflower Blanket System brochures by Bauder; Plant Box vertical greening brochure, shall be submitted to the Local Planning Authority and approved in writing prior to commencement of above ground works. The living roof must be installed in accordance with these details prior to residential occupation of the building hereby approved.

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- (b) Details of a proposed green roof system to the bin and bicycle stores shall be submitted to the Local Planning Authority and approved in writing prior to commencement of above ground works.
- (c) 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.
- (d) Evidence that the wall and 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 Policy G5 Urban greening in the London Plan (2021) , 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).

16. **External Lighting**

- (a) Prior to occupation of the development a scheme for any external lighting that is to be installed at the site, including measures to prevent light spillage to protect residential amenity and ecology 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, minimise harm to wildlife and protect neighbouring amenity and to comply with DM Policy 24 Biodiversity, living roofs and artificial playing pitches and DM Policy 27 Lighting of the Development Management Local Plan (November 2014).

17. **Delivery and Servicing of residential properties**

- (a) The development shall not be occupied until a Delivery and Servicing Plan has been submitted to and approved in writing by the local planning authority.
- (b) The plan shall demonstrate the expected number and time of delivery and servicing trips to the site, with the aim of reducing the impact of servicing activity.
- (c) The approved Delivery and Servicing Plan shall be implemented in full accordance with the approved details from the first occupation of the development and shall be adhered to in perpetuity.

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

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18. **S278 Agreement to remove crossover**

Prior to the residential occupation of the development hereby approved, an agreement pursuant to S278 of the Highways Act 1980 shall be entered into for works to remove the existing vehicular crossover and the reinstatement of the footway. The works the subject of the agreement shall be completed prior to the occupation of the development hereby approved.

Reason: To increase on-street parking provision, and to ensure that the development does not prejudice the free flow of traffic or conditions of general safety along the neighbouring highway and to comply with the Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

19. **Privacy Screening**

- (a) Full details of the privacy screening measures proposed to the new first and second floor windows and the first floor external balcony to the rear of the existing building, and the front facing bedroom windows at first floor level of the new rear building must be submitted to and approved in writing by the local planning authority prior to commencement of above ground works.
- (b) The screening shall be installed in accordance with the details approved under part (a) prior to the occupation of the development and shall be retained for the lifetime of the development.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, and Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

20. **Removal of PD Rights**

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

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

21. **Obscure Glazed Windows**

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the new windows to be installed at first and second floor level in the side elevations of the existing building, and at first floor level of the proposed new building hereby approved shall be fitted as obscure glazed to a minimum of Level 4 on the 'Pilkington Scale' and fixed shut and retained in perpetuity.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with DM Policy 31 Alterations and extensions to

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existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, and Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

22. **Restricted use of flat roofs**

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roofs on the buildings hereby approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area (other than to those designated amenity spaces as set out on the approved plans).

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards, and DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas of the Development Management Local Plan (November 2014).

23. **Construction Hours**

No deliveries in connection with construction works shall be taken at or despatched from the site other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

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

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 170 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

24. **Scheme of Soundproofing from External Noise and Vibration**

- (a) The building shall be designed so as to provide sound insulation against external noise and vibration, to achieve levels not exceeding 30dB LAeq (night) and 45dB L_{max} (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with window shut and other means of ventilation provided. External amenity areas shall be designed to achieve levels not exceeding 55 dB LAeq (day) and the evaluation of human exposure to vibration within the building shall not exceed the Vibration dose values criteria 'Low probability of adverse comment' as defined BS6472. Prior to commencement of above-ground works, details of this scheme shall be submitted to and approved in writing by the Local Planning Authority
- (b) The development shall not be occupied until the sound insulation scheme approved pursuant to paragraph (b) has been implemented in its entirety. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details.

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

11.2 INFORMATIVES

- A **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, pre application discussions took place, and positive discussions took place during assessment which resulted in further information being submitted.
- B It is the responsibility of the owner to establish whether asbestos is present within their premises and they have a 'duty of care' to manage such asbestos. The applicant is advised to refer to the Health and Safety website for relevant information and advice.
- C 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>
- D 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.
- E Applicants are advised to read 'Contaminated Land Guide for Developers'(London Borough's Publication 2003), on the Lewisham web page, before complying with the above site contamination condition. It must be conducted in accordance with DEFRA and the Environment Agency's (EA) - Model Procedures for the Management of Land Contamination.
- Applicants should also be aware of their responsibilities under Part IIA of the Environmental Protection Act 1990 to ensure that human health, controlled waters and ecological systems are protected from significant harm arising from contaminated land. Guidance therefore relating to their activities on site, should be obtained primarily by reference to DEFRA and EA publications.
- F You are advised to contact the Council's Drainage Design team on 020 8314 2036 prior to the commencement of work.
- G In preparing the scheme of dust minimisation, reference shall be made to the London Councils Best Practice Guide: The Control of Dust and Emissions from Construction

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and Demolition. All mitigation measures listed in the Guide appropriate to the size, scale and nature of the development will need to be included in the dust minimisation scheme.

- H Japanese knotweed (*Fallopia japonica*) has been identified at the site. This species is listed under Schedule 9 of the Wildlife & Countryside Act (1981) and as such it is an offence to plant or otherwise cause this species to grow in the wild. It is also classed as a controlled waste under the Environmental Protection Act (1990) and must be disposed of safely at licensed landfill. You are advised to follow the Environment Agency, 'Managing Japanese knotweed on development sites: the knotweed code of practice', available to download from their website. http://www.environment-agency.gov.uk/static/documents/Leisure/japnkot_1_a_1463028.pdf
- I The applicant be advised that the implementation of the proposal will require approval by the Council of a Street naming & Numbering application. Application forms are available on the Council's web site.
- J The proposed development is situated within 2 metres (3m for overhead lines and third rail) from Network Rail's boundary. This proposal is therefore in breach of a requirement which Network Rail ask for to allow for the construction and future maintenance of a third-party building without the need to access the operational railway environment. Consequently, there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works as well as adversely impact upon Network Rail's maintenance teams' ability to maintain our boundary fencing and boundary treatments. It should be noted that Access to Network Rail's land may not always be granted and if granted may be subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant.

As a result, Network Rail requests the applicant / developer engages Network Rail's Asset Protection and Optimisation (ASPRO) team via AssetProtectionLondonSouthEast@networkrail.co.uk as soon as possible. The applicant / developer may be required to enter into an Asset Protection Agreement to get the required resource and expertise on-board to enable approval of detailed works. More information can also be obtained from our website <https://www.networkrail.co.uk/running-the-railway/looking-after-the-railway/asset-protection-and-optimisation/>.

12 BACKGROUND PAPERS

- (1) *Submission Drawings*
- (2) *Submission technical reports and documents*
- (3) *Internal consultee responses*
- (4) *Statutory consultee responses*

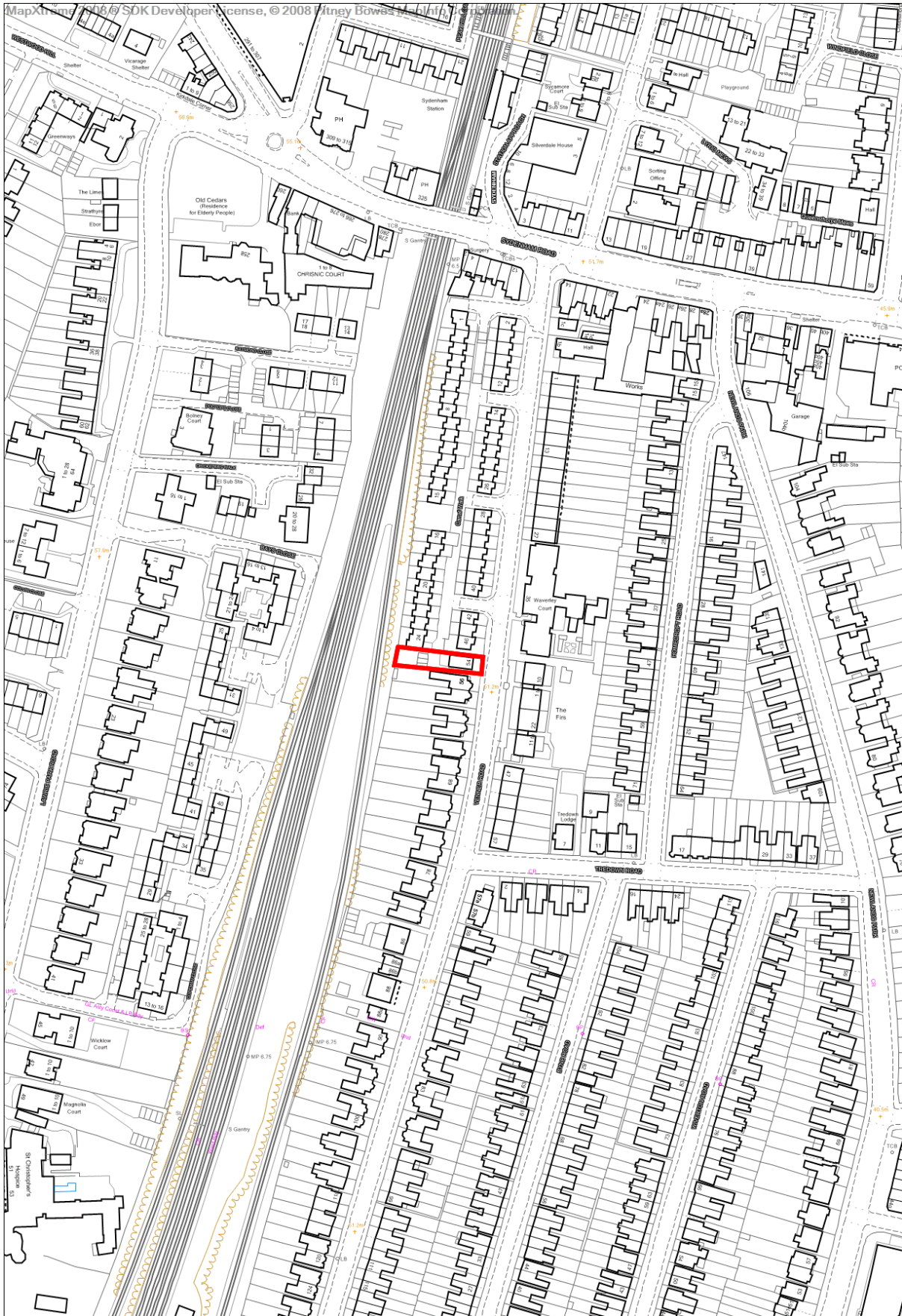
13 REPORT AUTHOR AND CONTACT

215 Samuel James, Samuel.james@lewisham.gov.uk, 020 8314 3742

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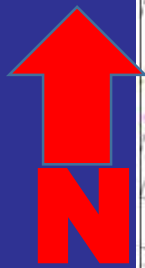
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54 Venner Road, SE26

Application No. DC/21/123295

The construction of first and second floor extensions including the addition of balconies to the rear, a two storey 'bay' extension to the front, the construction of an additional storey and elevational treatments in connection with the refurbishment of and alterations to the four existing dwellings at 54 Venner Road, SE26, together with the construction of a two storey building at the rear to provide 1x one bedroom, and 1x two bedroom self contained dwellings, the provision of cycle parking, refuse and recycling storage and landscaping works.

This presentation forms no part of a planning application and is for information only.



Site Location Plan



Existing three storey property



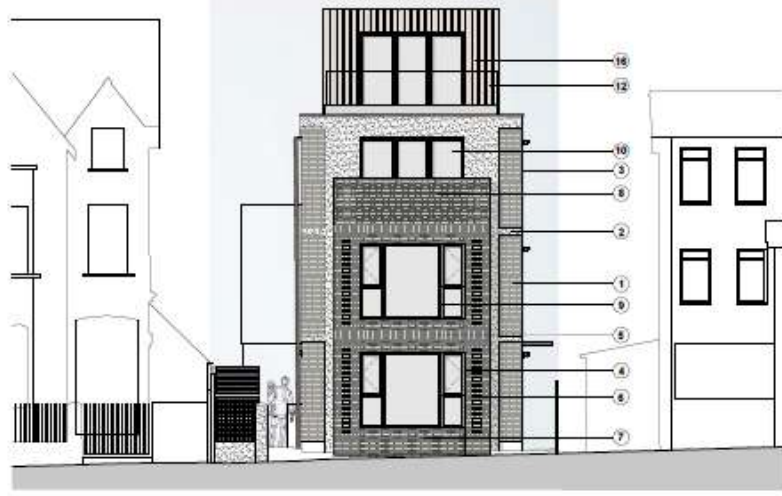
Page 118



Rear of existing property

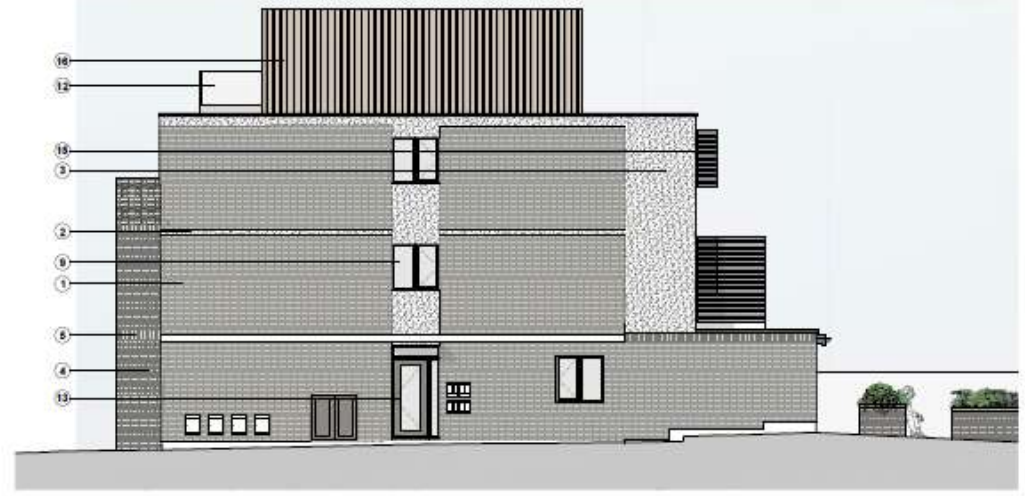


Site Location Aerial



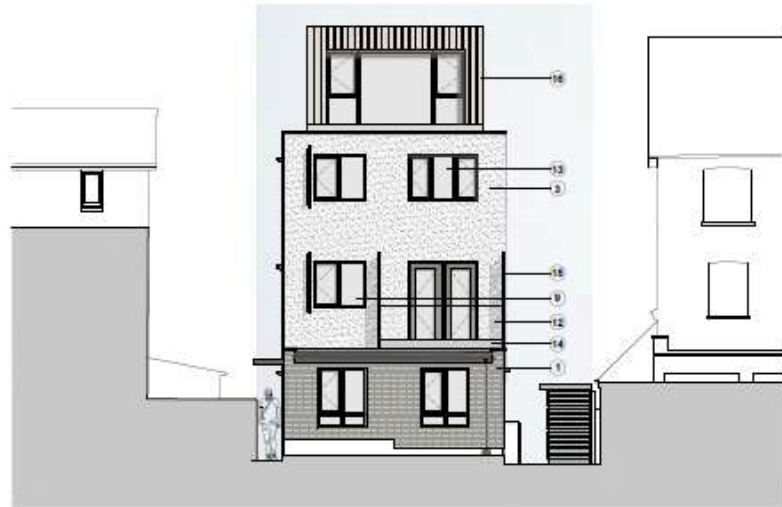
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Front Elevation



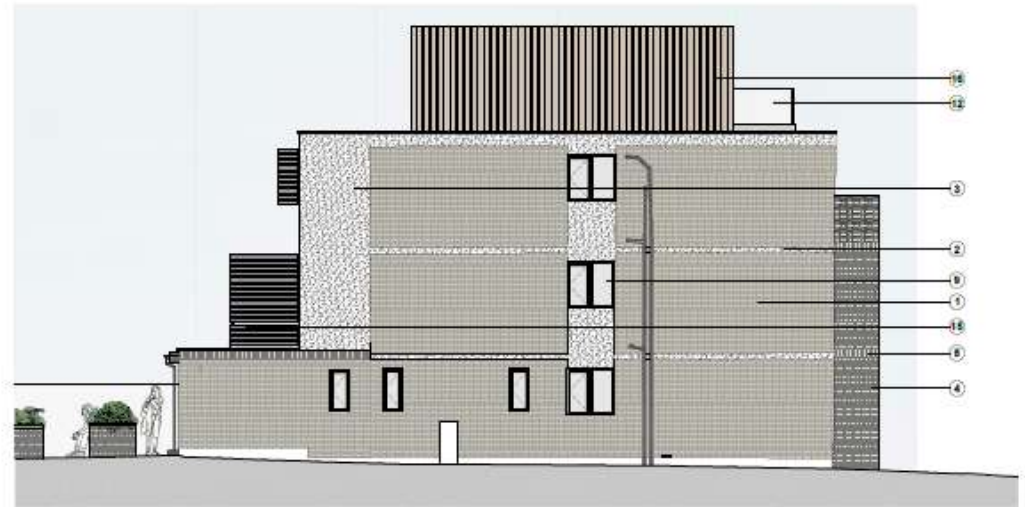
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Side Elevation (North)



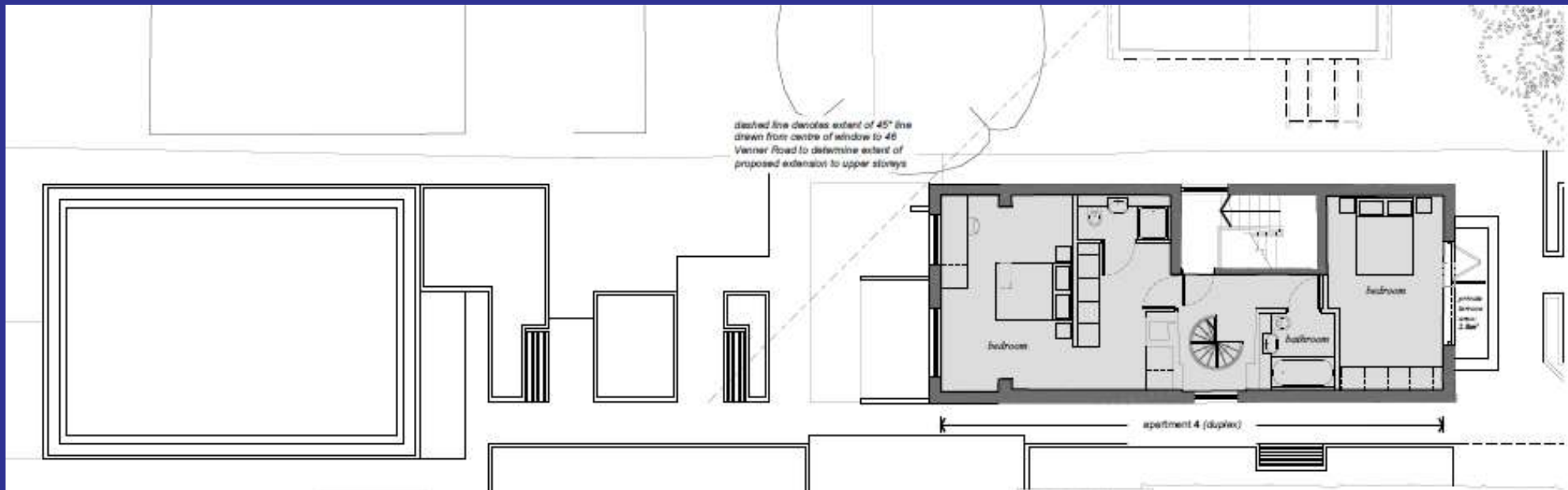
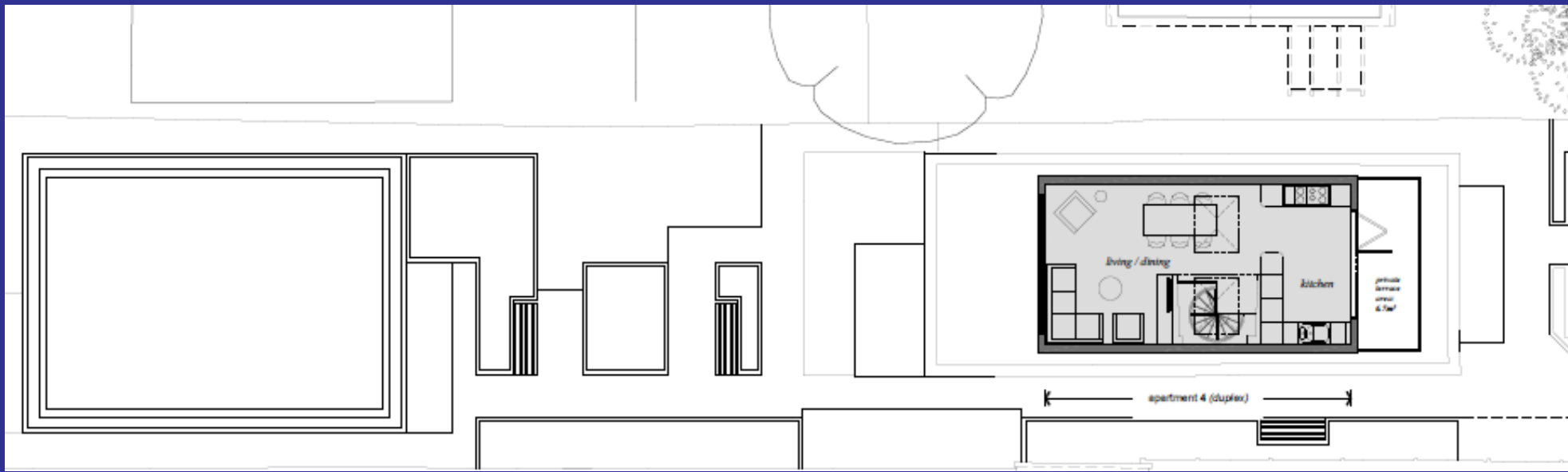
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Rear Elevation

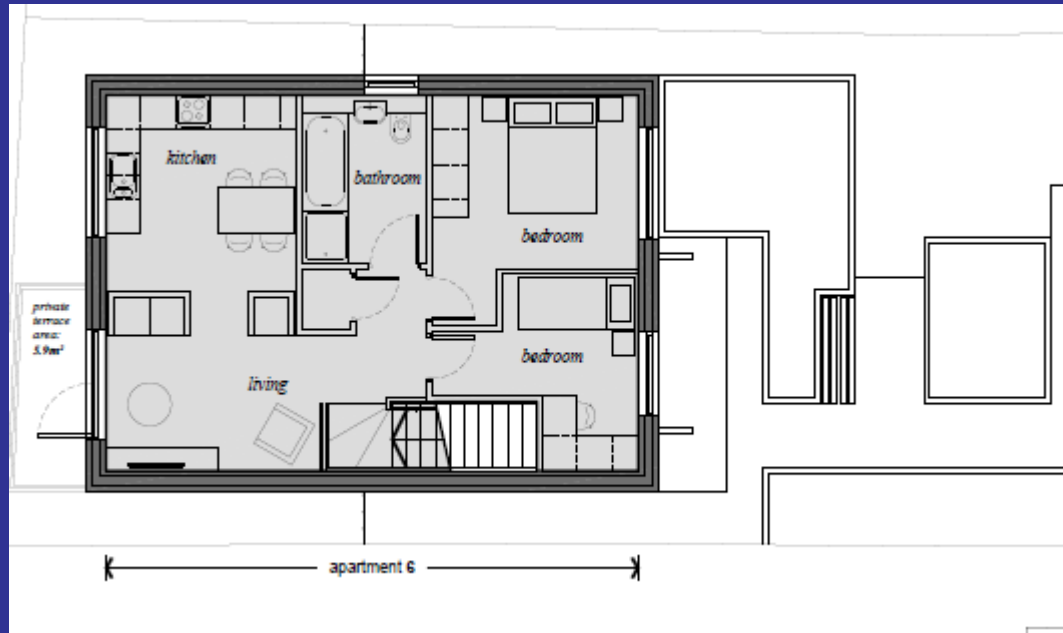


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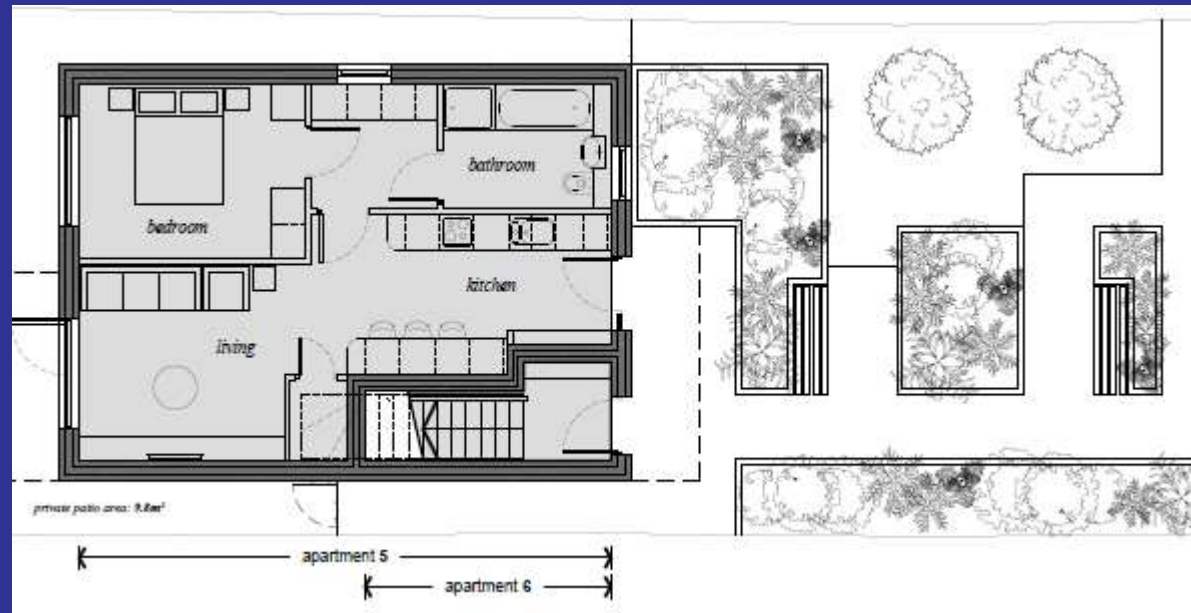
Side Elevation (South)



dashed line denotes extent of 45° line drawn from centre of window to 4th Verner Road to determine extent of proposed extension to upper storeys



Proposed First floor flat

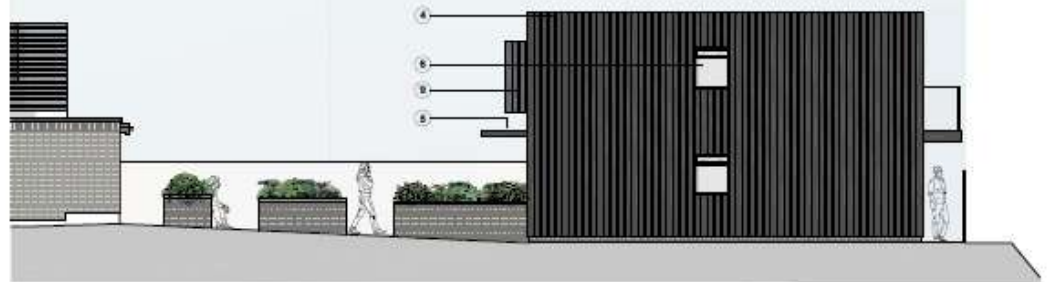


Proposed Ground floor flat



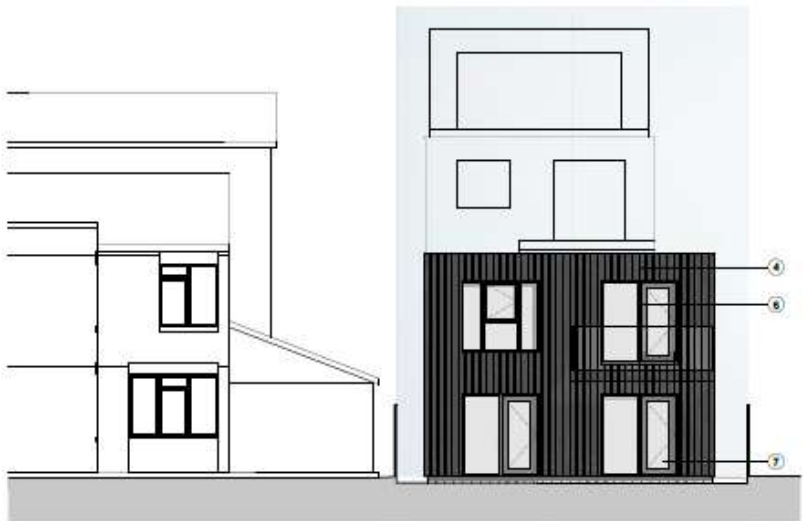
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Front Elevation



datum 95.00

Side Elevation (North)



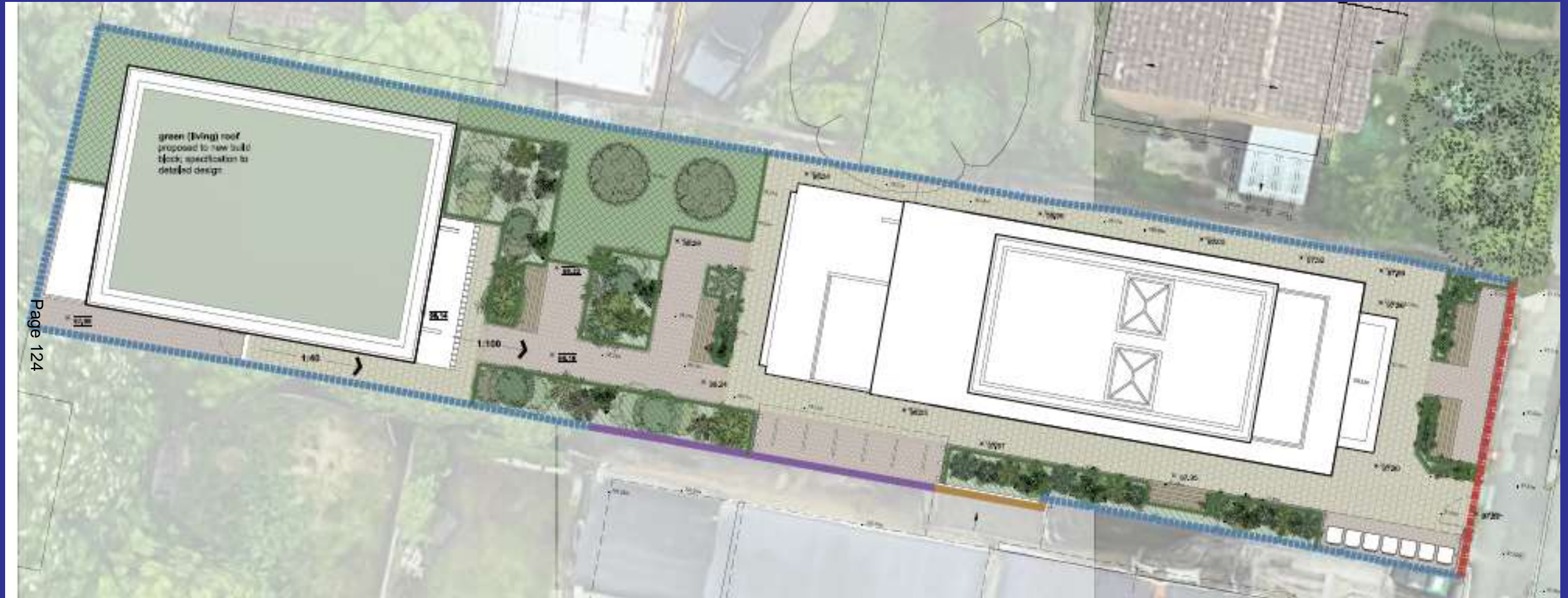
datum 95.00

Rear Elevation



datum 95.00

Side Elevation (South)



Key planning considerations

- Principle of Development
- Housing Provision
- Standard of Residential Accommodation
- Design and impact to appearance of surrounding area
- Impact on Living Conditions of Neighbours
- Impact on Highways
- Natural environment



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Planning Committee A

Report title:

Woodelm Court, 123 Devonshire Road, SE23 3LX

Date: 17 March 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Forest Hill

Contributors: Georgia McBirney

Outline and recommendations

This report sets out the officer recommendation of approval for this planning application. This case has been brought before committee for a decision as an objection has been received from a Residents Association.

Application details

Application reference number(s): DC/21/123797

Application Date: 02 November 2021

Applicant: Playle & Partners LLP on behalf of Vista Investment Projects Limited

Proposal: An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments for the variation of Condition (2) approved drawings in connection with the planning permission (DC/20/118644) dated 14 January 2021 for the erection of two additional storeys above the existing residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23

Background Papers: Submission drawings
Submission technical reports
Internal consultee comments
Statutory consultee comments

Designation: PTAL 3, Air Quality, Local Open Space Deficiency

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site comprises of a purpose built block of flatted accommodation which is three storeys in height and dates approximately from the 1970s. The block is brick built with horizontal windows, projecting balconies and flat roof. The building currently hosts seven residential units with integral garages at the rear.
- 2 The application site is situated on a corner plot on the western side of Devonshire Road and the southern corner of Ewelme Road as shown in Figure 1. The property is situated in open grounds. The ground rises to the rear of the site.

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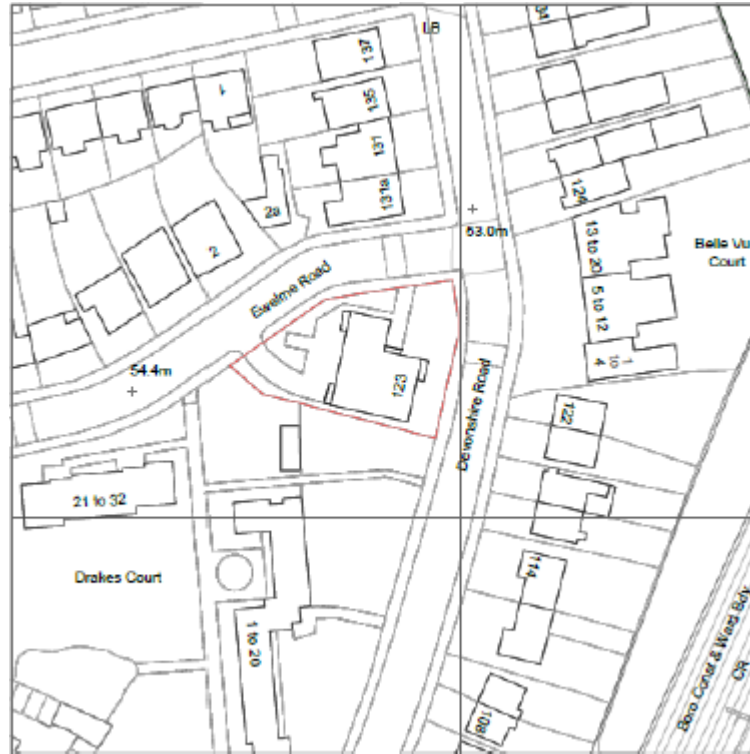


Figure 1 Site Location Plan

Character of area

- 3 To the side and rear are also post war, 20th century modern flatted accommodation blocks, three and four storey in height, also set in open grounds.
- 4 The wider area comprises of Victorian dwellings, terraced, and semi-detached, some of which are three and four storeys in height, with some units having basement level accommodation and/or accommodation within the roof. These properties fall within the Forest Hill Conservation Area.

Heritage/archaeology

- 5 The application site is located adjacent to the Forest Hill Conservation Area.

Local environment

- 6 The site lies within Flood Risk Zone 1.

Transport

- 7 The application site has a PTAL 3, on a scale of 0 to 6b, with 6b representing the highest accessibility to public transport.

2 RELEVANT PLANNING HISTORY

- 8 **DC/17/104524:** Proposed extension of the existing building to include the erection of two storeys to provide 5 x 2 bed flats with associated parking, external elevational works to the existing building, the provision of a new lift and external landscaping at Woodelm

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Court, 123, Devonshire Road SE23. Refused by the Council in February 2018 and was allowed on appeal in February 2019 (APP/C5690/W/18/3196082).

- 9 **DC/20/115985:** An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments in connection with the planning permission (DC/17/104524) granted on Appeal reference APP/C5690/W/18/3196082 dated 19 February 2019 for the erection of two storeys to provide 5 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at 123 Woodelm Court, Devonshire Road, London, SE23.
- 10 Application DC/20/115985 was determined by Planning Committee C in August 2020. The application was approved.
- 11 **DC/20/118644:** The erection of two additional storeys above the existing residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23.
- 12 This application was reviewed by a Chair person of one of the Council's Planning Committees who confirmed that the application could be issued under delegated powers under the Temporary changes to the Councils Statement of Community Involvement, that were in place at the time of this decision. The application was approved.
- 13 **DC/21/122723:** An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments for the variation of Condition (2) approved drawings in connection with the planning permission (DC/20/118644) dated 14 January 2021 for the erection of two additional storeys above the existing residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23. Refused in September 2021, for the following reason:
- Cumulatively the introduction of the plant room at lower ground and ground floor level, the introduction of an external service riser, the introduction of curtain walling and the alterations to the entrance are considered to be visually obtrusive and disruptive elements which degrade the approved design quality, resulting in a building of low visual quality contrary to Paragraph 126 of the National Planning Policy Framework (2021), Policies D4 Delivering Good Design and D6 Housing Quality and Standards of the London Plan (2021), Policy 15 High Quality Design for Lewisham of the Core Strategy (June 2011), DM Policy 30 Urban Design and Local Character and DM Policy 31 Alterations and Extensions to Existing Buildings including Residential Extensions of the Development Management Local Plan (2014).

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 14 The current application is an application submitted under S73 of the Town and Country Planning Act 1990 (as amended) for a minor material amendment for the variation of Condition (2) approved drawings in connection with planning permission DC/20/118644 dated 14 January 2021 for erection of two additional storeys above the existing

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residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23

15 The amendments proposed are:

- Removal of the lift
- The installation of an external service riser and plant intake room
- Alterations to the lobby area and entrance steps
- Alterations to balconies
- Alterations to elevations

3.2 COMPARISON WITH PREVIOUS SCHEME

16 Compared to refused application DC/21/122723, the following amendments have been made:

- All of the balconies would be the same size
- Alterations to materials
- Alterations to the lobby area and entrance steps

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

17 No consultation was undertaken by the applicant prior to the application being submitted. Officer's note that due to the scale of the proposal there is no policy requirement for the applicant to consult with neighbours prior to submitting an application.

4.2 APPLICATION PUBLICITY

18 Site notices were displayed on the 9th November 2021 and press advert was published on the 10th November 2021.

19 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 2nd November 2021.

20 [4] number responses received, comprising [2] objections, [2] support and [0] comments. It is noted that one of the objections is from the Belle Vue Residents Association.

4.2.1 Comments in objection

Comment	Para where addressed
The amendments would exacerbate the loss of views	There is no right to a view in planning terms. Notwithstanding this, the additional storeys have been approved by planning history.

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Additional glare from the building	Para 114
No social housing is required	There is no policy requirement for the provision of social housing as established by the planning history
Loss of light and over shadowing	Section 6.5
Overlooking and loss of privacy	Section 6.5
The two additional storeys are not in keeping with the area	The additional storeys have been approved by planning history
Do not support the light grey render of the top floor	Paras 83 to 85
Object to the service riser	Para 73

- 21 The Belle Vue Residents Association do not consider that they were given a sufficient opportunity to address planning committee during the committee meeting for DC/20/115985. This comment relates to the planning committee process for DC/20/115985, this is not a material consideration in the assessment of the current application.
- 22 The proposal changes every few months- There is not a limit on the number of applications that can be submitted on a site, each application is assessed by the Council on its own merit.
- 23 The proposals are motivated by generating a cash profit – The intentions of the applicant are not a material planning consideration.

4.2.2 Comments in support

Comment	Para where addressed
Support the removal of the lift and lift shaft	Noted by officers
Support the service riser for cables and the like as it will bring updated services	Noted by officers
The proposed front entrance is an improvement	Noted by officers

4.3 INTERNAL CONSULTATION

- 24 The following internal consultees were notified on 2nd November 2021.
- 25 Conservation: No objections raised.
- 26 Highways: No comments received.

4.4 EXTERNAL CONSULTATION

- 27 The following External Consultees were notified on 2nd November 2021
- 28 Forest Hill Society: No response received.

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5 POLICY CONTEXT

5.1 LEGISLATION

29 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).

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

5.2 MATERIAL CONSIDERATIONS

31 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.

32 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.

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

34 The main issues to be considered for Section 73 applications are whether the proposed amendments would be acceptable with respect to the Development Plan and whether the proposed variations of conditions are minor in the context of the guidance as set out within the 'Flexible options for planning permissions' section of the Planning Practice Guidance (2014), whilst still adhering to the crux of the objectives of the relevant policies, in the context of the development proposals.

35 The Guidance states that "a minor material amendment is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved." This is not a statutory definition. It is the judgement of the LPA, on an individual case basis, as to whether the alterations to the original scheme are non-material, minor material or so material as to warrant a new planning application.

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

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5.4 DEVELOPMENT PLAN

36 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- 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)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

37 Lewisham SPG/SPD:

- Small Sites SPD (October 2021)
- Alterations and Extensions Supplementary Planning Document (April 2019)

38 London Plan SPG/SPD:

- Planning for Equality and Diversity in London (October 2007)
- Character and Context (June 2014)
- The control of dust and emissions during construction and demolition (July 2014)
- Accessible London: Achieving an Inclusive Environment (October 2014)
- Housing (March 2016)

6 PLANNING CONSIDERATIONS

39 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

40 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.

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6.1.1 Principle of development conclusions

- 41 The new London Plan (March 2021) has been formally adopted since the original decision (DC/20/118644) was made in January 2021.
- 42 As the London Plan (2021) has now been adopted, it forms part of the Development Plan, and officers have given due consideration to the adopted policies where relevant in this report. Policies 3.3, 3.5 and 3.8 of the Old London Plan set out that there is a pressing need for more homes in London. This has been carried through into the current London Plan, with Policy H2 requiring boroughs to pro-actively support well designed homes on small sites. Further to this, the Small Sites SPD (2021), supports vertical intensification. The adopted London Plan the Small Sites SPD have strengthened the argument around this type of intensification.
- 43 The principle of development, established as acceptable in the original permission is not affected by the proposals, in consideration of the now adopted London Plan.

6.2 HOUSING

- 44 This section covers: standard of accommodation. Members are advised that only the considerations that are impacted by the amendments are set out below.

6.2.1 Residential Quality

General Policy

- 45 NPPF para 130 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. This is reflected in relevant policies of the London Plan (LPP D6), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA; Alterations and Extensions SPD 2019, LBL).
- 46 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

- 47 London Plan Policy D6 and DM Policy 32 seeks to achieve housing developments with the highest quality internally and externally in relation to their context and sets out minimum space standards. These policies set out the requirements with regards to housing design, seeking to ensure the long term sustainability of the new housing provision.

Discussion

- 48 The proposed alterations include amending the approved recessed windows in the living areas of the additional dwellings so that they are in line with the building line. As a result of this all of the units in the additional storeys would be enlarged. Table 1 below sets out the approved and proposed Gross Internal Area (GIA) of each dwelling.

Table [1]: Internal space standards – approved v proposed

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Unit	Approved GIA	Proposed GIA
8	60m ²	61.6m ²
9	63.4m ²	64.9m ²
10	63.3m ²	64.8m ²
11	60m ²	61.6m ²
12	63.4m ²	64.9m ²
13	63.3m ²	64.8m ²

49 On application DC/20/118644, Units 8 and 11 did not comply with the minimum GIA for 2B3P units; the shortfall was 1m². That has now been rectified as can be seen from Table 1: dwellings 8 and 11 would both have GIA of 61.6m² and would therefore comply with the minimum space standards for a 2B3P unit, and such this is considered acceptable.

50 In respect of dwellings 8, 10, 12 and 13, all of the units would be enlarged slightly and would exceed the minimum GIA for a 2B3P unit.

External space standards

Policy

51 Standard 4.10.1 of the Mayors Housing SPG states that a 'minimum of 5sqm of private amenity outdoor amenity space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant'

Discussion

52 The application proposes alterations to all of the balconies on the building (existing building and additional storeys) so that they have the same width and depth. It is noted on recently refused MMA application DC/21/122723, the applicants only proposed to amend some of the balconies and this contributed to the refusal reason of that application.

53 Table 2 below sets out the sizes of the balconies below. For the existing flats, the table sets out existing and proposed and for the proposed flats within the additional storeys, the table sets out approved and proposed.

Table [2]: External space standards

Unit	1	2	3	4	5	6	7	8	9	10	11	12	13
Existing or approved (m ²)	4.1	4.1	4.1	4.1	4.1	4.1	4.1	6.2	5	5	6.2	5	5
Proposed (m ²)	5	5	5	5	5	5	5	5	5	5	5	5	5

54 In terms of the existing flats (1 to 7), all of the balconies would be enlarged compared to existing. It is noted that as these flats are existing, the space standards with London Plan Policy D6 cannot be retrospectively applied to these units. Officer's note that the balconies would not be compliant with current policy standards for a 2B3P unit, however,

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given that they would be enlarged compared to the existing this is considered to be acceptable.

- 55 In terms of the balconies for units 8 to 13 all of the balconies would be 5m². For units 9, 10, 12 and 13 this is the same as approved on DC/20/118644 and for units 8 and 11, the balconies would be 1.2m² smaller than approved on DC/20/118644. All of the balconies would be 1m² smaller than as required by policy. The London Plan Housing SPG states that where site constraints make it impossible to provide private amenity space, dwellings may instead be provided with additional internal living space equivalent to the area of open space requirements. All of the units would exceed the minimum GIA by at least 1.6m², as on DC/20/118644, the 1m² shortfall of the private amenity space is compensated by in the GIA minimum exceedance, and as such, on balance, the private amenity space for units 8 to 13 is considered to be acceptable.

Accessibility and inclusivity

Policy

- 56 Paragraph 130 of the NPPF states that planning decisions and policies should create places that are accessible. Policy D5 Inclusive design of the London Plan states that development should achieve the highest standards of inclusive design.

Discussion

- 57 Appeal decision APP/C5690/W/18/3196082, and planning applications DC/20/115985 and DC/20/118644 were all approved with a lift. It is noted that the existing building does not have step free access from the main entrance or within the building. It is also noted that the lift approved by APP/C5690/W/18/3196082, DC/20/115985 and DC/20/118644, did not result in step free access within the building, as all of the flats had to be accessed via a flight of steps once exiting the lift, this is due to the position of the existing stair core within the building.
- 58 Previously refused application, DC/21/122723, raised no objection to the omission of the approved lift due to the existing situation in the building and the siting of the stair core which would require a flight of stairs to be climbed between the lift and the entrances to the flat. This is still considered to be the case. It is noted that the development would still need to comply with the required building regulations.

6.2.2 Housing conclusion

- 59 The proposed amendments are considered to be acceptable in regards to residential quality.

6.3 URBAN DESIGN

General Policy

- 60 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 61 Policies D4 and D6 of the London Plan emphasise that the 'scrutiny of a proposed development should cover its layout, scale, height, density, land uses, materials, architectural treatment, detailing and landscaping'.

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- 62 Core Strategy Policy 15 outlines how the Council will apply national and regional policy and guidance to ensure the highest quality design, and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of site, is sensitive to local context, and responds to local character.
- 63 DMP 30 requires planning applications to demonstrate 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.
- 64 As the application site is adjacent to the Forest Hill Conservation Area DM Policy 36 is also relevant. DM Policy 36 states in point 4 c that permission will not be granted adjacent to a conservation area where the development would have a significant impact on the conservation area.

6.3.1 Appearance and character

Policy

- 65 In terms of architectural style, the NPPF encourages development that is sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (para 130).
- 66 London Plan Policy D3 states that development should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions. Proposals should be of high quality, with architecture that pays attention to detail, and gives thorough consideration to the practicality of use, flexibility, safety and building lifespan through appropriate construction methods and the use of attractive, robust materials which weather and mature well.
- 67 DM Policy 30 requires planning applications to demonstrate a site specific response which creates a positive relationship with the existing townscape whereby the height, scale and mass of the proposed development relates to the urban typology of the area.
- 68 DM Policy 32 expects new residential development to be attractive and neighbourly.

Discussion

- 69 As set out above, this application seeks to make minor material amendments to an approved scheme. Therefore the principle of two additional storeys is firmly established. This section focuses on the amendments proposed to the approved scheme.

Removal of Lift

- 70 The amendments propose to remove the approved lift, this would result in the lift core which would have extended above the flat roof being omitted. This amendment would result in no element extending above the flat roof of the additional storeys. The proposed amendment is not considered to have an unacceptable impact on the character and appearance of the development approved by DC/20/118644.

The installation of an external service riser and plant intake room

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- 71 This application proposes to introduce a plant intake room at lower ground floor level. The plant intake room would not extend beyond the building line fronting Devonshire Road and would have a depth 0.1m greater than the omitted lift core (which extended on all storeys of the building). The plant intake room would be accessed externally via steps which would adjoin the entrance. The plant intake room would be finished in materials to match the rest of the building.
- 72 It is noted that on the previously refused application DC/21/122723, the plant intake room proposed on that application was proposed to be constructed in materials that did not match the building and was accessed via double doors on the elevation fronting Devonshire Road.
- 73 An external plant intake room was not proposed on DC/20/118644 and this amendment would introduce a new element. Considering the scale of the plant intake rooms, its siting and materials matching the rest of the building, the proposed plant intake room is considered to have an acceptable impact on the character and appearance of the development approved by DC/20/118644.
- 74 Also on the Ewelme Road elevation, an external service riser is proposed. The external service riser would project 0.4m from the elevation and would have a width of 1.7m, and would extend ground floor level and above. The external service riser would not extend above the flat roof of the building. The external service riser would be constructed in materials to match the rest of the building. It is noted that on the previously refused application, the external service riser was proposed to be constructed in materials that did not match the building.
- 75 An external service riser was not proposed on DC/20/118644 and this amendment would introduce a new element. Considering the scale of the external service riser combined with its materiality, it is to have an acceptable impact on the character and appearance of the development approved by DC/20/118644.

Alterations to lobby area and entrance steps

- 76 Application DC/20/118644 was approved with a front extension and for the building to be accessed via a single door opening. This application proposes to omit the front extension and for the entrance door to be centrally arranged with glazed panels either side. Due to the amendments, the lobby area outside the front door would be enlarged (it would be sited in the place of the omitted lift core and front extension).
- 77 The omission of the front extension, alterations to the front entrance and enlarged outside lobby area are considered to have an acceptable impact on the character and appearance of the development approved by DC/20/118644.
- 78 The alterations to the lobby area result in an amended layout for the soft and hard landscaping; the amendments are considered to be acceptable.

Alterations to balconies

- 79 This application proposes to alter all of the balconies on the building so that all would be the same size. It is noted that on previously refused application DC/21/122723, the elevations would have incorporated balconies of different sizes and this contributed to the refusal of DC/21/122723.

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80 The alterations to the balconies so that they would all be uniform in size is not considered to have an unacceptable impact on the character and appearance of the development approved by DC/20/118644.

Alterations to elevations

81 The elevational alterations proposed on this application are:

- Amending the recessed windows in the living areas of the additional dwellings so that they would be in line with the building line
- Introduction of curtain walling in the Ewelme Road elevation in the additional storeys
- The third floor would be finished in a light grey render

82 The proposed amendments to the recessed windows in the living areas of the additional dwellings, so that they would be in line with the building line, is considered to have an acceptable impact on the character and appearance of the development approved by DC/20/118644. It is noted that the existing flats on the lower levels do not have recessed windows in the living areas.

83 Application DC/20/118644 was approved with two window openings on each level in the Ewelme Road elevation. This application seeks to alter and extend the curtain walling that currently exists on the lower levels of the building so that the additional storeys would incorporate curtain walling. The submission sets out that the curtain walling would incorporate powder coated frames which would be Basalt grey (RAL 7012) in colour, it is noted that this would match the approved windows and doors. The proposed alteration to the existing curtain walling and the introduction of curtain walling within the additional storeys is considered to have an acceptable impact on the character and appearance of the development approved by DC/20/118644.

84 The materials condition attached to APP/C5690/W/18/3196082 and planning applications DC/20/115985 and DC/20/118644 were approved with the proposed third floor being clad in through-colour fibre cement panels – Equione (Natura) N281 Nimbus. This application seeks to amend the third floor so that it would be finished in a scraped render in a light grey colour. It is noted that previously refused application DC/21/122723 did not propose this amendment.

85 In appeal decision APP/C5690/W/18/3196082, the Planning Inspector sets out in paragraph 8 *'concern is also raised regarding the design of the extension, partially as the area is typically characterised by brick buildings of both traditional and modern design. The use of coloured cladding panels for the external walls is not commonplace in the area, however, in combination with the wide plans to rejuvenate the external appearance of the building, I am satisfied that the development would read as a cohesive structure. I do not consider the use of cladding would be inappropriate on a c1970's building, nor in the wider area to justify refusal and I am mindful that the final colours of the panels could reasonably be dealt with by a materials condition'*.

86 The reasoning applied by the Planning Inspector in appeal decision APP/C5690/W/18/3196082, can be applied to this current application. Whilst officers acknowledge that render is not a common feature within the streetscene, the replacement of the approved cladding with render is still considered to result in a cohesive structure and the use of render is not considered to be inappropriate on a

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building from c.1970's nor in the wider area. It is noted that Conservation Officers raised no objection to the proposed change in material.

6.3.2 Impact on Heritage Assets

Policy

- 87 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.
- 88 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.
- 89 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.
- 90 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.
- 91 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

- 92 Officers have regard to appeal decision APP/C5690/W/18/3196082, in which the Planning Inspector outlined that the existing building makes a limited contribution to the setting of the conservation area and the development proposed on APP/C5690/W/18/3196082 would not harm the setting of the conservation area.
- 93 When considering the scope of the amendments to the development approved under DC/20/118644 and the comments made by the Planning Inspector in APP/C5690/W/18/3196082, officers consider that the current proposals would not harm the setting of the Forest Hill Conservation Area.

Summary

- 94 Officers, having regard to the statutory duties in respect of listed buildings 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 setting and the character and appearance of the Forest Hill Conservation Area.

6.3.3 Urban design conclusion

- 95 The amendments to the development approved by DC/20/118644 are considered to have an acceptable impact on the character and appearance of the approved scheme,

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the wider street scene and on the setting and character and appearance of the adjacent Forest Hill Conservation Area.

6.4 TRANSPORT IMPACT

General policy

96 The NPPF paragraph 110 states that planning decisions should ensure safe and suitable access to the site for all users, and that any significant impacts from the development on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree.

97 Paragraph 111 of the NPPF 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'.

Discussion

98 The amendments proposed on this application do not have a transport and highways impact and therefore do not fall to be considered.

99 It is highlighted for Members that conditions in respect of the Construction Management Plan, Cycle Parking and Refuse Storage are still applicable.

6.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

100 NPPF para 130 sets an expectation that new development will be designed to create place that amongst other things have a 'high standard' of amenity for existing and future users. This is reflected in relevant policies of LPP D3, D6 and D14 and DMP 30 and 32.

101 DMP 31(1)(b) expects new development to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours. The Small Site SPD provides general guidance in section 12 (sub section 12.2 to 12.4) and specific guidance in section 32.

Discussion

102 Officers will only have regards to the impacts of the proposed amendments on neighbouring amenity.

Removal of lift

103 The removal of the lift core would not have an unacceptable impact on neighbouring amenity. It is highlighted that the removal of the lift core reduces the maximum height of the building.

The installation of an external service riser and plant intake room

104 Considering the scale and siting of the plant intake room and service riser, it is considered to have an acceptable impact on neighbouring amenity.

Alterations to the lobby area and entrance steps

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105 The separation distance to the properties on the opposite side of the junction with Ewelme Road is approximately 19m and the separation distance to the properties on the opposite side of Devonshire Road is between 19-21m. Considering the separation distance to neighbouring properties and the siting and scale of the alterations, the alterations to the lobby area and entrance steps are not considered to have an unacceptable impact on neighbouring amenity.

Alterations to balconies

106 The separation distance to the properties on the opposite side of Devonshire Road is between 19 and 21m and the separation distance to Drakes Court which is situated to the side and rear is 21m. Considering the separation distances to the properties situated opposite and to the rear, the alterations to the balconies are not considered to have an unacceptable impact on neighbouring amenity.

Alterations to elevations

107 The separation distance to the properties on the opposite side of Devonshire Road is between 19 and 21m and the separation distance to Drakes Court which is situated to the side and rear is 21m. Considering that the windows would be in line with the approved building line and the separation distance to properties opposite and to the rear, the alterations to windows are considered to have an acceptable impact in terms of overlooking or loss of privacy.

108 On the elevation facing Ewelme Road the amount of glazing would increase due to the proposed curtain walling. It is noted that the curtain walling would serve the communal hallways and not the flats. The separation distance to the dwellings on the opposite side of the junction with Ewelme Road is approximately 19m. Considering that the curtain walling would serve communal hallways and the separation distance to the properties opposite, the proposed curtain walling is not considered to result in an unacceptable impact in terms of overlooking and loss of privacy.

109 The removal of the lift core would not have an unacceptable impact on neighbouring amenity. It is highlighted that the removal of the lift core reduces the maximum height of the building.

110 Considering the scale and siting of the plant intake room and service riser, it is considered to have an acceptable impact on neighbouring amenity.

111 The separation distance to the properties on the opposite side of the junction with Ewelme Road is approximately 19m and the separation distance to the properties on the opposite side of Devonshire Road is between 19-21m. Considering the separation distance to neighbouring properties and the siting and scale of the alterations, the alterations to the lobby area and entrance steps are not considered to have an unacceptable impact on neighbouring amenity.

112 The separation distance to the properties on the opposite side of Devonshire Road is between 19 and 21m and the separation distance to Drakes Court which is situated to the side and rear is 21m. Considering the separation distances to the properties situated opposite and to the rear, the alterations to the balconies are not considered to have an unacceptable impact on neighbouring amenity.

113 The separation distance to the properties on the opposite side of Devonshire Road is between 19 and 21m and the separation distance to Drakes Court which is situated to

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the side and rear is 21m. Considering that the windows would be in line with the approved building line and the separation distance to properties opposite and to the rear, the alterations to windows are considered to have an acceptable impact in terms of overlooking or loss of privacy.

On the elevation facing Ewelme Road the amount of glazing would increase due to the proposed curtain walling. It is noted that the curtain walling would serve the communal hallways and not the flats. The separation distance to the dwellings on the opposite side of the junction with Ewelme Road is approximately 19m. Considering that the curtain walling would serve communal hallways and the separation distance to the properties opposite, the proposed curtain walling is not considered to result in an unacceptable impact in terms of overlooking and loss of privacy.

114 Concern has been raised by neighbours in respect of additional glare from the glazing. Considering the orientation of the building and the siting of the glazing, the curtain walling is not considered to result in materially harmful impact as a result of glare.

115 The replacement of cladding with render would have an acceptable impact on neighbouring amenity.

6.5.1 Impact on neighbours conclusion

116 The amendments to the development approved by DC/20/118644 are considered to have an acceptable impact on neighbouring amenity.

7 LOCAL FINANCE CONSIDERATIONS

117 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).

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

119 The CIL is therefore a material consideration.

120 The application is CIL liable and the amount due to be paid would be confirmed at a later date in a liability notice.

8 EQUALITIES CONSIDERATIONS

121 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.

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- 122 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.
- 123 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.
- 124 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>
- 125 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
- 126 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>
- 127 The existing building is not wheelchair accessible and the amendments in this application would result in no difference to the existing arrangement in terms of wheelchair accessibility. Notwithstanding this, if there was a lift in the building, there are stairs that would need to be negotiated to access the lift and the residential units.

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9 HUMAN RIGHTS IMPLICATIONS

128 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

129 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.

130 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.

131 This application has the legitimate aim of providing a two storey extension to provide six new dwellings. The rights potentially engaged by this application, including respect for your private and family life, home and correspondence and the freedom to enjoy one's home are not considered unlawfully interfered with by this proposal.

10 CONCLUSION

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

133 The application seeks amendments under Section 73 to a scheme which was granted planning permission in 2021 (DC/20/118644).

134 The proposed alterations to the approved scheme are considered to be acceptable in terms of residential quality, design and impact on neighbouring amenity.

135 Subject to the imposition of conditions, the development is acceptable and in accordance with the development plan.

11 RECOMMENDATION

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

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11.1 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 the date of 14th January 2021 on which the original permission DC/20/118644 was granted.

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

2) APPROVED DRAWINGS

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

Documents from DC/20/118644

1859-EX200 Rev P2; 9945-XX-3601 Rev D; WEC-PP-02/A;; WODLM-E001 Rev /; WODLM-E002 Rev /; WODLM-E003 Rev /; WODLM-E004 Rev /; WODLM-L001 Rev /; WODLM-P001 Rev /; WODLM-P002 Rev /; WODLM-P003 Rev /; WODLM-P004 Rev /; WODLM-S001 Rev /; WODLM-ST001 Rev /; 123 Woodelm Court, Devonshire Road Implementation Programme (prepared by James Lee Landscape & Garden Design, dated September 2020); Construction Management Plan (prepared by Vista Developments, dated September 2020); Highway Statement (prepared by Waterman Infrastructure & Environment Limited, dated September 2020); Plant Management & Maintenance Plan (prepared by James Lee Landscape & Garden Design, dated September 2020); Recycling and Waste Management Plan (prepared by Vista Developments, dated September 2020); Tree Report (prepared by PBA Consulting, dated September 2020); Wheelchair Statement (prepared by Playle & Partners LLP, dated September 2020)

Documents from DC/21/123797

Received 12th October 2021

9945-00-3103 Rev N; 9945-00-3401 Rev O; 9945-01-3104 Rev O; 9945-02-3105 Rev P; 9945-04-3107 Rev V; 9945-05-3158 Rev Q; 9945-06-3159 Rev O; 9945-ZZ-3204 Rev N; 9945-ZZ-3251 Rev N; 9945-ZZ-3252 Rev K; 9945-ZZ-3253 Rev L; 9945-ZZ-3255 Rev A; WEC-SP-01/F; External Materials Rev S4-B (prepared by Playle & Partners LLP, dated 6th October 2021)

Received 23rd February 2022

WEC-HDL-01/B; WEC-PP-01/A; 123 Woodelm Court, Devonshire Road, V4 (prepared by James Lee Landscape & Garden Design, dated 23 February 2022)

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.

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3) CONSTRUCTION MANAGEMENT PLAN

The development shall be carried out in accordance with Construction Management Plan approved by DC/20/118644: Construction Management Plan (prepared by Vista Developments, dated September 2020).

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 Policy SI1 Improving air quality and Policy T7 Deliveries, servicing and construction of the London Plan (March 2021).

4) EXTERNAL MATERIALS

(a) The development shall be constructed in those materials as set out in External Materials Rev S4-B (prepared by Playle & Partners LLP, dated 6th October 2021).

(b) The scheme shall be carried out in full accordance with those details as approved.

Reason: To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character

5) REFUSE/RECYCLING FACILITIES

(a) The development shall be carried out in accordance with the refuse/recycling facilities: 9945-XX-3601 Rev D approved by DC/20/118644.

(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).

6) CYCLE PARKING

(a) The development shall be carried out in accordance with the cycle parking as shown on 9945-XX-3601 Rev D approved by DC/20/118644.

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(b) 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).

7) HARD AND SOFT LANDSCAPING

(a) The development shall be carried out in accordance with the hereby approved Hard and Soft Landscaping:

Documents from DC/20/118644

WEC-PP-02/A; 123 Woodelm Court, Devonshire Road Implementation Programme (prepared by James Lee Landscape & Garden Design, dated September 2020); 123 Woodelm Court, Devonshire Road V2 (prepared by James Lee Landscape & Garden Design, dated 11 September 2020); Plant Management & Maintenance Plan (prepared by James Lee Landscape & Garden Design, dated September 2020)

Documents from DC/21/123797

Received 12th October 2021

WEC-SP-01/F

Received 23rd February 2022

WEC-HDL-01/B; WEC-PP-01/A; 123 Woodelm Court, Devonshire Road, V4 (prepared by James Lee Landscape & Garden Design, dated 23 February 2022)

(b) The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies SI 12 Flood risk management in the London Plan (March 2021), Core Strategy Policy 12 Open space and environmental assets Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November

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2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

11.2 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 discussions took place which resulted in further information being submitted.
- 2) 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>
- 3) 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.
- 4) The applicant be advised that the implementation of the proposal will require approval by the Council of a Street naming & Numbering application. Application forms are available on the Council's web site.

12 BACKGROUND PAPERS

- 1) Submission drawings
- 2) Submission technical reports
- 3) Internal consultee responses
- 4) Statutory consultee responses

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13 REPORT AUTHOR AND CONTACT

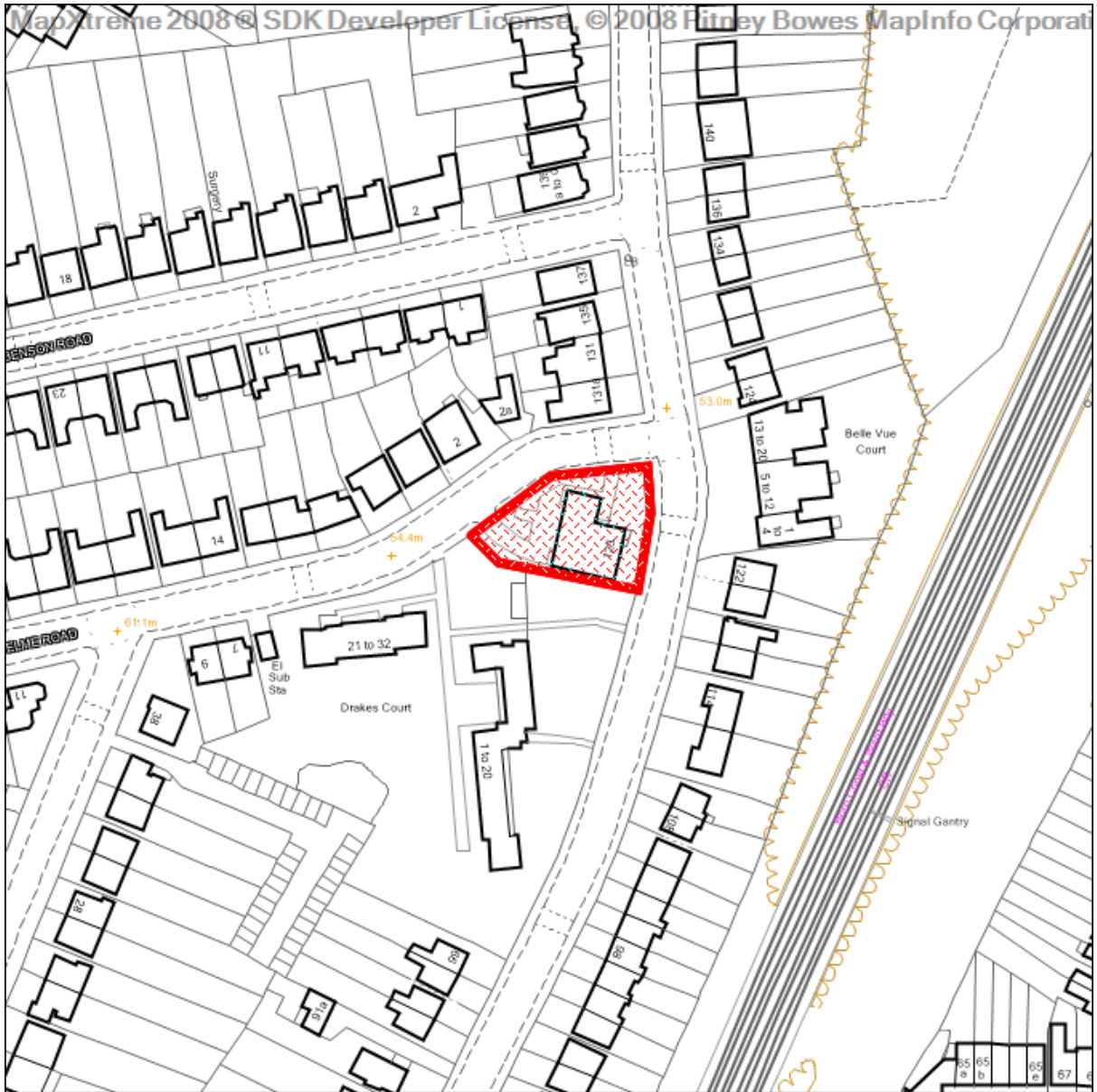
137 Georgia McBirney, Georgia.McBirney@lewisham.gov.uk, 020 8314 7118

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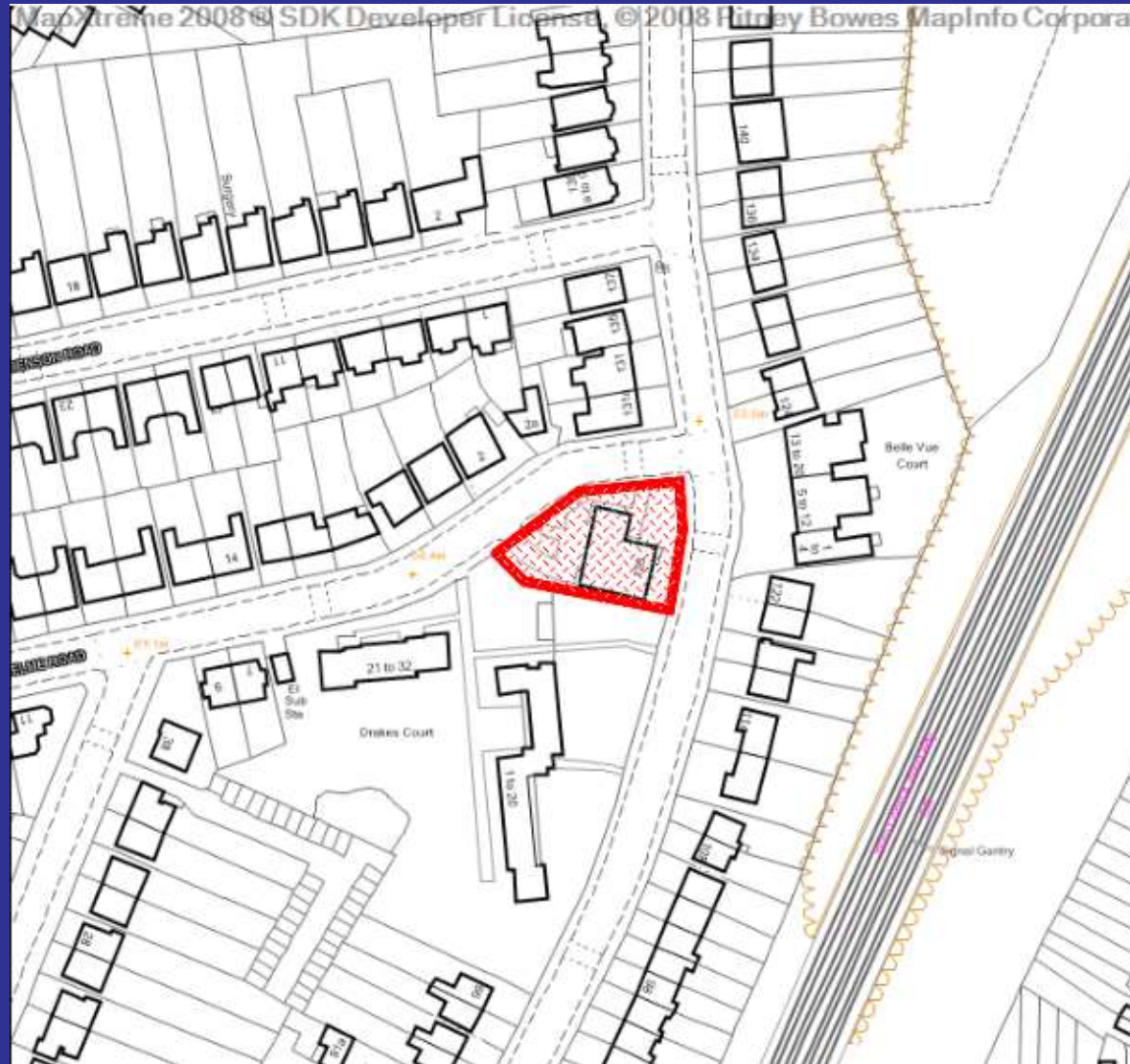
Woodlem Court, 123 Devonshire Road, SE23 3LX

An application submitted under Section 73 of the Town and Country Planning Act 1990 for Minor Material Amendments for the variation of Condition (2) approved drawings in connection with the planning permission (DC/20/118644) dated 14 January 2021 for the erection of two additional storeys above the existing residential block to provide 6 x 2 bed flats with associated parking and internal refurbishment works with works to the fabric of the building and the provision of a new lift at Woodelm Court, 123, Devonshire Road SE23

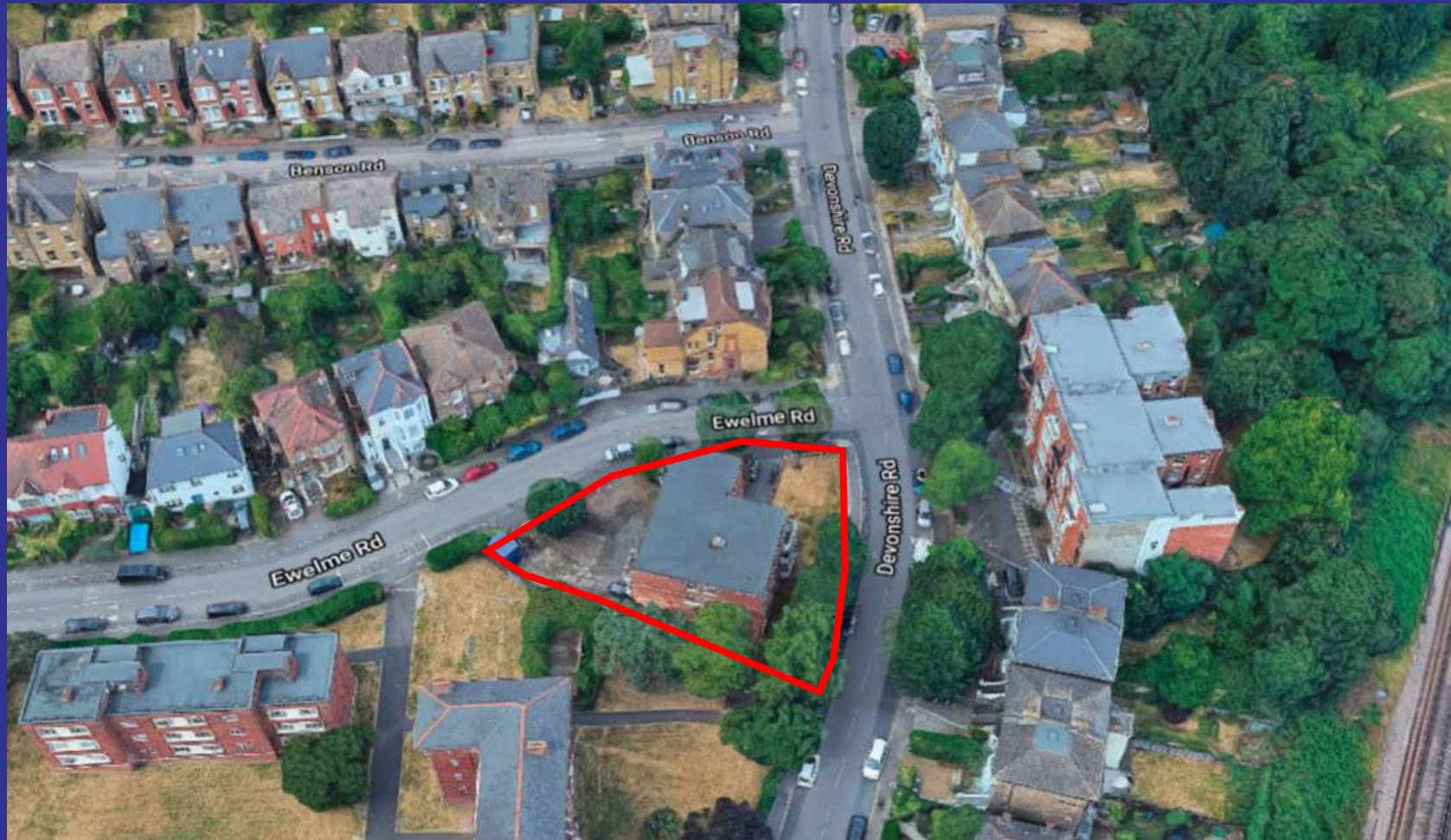
Application No. DC/21/123797

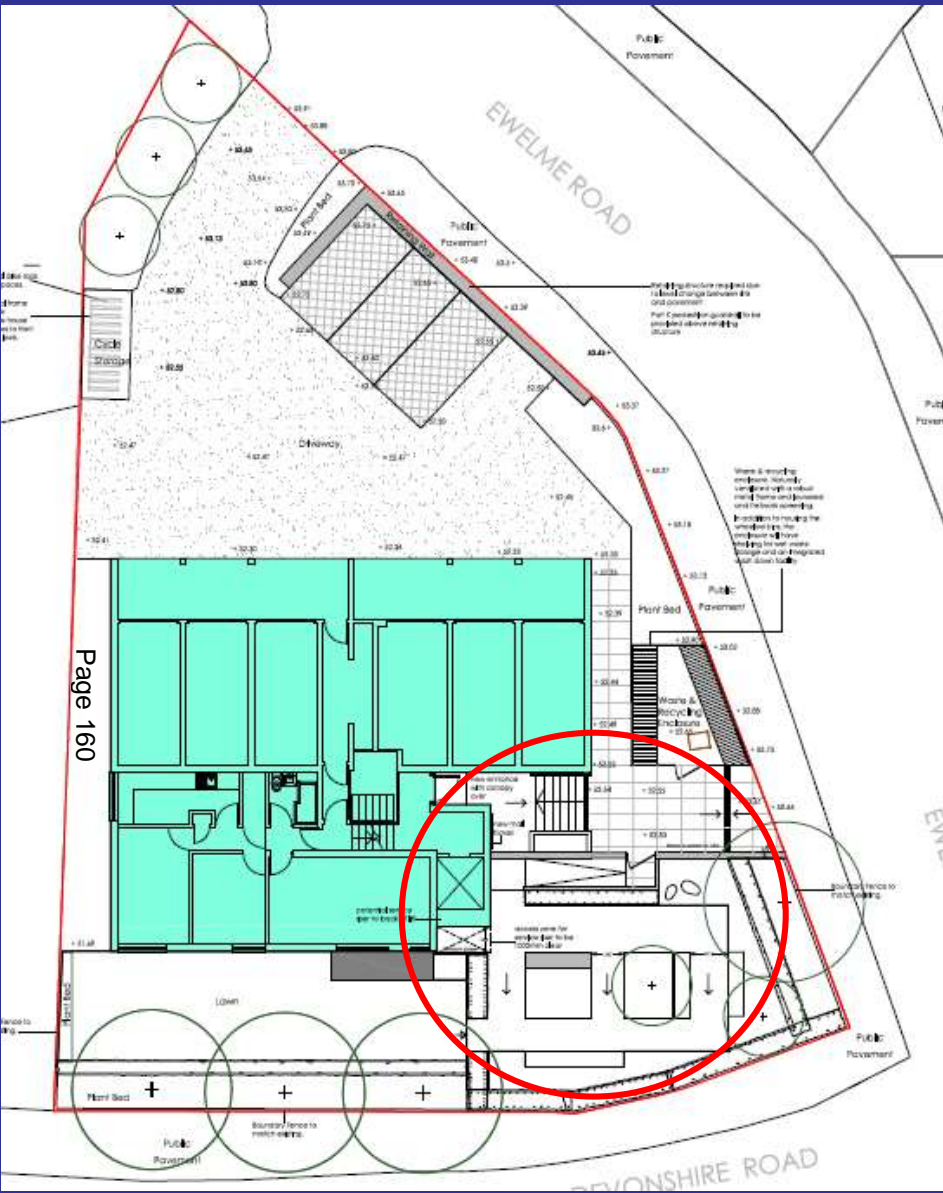
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and is for information only.

Site Location Plan

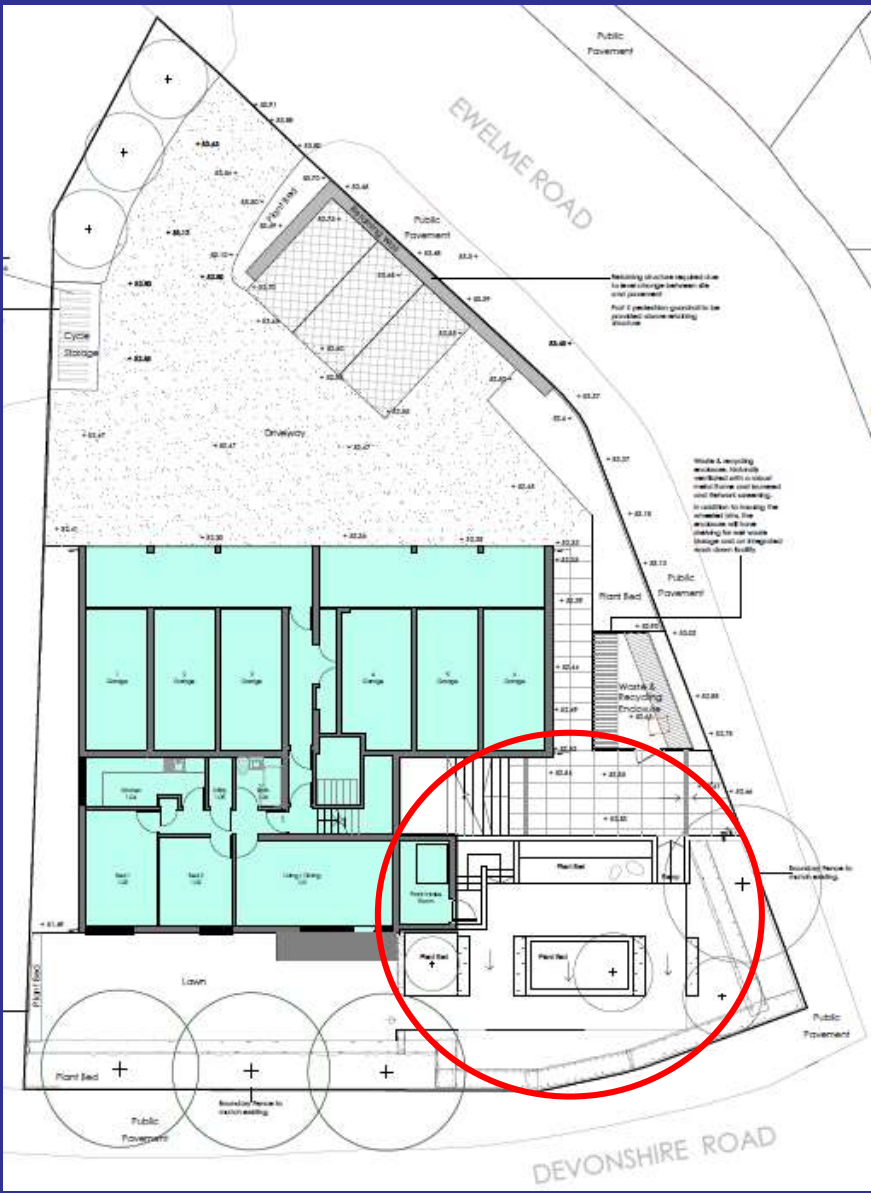


Existing Context



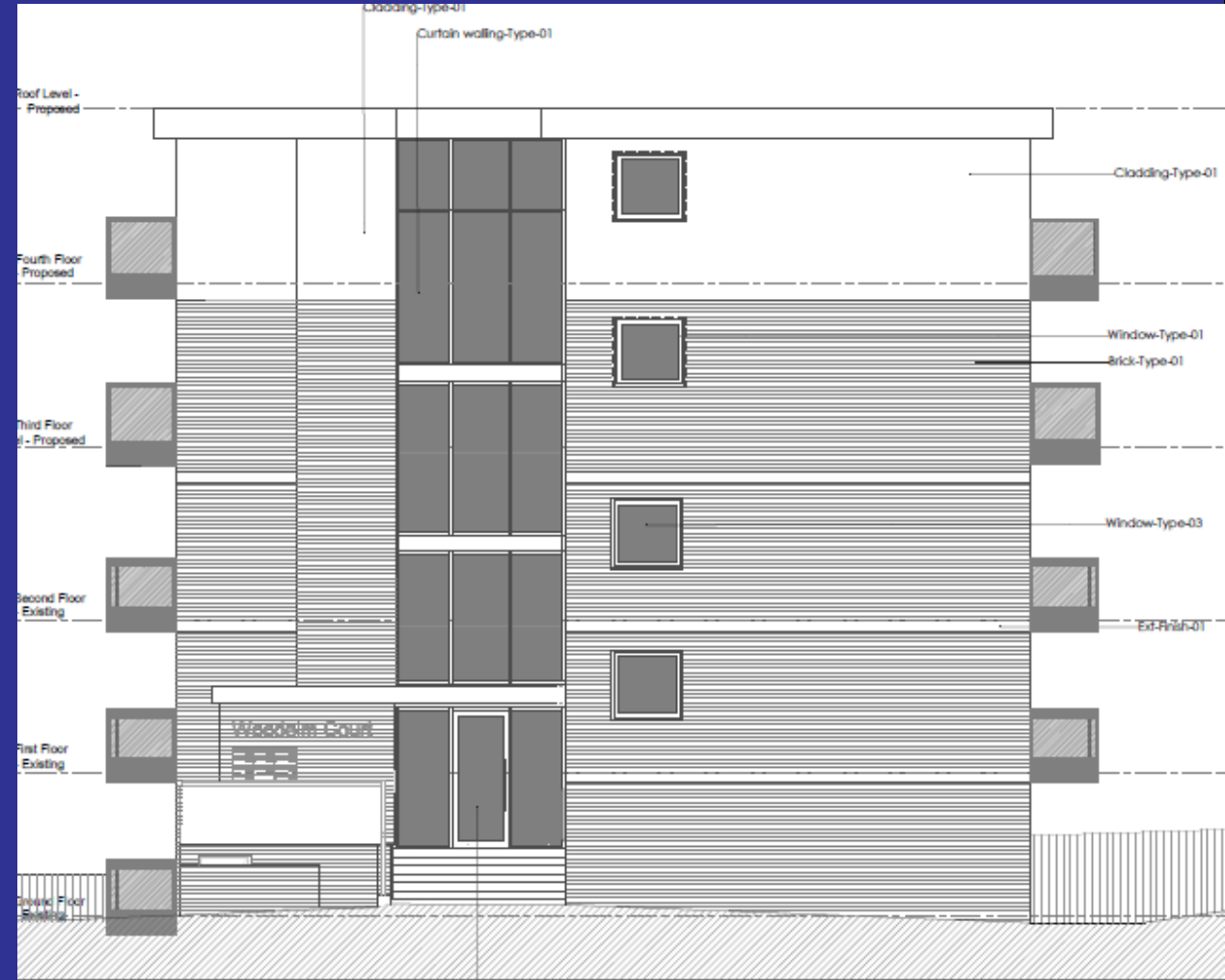
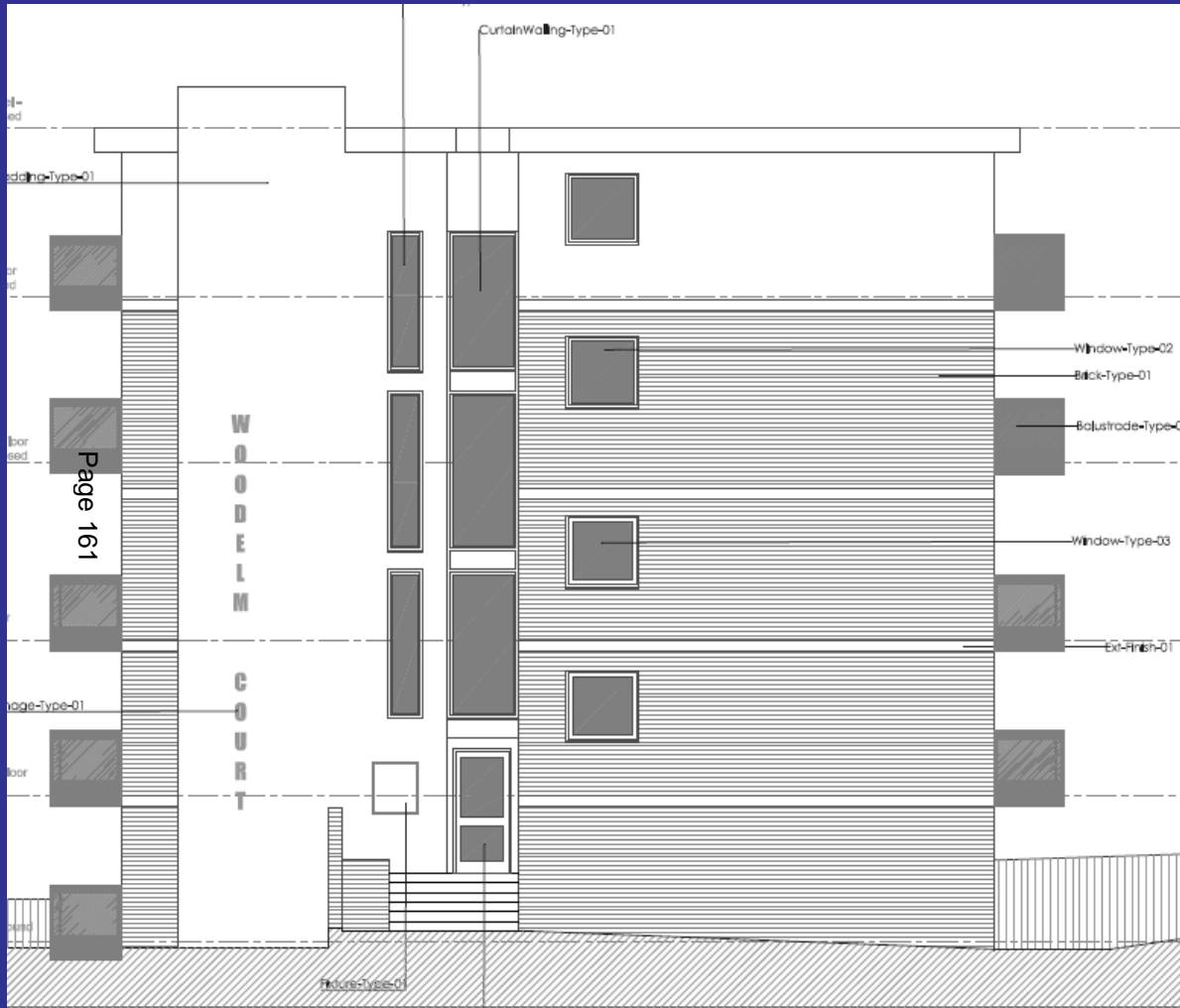


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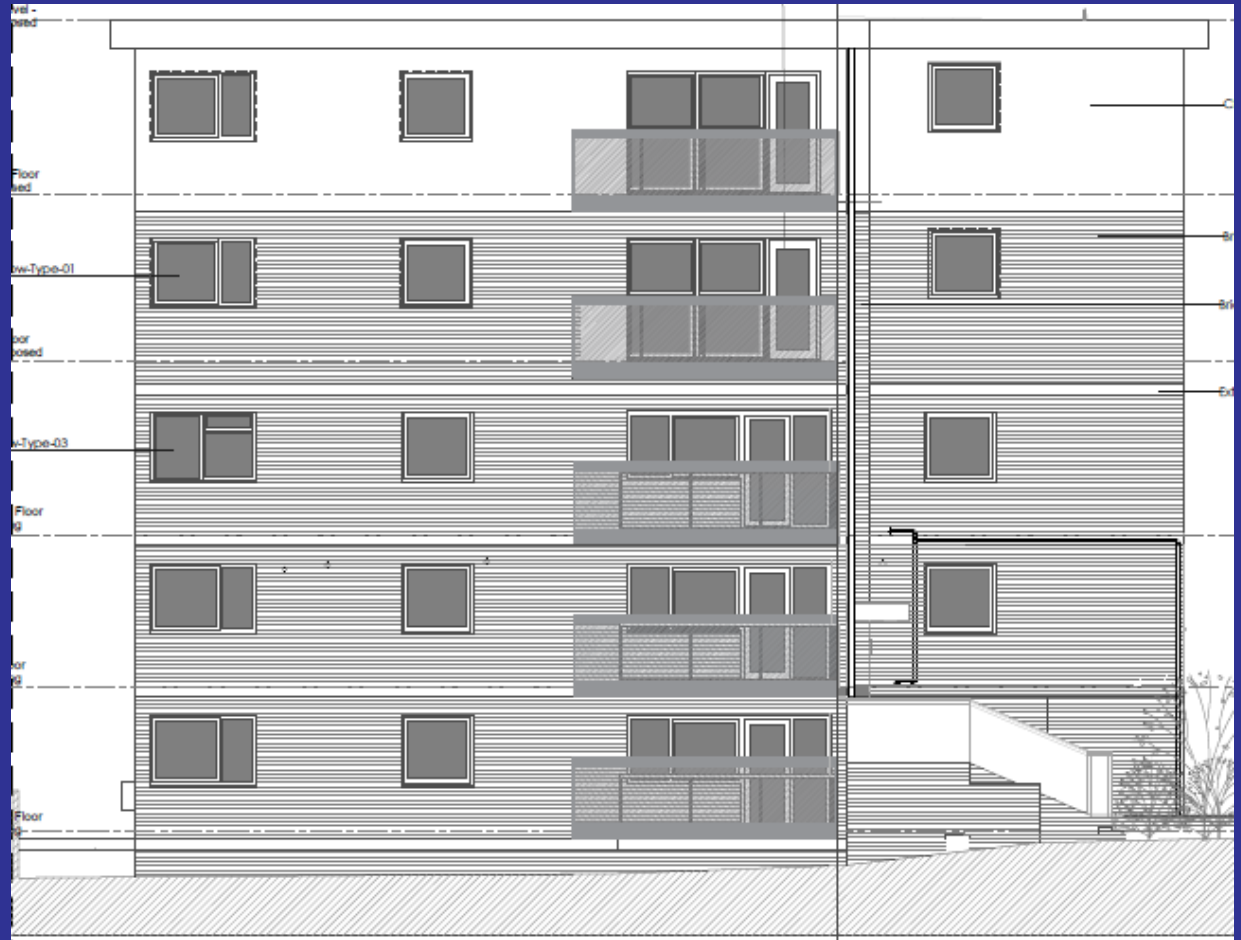
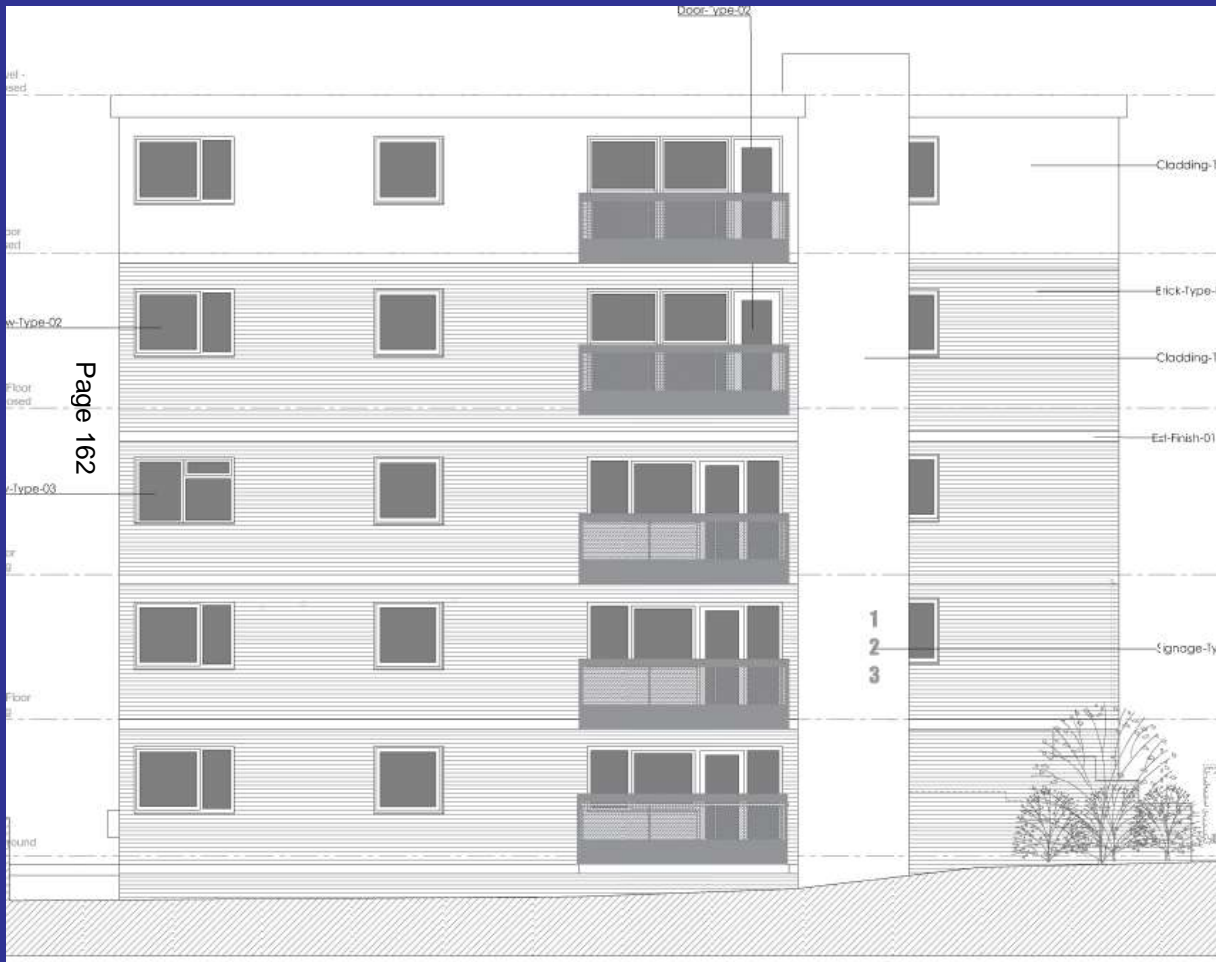


Approved and proposed site plans

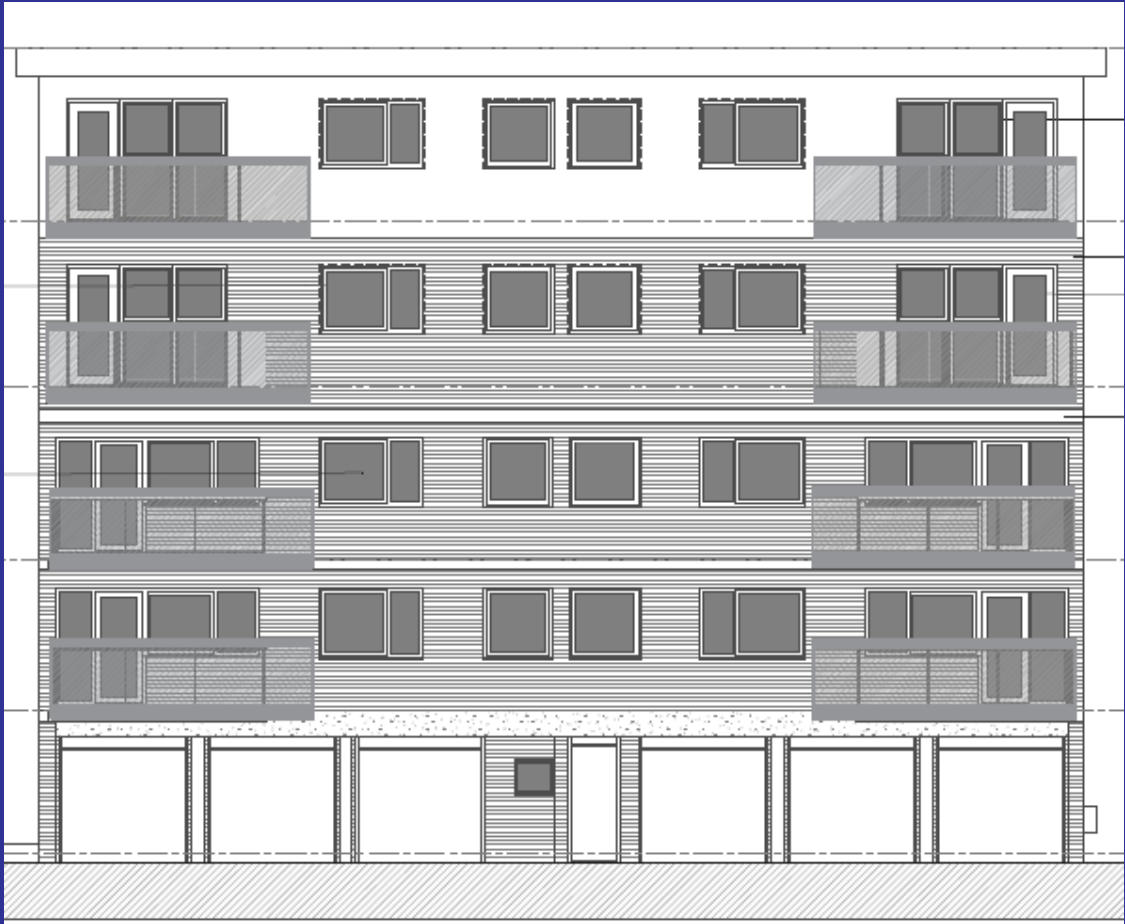
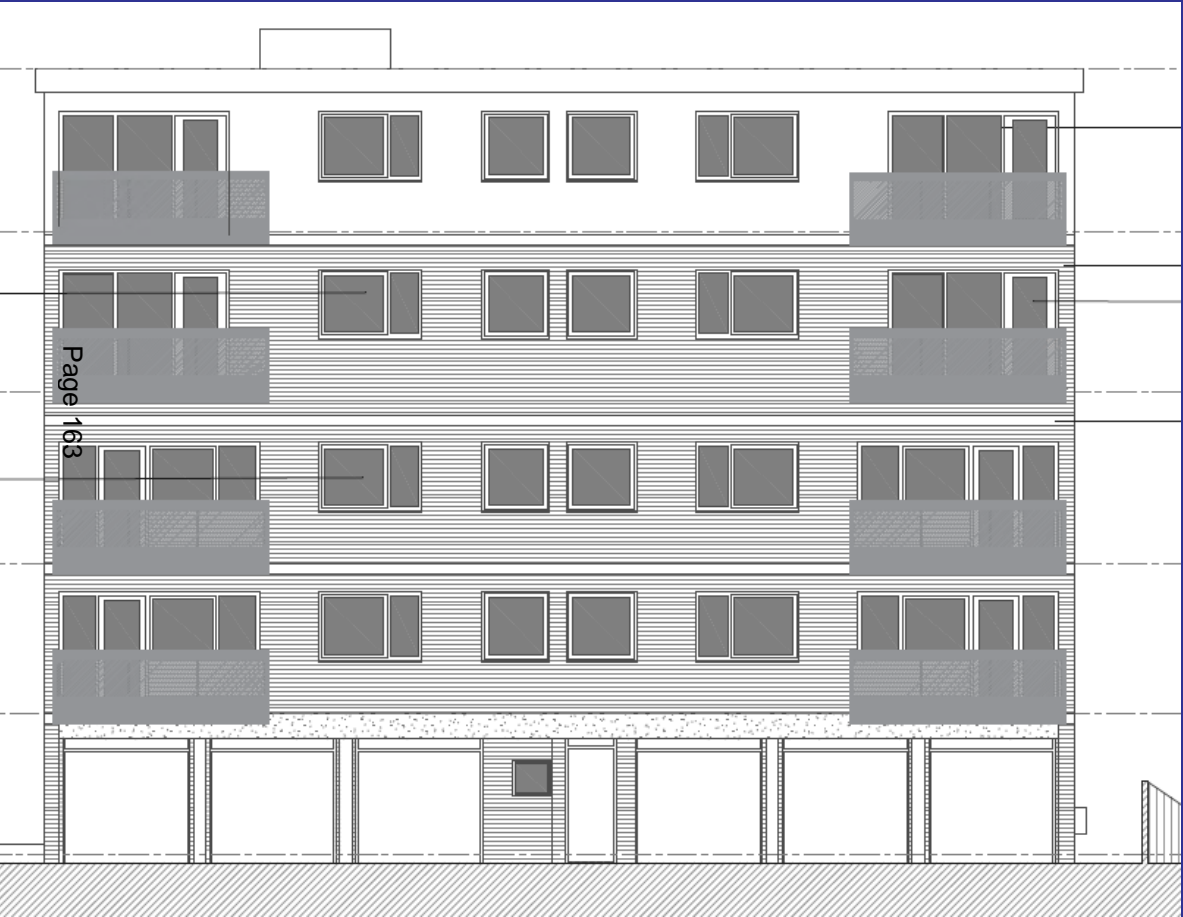
Approved and Proposed Ewelme Road Elevation



Approved and Proposed Fromy Elevation



Approved and Proposed Rear Elevations



Key Planning Considerations

- Principle of Development
- Housing
- Urban Design and Impact on Heritage Assets
- Impact on Neighbouring Amenity
- Transport and Highways

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presentation

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Planning Committee A

26 CANONBIE ROAD, LONDON, SE23 3AP.

Date: 17 March 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Forest Hill

Contributors: Estelle Pengelly

Outline and recommendations

This report sets out the officer's recommendation of approval for this planning application, subject to conditions. The case has been brought before members for a decision as four objections have been received from the neighbouring properties.

Application details

Application reference number(s): DC/21/124226

Application Date: 09 November 2021

Applicant: Dr and Mrs Hewett

Proposal: Construction of a roof extension to include raising the ridge height and the addition of a second storey with a Juliet balcony to the rear, together with the replacement of the single storey rear extension at 26 Canonbie Road SE23.

Background Papers: Submission Drawings
Planning Statement
Statutory Consultee Responses

Designation: PTAL 2

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 This application site relates to a two-storey detached dwelling, located on the North western side of Canonbie Road, at No 26. The property benefits from a single storey rear extension and a moderate size garden. The property is not located within a conservation area, nor is it close to a listed building or non-designated heritage asset.

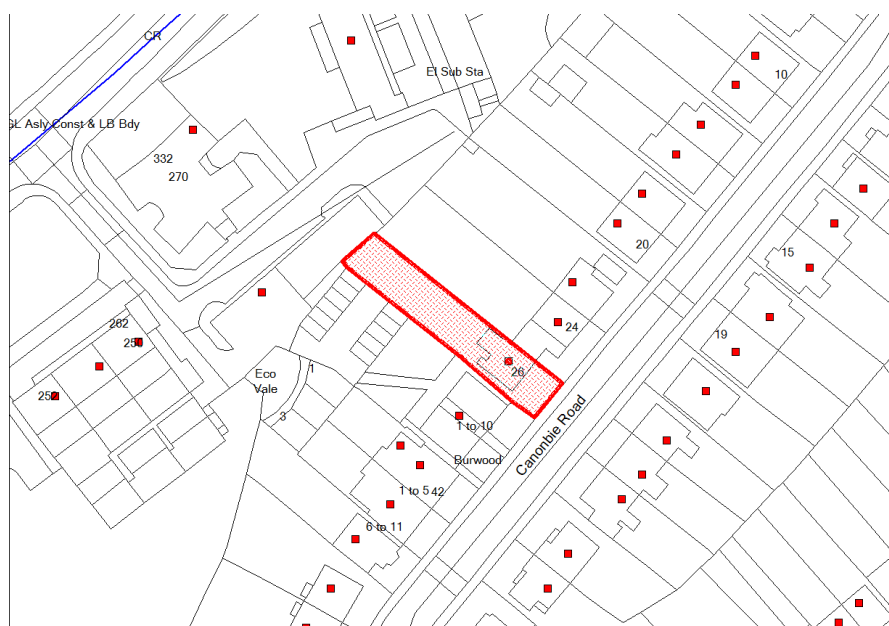


Figure 1: Site Plan

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Character of area

- 2 The surrounding area is predominantly residential in nature comprising of various types of housing.



Figure 2: Aerial View

Surrounding area

- 3 Burwood Court is a block of flats adjoining the application site to the South West. A single storey dwelling (24A Canonbie Road) is currently being constructed adjoining the application site to the North East.

Local environment

- 4 The site is located in an air quality management area.

Transport

- 5 The site has a Public Transport Accessibility Level (PTAL) score of 2 on a scale of 1-6b, 1 being lowest and 6b the highest.

2 RELEVANT PLANNING HISTORY

- 6 None.

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3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 7 The proposal is for the construction of a roof extension to include raising the ridge height and the addition of a second storey with a Juliet balcony to the rear, the replacement and enlargement of the single storey rear extension, together with amendments to the fenestration at 26 Canonbie Road SE23.
- 8 The existing conservatory (3.5m deep and 3.6m wide) and external toilet at the rear would be replaced with a stepped single storey rear extension which would be 3.2m deep on the North eastern corner, be stepped back and be 1.2m deep on the South western corner providing a patio area. The roof would be mono-pitched at 3.3m in height and slope down to 2.5m (eaves height). The materials would be rendered walls and a brown clay or concrete tile roof.
- 9 The existing dwelling currently is two storeys. The proposal includes the construction of a second floor and amendment of the roof form. The height of the roof would be 9.8m. The height of the chimneys would be increased to match the height of the roof. The second storey would have a Juliet balcony at the rear. Two windows would be installed in the front elevation. The materials would be rendered walls and a brown clay or concrete tile roof.
- 10 The proposal also includes the replacement of all the windows with timber windows. A new obscure glazed window will be added in the east side elevation at ground floor level. The existing doors in the west side elevation will be removed. At first floor level the windows in the front and rear elevations will be amended in style and shape. The brickwork will be retained at ground floor level in the front elevation.



Figure 3: Proposed front elevation

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Figure 4: Proposed rear elevation

3.2 REVISIONS

11 The initial proposal included a balcony at the rear. The balcony was amended to a Juliet balcony.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

12 No pre-application advice was sought from the council regarding the proposal.

4.2 APPLICATION PUBLICITY

13 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 17 November 2021. A letter was sent to No. 24A Canonbie Road on 17 December 2021.

14 Four responses were received, comprising four objections.

4.2.1 Comments in objection

Comment	Para where addressed
The extension will result in the loss of light through the windows for the flats at 38 Canonbie Road (Burwood Court).	Para 42-45
The proposed structure is overbearing and out of character.	Para 34
The proposed balcony and window would cause loss of privacy.	Para 46
Sense of enclosure due to loss of view and outlook	Para 43-45

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There would be an increase in wind being tunnelled through between 26 Canonbie and 38 Canonbie Road.	The scale of the development would not give rise to microclimate impacts such as wind tunnels and is therefore not a consideration in this case
--	---

4.3 INTERNAL CONSULTATION

15 No Internal Consultees were notified given the nature of the application.

4.4 EXTERNAL CONSULTATION

16 No External Consultees were notified given the nature of the application.

5 POLICY CONTEXT

5.1 LEGISLATION

17 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).

5.2 MATERIAL CONSIDERATIONS

18 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.

19 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.

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

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

21 The Development Plan comprises:

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- London Plan (March 2021) (LPP)
- 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)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

22 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)

6 PLANNING CONSIDERATIONS

23 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

24 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.

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

6.1.1 Principle of development conclusions

26 The Development Plan is generally supportive of people extending or altering their homes. The principle of development is supported, subject to details.

6.2 URBAN DESIGN

General Policy

27 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

28 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 and is sensitive to the local context and responds to local character.

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- 29 DMLP 30 states that all new developments should provide a high standard of design and should respect the existing forms of development in the vicinity. The London Plan, Core Strategy and DMLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design.
- 30 DMLP 31 states that extensions will not be permitted where they would adversely affect the architectural integrity of a group of buildings as a whole or cause an incongruous element in terms of the important features of a character area.

6.2.1 Appearance and character

Discussion

Single storey rear extension

- 31 Officers consider the proposed rear extension as a modest addition which is in line with the SPD guidelines.

Roof extension

- 32 Objections were raised regarding the design of the proposal, with concerns that the proposal is overbearing and out of character.
- 33 The general guidance in the Alterations and Extensions SPD Section 5 states that the roof form of a house and other houses in a street make a significant contribution to the character of an area. Roof extensions and alterations should be designed to complement the individual house and existing streetscape. The architectural integrity of a building must not be harmed by any roof extension or alteration. It is important to provide a roof form which is appropriate to the building and adjoining properties. This means that the changes must take into consideration the architectural language and proportions of the existing dwelling and its neighbours. Materials for extensions and alterations should be of a high quality.
- 34 Officers consider the addition of a storey and increase in ridge height to be acceptable and in line with SPD guidelines, given the site specific circumstances in this particular case. The proposed roof form would be appropriate for the area. The existing roof is lower than most of the existing roofs in the road. The proposed roof extension would be lower than the flat roof at 38 Canonbie Road, and higher than the ridge height at No. 24 Canonbie Road: it can therefore be seen to mediate between the differing heights of the adjoining neighbours. As there are various housing types and styles in close proximity to the application site, the proposal is not considered to diminish the character of Canonbie Road.

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Figure 5: Street Scene - various styles and sloping of Canonbie Road

Elevational Alterations

- 35 The proposal also includes the replacement of all the windows with timber windows. A new obscure glazed window will be added in the east side elevation at ground floor level. The existing doors in the west side elevation will be removed. At first floor level the windows in the front and rear elevations will be amended in style and shape. The brickwork will be retained at ground floor level in the front elevation.
- 36 Officers consider the amendments suitable as the proposed materials are of a suitable quality and this section of Canonbie Road has various designs and housing styles and the amendments would not be out of character.

6.2.2 Urban Design Conclusion

- 37 The proposed scheme would preserve the character and appearance of the host dwelling and would not adversely impact the street scene. Officers conclude that the proposal responds sensitively to its context and surrounding area and is therefore acceptable in terms of its design.

6.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 38 NPPF para 130 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. At para 185 it 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 and living conditions.
- 39 This is reflected in relevant policies of the London Plan (D3), the Core Strategy (CP15), the Local Plan (DMP 31) and associated guidance (Alterations and Extensions SPD 2019).

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40 The Council has published the Alterations and Extensions SPD (2019) which establishes generally acceptable standards relating to these matters (see below), although site context will mean these standards could be tightened or relaxed accordingly.

41 Daylight and sunlight are generally measured against the Building Research Establishment (BRE) standards however this is not formal planning guidance and should be applied flexibly according to context. Due to the nature of the proposal a daylight and sunlight assessment was not required as the impact on daylight and sunlight could be assessed without it by planning Officers.

Discussion

42 Objections were received on the grounds of loss of light, outlook and sense of enclosure with regards to the construction of an additional storey and the windows facing the application site at 38 Canonbie Road (Burwood Court). Officers note that there is an existing separation distance of 2.9m between the existing dwelling at No. 26 and the block of flats at No. 38. Officers note that the Applicant confirmed that the windows at first and second floor levels serve bathrooms (see Figure 6, below). It should be noted that those windows face north-east.

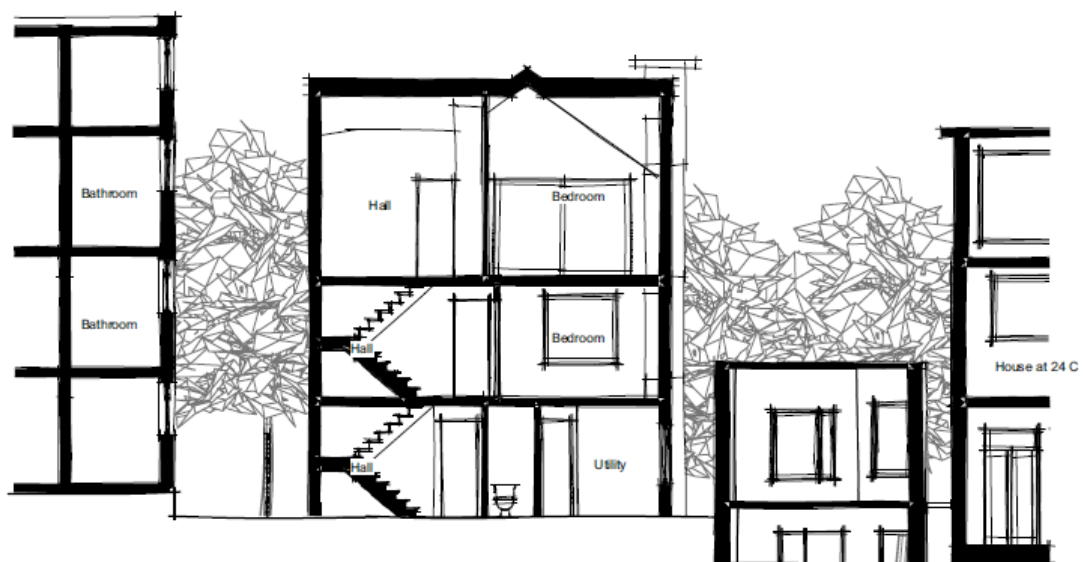


Figure 6: Proposed section

43 The ground floor window already suffers from lack of light, outlook and sense of enclosure. Due to the relationship between the existing dwelling and this window, Officers consider that the amount of loss of light, outlook and feeling of enclosure is not materially changing and the proposal would not be detrimental to this flat.

44 In terms of daylight and sunlight, BRE guidance states that calculations should be undertaken for habitable rooms such as living rooms, kitchens and bedrooms. The BRE guide states that windows to bathrooms, toilets, storerooms, circulation areas and garages need not be tested. The first and second floor windows serve non-habitable rooms and therefore loss of light and sense of enclosure is not considered to be harmful.

45 Officers consider that the third floor window might experience some minor loss of light and outlook and sense of enclosure but within acceptable tolerances.

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- 46 Officers note that an objection was received regarding overlooking from the balcony onto the neighbours' rear gardens. Officers requested amendments from the Applicant and the balcony was amended to a Juliet balcony which is considered acceptable in terms of privacy for the neighbours. Officers acknowledge that the Juliet balcony and the window at second floor level would permit overlooking onto the rear gardens of the neighbours, however, these views would be similar to the existing views from the windows at first floor level and would therefore be acceptable.
- 47 The new window proposed in the east side elevation at ground floor level will be obscure glazed and would therefore not impact the neighbour at No. 24A.
- 48 The single storey rear extension is not considered to impact the neighbours at No. 38 Canonbie Road due to the separation distance between the extension and the block of flats of 2.9m.
- 49 The single storey rear extension is considered acceptable in terms of the impact on the neighbour at No. 24A as there would be a separation distance of 0.9m between the extension and the building at No. 24A and the extension's depth (3.2m) combined with the eaves (2.5m) and ridge (3.3m) heights are acceptable in terms of the recommendations stipulated in the SPD guidelines with regards to extensions along shared boundaries.

6.3.1 Impact on neighbours conclusion

- 50 The proposed development would not introduce any unacceptably harmful impacts to the living conditions of any of the neighbouring properties and therefore would be compliant with LPP D3, CSP 15 and DMP 31 and the provisions of the 2019 SPD guidelines.

7 LOCAL FINANCE CONSIDERATIONS

- 51 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).

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

- 53 The CIL is therefore a material consideration.

- 54 This application is householder development and does not attract a CIL charge.

8 EQUALITIES CONSIDERATIONS

- 55 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.

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- 56 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.
- 57 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.
- 58 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>
- 59 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
- 60 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>
- 61 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.

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9 HUMAN RIGHTS IMPLICATIONS

62 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

63 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.

64 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.

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

10 CONCLUSION

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

67 The proposed additions to the roof and rear of the existing dwelling are acceptable in terms of scale, form, and design.

68 The proposal would have no unacceptable impact on neighbouring properties in terms of overlooking, loss of daylight/sunlight or creating a sense of enclosure.

69 In light of the above, it is recommended that planning permission be granted.

11 RECOMMENDATION

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

11.1 CONDITIONS

- 1) FULL PLANNING PERMISSION TIME LIMIT

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

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

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

P003A; P001A; P006A (Received 12 January 2022);

P004B; P002B; P007B; P005B (Received 24 January 2022).

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

- 3) No development above ground shall commence on site until a detailed schedule and specification of all external materials and finishes to be used on the buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the local planning authority may be satisfied as to the external appearance of the buildings 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.

11.2 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 discussions took place which resulted in further information being submitted.

12 BACKGROUND PAPERS

- 71 Submission Drawings
- 72 Planning Statement
- 73 Statutory Consultee Responses

13 REPORT AUTHOR AND CONTACT

- 74 Estelle Pengelly

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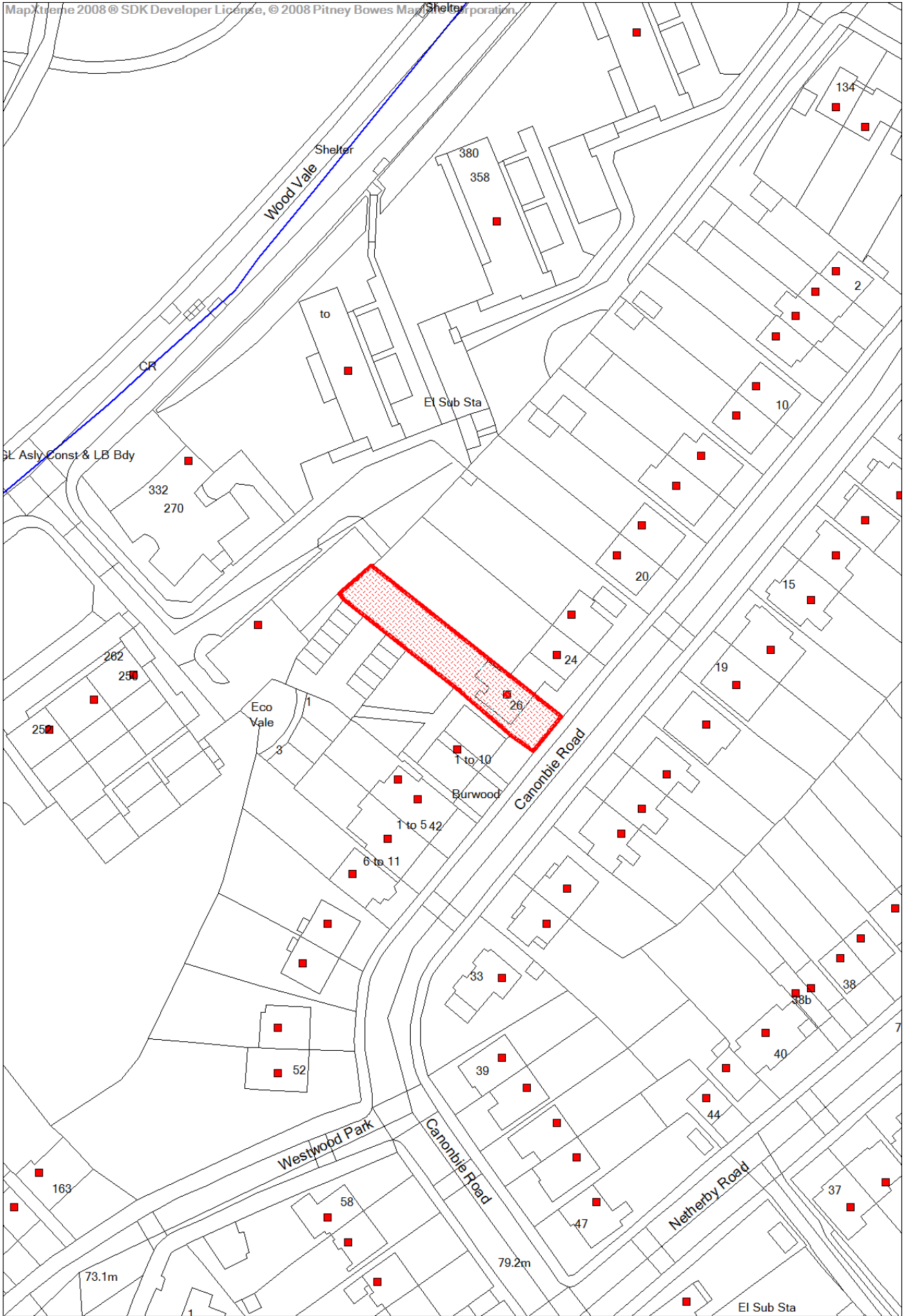
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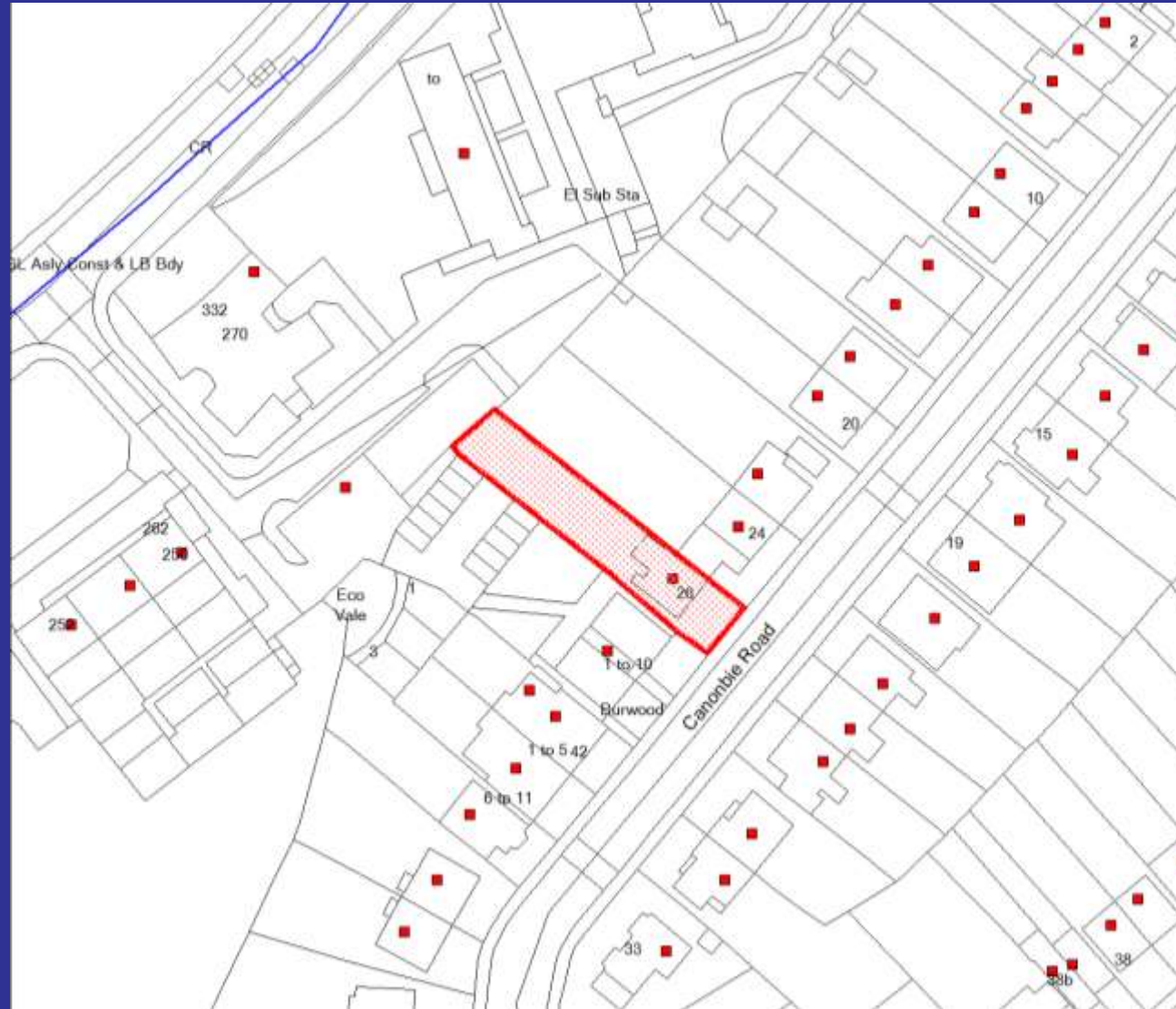
26 CANONBIE ROAD, LONDON, SE23 3AP

Construction of a roof extension to include raising the ridge height and the addition of a second storey with a Juliet balcony to the rear, together with the replacement of the single storey rear extension at 26 Canonbie Road SE23.

Application Ref No. DC/21/124226

This presentation forms no part of a planning application
and is for information only.

Site Location Plan



Site Location Arial- Context



Existing front and rear elevations



Existing front elevation



Existing rear elevation

Proposed front and rear elevations



Proposed front elevation



Proposed rear elevation

Proposed side elevations



Key Planning Considerations

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

Streetscene



Photograph of front elevation



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