

PLANNING COMMITTEE A

Date of Meeting: **TUESDAY, 18 JULY 2023 TIME 7.30 PM**

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

Members of the Committee are summoned to attend this meeting:

**Membership
Councillors:**

**Peter Bernards (Chair)
Liam Curran
Will Cooper
Sian Eiles
Rosie Parry
Jacq Paschoud
Stephen Penfold
Sakina Sheikh**

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

**Jeremy Chambers
Director of Law and Corporate
Governance
Lewisham Town Hall
London SE6 4RU
Date: Monday 10 July 2023**

**For further information please contact:
committee@lewisham.gov.uk
2nd Floor Civic Suite
Catford Road SE6 4RU**



	Order Of Business		
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Committee	PLANNING COMMITTEE (A)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date 18 July 2023

MINUTES

To approve the minutes of the meeting of Planning Committee (A) held on the 16 March 2023

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**LEWISHAM COUNCIL
PLANNING COMMITTEE A
THURSDAY, 16 MARCH 2023 AT 7.30 PM
MINUTES**

IN ATTENDANCE: Councillor Peter Bernards (Chair) Councillor Oona Olaru (Vice Chair) Councillors, Natasha Burgess, Liam Curran, Ayesha Lahai-Taylor, Hilary Moore, and John Muldoon.

MEMBERS OF THE COMMITTEE JOINING THE MEETING VIRTUALLY None.

APOLOGIES FOR ABSENCE Councillors John Paschoud and James Rathbone.

OFFICERS: Area Team Leader, (ATL) Planning Officers and Committee Officer.

ALSO PRESENT: (Legal Representative)

**Item
No.**

1 Minutes

RESOLVED that the minutes of the meeting of Planning Committee A held on 5 January 2023 be confirmed and signed as an accurate record.

2. Declarations of Interest

Councillor Muldoon declared a non-pecuniary interest in item 3. His employer had a professional relationship with one of the project team. In the interests of total transparency, he said that he would take no part in the discussion of the application and would leave the room for the duration of this item.

It was agreed that the order of business be changed so that item 3, 1 & 1A Brockley Cross SE4 2AB, be considered at the end of the agenda items.

3 1 & 1A Brockley Cross London SE4 2AB

3.1 Councillor Muldoon declared an interest and left the room during the discussion of this item.

3.2 The Planning Officer said there were two minor errors. The second sentence in paragraph 78 should not have been included in the report. In paragraph 218, fourth bullet point, there was a small error in the figure for the financial contribution towards consultation of a CPZ in the local area which should read '£15,000'.

3.3 The Planning Officer then gave an illustrative presentation recommending the grant of planning permission for the demolition of the existing buildings and the construction of a part two/part four storey plus basement to provide 7 self-contained flats, together with 12 cycle storage, refuse storage and

associated landscaping at 1-1a Brockley Cross SE4, subject to a Legal Agreement pursuant to S106 of the Town and Country Planning Act 1990 and to the conditions and informatives in the report.

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

- Principle of Development
- Urban Design and Impact on Heritage Assets
- Impact of Neighbouring Amenity
- Transport Impact
- Natural Environment
- Planning Obligations

In response to members' questions, officers clarified points about the height of the proposed building in relation to neighbouring properties and the reasons why this was considered to be a high-quality design.

Applicant

3.5 A presentation was made by the agent in support of the application. He clarified that the material on the top floor was not copper it was a bronze-coloured powder coated metal.

3.6 The agent said that this was a revised planning application for a prominent site in the heart of Brockley. He said that previous applications did not include the high-quality materials as proposed in this application. The applicant had recently completed a development on Brockley Road and wanted to bring forward a scheme that residents in Brockley would be proud of. Architects who had been successful in the borough had been engaged and this team understood the importance and sensitivity of this constrained site.

3.7 Discussions had been held with this Council's Urban Design and Conservation Officer and they had not raised any objections to the proposal following amendments made after the pre application meeting. The Conservation Officer considered this application to be of high quality and that the scheme was a significant design improvement over the previous scheme which was upheld at appeal.

3.8 The agent said that the site was challenging because of its size and proximity to the highway. He said that the design had been successful in providing high quality residential accommodation. Impact on neighbours had been mitigated as outlined in the report. There was a high level of compliance for daylight/sunlight. There had been positive engagement with the community and a number of letters of support had been sent to this authority. There had been a small number of objections, but these comments were in conflict with the opinions of officers.

3.9 Members then asked questions and were advised that:

- The intention for the roof was a bronze/copper tone with a level of patination for the finish. It would not have the oxidising element of copper which would turn green over time. One of the conditions required details of the materials to be used in the project to be submitted for consideration by conservation officers.
- The land was at a busy junction and jutted into the road. Members were concerned about the flats on the ground floor, there was little separation from the road, and they wanted to know how the applicant planned to mitigate the impact on future residents. Members were advised that the ground floor flats were all duplex units. The family flat had 3 clear aspects. It would have a wraparound sunken terrace with the living area on two floors which would provide relief from the highway. Unit 1 was set back by an amenity depth of between 1½ -2 metres to provide a sunken terrace with a void on the Geoffrey Road side. The units had been studied in 3D with cameras. The conclusion was that the proposals would mitigate the impact of the closeness of the highway.
- The Agent clarified that the application was submitted on 23 January 2023; this was not before the end of the consultation period. An email had been received from the Brockley Society with their comments on 21 January 2023. The end of the consultation period was on 22 January. The application was considered to be strong, it was a good scheme and supported by officers so no amendments were made.
- The lift was of sufficient size to accommodate a wheelchair. This was for those visiting the building.
- A construction management plan had been submitted, which outlined how the site would be set out during construction works. The agent said that they would be signing up to the considerate constructor's charter, and a full construction management plan must be submitted outlining detailed plans of how construction impact would be mitigated. Highways Officers had reviewed the construction management plan and were broadly in agreement with it. Comments were referred to the applicant. Although the construction site was on a junction with 3 roads, it was not considered that the construction impacts would be so significant that it would impact on the wider highway network.
- The drawing of the proposed front elevation appeared to be taller than the dimensions contained in the report. The planning officer outlined the difference in height for all the different parts of the proposed building and said that it was of similar height to the surrounding buildings and had been designed sensitively to respect the building height of 1 Geoffrey Road. Slides were shown of the proposed building and its relationship with the street and the proposal was considered to be acceptable.

Representations

3.10 Three residents attended the meeting and made representations opposing the application. The points raised were as follows:

- The proposed building was considered to be too high. It was also out of character with the other older buildings in the area that were two and a

half storeys high and the proposed building would not be in keeping with the area.

- The home of one of the residents was opposite the site and he said that there would be 16 windows facing the front of his house.
- Commercial space would be lost if the application was granted. It was an important site in the middle Brockley Cross which had a mixture of residential and commercial properties. Residents wanted to retain some commercial space.
- The applicant wanted the site to be a 'gateway' into the Conservation Area. Residents did not believe that this would be achieved. The loss of the commercial value was strategic. The inclusion of commercial properties would connect them with everything in the area including Malpas Road.
- The area for residents to walk past the building would be very narrow and was not considered to be safe particularly for parents with children. Residents had been campaigning to improve safety in Malpas Road following several major accidents involving vehicles. There should be greenery on the site and this would help to protect pedestrians.
- The quality of the materials to be used for the building was questioned because high quality materials were not used in a recent development on Brockley Road.
- A resident read out proposals for Brockley which was set out in a recent local plan. If the application was not right for the site, it could put the whole area of Brockley in jeopardy.
- All of the slides of the proposed building clearly showed that it was too tall in relation to the surrounding properties. It was twice the height of the properties in Malpas Road.
- Residents wanted a development on the site but something that was interesting and included commercial properties. There were too many flats proposed for such a small area and a Victorian property would be demolished in this conservation area if the application was granted.

- 3.11 At the request of a member, the planning policy outlined in the local plan, was read out by a resident.
- 3.12 Officers were asked whether the proposed height of the building could be reduced. Members were advised that a judgement could only be made on the application that had been submitted. It was considered that the height would be similar to the surrounding buildings, particularly in Brockley Cross.
- 3.13 The Area Team Leader then made a general point about height. He said that the London Plan had been adopted in 2021 and one of the key differences to previous plans was a drive for optimising the capacity for small sites, particularly those within close proximity to excellent transport links. The site's specific characteristics and its role within the townscape in this part of the conservation area had been considered. In addition, officers had regard to the direction of travel and that Lewisham were robust in demonstrating that the sites available in sustainable urban locations, were being used to develop residential homes.. Members still needed to consider

whether the proposed building would cause harm to the local conservation area and could not be outweighed by the other planning merits.

- 3.14 The Area Team Leader said that the Local Plan had just gone out to reg 19 consultation, therefore weight could not be attributed to that. He did not expect weight to be attributed before the end of 2023, so it had been assessed against adopted policies.
- 3.15 In response to a question, members were advised that previous permission granted for the site had not expired and was an implementable scheme. However, officers considered it to be inferior in design and quality to this application. It did have some commercial space which reduced it down from 54 square metres to 30 square metres. This application was solely for residential use and because of the increased height had allowed an increase in the number and size of the flats. The application site was not categorised as a commercial street frontage and shared more similarities with a residential frontage. The existing commercial units were the only ones along Geoffrey Road and Upper Brockley Road. The address for the application site had previously been 1 Geoffrey Road, and would have been used for residential purposes. It had been vacant for a number of years and the commercial units had not been leased to local businesses. For all these reasons, officers had given more weight to Housing delivery targets.
- 3.16 In response to a question about deliveries to the site, members were advised that highways officers did not have any concerns regarding deliveries to the site and did not recommend an extra condition and did not condition a delivery servicing plan bearing in mind the scale of the development. However, a condition could be added about delivery access if considered necessary. Members asked officers to consider what could be done to improve delivery access for goods and services to the site. The agent clarified that there was an existing dropped kerb on the site which had given access to car sales and was big enough for a loading bay. He agreed to accept this as part of a Section 278 agreement if this was agreed by highways officers. The legal officer said that highways officers may determine that there was a highways safety issue and the provision of a loading bay would not, therefore, be possible. They would need to undertake a number of safety assessments including the safety of pedestrians on the pavement outside the building. The Area Team Leader recommended that officers be asked to investigate best endeavours either to provide a loading bay for goods and services to the site on the highway, or if a highways assessment plan concluded this to be an unsafe option, then a delivery and servicing plan should be secured.
- 3.17 The Committee considered the submissions made at the meeting and with two members abstaining, it was moved and seconded it was;

RESOLVED that the application be **GRANTED** for the demolition of the existing buildings and the construction of a part two/part four storey plus basement, to provide 7 self-contained flats, together with 12 cycle storage, refuse storage and associated landscaping at 1-1a Brockley Cross SE4, subject to a S106 Legal Agreement and to the conditions and informatives in

the report and an additional planning obligation to investigate best endeavours to either (a) provide a loading bay for goods and services to the site on the highway; or if a highways assessment concluded this to be unfeasible, (b) secure a delivery and servicing plan.

4 LAND AT CHURCH GROVE, LONDON, SE13 7UU

4.1 The Planning Officer gave an illustrative presentation recommending the grant of planning permission for the retention of a community hub building, comprising of a mixed use of a shared office space (Class E(g)(i)) and multi-use community space (Class F2(b)., subject to the conditions and informatives in the report.

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

- Principle of Development;
- Urban Design and Impact on Heritage Assets;
- Impact on Adjoining Properties;
- Highways and Transport
- Sustainability

Applicant

4.3 A presentation was made by one of the volunteers from RUSS (Rural Urban Synthesis Society) in support of the application. He outlined the principles and the history of RUSS. He said that the community hub, which had been created by RUSS in 2019, had sustainable credentials with many of the construction materials originating from reclaimed sources. In order to continue this sustainability legacy, the community hub should be retained.

4.4 The running of the community hub was taken very seriously by RUSS and was operated professionally. The building held all the necessary compliance certificates and insurance. There was also robust management policies and controls in place for all users of the hub. Potential hirers were vetted by the volunteer hub manager and required to comply with their standard conditions of hire. Local key holders were available to resolve issues but this had never been necessary.

4.5 When the adjacent residential scheme was complete, RUSS residents and volunteers would closely supervise the community hub and its users. Since 2019, the hub had been of benefit to hundreds of people from a wide range of groups. The groups that use the hub and regular external bookings were then outlined. RUSS's hire charges were competitive and local community groups and near neighbours were offered a 'pay what you can' rate. All income from the hub was reinvested into community objectives.

4.6 There was proven current and anticipated demand to retain the hub for RUSS and the community, based on nearly 4 years of operating experience and associated data. Retaining community assets was in alignment with key local, regional, and environmental policies and was of benefit to all. There were no plans to change the hub, the application had been made to

ensure that the existing and successful hub was made permanent for the benefit of the local community.

- 4.7 In response to a question about the reason for retrospective planning consent, members were advised that a pre application meeting was held in January 2022. An application was made in May 2022 but due to resourcing challenges within the planning team, it had taken in excess of a further 14 weeks before it was submitted to Committee. The applicant then read out the hours of operation as outlined in the report.
- 4.8 There were no objectors present.
- 4.9 The Committee considered the submissions made at the meeting. It was moved and seconded and;;

RESOLVED that planning permission be **GRANTED** for the retention of a community hub building, comprising of a mixed use of a shared office space (Class E(g)(i)) and multi-use community space (Class F2(b)., subject to the conditions and informatives in the report.

5 199 Waller Road London Road SE14 5LX

- 5.1 The Planning Officer said that there was an error under Section 2 of the officer report. Relevant planning permission was missing. Records showed that in 2018 an application for the construction of the roof extension and roof light to the rear roof as well as two front roof slope lights in the front elevations was approved.
- 5.2 The Planning Officer, gave an illustrative presentation recommending the grant of planning permission for the construction of a rear roof extension and rooflights to the front and rear roof slopes at 199 Waller Road SE14 subject to the conditions and informatives in the report.
- 5.3 The Committee noted the report and that the main issues were:
- Principle of Development;
 - Urban Design and Impact on Heritage Assets;
 - Impact on Adjoining Properties;

Applicant

- 5.4 The Architect involved in the project, spoke on behalf of the applicant. He said that the planning application guidance for the area had been followed. The conservation area had been respected and planning permission was granted in 2020 for a similar development at neighbouring property in Waller Road. It was considered that this was a good precedent for the rear dormer because the design was almost exactly the same as for this application. The street facing the proposed heritage style roof light, was below the limit required by the SPD.

- 5.5 In response to a question from the Chair, the applicant advised that a new application had been made because a previous application for this development had not begun before the expiration of three years beginning with the date on which the permission was granted.

Representation

- 5.6 The Chairman of the Telegraph Hill Society, addressed the Committee in objection to the application. He said that the Society were grateful for the changes that had been made to this application following comments made by the society. The previous application had been made prior to the current extensions SPD, which was considered to have made a material difference.
- 5.7 The Chairman said that the Society had concerns regarding the rear elevation. It was not the same application as the one granted to the neighbouring property in 2020, because this application was for two dormer windows and a skylight. The previous application did not have a skylight.
- 5.8 The major concern for the society was whether the front roof light met the requirements of the SPD. The applicant claimed that it was smaller than the maximum allowed. The Society considered that it was probably more than the maximum allowed.
- 5.9 The Chairman said that the Society accepted that this section of Waller Road had several roof lights and was an accepted characteristic. However, unlike council officers, they considered this to be of material harmful to the area. This application, however, would take up the whole middle section of the roof and was considered to be unacceptable in a conservation area.
- 5.10 In response to questions asked by the Chairman of the Telegraph Hill Society, those present were advised that in paragraph 5.5.4 of the SPD, it stated that a replacement rooflight should not exceed 600mm in width. This application did not exceed that maximum and so it was acceptable in a conservation area. It was also a replacement within the middle roofline which was also acceptable.
- 5.11 In a response to a question about the skylights from the Chairman, the planning officer displayed the drawings of the roofs as shown on page 57 of the SPD. The Area Team Leader drew members' attention to paragraphs 48 and 49 in the report. He said that officers were not saying that it was an example of drawing 2 but rather that it was an adaptation of drawing 1. There were no dimensions on the drawings, so it was not possible to infer whether or not the ones shown on drawing 1 were less than 600mm wide or more than the 740mm of the height of the roof light that was being proposed. Officers were clear that it was an adaptation of drawing 1 and not an example of drawing 2. It was proposing one less roof light than was shown in drawing 1.
- 5.12 The Committee considered the submissions made at the meeting. It was moved and seconded and with one member abstaining it was

RESOLVED that planning permission be **GRANTED** for the construction of a rear roof extension and rooflights to the front and rear roof slopes at 199 Waller Road SE14 subject to the conditions and informatives in the report.

The meeting closed at 9.50 pm.

Chair

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	PLANNING COMMITTEE (A)	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 18 July 2023

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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Former Marvels Lane Boys Club, Balder Rise, SE12

Application No. DC/21/123178

Page 17

The demolition of the former Marvels Lane Boys Club, Balder Rise SE12 and dwelling-house at 41 Le May Avenue SE12, and the construction of 3 three storey and 2 two storey blocks comprising 28 self-contained residential flats accessed from Le May Avenue, in addition to associated landscaping including a central courtyard, refuse and recycling facilities, disabled parking bays and cycle stores.

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

APPLICATION SITE

Backland Site accessed by a 60m single-track route from Le May Avenue, and a secondary route from Balder Rise;

Approx 60 metres wide (east-west) and 46m (north-south) - 0.4 Hectares;

Former Marvels Lane Boys Club and associated hardstand area – in use since the 1960s for boxing (Use Class D2, now Use Class E);

Clubhouse unoccupied since 2018;

Bungalow fronting Le May Avenue currently occupied.

Surrounding area – predominantly residential



APPLICATION SITE: Looking south-west



OVERHEAD VIEW: Looking northwards



STREET VIEW: Le May Avenue



Clubhouse & Play Area



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Western side of site



Page 23

Looking south within the site—
Luffman Rd garages on the left



PROPOSED DEVELOPMENT



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- Demolish clubhouse and bungalow;
- Construct 5no. buildings comprised of 2 and 3-storey blocks, with private rear gardens and terraces;
- Communal central courtyard;
- Provision of 1no. Blue Badge parking bay;
- Landscaping works, including felling of 13no. Category B and C trees;
- Planting of a minimum 13no. replacement trees within existing grounds;
- Primary access from Le May Avenue.

Overall total: 28no. new dwellings

No on-site affordable provision.

PROPOSED DEVELOPMENT



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Proposed Block B East Elevation



Proposed Block D East Elevation

MATERIALITY



Petersen D190 brick



Acme Double Camber clay plain tile



Vertical metal balustrade

Communal Area



Key Planning Considerations

- Principle of development;
- Design and scale;
- Housing provision and standard of accommodation;
- Neighbour Amenity;
- Highways matters;
- Biodiversity and Ecology

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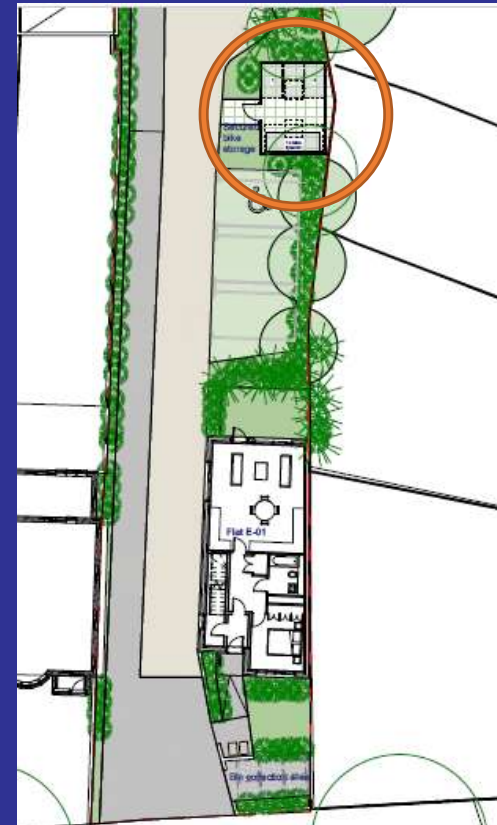
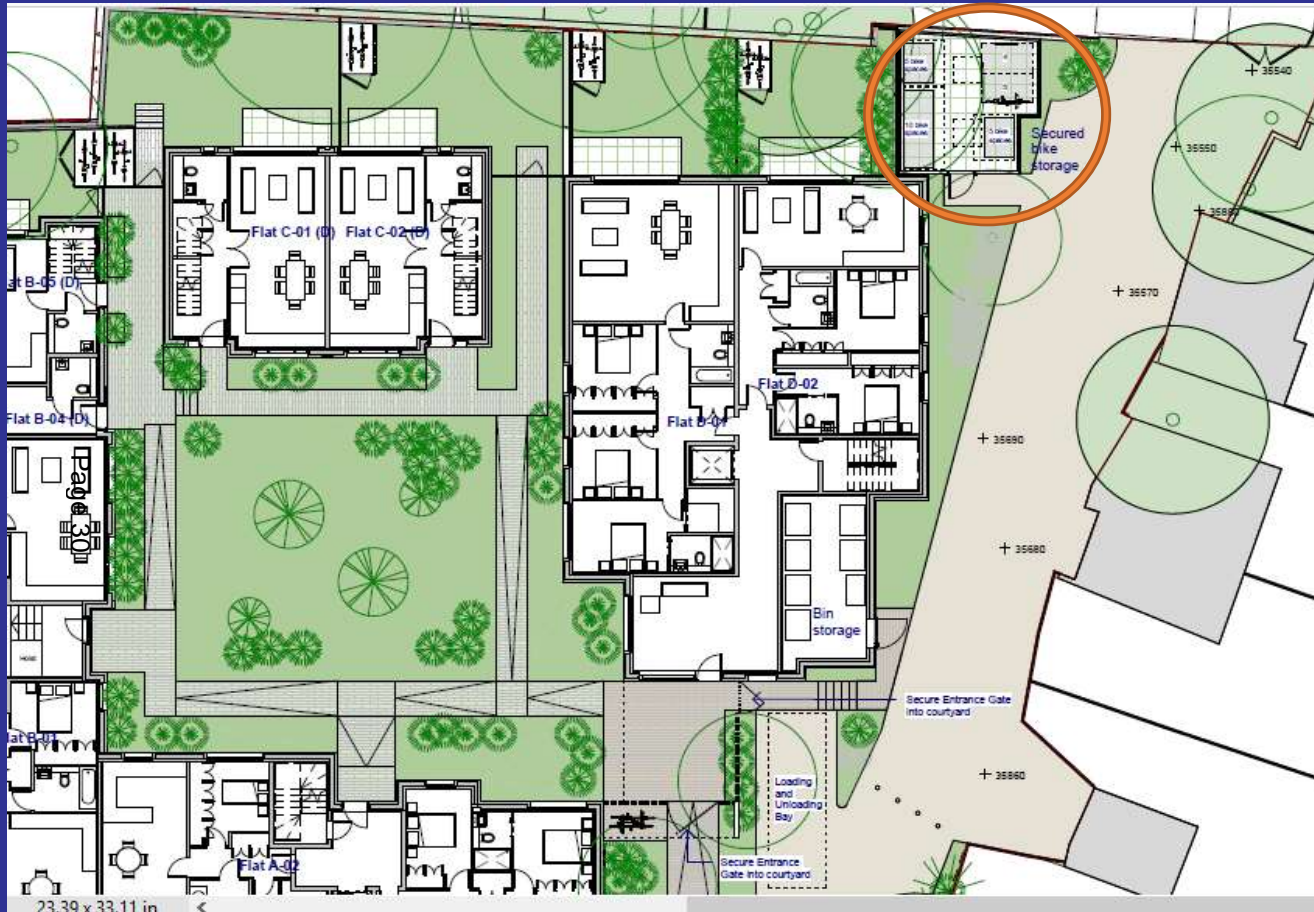
RECOMMENDATION: GRANT

END

Fire Appliance Access



CYCLE & CAR PARKING + REFUSE



1 no. Blue Badge bay;

56 no. Cycle spaces, including dedicated dry and secure stores;

Loading bay to central area;

Bollards to restrict access;

Refuse collection point within site fronting Le May Avenue

2.2. CONTEXT ANALYSIS



Marvels Lane Boys Club. The existing one-storey plus pitched roof building is currently out of use.

Two-storey plus pitched roof buildings to Balder Rise are 15m away from the northern boundary line.

An existing vehicular access to the north of the site will be retained.

A series of garages are located at the end of some properties on Luffman Road. The existing garages are accessed from the Marvels Lane Boys Club's demise.

A combination of 2-storey plus hipped roof semi-detached and detached houses are 35m away from the eastern boundary.

41 Le May Avenue. Existing one-storey plus hipped roof bungalow.

Two-storey plus hipped roof detached houses to Somertrees Avenue are more than 47m away from the western boundary line.

Two-storey plus hipped roof semi-detached houses to Le May Avenue are more than 38m away from the southern boundary line.

Closed off site access to the south.





2020 refused scheme – 36 units

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Planning Committee: A

Report title: Marvels Lane Boys Club, Balder Rise, SE12

Date: 18 July 2023

Key decision: No.

Class: Part 1

Ward(s) affected: Grove Park

Contributors: Geoff Whittington

Outline and recommendations

This report sets out the officer's recommendation of approval for this planning application.

The case has been brought before Committee as 44 objections have been received.

Application details

Application reference number(s): DC/21/123178

Application Date: 20 August 2021

Applicant: SRG Capital Limited

Proposal: The demolition of the former Marvels Lane Boys Club, Balder Rise SE12 and dwelling-house at 41 Le May Avenue SE12, and the construction of three, 3-storey and two, 2-storey blocks comprising 28 self-contained residential flats accessed from Le May Avenue, in addition to associate landscaping including a central courtyard, refuse and recycling facilities, disabled parking bays and cycle stores

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

Designation: Grove Park Neighbourhood Forum
Small Houses in Multiple Occupancy Article 4 Direction
PTAL 3/4

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site relates to a plot of land located to the rear of residential properties on Balder Rise, Somertrees Avenue, Le May Avenue and Luffman Road. The site is currently accommodated by a single-storey dwelling at 41 Le May Avenue which lies adjacent to the main access route (as proposed) that leads through to the central area of the site that accommodates the part single, part two-storey Marvels Lane Boys building, and associated external play area. The application site comprises an area of 0.4 hectares (ha). Ground levels fall across the site generally west to east and south to north. Properties to the east, along Luffman Road, back onto the site. Several have existing garages which would be retained and would continue to have access from the site.
- 2 Up until 2018, the Boy's Club was used as a boxing club, however following their departure, the site has remained vacant. The central area of the site is occupied by an enclosed ancillary surface previously used for outdoor play. The surface is not defined as a 'playing pitch' according to the DMPO 2015 as it measures less than 0.2H, and so does not require consultation with Sports England in this case.

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Figure 1 – Site Location Plan

Character of area

- 3 The surrounding area is predominantly residential in nature, comprised largely of 2-storey dwelling-houses that benefit from private rear gardens. The ends of the adjoining gardens are typified with a mix of outbuildings and planting, including several mature trees.

Heritage/archaeology

- 4 The application site is not located within a conservation area, nor is it close to any Listed buildings.

Local environment

- 5 The application site lies within Flood Risk Zone 1, meaning there is minimal risk of river flooding.
- 6 The nearest public park is Chinbrook Meadows approximately 380m to the south.

Transport

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- 7 The site has a PTAL rating of 3/4, based on a scale of 0-6b with 6b having the highest degree of accessibility to public transport. Le May Avenue and Balder Rise are located within Grove Park Controlled Parking Zone (CPZ), which restricts on-street parking Mondays to Fridays between 9am – 5:30pm.
- 8 Grove Park train station lies within a short walking distance to the south-west of the application site on Baring Road, whilst a number of bus routes operate within the vicinity.

2 RELEVANT PLANNING HISTORY

- 9 DC/20/119336: Planning permission was refused by the LPA on 26 March 2021 for the demolition of the former Marvels Lane Boys Club and existing dwelling-house at 41 Le May Avenue, and the construction of 3, three storey buildings comprising 36 self-contained flats for the following reasons:
- 1) The proposed development, by reason of excessive scale, plot coverage and close proximity to adjacent boundaries, would be an inappropriate form of backland development for this constrained site that would fail to respect or enhance the character of the surrounding area, contrary to Paragraph 127 of the National Planning Policy Framework (2019), Policy D3 'Optimising site capacity through the design-led approach' of the London Plan (2021), Policy 15 'High Quality Design for Lewisham' of the adopted Core Strategy (June 2011), and DM Policy 30 'Urban Design and Local Character', 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).
 - 2) The proposed development, by reason of scale and close proximity to site boundaries, would result in significant visual impact upon neighbouring occupiers in Luffman Road, Le May Avenue and Balder Rise by way of overbearing harm and overlooking, contrary to Paragraph 127 of the National Planning Policy Framework (2019); Policy 15 'High Quality Design for Lewisham' of the adopted Core Strategy (June 2011), and DM Policy 30 'Urban Design and Local Character', 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).
 - 3) The proposal, by reason of restricted outlook, and privacy issues relating to lack of defensible space and the provision of central facing non-private front gardens, would fail to achieve an acceptable standard of residential accommodation, contrary to Policy D6 'Housing quality and standards' of the London Plan (March 2021), Policy 15 'High quality design for Lewisham' of the Core Strategy (June 2011), and DM Policy 32 'Housing design, layout and space standards' and DM Policy 33 'Development on infill sites, backland sites, back gardens and amenity areas' of the Development Management Local Plan (November 2014).
 - 4) Due to the submission of insufficient information relating to SUDS measures, it cannot be determined that the development would not result in adverse flooding impacts, contrary to Paragraph 163 of the NPPF (2019), Policy SI 13 'Sustainable drainage' of the London Plan (2021), and Core Strategy Policy 10: 'Managing and reducing the risk of flooding' (2011).
 - 5) The application has failed to adequately demonstrate why the scheme cannot deliver a policy compliant provision of on-site affordable housing, contrary to the Mayor of London: Affordable Housing and Viability Supplementary Planning Guidance (2017); Core Strategy Policy 1: Housing provision, mix and affordability

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(2011), and DM Policy 7: Affordable rented housing of the Development Management Local Plan (2014).

- 6) The proposal would provide an insufficient carbon offset contribution to mitigate impacts arising from the development and is therefore unsustainable development, contrary to Policy SI 2 Minimising greenhouse gas emissions of the London Plan (March 2021).
- 7) The development site would fail to benefit from an appropriate provision of high quality soft landscaping measures, contrary to Policy G5 'Urban greening' of the London Plan (March 2021) and Policy 7 'Climate change and adapting to the effects' of the Core Strategy (2011).
- 8) The submission details are insufficient to address Highways matters, by failing to ensure a safe and convenient route for pedestrians and visitors, resulting in potential conflict with vehicle manoeuvring that would create conditions prejudicial to their safety; in addition to not providing an appropriate servicing and delivery strategy to avoid potential obstruction and congestion; or considering the provision of additional disabled persons parking bays, contrary to Policies T6 'Car parking' and T6.1 Residential parking' of the London Plan (March 2021), Policy 14: 'Sustainable Movement & Transport' of the Core Strategy (June 2011) and DM Policy 33: 'Development on infill sites, backland sites, back gardens and amenity areas' of the Development Management Local Plan (November 2014).

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSAL

- 10 The application proposes the demolition of all existing buildings including the bungalow fronting Le May Avenue and clearance of existing foliage, and the comprehensive redevelopment of the site to provide 28no. self-contained residential flats within five blocks that would range between 2 and 3-storeys.
- 11 The proposed residential units would be distributed as follows:
 - Block A - 6 units (3-storeys, 10.3m height)
 - Block B – 10 (3-storeys, 10.3m height)
 - Block C – 2 units (2-storeys, 6.8m height)
 - Block D – 8 units (3-storeys, 10.3m height)
 - Block E – 2 units (2-storeys, 6.1m height)

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Figure 2 – Proposed Site Layout Plan

- 12 The scheme would provide a mix of one, two and three bedroom self-contained flats, with all benefitting from private amenity spaces in the form of either gardens or terraces. A central communal space for all occupiers would also be provided.
- 13 Three wheelchair units (M4(3)) would be provided within the scheme, located within Blocks A and D. The development would not deliver any affordable housing.
- 14 One blue badge parking bay would be provided within the curtilage of the site, with scope for a further two spaces for wheelchair users subject to demand.
- 15 54no.dry and secure residential cycle spaces would be provided within ground floor areas of the proposed buildings and external areas.

3.2 COMPARISON WITH REFUSED APPLICATION

- 16 As set out in para.9, the previous application (DC/20/119336) was refused planning permission for several reasons including scale of development; neighbour impact; poor standard of accommodation; lack of sufficient soft landscaping; affordable housing; and highways matters. The current application has a number of differences with that previous application, and is considered to be acceptable.

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- 17 Together with a reduction in the number of proposed units, the footprint of the proposed development has also been reduced to address the concerns relating to overdevelopment, poor outlook for future occupiers, and close proximity to neighbouring boundaries, as demonstrated in Figure 3 (para 195). Subsequently, this has allowed for a greater provision of soft landscaping within the central courtyard, and improved areas for amenity purposes including children’s playspace.
- 18 Transport concerns including access and manoeuvring within the site have been addressed following pre-application discussions with Highways officers. Highways improvement works beyond the site have been agreed, and would be secured within a S278 Agreement.
- 19 The Applicant has provided sufficient viability information to address the matters raised during the assessment of the refused scheme. An in-lieu financial contribution of £221,953 to mitigate the provision of no on-site affordable housing would be secured in the s106 Agreement.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

- 20 Following the determination of the previous planning application (DC/20/119336), the Applicants engaged in a pre-application discussion with the LPA to discuss a smaller development proposal that would seek to address the reasons for refusal. This involved a meeting in June 2021 with the Council’s Planning, Design and Highways officers.
- 21 Prior to the submission of the current proposal, the Applicant initiated a consultation website; delivered consultation leaflets to 229 properties within 150m of the site; delivery of leaflets to local community groups; and engaged with ward Cllrs.
- 22 The full details of the pre-application consultation are set out within the submitted Statement of Community Involvement.

4.2 APPLICATION PUBLICITY

- 23 Upon validation of the planning application in September 2021, publicity was carried out in accordance with the statutory requirements and those required by the Council’s adopted Statement of Community Involvement.
- 24 Site notices were displayed on 8 September 2021, and a press notice was published on the same date.
- 25 Letters were sent to residents and businesses in the surrounding area and the relevant ward Councillors.
- 26 A total of 44 neighbour responses were received, all in objection to the development. This included an objection from the Grove Park Development Group.

4.2.1 Comments in objection

- 27 The majority of points raised are addressed within the body of the report. Where this is not the case, the relevant points are responded to immediately following the table below.

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Comment	Para where addressed
Principle of development	
Not a suitable proposal for the area	77, 86, 92-94
Design	
The design fails to enhance the character of the surrounding area.	190-210
Overdevelopment	190-210
Three storeys is too high.	190-210
Design, appearance and materials.	190-210
Layout and density of buildings.	190-210
Design not in keeping with the area.	190-210
Residential amenity	
Daylight and sunlight concerns	302-329
The proposed development will result in overlooking and a loss of privacy for neighbouring occupiers.	292-301
Oppressive and overbearing impact.	276-291
Overshadowing concerns	332-337
Light pollution	408-410
Disruption form occupants, visitors, deliveries and utilities entering and exiting the development.	338-343
Security concerns	438-441
Environmental impacts	
Potential increase of traffic will cause more pollution.	443
Drainage concerns due to clay soil.	372-379
Highways and transport	
Proposed development makes insufficient provision for car parking spaces, and will therefore result in additional on-street pressures.	217, 232-234, 255-266
There is little parking available in the surrounding area for short term use by visitors.	259-261
Traffic generation	248-271
Noise and disturbance from use	338-343
Creation of an unsafe cut-through	224-225
Construction traffic and site access	230-231
Improper car parking survey	261

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Access for emergency vehicles	227-229
Social infrastructure	
Strain upon facilities/ services in Grove Park - GP closure in Chinbrook Road.	435, 437
Two local primary schools are full	435-436
Lack of family housing.	105
Construction Phase	
Construction phase will result in additional pollution, noise, dust, congestion, and disruption for existing local residents.	230-231, 342
Ecology	
It will take years for replacement trees to mature.	401-407
'Demolish such a wildlife habitat'	392-397
Affordable Housing	
Lack of affordable housing provision.	118-134

- 28 A number of other comments, which are not considered material planning considerations, were also raised as follows:

Comment	Response
Proposed development will result in a reduction in property values of surrounding apartments	The impact on property values is not a material planning consideration
Access rights over shared passageway during construction.	This is a civil matter between the relevant parties.
Effects of demolition works upon existing structures.	The existing clubhouse is located a considerable distance from existing dwellings, nevertheless impacts arising from demolition works will be assessed at Building Regulations stage.

4.3 LOCAL MEETING

- 29 In accordance with the requirements of the Council's Statement of Community Involvement, all those who had submitted representations on the proposed development were invited to a virtual local meeting which took place on 16th June 2022 from 7:30pm to 8.30pm. The meeting was chaired by Cllr Clarke, ward Cllr for Grove Park, and was attended by representatives from the applicant team together with the Planning officer. The minutes of the local meeting are attached at **Appendix 1**

4.4 INTERNAL CONSULTATION

- 30 The following internal consultees were notified, and their responses are summarised below. Copies of all representations are available on the public access system.

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- 31 Highways - no objection, subject to appropriate planning conditions; financial contributions and s278 works. These requirements are detailed in full within the Transport Impact section of this report.
- 32 Design - supportive of the proposal, subject to conditions.
- 33 Ecology - no objections raised.
- 34 Environmental Protection (Site Contamination) - no objections raised.
- 35 Environmental Protection (Noise) - no objections raised.
- 36 Sustainable construction and energy efficiency - the Council's Sustainability Manager raises no objections, subject to appropriate conditions.

4.5 EXTERNAL CONSULTATION

- 37 The following External Consultees were notified, and their responses are summarised below:
- 38 Fire Prevention Group / London Fire Brigade – no response.
- 39 Metropolitan Police – subject to the installation of a gate to the central courtyard, no objections are raised.
- 40 Thames Water – raise no objections.

4.6 DESIGN REVIEW PANEL

- 41 Section 6.9 of Lewisham's Statement of Community Involvement (SCI) states that new major development (which includes development of 10 dwellings or more) and significant alterations to existing buildings with scope to impact on the borough's townscape will be referred to Lewisham's Design Review Panel (DRP)). The SCI was amended in January 2022 to remove the stipulation that applications for major development be referred to the DRP, instead the DRP would be consulted at pre-application stage. However, that amendment took effect after this application had already been submitted, and pre-application discussions has already taken place. It was not feasible for the applicant (having submitted the application) to comply with the pre-application consultation contemplated in the SCI. I
- 42 In considering the specific circumstances of this case, officers are satisfied in this instance that the backland scheme has been fully scrutinised in design terms by Development Management officers including the Council's Principal Design Officer, during both the pre-application stage and the current application period, and therefore the application can be considered by the Committee.
- 43 The new development would mostly be set a significant distance away from the streetscene within the central area of the application site. Other than the 2-storey Block E, which is the smallest element of the proposal, the remainder of the development would only be partially visible from within the public realm of Le May Avenue and Balder Rise. For this reason, officers consider that the largest part of the development proposal (Blocks A-D) would not impact significantly upon the existing townscape.

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- 44 The scheme is a small major application with heights ranging between only 2 and 3-storeys, and undertakes a consistent design approach with simple use of facing materials. The scale of development is considered to be modest, whilst the layout of the buildings around the perimeter of the central landscaped space would make appropriate use of the plot. Internal layouts and standard of residential accommodation have been assessed to be acceptable. Further architectural treatment, facing material and landscaping details will be secured by planning conditions to ensure the proposal delivers a high quality development.
- 45 The Planning Practice Guidance (PPG) states that the design review process can inform and improve design quality, but it is not intended to replace advice from statutory consultees and advisory bodies, or be a substitute for local authority design skills or community engagement.
- 46 In considering this and the nature of the development, officers are satisfied that a sufficiently detailed assessment of the proposal has been undertaken to inform the recommendation to approve this application.

5 POLICY CONTEXT

5.1 LEGISLATION

- 47 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

- 48 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.
- 49 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 national policy as a material consideration.
- 50 A previous decision to grant permission or to refuse permission may be a material planning consideration. There is no duty in planning law to decide like applications in the same way; however, the principle of consistency requires that where in granting a subsequent application the LPA is necessarily disagreeing with a previous refusal of an application, it needs to carefully explain the reasons for that disagreement. In this particular application, it is considered that the scheme has been substantially amended so as to address the concerns that lead to the refusal of the previous application DC/20/119336 (see sub-section 3.2).
- 51 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.

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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

52 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)
- Grove Park Neighbourhood Plan (2021) (GPNP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

53 Lewisham SPG/SPD:

- Planning Obligations Supplementary Planning Document (February 2015)
- Small Sites SPD (2021)

54 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)
- Optimising Site Capacity: A Design-led Approach (June 2023)
- Housing Design Standards (June 2023)
- Air Quality Neutral (February 2023)
- Urban Greening Factor LPG (2023)

6 PLANNING CONSIDERATIONS

55 The main issues are:

- Principle of Development
- Housing
- Urban Design
- Transport Impact

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- Living Conditions of Neighbours
- Sustainable Development
- Natural Environment
- Public Health, Well-being and Safety
- Planning Obligations

6.1 PRINCIPLE OF DEVELOPMENT

General policy

- 56 The National Planning Policy Framework (NPPF) 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.
- 57 Lewisham is defined as an Inner London borough in the London Plan, and sets out the Mayor of London's vision for Inner London. This includes among other things sustaining and enhancing its recent economic and demographic growth; supporting and sustaining existing and new communities; addressing its unique concentrations of deprivation; ensuring the availability of appropriate workspaces for the area's changing economy; and improving quality of life and health.
- 58 Table 4.1 of Policy H1 of the London Plan sets a 10 year housing completion target of 16,610. Part 2 of Policy H1 states that Councils should optimise potential for housing delivery on all suitable and available brownfield sites.
- 59 LPP S5 Sports and recreation facilities seeks to ensure there is sufficient supply of good quality sports and recreation facilities.
- 60 Policy H8 Loss of existing housing and estate redevelopment of the London Plan states in part (a) that loss of existing housing should be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace.
- 61 Core Strategy Policy 1 states in part (2) that there should be no net loss of housing and housing densities should be in accordance with Core Strategy Policy 15. Core Strategy Policy 15 states that densities as applied in the London Plan should be applied, except where this is not appropriate to preserving or enhancing the characteristics of conservation areas.
- 62 DM Policy 2 states in part (1) that the Council will only grant planning permission for the loss of housing by demolition, redevelopment or change of use if the proposed development would result in housing gain, which generate and replace older housing estates.
- 63 DM Policy 33(B) sets out the Council's policy regarding backland sites.
- 64 Policy H1: Delivering a Mix of Housing and Quality Design of the Grove Park Local Plan seeks to resist the redevelopment of existing bungalows which cater for the elderly and/or disabled residents

6.1.1 Demolition

Discussion

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- 65 The existing buildings are of insufficient architectural merit to warrant consideration as non-designated heritage assets, and neither are located within a conservation area.
- 66 The bungalow is not a dedicated residence for elderly and/ or disabled residents, and is currently resided by a family.
- 67 The removal of the buildings will enable the comprehensive redevelopment of the application site, therefore for these reasons, officers raise no objections to the proposed demolition, subject to an appropriate form of replacement development.

6.1.2 Change of Use

Policy

- 68 NPPF para 120(d) advises that decisions should promote and support the development of under-utilised land and buildings, including service yards that can be used more effectively.
- 69 Policy S1(f) of the London Plan (2021) states that, “Development proposals that would result in a loss of social infrastructure in an area of defined need as identified in the borough’s social infrastructure needs assessment required under Part A should only be permitted where;
- there are realistic proposals for re-provision that continue to serve the needs of the neighbourhood and wider community, or
 - the loss is part of a wider public service transformation plan, which requires investment in modern, fit for purpose infrastructure and facilities to meet future population needs or to sustain and improve services.
- 70 Part (g) advises that redundant social infrastructure should be considered for full or partial use as other forms of social infrastructure before alternative developments are considered, unless this loss is part of a wider public service transformation plan.
- 71 The policy goes on to outline the facilities social infrastructure covers, such as health provision, education, community, play, youth, early years, faith, criminal justice and emergency facilities.
- 72 This is supported through Core Strategy Policy 19, which states that the Council will apply the London Plan policies relating to healthcare, education and community and recreational facilities to ensure that there is no net loss of facilities.
- 73 Grove Park Neighbourhood Plan Policy (GNPP) SA9 is a site-specific policy relating to this site, and proposes housing-led development. It goes on to say:
- The former Boxing Club identified is allocated for residential or mixed-use development. Development proposals will be supported where:
 - They include a masterplan to indicate best use of land and how it connects to the surrounding residential areas, taking care not to impact their amenity.
 - Compensate for the loss of sporting amenity on the site
 - Any residential development prioritises family housing
 - Collaborative working with the community to define a design code to ensure quality of design in line with Policies BE2 is strongly encouraged.

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- 74 GPNPP H1 advises that proposals for new housing development will be supported where their impact on provision for social infrastructure including community facilities is mitigated through appropriate mechanisms.
- Discussion*
- 75 The redevelopment of the application site for residential purposes has been subject to a number of pre-application meetings with the Council since 2018.
- 76 The site was formerly owned by London Youth, a charity supporting youth work in the capital, and who worked closely with Youth First Lewisham and Elevating Success, the latter running projects in close proximity to the application site. Since 1962, the clubhouse had been leased by London Youth to Marvels Lane Boys Club, a boxing club that operated three nights a week. Following a decline in attendees, and the provision of a similar club nearby, in addition to the poor condition of the building, London Youth reached a decision to sell the site and to use any profits to invest in projects elsewhere.
- 77 In 2018, the boxing club was relocated to Tudor Livesey Hall in Perry Hill, and the application site has been unoccupied since.
- 78 GPNPP SA9 advises that the former boxing club is allocated for residential or mixed-use development, and that proposals will be supported at this site that compensate for the loss of sporting amenity.
- 79 At pre-application stage in 2019, it was established that the first part of former Policy 3.16 of the London Plan (2016) had been complied with as there had been no net loss of a community facility due to it being re-located elsewhere in the Borough to premises of an improved standard. This position remains the same for the current proposal as the facility is continuing to operate in Perry Hill. This also did not form a reason for refusal for the previous refused application.
- 80 In addition, the Grove Park Ward benefits from indoor leisure facilities near to the application site including Bannatynes Health Club in Marvels Lane, a gym facility in Baring Road, and Downham Leisure Centre lies approximately 1 mile away.
- 81 An important matter to consider is that since 2020, following changes to the Town and Country Planning (Use Classes) Order, the premises has been reclassified from D2 (indoor recreation) to E(d). This means there is now less planning control to safeguard the former sporting amenity as Class E encompasses many forms of uses, for example retail, day nurseries and offices, and therefore a change of use within Use Class E would not constitute development for which planning permission was required. The sporting amenity would be lost without planning control and thus without the opportunity to secure any compensatory measures.
- 82 Additionally, officers have visited the site on three occasions and acknowledge that the internal condition of the clubhouse building is no longer fit for purpose, and would require significant investment to be modernised.
- 83 Further, officers consider that the site does not lend itself to wider social use or high volumes of traffic, owing to its narrow entrance, and the site being surrounded by existing housing, and the subsequent potential for noise and disturbance to neighbouring occupiers. For these reasons, there is an unrealistic prospect for the re-provision of a recreation facility on this site.

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- 84 It is noted that Policy SA9 states that development proposals at this site will be supported where family housing is prioritised. In this case, the development would deliver a 43% provision of family sized units, comprised of 2B4P, 3B5P and 3B6P dwellings, in accordance with SA9.
- 85 In light of the above, officers consider that on balance, the development proposal is compliant with the requirements of Policy SA9 of the Grove Park Neighbourhood Development Plan insofar as it can under current use class legislation. As set out in para.80, the amendments to the Use Class Order by central government does not protect the recreational use of the site to the extent that SA9 requires as the use may be changed within Class E using permitted development rights.
- 86 The proposal would accord with SA9, which recognises the proposed use of the site as being housing-led that prioritises family housing, whilst the scheme has been developed in a masterplan approach that considers resulting impacts upon residential amenity. The change in use of the application site to wholly residential is therefore acceptable in principle.

6.1.3 Principle of Residential

Policy

- 87 The current London Plan outlines through Policy H1 that there is a pressing need for more homes in London and that a genuine choice of new homes should be supported which are of the highest quality and of varying sized and tenures in accordance with Local Development Frameworks.
- 88 The application proposes the demolition of the existing two bedroom bungalow, which is currently occupied. Officers are satisfied that the loss of the existing dwelling would be suitably mitigated by the provision of replacement dwellings that would include 12no. family sized units. The proposal is considered to be in accordance with Policy H8 of the London Plan and DMLP Policy 2.
- 89 DM Policy 33 'Infill, backland and back garden and amenity area development' sets out the requirements for a variety of sites within residential areas that may come forward for development. The policy recognises that there will be instances where a particular site does not fall squarely within one of the definitions in the policy and in these cases, the principles to be applied will be taken from the appropriate parts of the policy.
- 90 Due to the nature of the proposal, the site has both infill and backland characteristics – as such, parts (a) Infill sites, and (B) Backland sites are both relevant. Part (a) states that development within street frontages will only be permitted where they:
- Make a high quality contribution to the area;
 - Provide a site specific creative response to the character and issues of the street frontage typology identified in Table 2.1 Urban Typologies in Lewisham;
 - Result in no significant overshadowing or overlooking, and no loss of security or amenity to adjacent houses and gardens;
 - Provide appropriate amenity space in line with DM Policy 32;
 - Retain appropriate garden space for adjacent dwellings;
 - Repair street frontage and provide additional natural surveillance;
 - Provide adequate privacy for new development;

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- Respect the character, proportions and spacing of existing housing.

91 Part (b) sets out that new development on sites of this type will only be permitted where they provided:

- A proper means of access and servicing which is convenient and safe both for drivers and 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 DM32.

Discussion

92 The above requirements of DM Policy 33 will be considered in detail later in this report, however officers consider the principle of residential use upon the site would be supportable, subject to matters including design, scale, standard of accommodation and neighbour impact.

93 The principle of a residential led development would accord with the adopted Grove Park Neighbourhood Plan, which sets out residential objectives for future use of this site, stating in Policy SA9 that the former boxing club site is allocated for housing led development for either residential or mixed use development that will prioritise family housing.

6.1.4 Principle of development conclusions

94 The proposed residential development accords with the key relevant development plan policies and the Grove Park Neighbourhood Development Plan outlined above and is, in principle, an appropriate use of this site that would contribute to Lewisham's targeted housing supply. This is a planning merit to which significant weight is given.

6.2 HOUSING

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

6.2.1 Contribution to housing supply

Policy

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

97 The NPPF encourages the efficient use of land subject to several criteria set out in para 124. Para 125 applies where there is an existing or anticipated shortage of land for meeting identified housing needs and strongly encourages the optimal use of the potential of each site.

98 LPP H1 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

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by walking and cycling and existing and planned public transport (including PTAL); and (iii) the capacity of surrounding infrastructure.

- 99 The current London Plan identifies a ten year housing target for net housing completions (2019/20 – 2028/29) of 16,670 for Lewisham, which equates to an annualised average of 1,667 new homes per year.
- 100 National and regional policy avoids specifying prescriptive dwelling size mixes for market and intermediate homes.
- 101 NPPF para 62 expects planning policies to reflect the need for housing size, type and tenure (including affordable housing) for different groups in the community.
- 102 LPP D3 seeks to optimise site capacity through the design led approach, ensuring that development is of the most appropriate form and land use for the site. Outside of the most sustainable locations, incremental densification should be actively encouraged by Boroughs to achieve a change in densities in the most appropriate way and with reference to LPP H2. LPP H12 sets out that an appropriate mix of unit sizes should be informed by several criteria set out in the policy.
- 103 Core Strategy Policy 1 echoes the above with several other criteria and expects the provision of family housing (3+ bedrooms). GPNPP H1 is also relevant.

Discussion

- 104 The proposed development would deliver 28 new dwellings, which would contribute to the annual target for Lewisham, therefore officers attach significant weight to this in planning terms.
- 105 The application site has an area of 0.32 hectares and a PTAL of 3/ 4 in a suburban location. The development would comprise a range of units types, as set out in **Table 1** below. Whilst there would be a 39% provision of 1b2p units, a high proportion of units would be family sized dwellings, accounting for 43% provision, which would accord with Strategic Aim 5 of the Grove Park Neighbourhood Plan.

Table 1: Unit mix

Unit type	Number	Percentage
1b2p	11	39%
2b3p	5	18%
2b4p	4	14%
3b5p	7	25%
3b6p	1	4%
TOTAL	28	100%

- 106 It must be acknowledged that the London Plan (2021) no longer provides an upper limit for density levels, instead promoting design led density in line with LPP D3. However, for the benefit of the current scheme and to provide context in relation to the former London Plan (2016) approach, the resulting density of the proposed development would be 253 habitable rooms per hectare, which sits within the indicative density range of 200-350 hr/ha for a suburban area of PTAL 3/4.

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107 LPP D3 advises that all development must make the best use of land by following a design-led approach, whilst higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling.

108 Table 3 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 2: Measures of Density

Criteria	Value	Criteria/area
Site Area (ha)	0.32	n/a
Units	28	87.5 U/HA
Habitable rooms	81	253.1 Hr/HA
Bedrooms	53	165.6 Br/HA
Bedspaces	94	293.7 Bs/HA

109 Table 4 below sets out the measures of height and scale of each building or major component in the development required by the supporting text to LPP D3 (para 3.3.23 of the LP) for all major proposals.

Table 3: Additional Major criteria

Criteria	Value
Site Area	0.32H
Floor Area Ratio (GEA of all floors/site area)	2170/ 3200 = 0.67
Site Coverage Ratio (GEA of ground floors/site area)	945/ 3200 = 0.29
Maximum height (m above ground level)*	10.3m

110 The provision of 28 dwellings in this case would make a valuable contribution to meeting housing targets. The proposal would use the land efficiently, and would contribute to the Borough's current annual housing target.

Summary

111 Policy D6 of the London Plan states for London to accommodate the growth identified in the plan in an inclusive and responsible way, every new development needs to make the most efficient use of land. This means developing at densities above those of the surrounding areas on most sites.

112 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 the optimum density, and these will be considered in the following sections of the report.

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113 Subject to an assessment of matters in this report, the principle of the proposed density is considered to be acceptable and would not result in an over intensification of the site and would provide 28 residential units. The proposed development is considered to result in a more efficient use of land and increase the housing supply in line with the London Plan and would make a considerable contribution to the Borough's housing targets. This is a planning merit to which significant weight is given by officers.

6.2.2 Affordable housing

Policy

114 The NPPF expects LPAs to specify the type of affordable housing required (para 63).

115 LPP H4 Delivering Affordable housing states that strategic target is for 50 per cent of all new homes delivered across London to be genuinely affordable. Specific measures to achieve this aim include requiring major developments, which trigger affordable housing requirements to provide affordable housing through the threshold approach.

116 LPP H5 sets a threshold level of affordable housing at a minimum of 35%. The policy sets out a series of criteria for applications to follow the Fast Track Route of the threshold approach. CSP1 and DMP7 reflect the above, with an expectation of 50% affordable housing, subject to viability.

117 GPNPP H2 states proposals which demonstrate a creative approach to delivering affordable housing provision, in line with the 50% target will be supported, and should seek the same high standards of innovative sustainable and good quality design.

Discussion

118 CSP1 and DMP7 set an expectation of 50% affordable housing on such sites, however the figure is a starting point for negotiations and is subject to viability. In this case, the scheme proposes nil affordable housing provision.

119 In line with guidance set out in the Council's Planning Obligations SPD, the Applicant has submitted a Financial Viability Appraisal Report (FVA), prepared by Sheridan Development Management LTD (SDML) to demonstrate why the scheme cannot deliver affordable housing.

120 The previous scheme was refused in part for a lack of information within the viability report, which meant the LPA was unable to conclude whether the development could provide on-site affordable housing. During pre-application discussions, the Applicant was advised of the details that should be included within a future submission.

121 The Applicant's current Financial Viability Assessment has been subject to a detailed independent review by BNP Paribas Real Estate, the Council's appointed viability consultants in relation to this application.

122 The Developer's profit in this case would be 17.5% GDV for the market housing, which BNP agree is a reasonable level of profit for a scheme of the proposed size.

123 Two assessments were undertaken by BNP during the planning application, the last being on 1 March 2023. Several discussions have been held with the applicants and their consultants SDML to seek clarification upon various inputs, and points of disagreement.

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- 124 The SDML viability assessment dated August 2021 concluded that whilst the development would deliver a profit on market GDV of 5.57%, the scheme would produce a 'profit deficit' and would be unable to provide on-site affordable housing or a commuted sum.
- 125 This was challenged by BNP in their first assessment in February 2022, who concluded that 'the proposed scheme is more viable than suggested by the Applicant.' BNP disagreed with matters including sales values, ground rents, construction costs, marketing costs, interest rates, and construction timescales, which resulted in SDML revisiting the inputs to allow for a further BNP assessment.
- 126 Subsequently, based on SDML's responses, two outcomes were raised by BNP: a surplus of £296k; and a deficit of £140k.
- 127 The deficit was based upon an increase in the value of the main site on the basis that the clubhouse, formerly use class D2, and now use class E, would therefore benefit from permitted development rights to change use to C3 residential, subject to Prior Approval Schedule 2 Part 3 Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for commercial, business and service uses to dwelling-houses.
- 128 This position was challenged by officers as without the benefit of a formal Prior Approval application, it could not be assumed that permitted development would 'not be required' to convert the clubhouse to residential use. It was therefore considered that the basis of justifying the deficit was unsubstantiated, and without a determined Prior Approval application, the scheme would deliver a surplus only. Subsequently, the Applicant decided not to submit a Prior Approval application.
- 129 Considering the time that had passed since the original submission of the current planning application in September 2021, and the significant change in the economic climate and increased construction costs, a second viability assessment was undertaken in November 2022. BNP made adjustments to SDML's previous appraisal assumptions to reflect updated positions, including:
- GDV –marginal increase in the GDV for the proposed scheme;
 - Build Costs – BNP adopted the marginally lower Build cost as recommended by Concert Quantity Surveyors who reviewed the scheme as instructed by BNP;
 - Contingency – removal of the additional contingency as per the Concert report;
 - Sales and marketing fees adjusted from 3.5% to a total of 2.5% plus £1,000 per unit;
 - Finance Rate adjusted from 6.5% to 7.25%; and
 - Development timescale adjusted from 23 months to 18 months.
- 130 Subsequently, BNP maintained that the scheme would deliver a surplus, albeit at a reduced £221k. At best, the sum may only be sufficient to provide one affordable unit on site, which is unlikely to interest a prospective Registered Provider, therefore officers consider it appropriate to secure the surplus as an in-lieu payment, which has been agreed by the Applicant.
- 131 London Plan Policy H5 seeks to maximise affordable housing delivery in the longer term and acknowledges the potential for significant changes in values in the housing market, therefore the use of review mechanisms are supported. This would include an early

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review which is triggered where an agreed level of progress on implementing the permission has not been reached after two years of the permission being granted.

132 Following this, a late review would be applied once 75% of homes are sold. The SPG advises that the benefit of this approach is that the review can be based on values achieved and costs incurred. The review takes place prior to sale of the whole development to ensure that the review and any additional contribution arising from this are enforceable. The outcome of this review will typically be a financial contribution towards off-site affordable housing provision.

6.2.3 Summary of Affordable housing

133 The scheme is unable to deliver any substantial provision of on-site affordable housing, which has been supported in a review by an independent consultant on behalf of the Council. It has been identified that the scheme would deliver a surplus of £221,953, however this would be insufficient to provide more than one affordable dwelling, therefore officers consider it appropriate to require an in-lieu payment.

134 Additionally, the S106 Agreement will secure early and late-stage reviews to establish whether the development could provide on-site affordable units within specified timeframes, or a further in-lieu payment. This would be in accordance with the requirements of the London Plan.

6.2.4 Residential Quality

General Policy

135 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).

136 The main components of residential quality are: (i) space standards; (ii) aspect, outlook and privacy; (iii) overheating; (iv) daylight and sunlight; (v) accessibility and inclusivity; and (vi) children's play space.

Internal space standards

Policy

137 LPP D6 seek to achieve housing developments with the highest quality internally and externally and in relation to their context and sets out the minimum space standards. These policies set out the requirements with regard to housing design, seeking to ensure the long term sustainability of new housing provision.

Table 4: Unit and Amenity Space Sizes (requirements in brackets)

Type	Block	Floor	GIAm2	Amenity m2
3b4p	A	Grd	77 (74)	32 (7)
2b3p	A	Grd	61 (61)	55 (6)
3b4p	A	1 st	82 (74)	7 (7)
2b3p	A	1 st	68 (61)	6 (6)

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1b2p	A	2 nd	50 (50)	11 (5)
1b2p	A	2 nd	51 (50)	7 (5)
1b2p	B	Grd	52 (50)	28 (5)
3b4p	B	Grd	85 (74)	154 (7)
2b3p	B	Grd	65 (61)	44 (6)
2b4p	B	Grd + 1 st	78 (79)*	82 (7)
2b4p	B	Grd + 1 st	78 (79)*	26 (7)
1b2p	B	1 st	50 (50)	6 (5)
2b3p	B	1 st	68 (61)	12 (6)
2b4p	B	1 st	73 (70)	8 (7)
1b2p	B	2 nd	53 (50)	20 (5)
3b4p	B	2 nd	83 (74)	15 (7)
3b4p	C	Grd + 1 st	87 (84)	53 (7)
3b4p	C	Grd + 1 st	87 (84)	45 (7)
3b6p	D	Grd	97 (95)	33 (9)
2b4p	D	Grd	70 (70)	31 (7)
1b2p	D	1 st	50 (50)	5 (5)
1b2p	D	1 st	50 (50)	6 (5)
2b3p	D	1 st	63 (61)	6 (6)
1b2p	D	1 st	50 (50)	8 (5)
3b4p	D	2 nd	79 (74)	9 (7)
1b2p	D	2 nd	50 (50)	5 (5)
1b2p	E	Grd	60 (50)	17 (5)
1b2p	E	1 st	52 (50)	8 (5)

Discussion

- 138 Table 3 sets out proposed dwelling sizes and demonstrates that all units (other than Units 04 and 05 in Block B) would meet or exceed the minimum floor areas for all unit types. Additionally all bedrooms and built in storage would meet or exceed the minimum requirements.
- 139 In regard to Units 04 and 05, these are 2-storey maisonettes that would both measure 78sqm – the minimum requirement is 79sqm. Nevertheless, the units would be well sized, dual aspect units that would benefit from private garden areas that would exceed the minimum requirement, whilst all habitable rooms would be policy compliant. Officers therefore consider the shortfall to be minor and would not compromise the quality of the units.
- 140 In terms of floor to ceiling heights, all blocks would achieve 2.5m, which is compliant with Part 8 of Policy D6 of the London Plan and DM Policy 32 which requires a floor to ceiling height of 2.5m or above for 75% of the floorspace. The floor to ceiling height is compliant

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with the Nationally Described Space Standards (2015) which states the floor to ceiling height should be 2.3m or above for 75%.

Aspect, Outlook & Privacy

Policy

- 141 London Plan Policy D6 seeks high quality internal and external design of housing development. Development is required to achieve 'appropriate outlook, privacy and amenity', and should seek to maximise the provision of dual-aspect dwellings (i.e. with two openable windows).
- 142 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its future residents.
- 143 DMP 32 also identifies that there will be a presumption that residential units should be dual aspect and that north facing single aspect units will not be supported.

Discussion

- 144 In terms of outlook, all units would be dual aspect, with no single aspect north facing units proposed. The development would therefore provide sufficient outlook and natural ventilation for all habitable rooms.
- 145 It is noted that the previous scheme was refused in part due to poor outlook to some units. The current scheme has addressed this by reconfiguring internal layouts, and ensuring the blocks would be sited a sufficient distance away from the existing boundaries.
- 146 Officers are satisfied that all dwellings within the scheme would have sufficient privacy and greater provision of defensible space for occupiers, with no direct overlooking from other units within the site, whilst lying a sufficient distance away from existing dwellings.
- 147 Overall, officers are satisfied that appropriate outlook, privacy and ventilation would be provided to future occupiers of the units.

Daylight and Sunlight

Policy

- 148 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards. This is not formal planning guidance and should be applied flexibly according to context. The BRE standards set out below are not a mandatory planning threshold.
- 149 In new dwellings, the BRE minimum recommended average daylight factor (ADF) is 1% for bedrooms, 1.5% for living rooms and 2% for kitchens.

Discussion

- 150 An assessment of daylight and sunlight levels within the proposed residential units and an assessment of overshadowing of the public realm and amenity space that would be provided as part of the development was undertaken by the applicant's daylight and sunlight consultants, Schroeders Begg.

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- 151 A daylight/sunlight report has been submitted, which concludes that all future occupiers would be afforded suitable daylight, and reasonable provision of sunlight.
- 152 The four living rooms that would fall below BRE guidance in regard to sunlight and daylight would all be single aspect rooms, mostly located at ground floor level and benefitting from only one window opening. A 'Block B' ground floor living room would be single aspect and have a projecting first floor balcony overhead.
- 153 Officers are satisfied that an acceptable standard of amenity for future occupiers would be provided in relation to daylight and sunlight within the proposed development.

Accessibility and inclusivity

Policy

- 154 LPP D7 requires 10% of residential units to be designed to Building Regulation standard M4(3) 'wheelchair user dwellings', i.e. is designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users, with the remaining 90% being M4(2) 'accessible and adaptable dwellings'.

Discussion

- 155 The proposed development would comprise a total of 3no. wheelchair accessible M4(3) units, representing 10% of the total number of units. These would be 2 bed units located within Blocks B and C.
- 156 All remaining units would be M4(2) compliant accessible and adaptable dwellings.
- 157 In accordance with Standard 4 of the Mayor's Housing SPG the communal amenity space would be accessible to wheelchair users who require level access.
- 158 With regard to inclusivity for residents of all tenures and access to broadband, this is now handled via Building Regulations under Approved Document R, which came into force in 2017. This introduced a new requirement for in-building physical infrastructure, which enables copper or fibre-optic cables or wireless devices capable of delivering broadband speeds greater than 30mps to be installed. It is recommended that an informative is added to a decision notice drawing the applicant's attention to this. Future residents would have access to this infrastructure regardless of tenure but would be responsible for taking out their own internet contracts with a provider.

External space standards

Policy

- 159 Nationally Described Space Standards (NDSS) were published by the Department of Communities and Local Government in March 2015. It is not a building regulation requirement, and remains solely within the planning system as a new form of technical planning standard. The national housing standards are broadly in compliance with the space standards set out in the London Plan and its Housing Supplementary Planning Guidance (2016).
- 160 In addition to this, DM Policy 32 seeks to ensure that new residential development provides a satisfactory level of privacy, outlook, direct sunlight and daylight. It also states that new housing should be provided with a readily accessible, secure, private and usable external space and includes space suitable for children's play.

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161 The Mayor’s Shaping Neighbourhoods: Children and Young People’s Play and Informal Recreation SPG recommends 10sqm of play space per child. The GLA divide the requirements of children’s play space into three categories: (i) under 5s, described as doorstep play and generally considered as part of the plot; (ii) ages 5-11; and (iii) children 12 plus.

Discussion

162 All units would be provided with private outdoor amenity space in the form of gardens at ground level, and balconies to the upper floors, which would either meet or exceed the London Plan requirements in terms of size.

163 All occupiers would also have access to the central communal area that would provide a mix of hard and soft landscaping measures, including seating areas and playspace. Following advice from the Secure by Design officer, the amenity space would be gated between Blocks A and D to ensure safety for future residents. All occupiers would be issued with a fob key for access to the communal area.

164 There would be no rooftop areas of communal amenity space for residents.

Children’s play space

Policy

165 S4 expects development proposals for schemes that are likely to be used by children and young people to increase opportunities for play and informal recreation, and for residential developments to incorporate at least 10sqm per child of play provision for all ages. D3.D(8) development proposals should provide conveniently located green and open spaces for social interaction, play, relaxation and physical activity. D6 states communal play space should meet the requirements of LPP S4.

166 CSP 12 and DMP 32 reflect the London Plan. Together these policies aim to ensure that children's play space is provided and integrated within new developments and existing communities in a way that is inclusive, safe, accessible and meets the needs of all ages and abilities. The policies also recognize the importance of outdoor spaces for children's physical health, social interaction and learning opportunities.

Discussion

167 Using the calculator provided in the Mayor of London’s Play and Informal Recreation SPG, the estimated child yield for the development is set out in the table below.

Table 5: Play space requirement and provision

Age group	No. of children	Play space requirement (sqm)	Proposal (sqm)
Under 5	2.5	53.7	Not specified, but would exceed 60sqm
5 to 11	1.8		
12+	1.1		
Total	5.4		

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- 168 The proposed development would generate an estimated child yield of approximately 5.4 children, and the associated play space requirement would be 53.7sqm.
- 169 The central communal area would measure 500sqm and would provide a dedicated area for playspace, whilst the ground floor units within each block would benefit from private rear gardens that could also accommodate play equipment. Officers are therefore satisfied that the development would deliver more than the minimum requirement of 53.7sqm of playspace.
- 170 No indicative plans have been provided to show intended play equipment, but it is assumed it would include typical apparatus such as climbing frames, swings etc. Such details will be requested by condition, which will be expected to provide for each specific age group including 12 and overs. Details of play equipment will be formally assessed to ensure the needs of children are met, whilst avoiding any inappropriate forms of provision that would unacceptably disturb neighbouring residents.
- 171 The playspace would have good levels of natural surveillance, and would provide areas of seating for parents to sit whilst their supervising their children play. The spaces would also be safe from any vehicles manoeuvring within the curtilage of the site.
- 172 Beyond the application site, the nearest public open space is within Chinbrook Meadows and adjacent to Grove Park library.

Summary of Residential Quality

- 173 Overall the proposed development would provide a high quality environment for future occupiers.
- 174 All residential units save two duplex units within Block B, would either meet or exceed the internal space standards in accordance with the development plan requirements, including internal floor area, floor to ceiling heights, room sizes, and storage space. Officers are satisfied the units would provide generous and well-proportioned accommodation.
- 175 All units would be provided with private outdoor amenity space in the form of gardens and balconies, which would either meet or exceed the minimum requirements in terms of private amenity space provision. The development would also be provided with generous communal amenity space provision and children's playspace.
- 176 In terms of outlook, privacy, daylight and sunlight, a suitable level of amenity would be provided for future occupiers, having regard to the suburban context within which the development lies.

6.2.5 Housing conclusion

- 177 The proposed development would deliver 28 new dwellings, which would contribute to the Borough's current annual housing target. The development would provide a good range of dwelling sizes contributing towards the creation of a balanced community, including a mix of 1, 2 and 3 bedrooms. As such, the proposed development would make a significant contribution to Lewisham's housing needs, and officers attach substantial weight to this in planning terms.

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6.3 URBAN DESIGN

General Policy

- 178 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.
- 179 The NPPG encourages decision takers to always secure high quality design; this includes being visually attractive and functional, however other issues should be considered:
- local character (including landscape setting)
 - safe, connected and efficient streets
 - a network of greenspaces (including parks) and public places
 - crime prevention
 - security measures
 - access and inclusion
 - efficient use of natural resources
 - cohesive and vibrant neighbourhoods
- 180 LPP D3 expects the highest quality materials and design appropriate to context.
- 181 Core Strategy Policy 15 and Local Plan Policies DM 30, and DM 31 set out the detailed considerations and issues that need to be considered and addressed by development applications in order to achieve the high standards of development required.
- 182 DMLP 30, Urban design and local character 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.
- 183 DM Policy 33(B) sets out the Council's policy regarding backland sites.

6.3.1 Appearance and character

Policy

- 184 Planning should promote local character. The successful integration of all forms of new development with their surrounding context is an important design objective (NPPG).
- 185 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). At para 134, the NPPF states significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area.
- 186 LPP D3 Optimising site capacity through the design-led approach states that development proposals must enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale,

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appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions

- 187 LPP D4 expects development to have regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings.
- 188 Development should also 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.
- 189 Policy BE2 of the Grove Park Neighbourhood Development Plan advises that proposals for new development should be of the highest quality which incorporate people-centred design principles which promote healthier communities.
- 190 Grove Park Neighbourhood Plan Policy (GPNPP) SA9 is a site-specific policy relating to this site, and proposes housing-led development. It goes on to say:
- The former Boxing Club identified is allocated for residential or mixed-use development. Development proposals will be supported where:
 - They include a masterplan to indicate best use of land and how it connects to the surrounding residential areas, taking care not to impact their amenity.
 - Compensate for the loss of sporting amenity on the site
 - Any residential development prioritises family housing
 - Collaborative working with the community to define a design code to ensure quality of design in line with Policies BE2 is strongly encouraged.

Discussion

- 191 GPNPP SA9 seeks a masterplan to indicate best use of the land and how it connects to the surrounding residential areas, taking care not to impact their amenity. As discussed in sub-section 4.6, officers are satisfied the extent of design work undertaken means this limb of SA9 is complied with. Collaborative working with the community is an aspiration but failure to do so should not, in Officer's opinion, constitute a reason for refusal.
- 192 The development would consist of five separate blocks, the smallest being a 2-storey building to the southern end fronting Le May Avenue (Block E) and adjacent to the route into the site. Within the central area would be 3-storey buildings A, B and D; and the 2-storey Block C, which would all be flat roofed.
- 193 The development would be consistent in appearance, with the setting back of the top floors to the 3-storey buildings, brick faced exteriors, and sizeable window openings.
- 194 The surrounding area is predominantly residential in character, comprised of 2-storey dwellings. Officers consider that height and scale of the proposal would respect the existing setting, and would be an appropriate addition that would sit comfortably within the existing built context.
- 195 The proposed scale of development represents a significant improvement upon the first planning application that was refused on this site (DC/20/119336). Whilst the appearance and heights of the buildings are broadly similar, the refused scheme was formed of two large central blocks that were located closer to the site boundaries, and set around a small, overshadowed, courtyard which would comprise limited soft

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landscaping. The development was therefore refused due to the excessive scale and plot coverage, and an inappropriate provision of high-quality soft landscaping measures.

196 The current proposal has acknowledged the significant shortfalls of the first scheme. Whilst the building heights are generally maintained, the development is of reduced scale and plot coverage, with the two large blocks replaced by four smaller buildings. Their size and arrangement provides for sufficient spaces between each Block, allowing for natural light to reach the new dwellings and the central courtyard.

197 The reduction in the proposed footprints when compared to the refused scheme, as seen in Figure 3, means the central courtyard space would be larger, with more scope for soft landscaping measures.



Figure 3: Comparison between refused (thick dashed line) and current scheme

198 In regard to Block E, this would be a brick faced 2-storey building incorporating a flat roof. The scale and appearance are considered appropriate for this street frontage and main access point into the site. The building has been reduced in height since the refused scheme, which is supported by officers considering its proximity to neighbouring Luffman Road gardens.

199 In terms of material palette, the buildings would comprise a mix of brown coloured brick, with reddish cladding to the upper floors. Fenestration would have dark coloured frames, whilst projecting balconies would include metal railings. **(Figure 4)**

200 The proposed materiality and detailing are considered to result in a high-quality development that would respond to the surrounding context, respecting the character and appearance of the area. The final details of facing materials would be secured by Condition.

Figure 4: Blocks B and D and facing materials

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Proposed Block B East Elevation



Proposed Block D East Elevation

MATERIALITY



Peterson O100 brick



Acme Double Cantor clay plain tile



Vertical metal balustrade

6.3.2 Layout and landscaping

Policy

- 201 LPP D3 Optimising site capacity through the design-led approach states that development proposals must 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.
- 202 DM Policy 25 requires the submission of a landscape scheme, including 5 years of management and maintenance of high quality hard and soft landscaping measures.
- 203 DM Policy 32 requires the siting and layout of new residential development to respond positively to site specific constraints and opportunities as well as the existing context of the surrounding area. They must also meet the functional needs to future residents.

Discussion

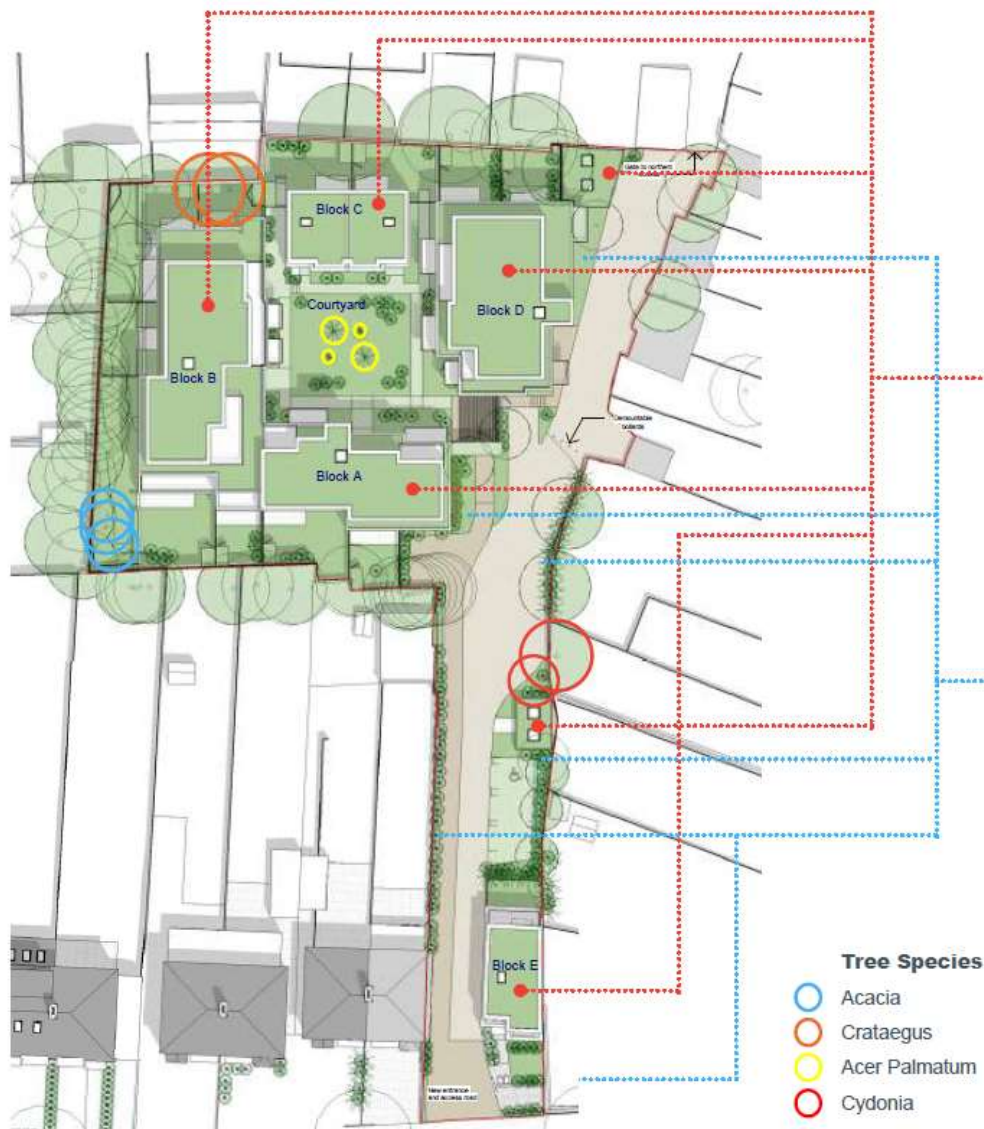
- 204 The existing site has a primary access point from Le May Avenue to its southern end, and a secondary access to the north-east that leads up to Balder Rise. The land surrounding the existing building within the site curtilage is predominantly hard landscaped, with trees within and surrounding the site.
- 205 **Figure 5** shows the proposed layout of the development, with Block E lying adjacent to the pedestrian and vehicular route from Le May Avenue, and Blocks A to D located within the central area of the site around the communal garden.
- 206 The existing route up to the north-eastern access point would be retained in its entirety as some Luffman Road occupiers have rights of access over the land.

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Figure 5: Site Layout



- 207 The central courtyard area would contain the largely soft landscaped space that would include designated children’s play equipment, and seating areas. As will be discussed later in this report, further details of soft landscaping measures (including details of maintenance and 5 year management) would be secured by condition. Such details shall include co-ordination with relevant matters including Urban Greening Factor, Sustainable Urban Drainage, and biodiversity/ ecology.
- 208 Some existing Category B and C trees within the central area of the site would be felled (13 in total -see para 397 below), however the application proposes the planting of replacement species to ensure there would be no net loss.
- 209 Overall, the proposed layout of the development site would be acceptable, with the provision of areas of soft landscaping for future occupiers that will be subject to Condition. This represents a considerable improvement upon the layout of the refused scheme, and follows detailed pre-application discussions with officers.

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6.3.3 Urban design conclusion

- 210 In summary, the proposed development is considered to be a high quality proposal with regard to design. The current proposal has been subject to a pre-application with the LPA, and officers consider that the development proposal has sufficiently addressed the design concerns that were raised by officers in their assessment of the previous application, which was refused permission due to its excessive scale and lack of soft landscaping measures.
- 211 The development is of an appropriate height and scale and would use suitable facing materials. The design of the proposal is acceptable and in line with the relevant policies.
- 212 As such, it is considered that the proposal is acceptable with regard to urban design, and accords with the aims and objectives of the London Plan and Development Plan.

6.4 TRANSPORT IMPACT

General policy

- 213 The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Plans and decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, safe and suitable access to the site can be achieved for all people. The NPPF clearly states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 214 Policy T1 of the London Plan (2021) sets out the Mayor's strategic approach to transport which aims to encourage the closer integration of transport and development. This is to be achieved by encouraging patterns and nodes of development that reduce the need to travel, especially by car; seeking to improve the capacity and accessibility of public transport, walking and cycling; supporting measures that encourage shifts to more sustainable modes and appropriate demand management; and promoting walking by ensuring an improved urban realm.
- 215 London Plan Policy T6.1 Residential parking sets out in Table 10.3. that new residential development should not exceed the maximum parking standard to ensure a balance is struck to prevent excessive car parking provision that can undermine cycling, walking and public transport use. Through the use of travel plans, it aims to reduce reliance on private means of transport.
- 216 Core Strategy Policy 14 'Sustainable movement and transport' promotes more sustainable transport choices through walking, cycling and public transport. It adopts a restricted approach on parking to aid the promotion of sustainable transport and ensuring all new and existing developments of a certain size have travel plans.
- 217 DMP 29 identifies that car limited major residential will be supported in areas with a PTAL of 4 or above and that amongst other factors development should not have a detrimental impact on on-street parking provision in the vicinity. It outlines that measures such as car-clubs and cycle storage will be expected to ensure that sustainable transport modes are encouraged.
- 218 LPP T5 cycling states that Development Plans and development proposals should help remove barriers to cycling and create a healthy environment in which people choose to

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cycle. Cycle parking should be designed and laid out in accordance with the guidance contained in the London Cycling Design Standards. Development proposals should demonstrate how cycle parking facilities will cater for larger cycles, including adapted cycles for disabled people.

219 CSP 14, amongst other things, states that the access and safety of pedestrians and cyclists will be promoted and prioritised.

220 CSP 13 requires all major development to submit and implement a site waste management plan, and to provide well designed recycling facilities for all proposed uses.

6.4.1 Access

Policy

221 Paragraph 110 of the NPPF states amongst other things that safe and suitable access to the site can be achieved for all users.

222 DM Policy 33 requires development of backland sites to have a proper means of access and servicing which is convenient and safe both for drivers and pedestrians. Good access to development on backland sites is a key issue and will be an important factor when considering development applications. Emergency vehicles, refuse vehicles and delivery services need appropriate access. Pedestrian access needs to be safe for all users and avoid conflict with vehicles. If safe and convenient access cannot be achieved for all users then developments will be refused.

223 Core Strategy Policy 14 states that access and safety of pedestrians and cyclists will be promoted and prioritised.

Discussion

224 The existing route from Le May Avenue would be retained and increased in width to ensure dedicated vehicular and pedestrian spaces. The Blue Badge bay/s would be located to the rear of Block E, adjacent to the boundary with Luffman Road dwellings. It is noted that whilst the route extends up to the existing access point to the north, the placement of demountable bollards would prevent any vehicles gaining a 'short-cut' through to Balder Rise, a concern raised by some neighbours. Vehicles that are parked within the garages of the Luffman Road properties have an existing right of access to the northern part of the route.

225 Highways Officers note there would be insufficient space for two vehicles to pass each other whilst accessing or egressing the site, however due to the small number of on-site spaces (max. 3) and anticipated number of movements during the peak or typical hour, it is not anticipated this would result in cars obstructing the free flow of traffic on the public highway.

226 Further details of the surface treatment and external lighting measures will be required by Condition to ensure safe and attractive pedestrian and cycle access for future occupiers.

227 Plan 105 demonstrates how access to the proposed development for the emergency services would be provided. A fire appliance would be able to enter/ exit the site in forward gear from the Le May Avenue. Access along the full extent of the vehicular route would be possible as the proposed bollards addressed earlier in the report would be demountable.

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- 228 The submission documents do not identify where fire hydrants would be provided around the development to demonstrate compliance with relevant regulations, therefore a Condition will request this information.
- 229 The London Fire Brigade requires that the development must accord with the Building Regulations, in particular B5 'Access and facilities for the fire service', which stipulates that new development must be designed and constructed to provide reasonable facilities to assist firefighters, and reasonable provision within the site to enable fire appliances to gain access. An Informative has been added to this effect.
- 230 A draft Construction Logistics Plan forms part of the submission, which sets out the main routes that construction vehicles would use, whilst the site access would be from Le May Avenue only. All deliveries and removal of waste would be undertaken between 9am and 4pm weekdays to avoid peak time traffic.
- 231 A detailed Construction Management Plan will be required by Condition to ensure the demolition and construction process is carried out in a manner which will minimise possible noise, disturbance and pollution to neighbouring properties.

6.4.2 Highway Improvements

Policy

- 232 Policy T4 of the London Plan (2021) states that where appropriate, mitigation, either through direct provision of public transport, walking and cycling facilities and highways improvements or through financial contributions, will be required to address adverse transport impacts that are identified.

Discussion

- 233 The Council's Highways Officer has advised that the Applicant will be required to enter into a s278 Agreement to deliver the following public realm and highways works;
- Improvement works to the route between the application site and the west-bound bus stop on Chinbrook Road, including the provision of tactile paving at the Le May Avenue/ Luffman Road junction, and at the Luffman Road/ Chinbrook Road junction to improve crossing facilities and to improve access to the nearby bus stops.
 - Improvement/ reinstatement works to the site access points on Le May Avenue associated with the provision of the vehicular access, and the provision of loading facilities on Le May Avenue.
- 234 These works are considered necessary to improve the environment for pedestrians and cyclists and improve accessibility for all, considering the development would be largely car free.

6.4.3 Healthy Streets

Policy

- 235 Policy T2 of the London Plan (2021) states development proposals should deliver patterns of land use that facilitate residents making shorter, regular trips by walking or cycling.

Discussion

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- 236 The Healthy Streets Audit was included within the Transport statement and assesses the quality of the walking routes in the vicinity of the site against the 10 Healthy Streets indicators.
- 237 An assessment of the routes from the application site to various destinations has been undertaken, including the nearest bus stops; Marvels Lane Primary Schools; Grove Park Train Station; designated cycle routes; leisure park; and food stores.
- 238 The audit identified a number of issues along the Route between the application site and the bus stops on Chinbrook Road that require improvement, as addressed in para.216 of this report. The required works have been agreed with the Applicant, and would be secured in the s278 Agreement.

6.4.4 Servicing and refuse

Policy

- 239 DMP 31 requires new development to have appropriate regard for servicing of residential units including refuse.

Discussion

- 240 Servicing/ deliveries would be undertaken within the central area of the application site, with the provision of a loading/ unloading bay adjacent to Block D. A swept path plan has been provided to demonstrate that a delivery vehicle can manoeuvre sufficiently around the site predominantly in forward gear, with a turning point to the rear of Block A.
- 241 Officers are satisfied that the bay would be sufficiently sized/ positioned to ensure that a waiting vehicle would not obstruct other vehicles or pedestrian movements. This serves to address the concerns raised during the previous planning application, which were resolved during discussions with the Council's Highways officer.
- 242 A full Delivery and Servicing Plan would be secured as a planning Condition.
- 243 A central refuse store would be located within Block D for all residents. On collection day, bins would be taken to a dedicated area to the front of the site, which would lie less than 10 metres back from the highway, thereby negating the need for a refuse vehicle to enter the site. The Transport Statement advises that a private contractor would be tasked with moving the bins to and from the collection point.
- 244 Officers raise no objections to the location of the waste storage and collection points, however further details of the refuse arrangements would be required by the submission of a waste management strategy.

6.4.5 Transport modes

Walking and cycling

Policy

- 245 LPP T5 states that development plans and development proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle. Cycle parking should be designed and laid out in accordance with the guidance contained in the London Cycling Design Standards.

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Discussion

- 246 Table 10.2 of the London Plan requires the provision of 1.5 cycle spaces per 1b2p unit, and 2 spaces for larger units, equating to 50.5 in this case.
- 247 The scheme proposes 56no. cycle parking spaces (including two short term spaces), which will be shared between two dedicated dry and secure stores, and private stores within the garden areas of the ground floor units. The proposal would therefore accord with Policy T5 of the London Plan – a planning Condition will ensure a minimum provision of 56 spaces, and the submission of details relating to how the cycles would be stored.

Public transport

Policy

- 248 The NPPF states that significant impacts on the transport network (in terms of capacity and congestion) should be mitigated to an acceptable degree.

Discussion

- 249 The application site has a PTAL of 3/ 4, based on a scale of 0-6b with 6b having the highest degree of accessibility to public transport.
- 250 Grove Park train station lies within a short walking distance to the south-west of the application site on Baring Road, whilst a number of bus routes operate within the vicinity.
- 251 The provision of 28 additional units is not considered to have a significant impact on the local transport network in terms of capacity on the road network or on public transport.
- 252 A Construction Management Plan would be secured by condition to ensure the short-term impacts of construction vehicles on the local highways network are acceptable.

Car clubs

Policy

- 253 Policy T6.1 Residential parking states car clubs can help support lower parking provision and car-lite lifestyles by enabling multiple households to make infrequent trips by car.

Discussion

- 254 A Zipcar car club operates throughout the Borough with a mixture of on-street and off-street parking spaces provided. The development would make use of the existing car club provision within close proximity of the site, and the Applicant is willing to pay car club membership for 3 years for the first occupiers of all residential units, which will be secured as part of a s106 agreement.

Private cars (include disabled and electric charging points)

Policy

- 255 LP Policy T6 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 (or planned to be) well

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connected by public transport, with developments elsewhere designed to provide the minimum necessary parking (car-lite).

256 Table 10.3 of the London Plan states in areas of Inner London with a PTAL of 2, the maximum provision of car parking is 0.5 spaces per dwelling.

257 CSP 14 states that the Council will take a restrained approach to parking provision.

258 DMP 29 requires wheelchair parking to be provided in accordance with best practice standards.

Discussion

259 The development would essentially be car-free, apart from the provision of 1no. Blue Badge bay, with an opportunity for a further two bays subject to demand. The proposal has been subject to pre-application discussions, and the Council's Highways officer supports the principle for car-free development in this area, considering the 3/4 PTAL, and being in accordance with the London Plan, and Policy T2 of the Grove Park NDP which requires new development to prioritise alternatives to the private car to reduce the dominance of car use.

260 Objections have been raised in regard to the issue of overspill parking generated from the development, putting pressure on the car parking capacity within surrounding streets.

261 Parking surveys were undertaken on behalf of the Applicant using the Lambeth Methodology on the nights of 22nd and 23rd September 2020. Of 202 on-street parking spaces within a radius of 200m from the site, the survey identified 89 spaces available. Officers however acknowledge that the surveyed area includes an existing CPZ which accounts for 64 spaces, therefore of the 138 non CPZ on-street spaces, the available spaces would be approximately 42no. Albeit less than the stated provision of 89 spaces, the survey does demonstrate there is capacity within neighbouring streets to accommodate additional parking.

262 Considering that the development has potential to generate additional parking pressures, whilst commuter parking should also be a consideration, the Council's Highways team have requested the Applicant funds a review of introducing a CPZ to neighbouring streets, which will be secured by a s106 obligation.

263 The Applicant has also agreed that any resident of the proposed development would be precluded from applying for a parking permit should a CPZ be introduced, save for those who qualify for disabled parking Blue Badge. This provision would also be secured via the s106 agreement.

264 A Parking Management plan that includes details of the allocation and enforcement of the off-street parking provision; the details of allocated EV enabled parking bays; and a strategy for enforcing informal parking within the hard landscaped areas will be secured by Condition.

265 The scheme proposes that the single parking space will be provided with an active Electric Vehicle Charging Point, with a further passive provision should there be any future demand. This is in accordance with London Plan policies.

266 A Framework Residential Travel Plan has been submitted, which sets out mechanisms to encourage the use of sustainable modes of transport to and from the site. This has been reviewed by the Council's Highways Officer who considers it represents a suitable

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approach. A planning Condition will ensure that the proposed measures are implemented.

6.4.6 Transport impact conclusion

- 267 The Transport Assessment and supporting evidence demonstrate that the proposed development and associated highway improvements will not result in an unacceptable impact on highway safety, and that the residual cumulative impacts associated with the proposed development will not be severe. Having regard to the provisions of NPPF paragraph 111 and DM Policy 33, the development is therefore considered to be acceptable in transport terms.
- 268 Subject to appropriate planning conditions and s106 obligations, the proposal would not result in significant harm to the local highway network or pedestrian or highway safety. Car ownership for future occupiers would be low, with spaces afforded to disabled users only, whilst the s106 would secure car club membership for 3 years for the first occupiers of all the residential units.
- 269 Cycle provision would accord with policy, providing dry and secure storage, whilst walking would be promoted.
- 270 The applicant has confirmed they will provide financial contributions toward public realm improvements within the immediate area, and a contribution of £15,000 towards consultation procedures for the potential establishment of a CPZ.
- 271 In light of the above, the impact of the proposal on highways is considered acceptable, and no objections are raised. The proposed Construction Management Plan; Parking Management plan; Servicing and Deliveries; refuse and recycling storage; and cycle facilities will be secured by appropriate Conditions.

6.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 272 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.
- 273 This is reflected in relevant policies of the London Plan (LPP D3, D4, D5, D6), the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (Housing SPD 2016, GLA; Alterations and Extensions SPD 2019, LBL).
- 274 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours.
- 275 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

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- 276 Overbearing impact arising from the scale and position of blocks is subject to local context. Outlook is the distance between habitable rooms and boundaries.
- 277 Paragraph 2.3.36 of the London Plan Housing SPG states that a distance of 18-21 metres will generally be sought between existing and proposed habitable windows. However, it is considered that rigidly adhering to this distance can limit the variety of urban spaces and restrict density. Paragraph 2.250 of DM Policy 32 also references a distance of 21 metres however it also outlines that this must be interpreted flexibly, taking into account the height of buildings.

Discussion

- 278 The application site is currently occupied by a part single/ part 2-storey building and ancillary hardstand areas, with the existing building abutting the boundaries with Le May Avenue and Somertrees Avenue dwellings. The nearest dwelling-houses lie within Balder Rise to the north.
- 279 Officers raised concerns during the previous application that the proximity of buildings to the shared boundaries with neighbouring occupiers would cause overbearing harm and overlooking to some properties, however it was acknowledged that properties in Luffman Road and Le May Avenue benefitted from long rear gardens.

Le May Avenue

- 280 The existing building is built close to the boundary with these 2-storey properties, however the visual impact is not significant, attributed to the dwellings benefitting from gardens measuring approximately up to 41.5 metres in length, with some existing trees sited within the gardens providing some natural screening.
- 281 Proposed 3-storey Blocks A and B would be located up to 8 metres back from the shared boundary, with the flat roofed top floor set-back from the lower floors.
- 282 The approximate distance of 44 metres from the nearest Le May Avenue dwellings is considerable, and with the screening that the existing garden trees would provide, officers are satisfied that the south facing elevations of Blocks A and B would not result in any sense of significant enclosure or impact upon outlook.
- 283 Block E would project beyond the rear elevation of 39 Le May Avenue, which lies on the opposite side of the adjacent vehicular route into the site. Due to the distance between the two, officers are satisfied that Block E would not result in any unacceptable reduction to existing outlook or increased sense of enclosure.

Luffman Road

- 284 The 3-storey Block D would lie approximately 45 metres from the nearest 2-storey Luffman Road dwellings, with some tree coverage within the gardens. Officers are therefore satisfied that the existing occupiers would not be significantly harmed by the proposed development.
- 285 In regard to the 2-storey Block E, it would replace the existing bungalow and abut the boundaries with nos.30 and 32 Luffman Road, therefore it would be a notable introduction that would be visible to the existing occupiers, with no existing trees of sufficient size to obscure the proposal.

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- 286 Nevertheless, the two properties have gardens measuring approximately 27m deep, whilst Block E would incorporate a flat roof to minimise the overall bulk, and would be comparable in height to the higher ridgeline of the existing bungalow, which has a steeply pitched roof.
- 287 Officers therefore raise no objections to the siting and scale of Block E, and consider it would not significantly reduce outlook or result in unacceptable sense of enclosure to the existing occupiers. An option to soften the appearance of the proposed wall by installing a green wall was discussed with the Applicant, however no details have been provided.

Balder Rise

- 288 To the north of the site are 2-storey dwelling-houses (nos 30/ 36) that have shallow rear gardens and lie closer to the development site than other surrounding dwellings. This is reflected in the height of Block C being 2-storeys, and sited 20m from their rear elevations. Consequently, the proposal is unlikely to impact detrimentally upon the existing occupiers, with their outlook remaining acceptable, and compliant with The London Plan Housing SPG which advises that a distance of 18-21 metres will generally be sought between existing and proposed habitable windows.
- 289 The existing dwellings would also have view of the 3-storey Blocks B and D, however these would be sited further away, whilst the gaps to Block C would allow for some visual respite.
- 290 No.2 Balder Rise has a 16m deep rear garden with a single-storey structure to the rear end. The 3-storey Block B would occupy the land directly to the rear, lying 19m from the existing dwelling-house. Its north facing elevation on the upper floors would accommodate bedroom windows, with no balconies, whilst trees would be planted to the rear garden. Officers are satisfied the proposal would not significantly harm the amenities of the existing occupiers.

Somertrees Avenue

- 291 The proposed Block B would be sited approximately 60m away from the nearest Somertrees Avenue dwellings, which benefit from gardens of considerable length. Block B would be sited approximately 6m back from the shared boundary and would be partially obscured by existing garden trees. There is also a notable change in typology whereby the proposal would lie on a lower ground level than the Somertrees properties. It is therefore considered that the development would not result in any significant impact upon the existing dwellings.

6.5.2 Privacy

Policy

- 292 Privacy standards are distances between directly facing existing and new habitable windows and from shared boundaries where overlooking of amenity space might arise.
- 293 DM Policy 32 states that adequate privacy is an essential element in ensuring a high level of residential amenity. Unless it can be demonstrated that privacy can be maintained through design, there should be a minimum of separation distance of 21m between directly facing habitable windows on main rear elevations. This separation distance will be maintained as a general rule but will be applied flexibly dependent on the context of the development. The Small Sites SPD sets out in section 12.4 that in general the privacy of the first 10m of a rear garden (defined as the area of the rear

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garden extending 10m beyond the furthest part of the rear dwelling, for main width of the dwelling) should be protected from direct overlooking from habitable windows of new dwellings. To protect these areas, conventional windows (vertically aligned with clear glass) should be located more than 6m from the rear edge of the 10m privacy area. It is noted that the application site is not considered a small site as it has a site area of 0.4ha whereby small sites are 0.25ha or below, however the guidance is still useful in this instance.

Discussion

Le May Avenue

- 294 Flats 06 and 07 within Block B would benefit from shallow balconies facing towards the shared boundary. Due to the distances to the Le May Avenue properties and existing garden trees, officers are satisfied there would be no unacceptable overlooking or privacy issues arising from the proposal.
- 295 A Condition would ensure that the flat roof area of Block A would not be used for any amenity purposes by future residents, but only for maintenance purposes.

Luffman Road

- 296 The 3-storey Block D would accommodate mostly east facing bedroom windows, with two first floor balconies at either end. As advised, Block D would lie approximately 45 metres from the nearest Luffman Road dwellings, with some tree coverage within the gardens. Officers are satisfied that the proposed windows would not result in unacceptable overlooking, whilst appropriate screening measures to the balconies would serve to minimise privacy issues – this would be secured by planning Condition.
- 297 Block E would have no flank windows overlooking the existing dwellings, whilst screening would be installed to the first-floor rear balcony, which would be assessed by officers at Condition stage.

Balder Rise

- 298 Whilst the dwellings to the north would lie approximately 20m from the proposed blocks, this would be a suitable distance to avoid unacceptable overlooking between existing and proposed windows, whilst there would be no balconies provided to the north elevations of Blocks B, C or D.
- 299 A Condition would ensure that the flat roof areas of Blocks B, C and D would be used only for maintenance purposes.

Somertrees Avenue

- 300 As advised earlier, the proposed Block B would be sited approximately 60m away from the nearest Somertrees Avenue dwellings. The western elevation would accommodate mostly bedroom and bathroom openings at first and second floors. Considering the building would be partially obscured by existing garden trees, together with the change in typology and intervening distance, it is considered that the development would not result in any significant privacy impacts upon the existing dwellings.
- 301 Having regard to the urban context, which has been established by the surrounding development, it is considered that acceptable levels of privacy would be maintained for occupiers of surrounding blocks.

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6.5.3 Daylight, Sunlight and Overshadowing

Policy

- 302 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards.
- 303 The NPPF does not express particular standards for daylight and sunlight. Para 125 (c) states that, where there is an existing or anticipated shortage of land for meeting identified housing need, LPAs should take a flexible approach to policies or guidance relating to daylight and sunlight when considering applications for housing, where they would otherwise inhibit making efficient use of a site.
- 304 The Mayor's Housing SPG 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.
- 305 It is therefore clear that the BRE standards set out below are not a mandatory planning threshold.
- 306 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards, however, this is not formal planning guidance and should be applied flexibly according to context.
- 307 The new daylight test issued in June 2022 is based on achieving a target median illuminance for half the annual daylight hours over 50% of the reference plane, or a target median daylight factor over 50% of the reference plane.
- 308 The new sunlight test for buildings is based on receiving at least 1.5 hours of sunlight on 21 March to at least one habitable room in each dwelling, preferably a main living room. The sunlight test to amenity spaces remains unchanged.
- 309 Officers have sought legal advice in regard to the updated BRE guidance, and whether there should be an expectation for it to be applied to the current proposal.
- 310 It was advised subsequently that the new assessment methodology should apply only to planning applications formally submitted after 9th June 2022, and that a further assessment of impacts upon neighbouring properties is not required in this case.

Daylight guidance

- 311 The three methods for calculating daylight are as follows: (i) Vertical Sky Component (VSC); (ii) Average Daylight Factor (ADF); and (iii) No Sky Line Contour (NSL/ NSC).
- 312 The VSC is the amount of skylight received at the centre of a window from an overcast sky. The ADF assesses the distribution of daylight within a room. Whereas VSC assessments are influenced by the size of obstruction, the ADF is more influenced by factors including the size of the window relative to the room area and the transmittance of the glazing, with the size of the proposed obstruction being a smaller influence.
- 313 NSL is a further measure of average illuminance at the working plane within a room, compared with that outdoors. This divides those areas that can see direct daylight from those which cannot and helps to indicate how good the distribution of daylight is in a room.

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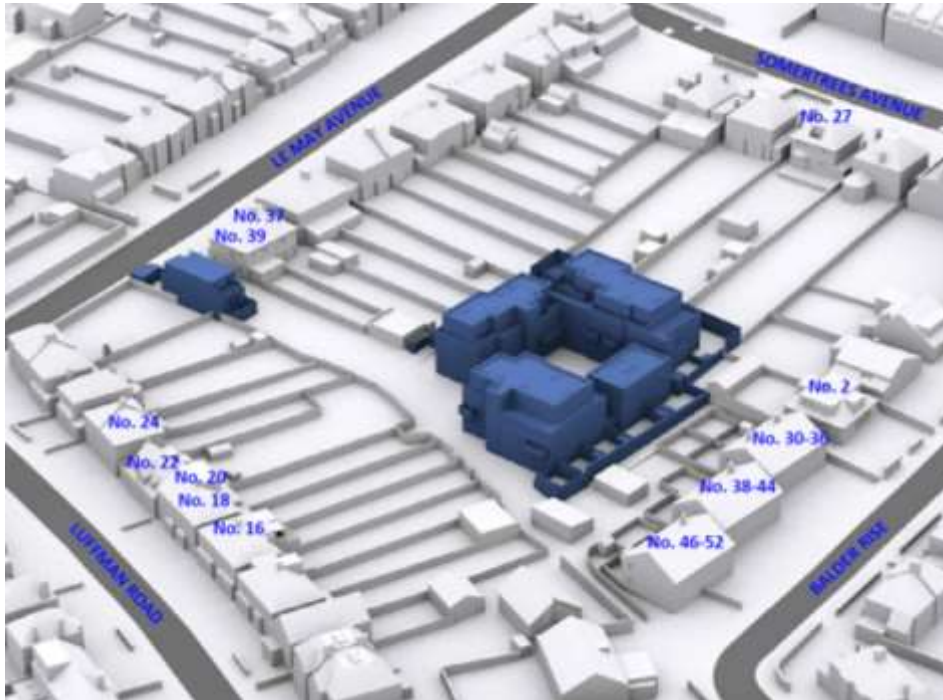
- 314 In terms of material impacts, the maximum VSC for a completely unobstructed vertical window is 39.6%. If the VSC falls below 27% and would be less than 0.8 times the former value, occupants of the existing building would notice the reduction in the amount of skylight. The acceptable minimum ADF target value depends on the room use: 1% for a bedroom, 1.5% for a living room and 2% for a family kitchen. If the NSL would be less than 0.8 times its former value, this would also be noticeable.
- 315 While any reduction of more than 20% would be noticeable, the significance and therefore the potential harm of the loss of daylight is incremental. The following is a generally accepted measure of significance:
- 0-20% reduction – Negligible / No Effect
 - 21-30% reduction – Minor Adverse
 - 31-40% reduction – Moderate Adverse
 - Above 40% reduction – Major Adverse
- 316 It is important to consider also the context and character of a site when relating the degree of significance to the degree of harm.
- 317 The BRE guidance identifies that a typical obstruction angle from the ground floor window within a historic city centre is usually 40°, which corresponds with the VSC of 18%, which is considerably lower than the target of 27%. In this context, it is noted that recent planning decisions (including appeal decisions made by the Planning Inspectorate) in London and Inner London have found retained VSC values in the mid-teens to be acceptable.
- Sunlight guidance
- 318 Sunlight is measured as follows: (i) Annual Probable Sunlight Hours (APSH); and (ii) Area of Permanent Shadow (APS)
- 319 The APSH relates to sunlight to windows. BRE guidance states that a window facing within 90 degrees due south (windows with other orientations do not need assessment) receives adequate sunlight if it receives 25% of APSH including at least 5% of annual probable hours during the winter months. If the reduction in APSH is greater than 4% and is less than 0.8 times its former value then the impact is likely to be noticeable for the occupants.
- 320 The APS relates to sunlight to open space: the guidance states that gardens or amenity areas will appear adequately sunlit throughout the year provided at least half of the garden or amenity area receives at least two hours of sunlight on 21st March.
- Discussion*
- 321 The assessment undertaken by Schroeders Begg, dated August 2021 considers the impact of the proposed development on a number of identified sensitive receptors, these being the existing dwelling-houses that surround the site. **(Figure 6)**

Figure 6: Tested properties

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322 In regard to the VSC assessment, it is concluded that no existing windows to the properties tested would be significantly affected by the development and would remain compliant with BRE.

Balder Rise

323 The nearby dwelling at 2 Balder Rise, which lies within 20m of the proposed Block B, has high existing VSC levels to habitable rooms at ground and first floors exceeding 20% VSC. With the development in place, there would be only small reductions, with no noticeable differences. The highest reduction to a south facing no.2 window would see an existing 33.9% VSC ground floor opening fall to 31%, which remains very high, and therefore the development would have Negligible / No Effect.

324 VSC levels to nos.30-36 and 38-44 Balder Rise would also remain high with the development in place, with no noticeable reductions.

325 In regard to sunlight impacts, the development would not result in any noticeable impacts to the tested Balder Rise properties, with the existing APSH and winter criteria levels remaining acceptable.

Luffman Road

326 The existing dwellings located nearest the 3-storey Block D (nos. 16, 18, 20, 22, 24) would lie approximately 45m away, and therefore existing VSC levels would remain high. All windows currently in excess of 30% VSC would retain similar levels. The development would have Negligible / No Effect on daylight.

327 In regard to APSH and winter criteria testing for sunlight, the Luffman Road dwellings would experience only small reductions that would not be noticeable, in accordance with BRE.

Le May Avenue

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328 The existing dwellings located nearest the 3-storey Block A (nos. 37 and 39) would lie approximately 44m away, and the existing VSC levels would remain high. All windows currently in excess of 30% VSC would retain similar levels. The highest reduction would be 20% to a living room window at no.39, however this would not be noticeable according to BRE. The development would have Negligible / No Effect on daylight.

329 In regard to APSH and winter criteria testing for sunlight, the no.39 would experience a reduction in APSH that would be noticeable, being slightly more than 20%. It is not considered that the reduction would be so considerable to warrant a refusal in this case, whilst it must be acknowledged that BRE is for guidance.

Somertrees Avenue

330 The development would have Negligible / No Effect on daylight due to the distance away from the development site, with no noticeable reductions.

331 The proposal would have no significant harm upon sunlight, with existing APSH and winter criteria levels retained.

Overshadowing

Policy

332 The BRE Guidelines suggest that Sun Hours on Ground assessments should be undertaken on the equinox (21st March or 21st September) and it is recommended that at least half of a garden or amenity space area should receive at least two hours of sunlight on 21st March, or that the area which receives two hours of direct sunlight should not be reduced to less than 0.8 times its former value (i.e. there should be no more than a 20% reduction).

Discussion

333 The applicant's daylight and sunlight consultants have carried out a sun-on-ground overshadowing assessment in relation to the 31no. amenity areas of dwellings beyond the curtilage of the application site.

334 The 21st March overshadowing results indicates there would be no significant additional overshadowing arising from the proposal, with the majority of gardens unaffected.

335 Garden area A7 of 30-36 Balder Rise would see an increase in shaded area from 38% to 46%, however in accordance with BRE, more than half of the garden area would receive at least two hours of sunlight

Daylight, sunlight and overshadowing summary

336 The nature of the development and its relationship with neighbouring properties is such that officers are satisfied, in their professional judgement, there is not likely to be any harmful impact on the provision of daylight and sunlight to the habitable rooms of neighbouring properties.

337 As identified within the assessment, the majority of surrounding properties would retain high VSC and sunlight levels, with any reductions being mostly unnoticeable to occupiers.

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6.5.4 Noise and disturbance

Policy

- 338 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.
- 339 DMP 32 requires new development to be neighbourly, and development in residential areas should not result in harm to existing residents through unsociable noise and disturbance.
- 340 Construction and demolition activity can result in disturbance from among things noise, vibration, dust and odour. This can harm living conditions for the duration of construction. Since some disturbance is inevitable, such impacts are usually not considered to be material planning considerations. In certain circumstances, particularly large or complex works may require specific control by planning. Further guidance is given in the Mayor of London's The Control of Dust and Emissions during Construction and Demolition SPG (2014).

Discussion

- 341 Neighbours have raised concerns that the increase in dwellings on the site would result in harmful levels of noise and disturbance from comings and goings of residents. The proposed 28 residential units would generate a higher level of comings and goings and general residential activity, however, as this proposal is a well-designed residential proposal of an appropriate density, the levels of domestic noise generated are unlikely to be harmful to neighbouring amenity.
- 342 In regard to demolition and construction works, as advised earlier in this report, a detailed Construction Management Plan will be required by Condition to ensure the processes are undertaken in a manner that will minimise possible noise, disturbance and pollution to existing residents.
- 343 39 Le May Avenue lies adjacent to the existing vehicular route into the site, and so experienced a degree of disturbance when the application site was still in use. The proposed development would provide only limited Blue Badge parking bays and a single loading bay, therefore vehicular movement along the route is unlikely to be so substantial to result in unacceptable noise and disturbance, or light pollution from vehicle headlights. The majority of movement would be pedestrians or cyclists, and the weekly moving of bins to and from the refuse collection store. Officers therefore raise no objections toward any impacts upon no.39 however a Condition will require the submission of external lighting details to ensure neighbouring occupiers would be safeguarded.

6.5.5 Impact on neighbours conclusion

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

6.6 SUSTAINABLE DEVELOPMENT

General Policy

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- 345 NPPF para 156 sets an expectation that planning will support transition to a low carbon future.
- 346 This is reflected in relevant policies of the London Plan and the Local Plan.
- 347 CS Objective 5 sets out Lewisham's approach to climate change and adapting to its effects. CSP 7, CSP 8 and DMP 22 support this.
- 348 London Plan Policies require developments to meet the highest standards of sustainable design, including the conservation of energy and water; ensuring designs make the most of natural systems and the conserving and enhancing the natural environment.
- 349 The London Plan approach is reflected in Core Strategy Policy 7 'Climate change and adapting to the effects' and Policy 8 'Sustainable design and construction and energy efficiency' which states that the Council will explore opportunities to improve the energy standards and other sustainability aspects involved in new developments and that it will expect all new development to reduce CO2 emissions through a combination of measures including maximising the opportunity of supplying energy efficiently by prioritising decentralised energy generation for any existing or new developments and meet at least 20% of the total energy demand through on-site renewable energy.
- 350 DM Policy 22 'Sustainable design and construction' provides further guidance in terms of how all developments will be required to maximise the incorporation of design measures to maximise energy efficiency, manage heat gain and deliver cooling.

6.6.1 Energy and carbon emissions reduction

Policy

- 351 LPP SI 2 seeks an overall reduction in carbon dioxide (CO2) emissions, and states that major development proposals should make the fullest contribution to minimising CO2 in accordance with the following hierarchy: (1) be lean: use less energy; (2) be clean: supply energy efficiently; and (3) be green: use renewable energy.
- 352 In addition, LPP SI 2 sets targets for CO2 reduction in buildings, expressed as minimum improvements over the Target Emission Rate (TER) outlined in national building regulations. The target for residential buildings is zero carbon from 2016 and non-domestic buildings from 2019, prior to which the target is as per building regulations (35%). LPP advocates the need for sustainable development.
- 353 Further guidance is given in The Mayor's Sustainable Design and Construction SPG (April 2014), which sets out targets and provides guidance as to how to achieve those targets as efficiently as possible.
- 354 DMP22 require all developments to maximise the incorporation of design measures to maximise energy efficiency, manage heat gain and deliver cooling using the published hierarchy.

Discussion

- 355 The application is accompanied by an energy statement prepared by energylab, (Issue 3, dated 1 December 2021), which updated the original report following comments raised by the Council's Sustainability Manager, who has since raised no objections.

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356 The measures proposed with the Energy Statement are set out below. Overall, the measures would result in a 38.4% improvement over Part L1A 2013, which exceeds the 35% threshold.

Be Lean

357 A range of enhanced energy efficiency measures are proposed for the development. These include high levels of insulation within the proposed building fabric to reduce heat loss to achieve enhanced U values, thermal bridging and air tightness, low energy lighting and high efficiency gas boilers. These measures notwithstanding, the Be Lean measures contribute little to the overall improvement.

Be Clean

358 The submission does not set out any proposed measures, advising that on-site CHP would be unviable.

Be Green

359 In terms of renewable technologies, PV panels are proposed to the flat roofs of all blocks, with an indicative drawing showing how between 85 to 96 panels could be accommodated on the roofs of the buildings. This shows it is feasible to achieve approximately 33.5 kWp (the kilowatt 'peak' output of the system). Further details of the precise number, location and power output would be secured by Condition so that at least 38.4% is secured by onsite Be Green measures.

Be Seen

360 Contrary to the GLA 'Be Seen' guidance, the submission does not include any relevant measures. The London Plan 'Be Seen' energy monitoring guidance (September 2021) guidance document sets out the process that needs to be followed to comply with the 'be seen' monitoring requirement of Policy SI 2. A condition is proposed that requires the 'be seen' energy monitoring to be undertaken in accordance with the London Plan guidance.

Carbon Offset

361 In accordance with the Council's Planning Obligations SPD, a carbon offset contribution of £104 per tonne is required for the 30 year period. This equates to a financial contribution of £62,816, which will be secured in the s106.

Overheating

Policy

362 LPP SI4 states that proposals should reduce potential overheating beyond Part L 2013 of the Building Regulations, reduce reliance on air conditioning systems and demonstrate this in accordance with the Mayor's cooling hierarchy. Policy D6(c) states new development should avoid overheating.

363 DMP 22 reflects regional policy, requiring all developments to maximise the incorporation of design measures to manage heat gain.

364 Further guidance is given in the Sustainable Design and Construction SPG (GLA) and Chapter 5 of the London Climate Change Adaptation Strategy.

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Discussion

- 365 The Sustainability Statement advises that the development would mitigate the risk of overheating by natural ventilation; appropriately sized openable windows; low transmittance glazing; LED light fittings and internal blinds. Mechanical Ventilation with Heat Recovery (MVHR) units are proposed to provide fresh air and extract ventilation for the flats that would provide an effective means of ventilation to mitigate against overheating when the apartment windows are closed.
- 366 On the basis of the information submitted, the Council's Sustainability Manager has confirmed that they raise no objection to the proposed development in relation to overheating, subject to a planning Condition to secure the provisions.

6.6.2 Urban Greening

Policy

- 367 LPP G5 requires development to contribute to urban greening, including tree planting, green roofs and walls and soft landscaping, recognising the benefits it can bring to mitigating the effects of climate change.
- 368 CSP 7 expects urban greening and living roofs as part of tackling and adapting to climate change. DMP 24 requires all new development to take full account of biodiversity and sets standards for living roofs.
- 369 GPNPP G14 is relevant in requiring, where appropriate, that new development make a positive contribution to the quality and greening of the public realm and existing green space network through biodiverse green infrastructure-led development proposals to achieve ecological connectivity and multi-functional green spaces that serve different recreational, wildlife and wider ecosystem service functions (such as alleviation of heat island effect, sustainable drainage, carbon sinks, air quality improvements, etc). Green Infrastructure should be prioritised along identified key routes.

Urban Greening Factor

- 370 The London Plan introduces the concept of an Urban Greening Factor (UGF) as a principle to support improved public realm and air quality. Policy G5 of the London Plan identifies that development should contribute towards urban greening, with a UGF target score of 0.4 recommended for residential-led development. The UGF is calculated on the basis of a weighting given to different surface finishes ranging from hard and soft landscaping through to intensive and extensive green roofs on a development. The aggregate of the areas multiplied by the weighting is then divided by the total site area to provide a UGF for a development scheme. In this case, the Applicant advises the UGF would achieve 0.41.

Living Roofs

- 371 Intensive green living roofs are proposed to the flat roof areas of each Block, amounting to 842sqm. The Applicant has confirmed these would be well constructed biodiverse roofs rather than sedum roofs. A planning Condition will require the submission of details of the living roofs, including section plans that show the depth of substrate, and will ensure the roofs are constructed in full accordance prior to first occupation.

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6.6.3 Sustainable Urban Drainage

Policy

- 372 The NPPF at para 168 expects major development to incorporate sustainable urban drainage systems (SUDS) unless there is clear evidence it is inappropriate.
- 373 LPP SI 13 requires SUDS unless there are practical reasons for not doing so. In addition, development should aim to achieve greenfield run-off rates and ensure surface water is managed in accordance with the policy's drainage hierarchy. The supporting text to the policy recognises the contribution 'green' roofs can make to SUDS. The hierarchy within the policy establishes that development proposals should include 'green' roofs and that Boroughs may wish to develop their own green roof policies. To this end, CSP 7 specifies a preference for Living Roofs (which includes bio-diverse roofs) which in effect, comprise deeper substrates and a more diverse range of planting than plug-planted sedum roofs, providing greater opportunity for bio-diversity.
- 374 CSP 10 requires applicants demonstrate that the most sustainable urban drainage system that is reasonably practical is incorporated to reduce flood risk, improve water quality and achieve amenity and habitat benefits.
- 375 Further guidance is given in the London Plan's Sustainable Design and Construction SPG, the London Sustainable Drainage Action Plan, the Non-Statutory Technical Standards for Sustainable Drainage Systems and CIRIA C753 The SuDS Manual.

Discussion

- 376 The submission advises that the site lies within an area of 'very low risk' of surface water flooding, in accordance with the Environment Agency surface water flood maps.
- 377 A surface water network is proposed by the applicant, in addition to a SuDS strategy for the wider site. This is set out in a Drainage Strategy Report (5003-21342-PTPR-02, prepared by PTP, dated August 2021). The report sets out the drainage strategy (para 4.22), and includes blue roofs. It is supported by Plan 202, which indicates locations of surface water manholes, and distribution tanks that would either allow the filtration, cleaning and dissipation of collected storm water into the ground or its collection in an impermeable tank system and subsequent controlled release to local watercourse.
- 378 Permeable paving would be laid to allow for surface water run-off – details will be subject to a planning Condition.
- 379 The Council's SuDS manager has reviewed the submission details and raises no objections to the proposals; however, the content of the Sustainability Statement (Issue 3, prepared by EnergyLab Consulting, dated 16 August 2021) contradicts the drainage strategy report. On page 8, it states the blue roof system has not been included in the surface water design, and instead storage would be provided by voids beneath permeable paving; this is in turn contradicted on page 15, which suggests blue roofs would be used. Since it is unclear if the blue roofs would be implemented and if not, what the strategy is, it is reasonable to impose a pre-commencement condition to establish the final sustainable urban drainage strategy. Should blue roofs be employed this may also have an impact on the urban greening factor and the extent of intensive green roofs. The relevant conditions have included wording to ensure future submissions to discharge those individual conditions consider the impact on the other conditions. Officers remain satisfied that a sustainable urban drainage scheme can be brought forward here and it is a reasonable matter to leave to a submission condition.

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6.6.4 Sustainable Infrastructure conclusion

380 Subject to conditions as outlined above, the proposed development is considered acceptable with regard to flood risk and sustainable drainage, together with the carbon offset financial contribution. The development's contribution to urban greening with its associated benefits in terms of amenity, ecology and biodiversity is a planning benefit of the scheme to which moderate weight is accorded.

6.7 NATURAL ENVIRONMENT

General Policy

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

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

383 The NPPF at 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.

384 LPP G1 sets out the Mayor of London's vision for Green Infrastructure as a multifunctional network that brings a wide range of benefits including among other things biodiversity, adapting to climate change, water management and individual and community health and well-being.

385 GPNPP G14 is relevant in requiring, where appropriate, that new development make a positive contribution to the quality and greening of the public realm and existing green space network through biodiverse green infrastructure-led development proposals to achieve ecological connectivity and multi-functional green spaces that serve different recreational, wildlife and wider ecosystem service functions (such as alleviation of heat island effect, sustainable drainage, carbon sinks, air quality improvements, etc). Green Infrastructure should be prioritised along identified key routes.

6.7.1 Ecology and biodiversity

Policy

386 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.

387 NPPF para 179 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. NPPF para 180 sets out principles which LPAs should apply when determining applications in respect of biodiversity.

388 LPP G5 seeks wherever possible to ensure that development makes a positive contribution to the protection, enhancement, creation and management of biodiversity. LPP G6.D encourages development proposals to manage impacts on biodiversity and to aim to secure net biodiversity gain.

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- 389 LPP G7 protects trees of value and replacements. New development should include additional trees wherever appropriate, particularly large-canopied species
- 390 CSP 12 seeks to preserve or enhance local biodiversity.
- 391 DMP 24 require all new development to take full account of biodiversity in development design, ensuring the delivery of benefits and minimising of potential impacts on biodiversity.

Discussion

- 392 A Preliminary Ecological Appraisal Survey was undertaken in September 2020, which concluded that the existing buildings on the site held 'low potential' for roosting bats and recommended that further emergence/ re-entry surveys should be undertaken.
- 393 Three surveys were subsequently undertaken in May 2022 by Wychwood Environmental – two at the clubhouse, and one at the bungalow. The conclusion was that no roosts were evident, however there were high levels of activity within the area, with common pipistrelle and soprano pipistrelle species observed displaying foraging/ commuting behaviour.
- 394 The Council's Ecology manager is satisfied with the submission details and recommendations.
- 395 The site's biodiversity could be further enhanced by providing roosting and nesting opportunities for bats and birds by installing a series of bat and bird boxes in suitable locations on retained trees, and bat bricks within the fabric of the new coach-houses. These would satisfy the NPPF and London Plan requirements in respect of net biodiversity gain and would be secured by a planning Condition.
- 396 The report advises that no additional activity/ emergence surveys are recommended, therefore the survey report of May 2022 remains valid and a decision may therefore be reached based upon its observations and conclusions. Should a bat roost be observed during any stage of development, all works must cease immediately, and a qualified ecologist contacted.
- 397 Neighbours consider that the development would potentially harm existing wildlife within the site. Block B would be built upon an unkempt soft landscaped area, which would be replaced in part the proposed garden areas of the ground floor flats. These would comprise lawned/ seeded areas, thereby providing an opportunity for wildlife to thrive, whilst many of the existing mature trees around the perimeter of the site would be retained. A Condition would seek details of soft landscaping measures, and appropriate wildlife friendly measures to implement.

6.7.2 Green spaces and trees

Policy

- 398 S.197 of the Town and Country Planning Act gives LPAs specific duties in respect of trees.
- 399 LPP G7 protects trees of value and replacements. New development should include additional trees wherever appropriate, particularly large-canopied species.

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400 Paragraph 174 of the NPPF (2021) requires that decisions should contribute to and enhance the natural and local environment. DM Policy 25 seeks to ensure that applicants consider landscaping and trees as an integral part of the application and development process.

Discussion

401 The application is accompanied by a Tree Survey (Challice Consulting) which lists the 20no. existing trees on the site, which includes Lime; Common Oaks; Silver Birch; and Leyland Cypress. The survey concludes that none are considered to be Category A; 5no. are Category B; 14no. Category C; and 1no. Category U.

402 The application proposes the removal of 13no. trees that lie to the central area of the site. The affected trees are:

- 4no. G18: Common Ash Group (Category C)
- 1no. T13: Common Ash (Category C)
- 8no. G9: Common Ash Group (Category C)

403 None of the affected trees are subject to a Tree Preservation Order.

404 A minimum of 13no. replacement trees are proposed, however officers will require an uplift of tree replacements to accord with LPP G7, which requires any lost biodiversity to be compensated by an overall greater biodiversity value.

405 Proposed planting measures may include Acacia Pravissima; Crataegus Monogyna; and Acer Palmatum. Officers however consider there is an opportunity for an enhanced tree species proposal to ensure the site would continue to contribute to the existing well treed and green landscape character subsequent to the proposed development. A planning Condition will therefore require the submission of further details, including species and heights, which will be discussed with the Council's Tree officer.

406 In addition, a tree protection condition will be included to ensure appropriate measures are undertaken during construction works to safeguard existing trees both on-site and to neighbouring gardens within close proximity. Details of building foundations will also be required.

407 Should any proposed trees die within 5 years, a Condition will ensure they are suitably replaced.

6.7.3 Light pollution

Policy

408 The NPPF at para 185 states that development should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

409 DM Policy 27 'Lighting' requires development to provide sensitive lighting schemes with particular consideration of the potential adverse impact on biodiversity.

Discussion

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410 A condition is proposed requiring the submission of an external lighting strategy for approval, which will provide the mechanism to ensure that the lighting scheme minimises light spillage that would otherwise have potential to harm wildlife habitats.

6.7.4 Ground pollution

Policy

411 Failing to deal adequately with contamination could cause harm to human health, property and the wider environment (NPPG, 2014). The NPPF at para 174 states decisions should among other things prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil pollution. Development should help to improve local environmental conditions.

412 The NPPF states decisions should contribute to and enhance the natural and local environment by remediating and mitigating contaminated land, where appropriate (para 174). Further, the NPPF at para 183 and NPPG states decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from contamination.

413 DMP 28 'Contaminated land' provides the policy basis for assessing development proposals in terms of site contamination.

414 Contaminated land is statutorily defined under Part 2A of the Environmental Protection Act 1990 (EPA). The regime under Part 2A does not take into account future uses which need a specific grant of planning permission. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development is considered by the LPA.

415 The test is that after remediation, land should not be capable of being determined as "contaminated land" under Part 2A of the EPA.

416 If there is a reason to believe contamination could be an issue, developers should provide proportionate but sufficient site investigation information (a risk assessment) to determine the existence or otherwise of contamination, its nature and extent, the risks it may pose and to whom/what (the 'receptors') so that these risks can be assessed and satisfactorily reduced to an acceptable level. DEFRA has published a policy companion document considering the use of '[Category 4 Screening Levels](#)' in providing a simple test for deciding when land is suitable for use and definitely not contaminated land.

Discussion

417 A planning Condition will require the submission of a full desktop study and site assessment, site investigation report and closure report including verification details to be submitted to and approved by the local planning authority. This should also include an asbestos survey of the existing buildings on site be undertaken prior to their demolition.

6.7.5 Air pollution

Policy

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- 418 LPP SI1 states new development amongst other requirements must endeavour to maintain the best ambient air quality (air quality neutral) and not cause new exceedances of legal air quality standards.
- 419 CSP 7 reflects the London Plan. CSP 9 seeks to improve local air quality. DMP 23 sets out the required information to support application that might be affected by, or affect, air quality.
- 420 Further guidance is given in the Mayor of London's Air Quality Strategy.

Discussion

- 421 In terms of the construction phase, the proposed development would have the potential to lead to the release of dust and particulate matter, arising from works including earth moving, movement and use of construction aggregates, and the movement of construction vehicles. Officers are satisfied that the implementation of an appropriate Dust Management Plan (DMP) would ensure appropriate mitigation.
- 422 In terms of the operational phase, as identified above, the energy strategy relies on energy efficient gas fired boilers. Further details will be required by planning condition.
- 423 The submission has been reviewed by the Council's Environmental Protection team, who raise no objection to the proposed development on air quality grounds.

6.7.6 Natural Environment conclusion

- 424 Subject to conditions as outlined above, the proposed development is considered acceptable with regard to ecology and biodiversity, ground pollution and air pollution. In terms of biodiversity, the proposed development would deliver a net gain in the provision of soft landscaping and trees, living roofs and wildlife boxes.

6.8 PUBLIC HEALTH, WELL-BEING AND SAFETY

General Policy

- 425 The NPPF and NPPG promote healthy communities. Decisions should take into account and support the health and well-being of all sections of the community. The NPPG recognises the built and natural environments are major determinants of health and wellbeing. Further links to planning and health are found throughout the whole of the NPPF. Key areas include the core planning principles and the policies on transport (chapter 9), high quality homes (chapter 5), good design (chapter 12), climate change (chapter 14) and the natural environment (chapter 15).
- 426 The NPPG sets out a range of issues that could in respect of health and healthcare infrastructure, include how development proposals can support strong, vibrant and healthy communities. Development, where appropriate, should encourage active healthy lifestyles that are made easy through the pattern of development, good urban design, good access to local services and facilities; green open space and safe places for active play and food growing, and is accessible by walking and cycling and public transport. The creation of healthy living environments for people of all ages can support social interaction.

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- 427 Where appropriate, applicants should show how they have accounted for potential pollution and other environmental hazards, which might lead to an adverse impact on human health.
- 428 Para 130 Good design create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 429 Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and to do all they reasonably can to prevent crime and disorder.
- 430 LLP D10 states measures to design out crime should be integral to the proposals, taking into account the principles of the Secured by Design scheme. Development should maintain a safe and secure environment and reduce the fear of crime.
- 431 CSP 15 requires development to minimise crime and the fear of crime.
- 432 LLP D12 requires developments to achieve the highest standards of fire safety. A Fire Statement, prepared by a suitably qualified independent assessor, should accompany all major developments. This should address several specific actions among which are: (i) construction methods, products and materials; (ii) means of escape; (iii) appropriate fire alarm systems and passive and active fire safety measures; and (iv) details of access for the emergency services.

Discussion

- 433 In terms of well-being, it is acknowledged that many existing residents may be working from home, and so would experience construction works on a daily basis for a considerable period. The developers would be expected to adhere to the approved Construction Management Plan to ensure impacts arising from the works would be suitably managed, with a point of contact made known to occupiers to allow for communication during construction.
- 434 Post development, the Marvels Lane Boys site will provide high quality amenity spaces, including hard and soft landscaped areas. The development also presents good access to local services and facilities, open space and safe places for active play, and is accessible by walking and cycling and public transport.
- 435 The development will make a financial contribution to the Borough Community Infrastructure Levy, which could potentially be directed towards additional public health and education facilities if these are considered to be a priority.
- 436 The proposed development would generate an estimated child yield of approximately 5.4 children, most being under the age of 5. The nearest primary schools are Coopers Lane; Haberdashers' Knights, and Marvels Lane, which lie within 1 mile of the application site. The application is not supported by a survey of local schools and spare capacity, however considering the number of children in the primary and secondary age groups would amount to only 3 within the development, officers consider it is likely the schools would be capable of accommodating them. Should this not be the case and the local primary schools are at full capacity, this may be mitigated by the CIL contribution.
- 437 In regard to health, the nearest medical centres are in Baring Road and Marvels Lane, in addition to the Downham Health and Leisure Centre in Moorside Road. There are

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nearby pharmacies in Chinbrook Road, Baring Road and Burnt Ash Lane. The development would generate a potential 57 occupiers (51 adults) and so would result in additional pressures upon existing medical services. The application does not specify whether there would be a need for any additional GPs to manage the demand, but the CIL payment may be used to mitigate this if a shortfall is identified.

- 438 The proposed development has been designed to comply with the principles of 'Secured by Design'. Key elements that have been addressed include natural surveillance, lighting, and integration of CCTV.
- 439 As part of the design process, pre-application consultation took place with the Metropolitan Police Designing Out Crime Officer.
- 440 The Designing Out Crime Officer has reviewed the application submission and has commented there are many positives with this development, including the use of natural surveillance, good sight lines.
- 441 The Officer raises no objections to the proposed development and would welcome further engagement with the applicant team. It is requested that an Informative be attached to any grant of consent requiring the development to incorporate security measures to minimise the risk of crime and to meet the specific security needs of the development in accordance with the principles and objectives of Secured by Design.
- 442 The submission includes a statement which was undertaken by a qualified Fire Safety Engineer to outline the minimum fire safety provisions for residential development. A general overview of the buildings comprising the scheme is provided, including means of escape; internal design features including sprinkler systems and smoke alarm installations; and access for fire service vehicles being in accordance with Part B5 regs.
- 443 A more detailed consideration of fire safety matters will be undertaken at Building Regulations stage.
- 444 Given the above, the proposed scheme is considered acceptable with regard to public health, wellbeing and safety.

7 LOCAL FINANCE CONSIDERATIONS

- 445 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).
- 446 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 447 The CIL is therefore a material consideration.
- 448 The proposed development would give rise to additional demands on existing social infrastructure such as schools and health services. Funding of the provision, improvement, replacement, operation or maintenance of infrastructure to support the

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development of the Borough is now secured through Community Infrastructure Levy (CIL) payments. Approximately £187k is estimated to be payable on this application to Borough CIL.

449 **£187k** Lewisham CIL and **£129k** 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

450 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.

451 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.

452 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.

453 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>

454 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

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455 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>

456 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

457 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
- Protocol 1, Article 2: Right to education

458 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.

459 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.

460 This application has the legitimate aim of providing 28 new residential 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 to be unlawfully interfered with by this proposal.

10 LEGAL AGREEMENT

461 The National Planning Policy Framework (NPPF) states that in dealing with planning applications, local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. It further states that where obligations are being sought or revised, local planning authorities should take account of

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changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. The NPPF also sets out that planning obligations should only be secured when they meet the following three tests:

- (a) Necessary to make the development acceptable
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development

462 Paragraph 122 of the Community Infrastructure Levy Regulations (April 2010) puts the above three tests on a statutory basis, making it illegal to secure a planning obligation unless it meets the three tests.

463 The following S106 requirements have been identified in respect of the scheme:

Housing

- In-lieu financial contribution of £221,953 to mitigate the provision of no on-site affordable housing.
- Early Stage Viability Review triggered if an agreed level of progress on implementation is not made within two years of any permission being granted.
- Late Stage Viability Review triggered when 75% of the units are sold or let.

Local Labour and Business

464 Submit and enter into a Local Labour and Business Strategy (to be agreed with Lewisham's Economic Development Team), to support local people into work by providing employment opportunity linked training during both the construction phase and operational phase.

Carbon Offsetting

465 Financial contribution of £62,816 towards carbon offsetting.

Highways and Transport

466 Enter into a S278 agreement to deliver the following:

- Improvement works to the route between the application site and the westbound bus stop on Chinbrook Road, including the provision of tactile paving at the Le May Avenue / Luffman Road junction and at the Luffman Road / Chinbrook Road junction, to improve crossing facilities and improve access to the nearby bus stops.
- Improvement / reinstatement works to the site access points on Le May Avenue associated with the provision of the new vehicle access, and the provision of loading facilities on Le May Avenue.

467 To ensure that future residents will not to be eligible to obtain parking permits.

468 Car Club Strategy providing membership for all residents for 3 years, including a review of existing car club infrastructure in the vicinity to determine whether additional vehicle provision would be required.

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469 £15,000 contribution towards consultation on and subject to the outcome of all statutory and non-statutory consultations, the implementation of a Controlled Parking Zone / Restricted Parking Zone within the surrounding area, based on the cost of;

- Meeting with Local groups to discuss the attractors in the area, the timings of the zone and the area to be consulted.
- Consult residents in the agreed area on the agreed options and proposed design of the zone.
- Provide drop-in events and allow Local Assemblies and TRAs time to raise issues at their meetings if necessary. Also highlight the approach to disabled bays.
- Publish the results of the consultation on the web, identifying which options were favoured for the timings and area of the zone to be implemented.
- Statutory consultation on the TMO.

Amenity Space & Children's Playspace

470 Ensure that equal access to the communal amenity space is provided for all residents of the development in perpetuity.

Monitoring Fee and Legal Costs

471 Meeting the Council's reasonable costs in preparing and monitoring the legal obligations. The monitoring costs in this instance would be payable on or prior to completion of the s106 agreement as per the Planning Obligations SPD.

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

11 CONCLUSION

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

474 The principle of the proposed development is supported as it would provide 28 residential units all of which would be affordable units on an underutilised site. All of the dwellings are considered to provide a good standard of residential accommodation to future occupiers. Substantial weight is given to these planning matters.

475 In urban design terms, the proposed development is considered to be high quality design. The increase in density would represent the optimal use of the land. It is of an appropriate height and scale and would use suitable materials. The development is considered to have an acceptable impact on the character and appearance of the area.

476 The application proposal would not result in any unacceptable impacts in terms of sustainable development subject to the imposition of conditions.

477 The impacts to the local transport network including parking capacity in the surrounding streets have been assessed and are considered to be acceptable.

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- 478 No significant adverse impacts have been identified to the living conditions of the neighbouring properties.
- 479 In conclusion, the proposed development is considered to be in accordance with the relevant national planning policy guidance, development plan policies and the Grove Park Neighbourhood Forum. The proposals comprise sustainable development in accordance with the NPPF and will make an important contribution to the delivery of new housing in the Borough.
- 480 Given the acceptability of the proposed used and policy compliance, taking a balance of the planning merits of the scheme against the level of harm identified, the proposal is considered to be in accordance with the development plan as a whole, and is therefore recommended for approval.

12 RECOMMENDATION

- 481 Subject to completion of a satisfactory legal agreement, authorise the Head of Planning to **GRANT PLANNING PERMISSION** subject to conditions including those set out below and such amendments as considered appropriate to ensure the acceptable implementation of the development.

12.1 CONDITIONS

1) **FULL PLANNING PERMISSION TIME LIMIT**

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

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

2) **APPROVED PLANS**

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

B-001 Rev A; B-005; B-101 Rev I; D-033 Rev A; D-034 Rev A; D-035 Rev A; 202; NTA-001 Rev A; Fire Appliance Vehicle Track; Delivery Vehicle Track Rev A; Drainage Strategy Report (prepared by PTP, dated August 2021) (received 24 August 2021)

D-012 Rev M; D-013 Rev R; D-014 Rev M; D-015 Rev L; D-016 Rev H; D-017 Rev F; D-018 Rev G; D-019 Rev E; D-020 Rev F; D-021 Rev G; D-022 Rev E; B-030 Rev H (received 17 December 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) **ENERGY**

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- (a) No works other than demolition shall commence until further details are submitted to and approved in writing by the LPA such details to include:
 - (i) Solar PV panel numbers, location and power output to be not less than 33.5kWp
 - (ii) Be Seen measures
- (b) The approved measures shall be undertaken in full accordance with the approved details prior to first occupation and retained for the lifetime of the development.

Reason: To comply with Policy SI 2 Minimising greenhouse gas emissions of the London Plan (2021).

4) **CONSTRUCTION MANAGEMENT PLAN**

- (a) No development whatsoever including demolition (but excluding works to facilitate site investigations) shall commence on site until such time as a Construction Management Plan ("CMP") has been submitted to and approved in writing by the local planning authority. The plan shall cover:
 - (i) Dust mitigation measures.
 - (ii) Measure to ensure an inventory of all Non-Road Mobile Machinery (NRMM) shall be kept on-site and registered on <http://nrmm.London/> showing the emission limits for all equipment and shall be made available to Local Planning Authority offices if requested. All NRMM of net power between 37kW and 560kW will be required to meet Stage IIIA of EU Directive 97/68/EC.'
 - (iii) The location and operation of plant and wheel washing facilities
 - (iv) Details of best practical measures to be employed to mitigate noise and vibration arising out of the construction process
 - (v) 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 relates activity.
 - iii. Measures to deal with safe pedestrian movement.
 - (vi) Security Management (to minimise risks to unauthorised personnel).
 - (vii) Details of the training of site operatives to follow the Construction Management Plan requirements.
 - (viii) Measures to ensure no deliveries in connection with construction works are 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.
 - (ix) Measures to ensure no work takes 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.
- (b) The works shall be carried out in accordance with the approved CMP at all times.

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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 S11 Improving air quality and Policy T7 Deliveries, servicing and construction of the London Plan (March 2021).

5) **SITE CONTAMINATION**

- (a) No development (excluding demolition of existing buildings and structures) 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).

6) **ARCHITECTURAL DETAILS**

- (a) No above ground works shall commence on site (excluding demolition) until further architectural details have been submitted to and approved in writing by the Council, such details to include a detailed schedule and specification including manufacturer's literature or detailed drawings

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including horizontal and vertical cross sections at suitable scales (e.g. 1:5, 1:10 or 1:20 where relevant), in respect of the following:

- (i) joins and junctions of different façade materials;
 - (ii) window and door reveals;
 - (iii) windows including the colour and material;
 - (iv) external doors including the colour and material;
 - (v) rainwater goods including the colour and material;
 - (vi) balconies and balustrades
- (b) The works shall then be carried out in full accordance with the approved details prior to the first occupation of the development, and retained thereafter.

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.

7) **SUSTAINABLE URBAN DRAINAGE**

- (a) Notwithstanding the submitted details on surface water drainage no works shall commence except demolition until further details of the surface water drainage strategy have been submitted to and approved in writing by the local planning authority, such details to include:
- (i) A revised drainage strategy showing a SUDs scheme compliant with policy SI 13
 - (ii) If the strategy includes blue roofs, complete further details of the blue roofs including plans and sections and full explanation of how the blue roofs interact with the objectives of the Urban Green Factor condition and the Intensive Green Roof condition.
- (b) The development shall not be occupied until the works have first been carried out in accordance with the details approved under (a) in their entirety and thereafter the scheme shall be retained for the lifetime of the development.

Reason: To prevent the increased risk of flooding and to improve water quality and to address the inconsistency between the drainage strategy report and the sustainability report and to ensure the strategy is compatible with other objectives such as UGF and intensive green roofs and in accordance with Policy SI 12 and 13 of 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).

8) **FACING MATERIALS**

No development beyond piling shall commence on site until a detailed schedule and an on-site sample board of all external materials and finishes including roof coverings, pointing and mortar to be used on the buildings have been reviewed and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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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.

9) **REFUSE**

- (a) Details of a Waste Management Plan, including on-site storage, disposal and collection of refuse and recycling facilities shall be submitted to and approved in writing by the local planning authority prior the completion of above ground works of the development hereby approved.
- (b) The approved details, including the associated natural screening measures to the refuse store, shall be carried out in full prior to occupation of development and retained thereafter.
- (c) All refuse bins shall be collected from within the curtilage of the application site only and in full accordance with the approved Waste Management Plan for the lifetime of the development.

Reason: In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse disposal, storage and collection, in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with 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).

10) **CYCLE PARKING**

- (a) A minimum of 56 secure and dry cycle parking spaces shall be provided within the development as indicated on the plans hereby approved.
- (b) No development beyond first floor shall commence on site until full details of the cycle parking facilities have been submitted to and approved in writing by the local planning authority.
- (c) All cycle parking spaces shall be provided and made available for use prior to occupation of the development and maintained thereafter for the lifetime of the development.

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).

11) **HARD LANDSCAPING**

- (a) Prior to above ground works (excluding demolition) drawings showing hard landscaping of any part of the site not occupied by buildings shall be submitted and approved in writing by the local planning authority. Such details shall include:
 - (i) A site-wide hard landscaping plan
 - (ii) Detailed drawings where necessary for junctions of different surfaces

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- (iii) A schedule of materials including manufacturer's literature
- (iv) Details of the permeability of the materials proposed
- (b) All hard landscaping works which form part of the approved scheme under part (a) shall be completed prior to occupation of the development and shall be retained for the lifetime 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.

12) TREE PROTECTION PLAN

- (a) No development whatsoever save those strictly necessary to facilitate the site investigation 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.
- (b) No works whatsoever save those strictly necessary to facilitate the site investigation shall commence until the TPP has first been implemented in full and it shall remain in place for the duration of the demolition and construction works.

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).

13) SOFT LANDSCAPING

- (a) A scheme of soft landscaping) 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 to include:
 - (i) details of any trees or hedges to be retained;
 - (ii) proposed plant numbers, species and location;
 - (iii) detailed tree replacement plan to plant a minimum of 13no. new trees within the site to mitigate the proposed felling of the existing trees including the species (on the basis of right tree, right place with a preference for drought-hardy native species), size (i.e. girth) of the trees, tree pits.

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- (iv) a scheme demonstrating an Urban Greening Factor score of at least 0.4, calculated and shown on a colour-coded masterplan with a completed UGF table in full accordance with the GLA UGF LPG (2023), such a scheme to have regard to the Intensive Green Roof condition and, if necessary, the Sustainable Urban Drainage condition.
- (v) green walls or a system to enable climbing plants on flank walls of the development.
- (b) All planting, seeding or turving 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 and the re-provision of trees within the site and compliance with the Urban Green Factor and to comply with LPP G5, 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).

14) **BOUNDARY TREATMENT**

- (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).

15) **BAT/ BIRD BOXES**

Details of the number and location of the bird/bat boxes 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 before occupation of the building and maintained for the lifetime of the development.

Reason: To comply with 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).

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16) **ELECTRIC VEHICLE CHARGING POINTS**

- (a) Details of the number and location of electric vehicle charging points to be provided and a programme for their installation and maintenance shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works.
- (b) The electric vehicle charging points as approved shall be installed prior to occupation of the Development and shall thereafter be retained and maintained in accordance with the details approved under (a).

Reason: To reduce pollution emissions in an Area Quality Management Area in accordance with Policy T6 Car parking in the London Plan (March 2021), and DM Policy 29 Car parking of the Development Management Local Plan (November 2014).

17) **INTENSIVE GREEN ROOF**

- (a) Prior to the commencement of development save demolition works further details of the intensive green roofs, which shall allow for a substrate depth of 150 mm and shall be designed to support a water load of 12litres/m² (=12kg/m²) and a soil load of 150mm depth minimum (circa 225kg/m²) shall be submitted to and approved in writing by the local planning authority. Such details shall have regard to the Urban Green Factor condition and, if necessary, the Sustainable Urban Drainage condition.
- (b) The intensive green roofs shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.
- (c) Evidence that the intensive green roofs have 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.
- (d) The intensive green roofs shall be retained as such for the lifetime of the development.

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).

18) **EXTERNAL LIGHTING**

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

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- (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, neighbouring properties and wildlife to comply with DM Policy 27 Lighting of the Development Management Local Plan (November 2014).

19) **DELIVERY AND SERVICING PLAN**

- (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).

20) **TRAVEL PLAN**

- (a) No part of the development hereby approved shall be occupied until such time as a user's Travel Plan, in accordance with Transport for London's document 'Travel Planning for New Development in London' has been submitted to and approved in writing by the local planning authority. The development shall operate in full accordance with all measures identified within the Travel Plan from first occupation.
- (b) The Travel Plan shall specify initiatives to be implemented by the development to encourage access to and from the site by a variety of non-car means, shall set targets and shall specify a monitoring and review mechanism to ensure compliance with the Travel Plan objectives.
- (c) Within the timeframe specified by (a) and (b), evidence shall be submitted to demonstrate compliance with the monitoring and review mechanisms agreed under parts (a) and (b).

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

21) **WHEELCHAIR UNITS**

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- (a) The detailed design for each dwelling hereby approved shall meet the required standard of the Approved Document M of the Building Regulations (2015) as specified below:
 - (i) Three units shall meet standard M4(3)
 - (ii) All other ground floor units shall meet standard M4(2)
- (b) No development of any Building shall commence above ground level until written confirmation from the appointed building control body has been submitted to and approved in writing by the local planning authority to demonstrate compliance with Paragraph (a) of this condition in respect of such Building.
- (c) The development shall be carried out in accordance with the requirements of paragraphs (a) and (b) of this condition.

Reason: To ensure that there is an adequate supply of wheelchair accessible housing in the Borough in accordance with Policy 1 Housing provision, mix and affordability and Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

22) **AMENITY SPACES**

The whole of the amenity spaces (including roof terraces and balconies) hereby approved shall be provided in full prior to first occupation, and retained permanently for the benefit of the occupiers of the residential units hereby permitted.

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

23) **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 roof areas 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 areas be used as a balcony, roof garden or similar amenity area.

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), 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).

24) **BLUE BADGE PARKING**

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The whole of the car parking accommodation shown on drawing no. P-00-D-013 Rev R hereby approved shall be provided prior to occupation of any dwelling and retained permanently thereafter

Reason: To ensure the permanent retention of the spaces for parking purposes, to ensure that the development does not increase on-street parking in the vicinity and to comply with Policies 1 Housing provision, mix and affordability and 14 Sustainable movement and transport of the Core Strategy (June 2011), DM Policy 29 Car Parking of the Development Management Local Plan, (November 2014), and Policy T6.1 Car parking and Table 10.3 of the London Plan (March 2021)

25) **BALCONY SCREENING**

Privacy screening measures to all upper floor balconies shall be submitted to and approved in writing by the local planning authority and shall be installed in their entirety prior to first residential occupation and maintained thereafter in perpetuity.

Reason: To avoid the direct overlooking of neighbouring properties and consequent loss of privacy thereto and to comply with 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).

26) **GAS BOILERS**

- (a) Prior to first occupation, details of the Ultra-Low NOx Gas fired boilers proposed to be installed shall be submitted to and agreed in writing by the LPA.
- (b) The boilers submitted to address part (a) shall have dry NOx emissions not exceeding 30mg/kWh (at 0% O₂). Where any installations do not meet this emissions standard, they should not be operated without the fitting of suitable NOx abatement equipment or technology as determined by a specialist to ensure comparable emissions.
- (c) Following installation in accordance with parts (a) and (b), emissions certificates will need to be provided to the LPA to verify boiler emissions. The approved details shall be fully implemented prior to the occupation of the development and thereafter permanently retained and maintained.

Reason: To manage and prevent further deterioration of existing low quality air across London, in accordance with Development Management Local Plan (November 2014) Policy 23 'Air quality.'

27) **DETAILS OF OPEN SPACE & PLAY EQUIPMENT AND ITS MANAGEMENT & MAINTENANCE PLAN**

No development beyond ground works shall commence on site until the following details have been submitted to and approved in writing by the LPA:

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- (a) an Open Space Management & Maintenance Plan that shall include management & maintenance, responsibilities for all communal play space/s and publicly accessible areas and details of the gated access to the central courtyard.
- (b) a children's play strategy for all age groups generated by the development demonstrating the proposed play equipment, layout, materials, fixtures and fittings of the playable space (minimum 53.7sqm), and maintenance of the equipment for the lifetime of the development.

The details approved in (a) and (b) shall be carried out in full accordance with the approved details prior to occupation of the residential units and the central garden and its play equipment shall be fully accessible to all residents within the development at the time of first occupancy and it shall be retained for the lifetime of the development.

Reason: To ensure that the central garden and landscaping areas are adequately managed in accordance with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 25 Landscaping and trees in the Development Management Local Plan (November 2014).

28) **WATER EFFICIENCY – NEW DWELLINGS**

The sanitary fittings within each residential dwelling shall include low water use WCs, shower taps, baths and (where installed by the developer) white goods designed to comply with an average household water consumption of less than 110 litres/person/day.

Reason: To comply with Policies GG6 Increasing efficiency and resilience, SI 5 Water infrastructure, SI 13 Sustainable drainage in the London Plan (2021) and Core Strategy Policy 7 Climate change and adapting to the effects, Core Strategy Policy 8 Sustainable design and construction and energy efficiency (2011).

12.2 INFORMATIVES

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.
- 2) 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

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- 3) 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>
- 4) 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.
- 5) 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 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.
- 6) 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.
- 7) The Applicant is required to propose the installation of two bat boxes within the retained trees, and more than one bat brick or access tiles to at least three blocks.
- 8) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement. Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure. The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement.
- 9) The Applicant is advised that no part of the development hereby approved shall be first occupied until certification that the development has achieved Secured by Design in accordance with Part Q of the relevant building regulations has been submitted to and approved in writing by the local planning authority.
- 10) Bat informative for applicants, agents and contractors

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The applicant and contractors should be aware that all bats and any structures used by them are protected by law, and that works likely to disturb bats or their resting places (even if undertaken at a time of year when the bats are absent) require a licence from Natural England.

Should a bat be encountered during development, work should cease immediately and advice should be sought from Natural England (tel. Batline 0845 1300228). Bats should preferably not be handled (and not without gloves) but should be left in place, gently covered, until advice is obtained.

Particular care and vigilance should be taken when roof tiles or slates are removed (remove by hand and check underside for bats before stacking, particularly the ones over the gable ends and ridge tiles.) Fascias, barge boards and external cladding may also provide roost opportunities for bats and should be disturbed with care. As a further precaution, undertaking roof work during the months of March to May, or September to November will avoid the main hibernation and breeding seasons when bats are most sensitive to disturbance.

13 BACKGROUND PAPERS

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

14 REPORT AUTHOR AND CONTACT

482 Geoff Whittington Geoff.Whittington@lewisham.gov.uk 020 8314 9530

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Virtual Local Meeting (webinar format):

Marvels Lane Boys Club, Balder Rise SE12

DC/21/123178

16th June 2022

Proposal:

The demolition of the former Marvels Lane Boys Club, Balder Rise SE12 and dwelling-house at 41 Le May Avenue SE12, and the construction of 3 three storey and 2 two storey blocks comprising 28 self-contained residential flats accessed from Le May Avenue, in addition to associated landscaping including a central courtyard, refuse and recycling facilities, disabled parking bays and cycle stores.

Panel:

Chair: Cllr Clarke

Agents: Nicholas Taylor (NTA Planning) **(NT)**
Michael Hickey (Bubble Architects) **(MH)**
Salome Ripoll (Bubble Architects) **(SR)**
Aled Roderick (Highways consultant) **(AR)**

LB Planning: Geoff Whittington **(GW)**

16no. neighbour attendees

Chair opened meeting at 7:32pm and introduced the panel. Explained the reason for the meeting, and the main themes to discuss, including design/ scale; tree loss; neighbour amenity; highways/ access issues; no affordable housing; and consultation procedures.

Chair advises meeting is scheduled to end at 8:30pm.

Developer's agents were invited to give a short presentation on the scheme - 15 minutes.

Chair addresses the key themes and the pre-submitted neighbour questions. Attendees were reminded of the meeting format, and that any further questions could be submitted via the text function.

The first question related to the design and scale of the proposal. MH advised that due to siting and height, visibility of the development would be limited from surrounding streets, and measures have been undertaken to reduce the overall scale.

Chair refers to loss of trees on site and refuse collection.

MH: Perimeter trees will be retained, only small category B and C trees within the central area will be felled. Replacement trees will be planted. The siting of the refuse collection point to the front of the site will prevent noise and disturbance to occupiers from a refuse vehicle entering/exiting the site. Bins will be moved to and from the collection point by a management team.

Chair: Density is overpowering upon surrounding dwellings.

NT: Refers to the refused scheme that proposed 36 dwellings, and the subsequent reduction in scale and unit numbers.

GFW advises the new London Plan's position in regard to design-led approach rather than density matrix.

Chair: Raises neighbour amenity concerns.

NT: Neighbour consultation including a letter drop was undertaken prior to the first planning application. The current scheme takes on board the concerns that were raised. Construction activity works would invite a planning condition. No need to affect any existing boundary fencing. The proposal would not result in significant sunlight/ daylight impacts.

Chair: Neighbour shared accessway issue can a meeting between the applicant and neighbour be arranged?

NT: More than happy to meet on site to discuss.

Chair: Highways issues, including use of the site as a rat-run.

AR: Demountable bollards to be installed within the site would prevent this.

Chair: Lack of parking on-site.

AR: Refers to London Plan requirement for car-free development. Parking surveys undertaken to demonstrate that surrounding streets could accommodate subsequent overspill.

Chair: Raises lack of consultation undertaken with neighbours by the applicants.

NT: Repeats that a letter drop process was undertaken, whilst Covid prevented the arrangement of a public meeting.

The Chair invites verbal questions from attendees.

OBJ 1: Parking concerns, and accuracy of the parking surveys undertaken. Asks how many cycle spaces will be provided.

AR: The surveys are accurate.

MH: Cycle spaces will be subject to a planning condition.

OBJ 2: Further consultation issues are raised, and encroachment onto neighbouring land – solicitors are on standby. Loss of privacy and security concerns.

Chair: Suggests the applicant should meet with the concerned neighbour.

NT agrees to arrange.

OBJ 3: Overlooking concerns toward Balder Rise properties, and the number of people that would reside within the development. Also raises concerns regarding motorcycle use of the vehicular route to the Balder Rise access/ use as a rat-run.

MH: Existing access has to be maintained onto Balder Rise for the Luffman Road occupiers who have right of access. Advises that the route is gated, which would remain, and therefore would not be a rat-run.

OBJ 4: Parking concerns – how will surrounding streets cope?

AR: The applicant has agreed to a financial contribution toward consultation for a possible CPZ extension.

OBJ 2: Only one loading bay within the site is insufficient.

MH seeks to address the concern, however the neighbour is 'not convinced'.

GW advises of next steps following the local meeting, and that residents will be invited to virtually attend a future planning committee.

Cllr closes the meeting at 8:42pm.

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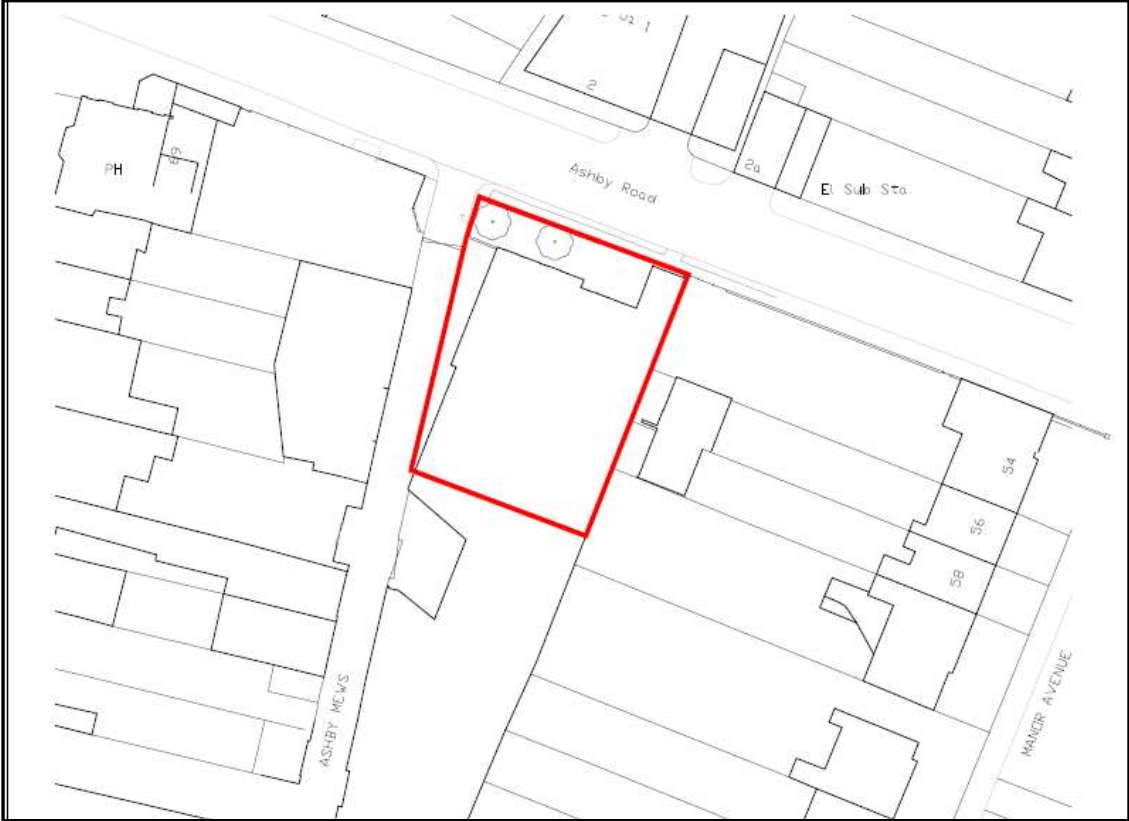
1-3 Ashby Road, London, SE4 1PR

Application Ref. DC/23/130234

Construction of part single-storey and part two-storey roof extension to create 3 self-contained flats, together with the conversion of an existing studio flat to provided additional living accommodation at 1-3 Ashby Road SE4, with associated cycle storage, refuse storage and a new green roof.

Existing Site

Site Location Plan



Aerial View



Site Photographs

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Proposals

Proposed Front Elevation

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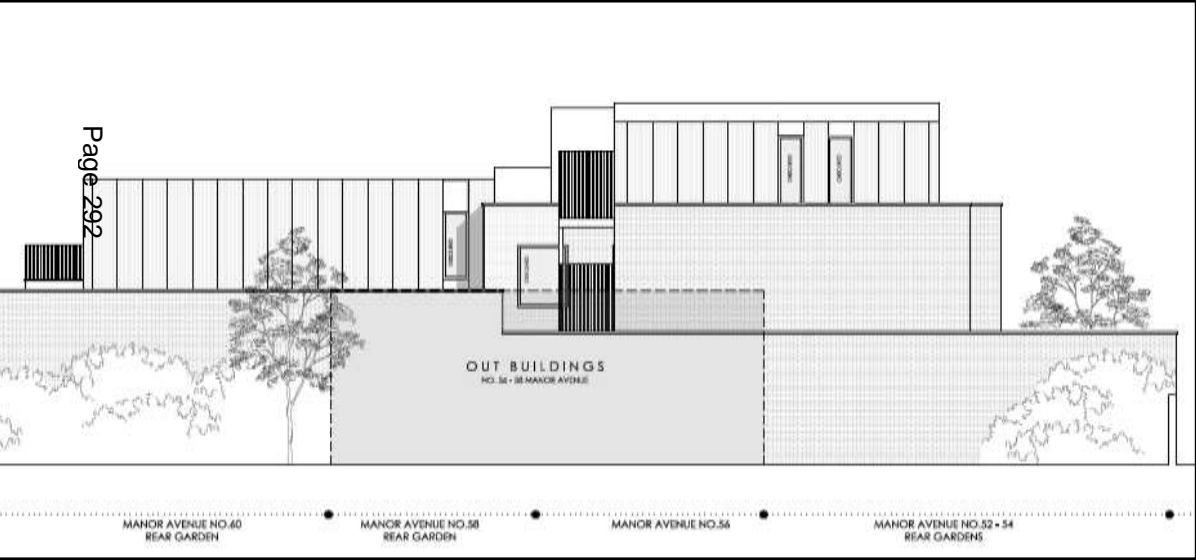
Proposed Ashby Mews Elevation (West)

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Proposed Elevations

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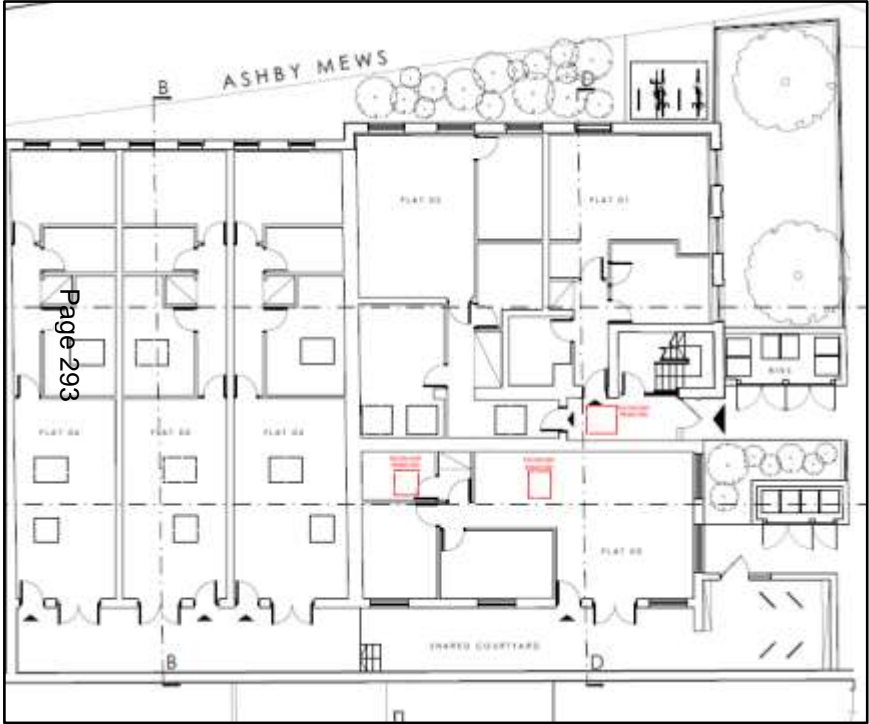


Eastern Side Elevation

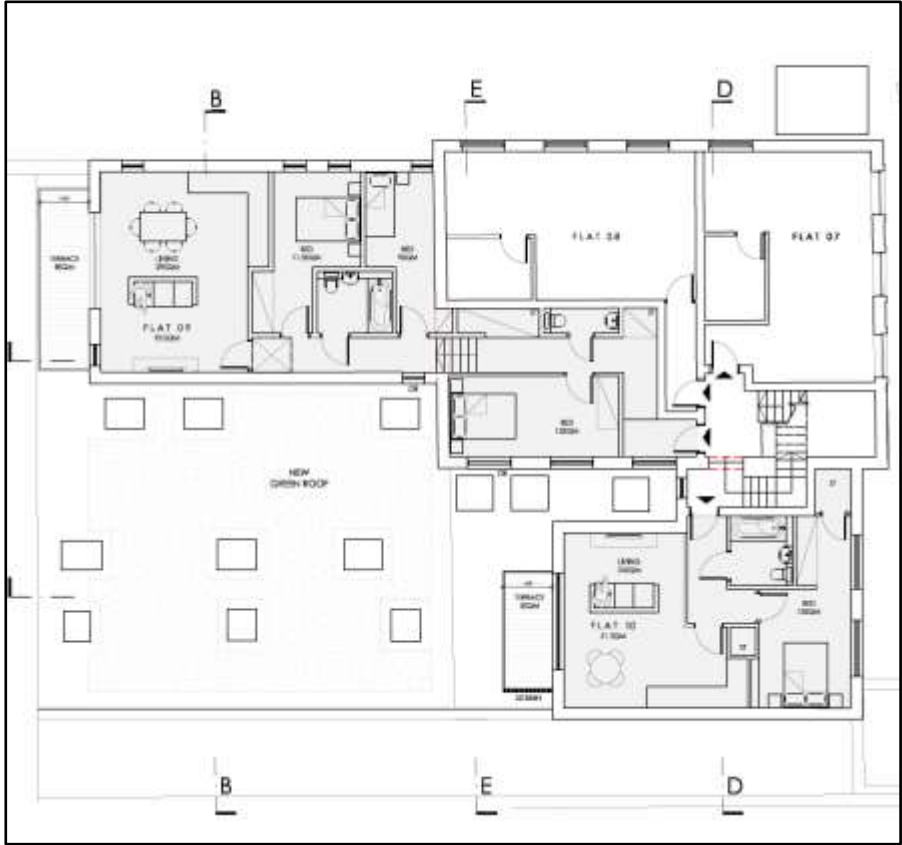


Rear Elevation

Proposed Floor Plans

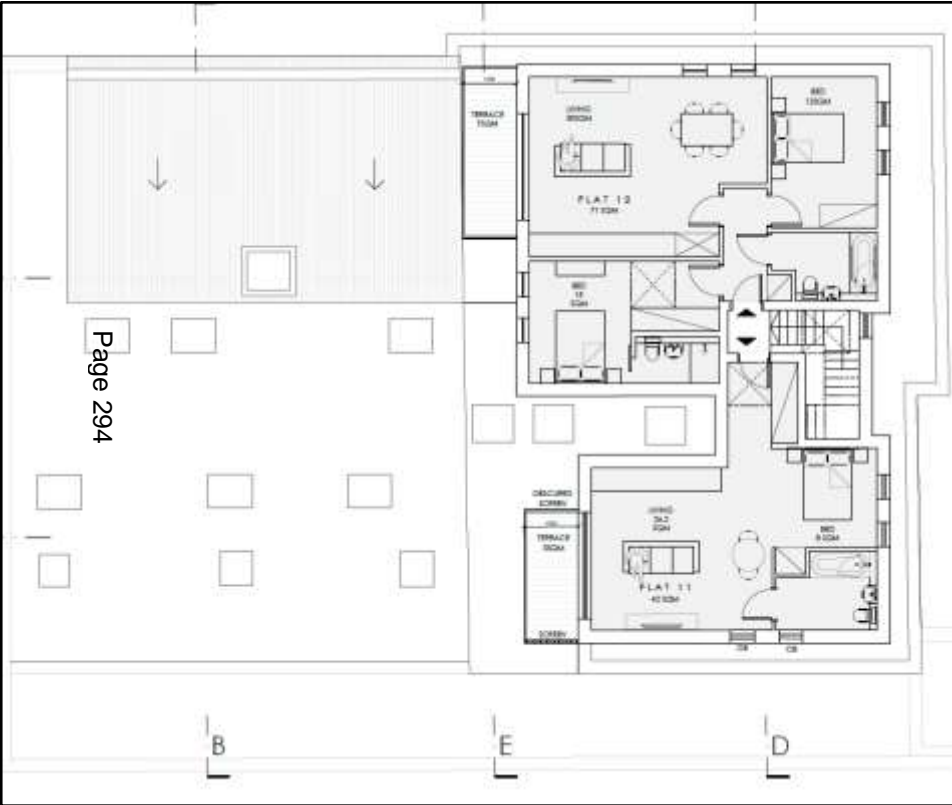


Proposed Ground Floor

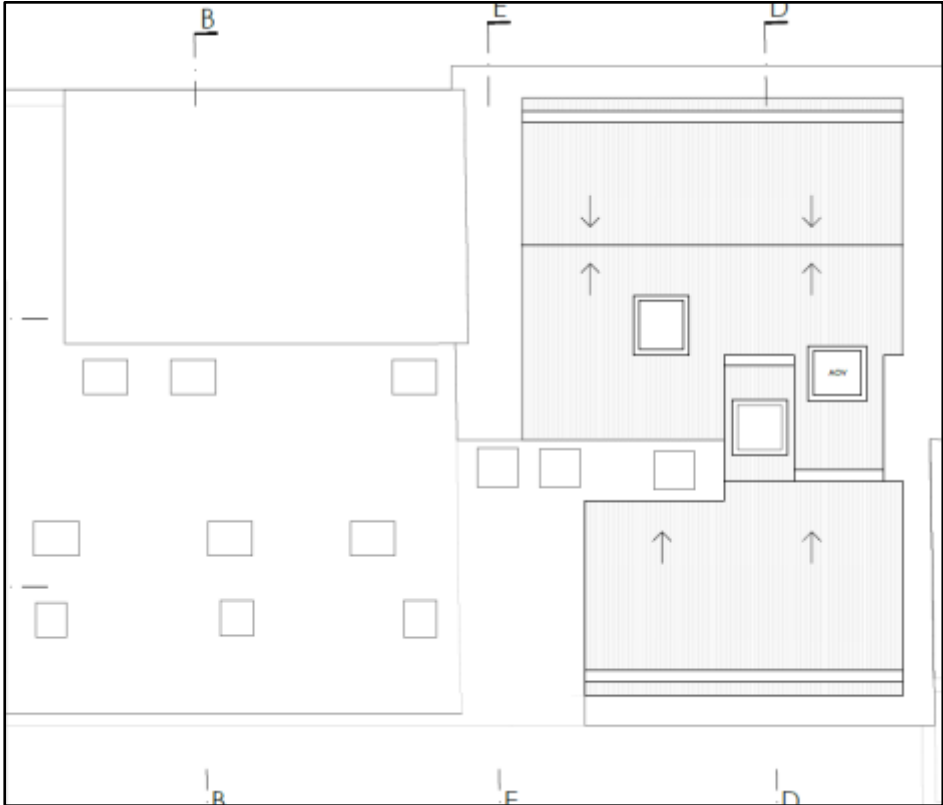


Proposed 1st Floor

Proposed Floor Plans



Proposed 2nd Floor



Proposed Roof Plan

Planning History

Previous Application DC/21/124306

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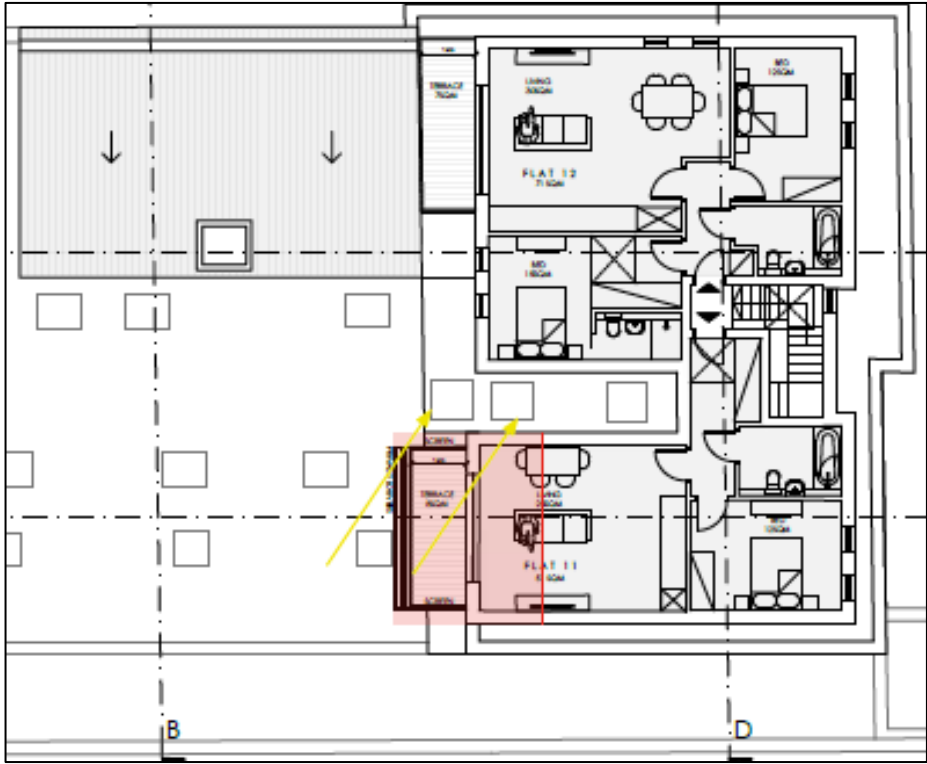


Front Elevation



Mews Elevation

Revised Rear Massing



Main Planning Considerations

Main Planning Considerations

- Principle of Development
- Residential Quality
- Urban Design & Heritage Impact
- Transport Impact
- Living Conditions of Neighbors
- Natural Environment
- Sustainable Infrastructure

END OF PRESENTATION



Planning Committee: A

1-3 ASHBY ROAD, LONDON, SE4 1PR

Date: 18 July 2023

Key decision: No.

Class: Part 1

Ward(s) affected: Brockley

Contributors: Alfie Williams, Senior Planning Officer

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 20 individual objections, a petition against signed by 6 residents and an objection from the Brockley Society

Application details

Application reference number(s): DC/23/130234

Application Date: 4 April 2023

Applicant: Ashby Road Properties Limited

Proposal: Construction of part single-storey and part two-storey roof extensions to create 3 self-contained flats, together with the conversion of an existing studio to provided additional living accommodation at 1-3 Ashby Road SE4, with associated cycle storage, refuse storage and a new green roof.

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

Designation: Air Quality Management Area
Brockley Conservation Area
Brockley Conservation Area Article 4 Direction
PTAL 4

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

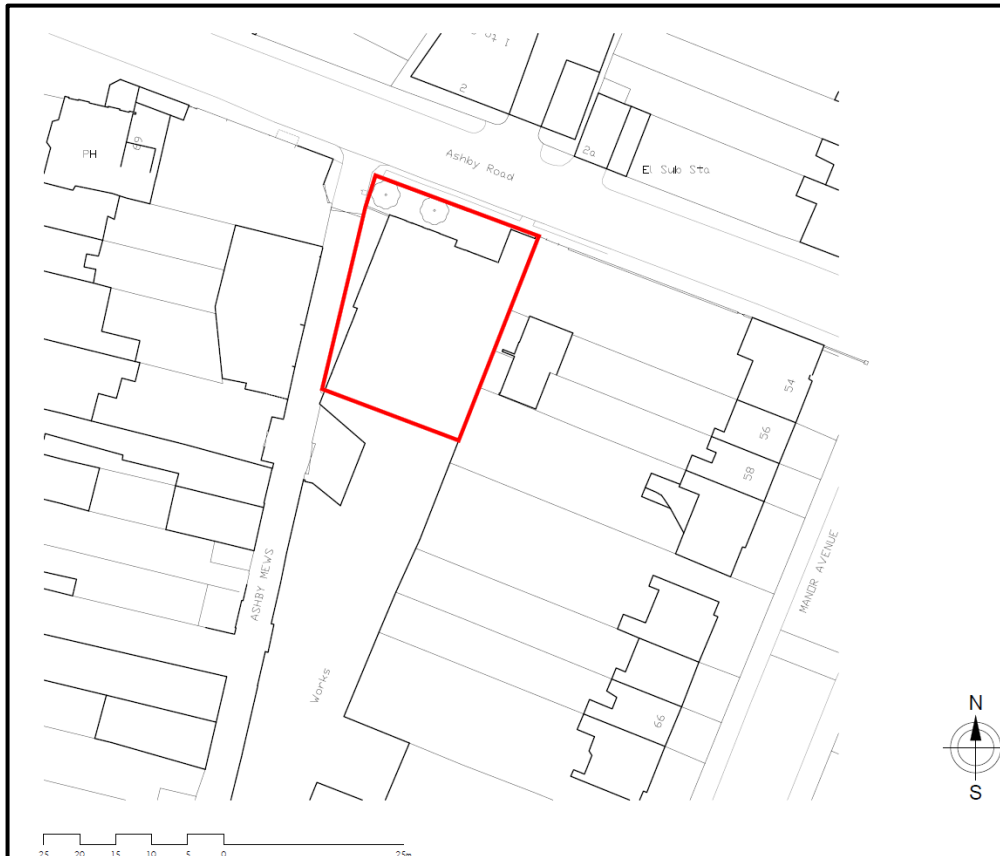
- 1 The application site comprises a modern brick-built part single/part two-storey residential building located at the junction of Ashby Mews and Ashby Road. The building was formerly used by Lewisham Council as offices and was converted to residential use following a change of use granted in 2014. To the east, the site adjoins the rear gardens of properties in Manor Avenue. The site has a 25m wide main frontage onto Ashby Road and to the west, the site has a 28m deep side return into Ashby Mews. Ashby Mews is a private road.
- 2 On the northern side of Ashby Road, directly opposite the application site, is Royston Court. Royston Court is a modern two storey housing development constructed on a former commercial site.

Figure 1. Site Location Plan

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Character of area

- 3 The surrounding area is predominately residential and is characterised by grand three storey Victorian buildings that line the roads running north to south. Between these roads are a series of lower-scale Mews. The Mews' generally serve residential garaging and commercial workshops, which are mainly single storey in height. Ashby Road runs east to west and is mainly a thoroughfare with sporadic areas of piecemeal residential development at the ends of gardens.

Heritage/archaeology

- 4 The site is located within the Brockley Conservation Area which is covered by an Article 4 Direction. The site lies within Character Area 1 of the Brockley Conservation Area and has a neutral impact. The building is not listed, and neither is the site located within the vicinity of a listed building.

Transport

- 5 The site has a PTAL of 4, which is a good level of public transport accessibility. Brockley Station (550m to the south-west) and St John's Station (600m to the north-east) are within walking distance of site. The site is also within walking distance of the bus routes that serve Lewisham Way and Brockley Road.

2 RELEVANT PLANNING HISTORY

- 6 In February 2006, applications for planning permission and conservation area consent (this being a requirement prior to 2013 for the demolition of a building in a conservation

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area) were submitted for the demolition of the building and the construction of a part single/part three storey plus basement building to provide a 22-bedroom care home. The planning application was proposed for refusal on the grounds of 1) its excessive height and bulk and its generally poor design; 2) its close proximity to the rear gardens of properties in Manor Avenue and; 3) the lack of outdoor amenity space and poor outlook to the ground floor bedrooms adjoining the Mews.

- 7 The conservation area consent application was also recommended for refusal on the basis that the demolition of the building in advance of an agreed scheme of redevelopment would fail to preserve or enhance the character and appearance of the conservation area and would be contrary to Council policy. These applications were withdrawn at the applicant's request before determination.
- 8 In September 2006 further applications for planning permission and conservation area consent were submitted for the demolition of the former Council offices and the construction of a part two/part three storey building, to provide an 18-bedroom care home, together with associated landscaping, provision of a refuse store, bicycle spaces and 3 car parking spaces. This planning application was refused on the grounds of 1) its excessive height and bulk and its generally poor design and 2) the close proximity to the rear gardens of properties in Manor Avenue. The conservation area consent application was refused for the same reason as the previously withdrawn conservation area consent submission.
- 9 Further applications for Conservation Area consent and planning permission for a 16-bedroom care home at the site were refused in August 2007. These were refused for the same reasons as the previous applications. Appeals in respect of these decisions were also dismissed. The Inspector considered that the existing building had a neutral impact on the character and appearance of the Conservation Area and that the height of the existing building allowed views through to the trees and vegetation in the rear gardens of Manor Avenue. The Inspector's decision letter (dated 18 August 2008) concluded the bulk and mass of the proposed building would be overly prominent and discordant in the streetscene.
- 10 On 9 June 2014, the Council determined that Prior Approval under Class J of Part 3 of Schedule 2 of the General Permitted Development Order 1995 (as amended) for the change of use of the premises (Class B1a) into residential use (Class C3) to form 3 x 1 bed and 3 x 2 bed self-contained flats was not required (the development could proceed) (reference DC/14/87239).
- 11 On 17 August 2015, the Council determined that Prior Approval under Class O of Part 3 of Schedule 2 of the General Permitted Development Order 2015 for the change of use of the premises (Class B1a) into residential use (Class C3) to form 6 x 1 bed and 3 studio contained flats was not required (reference DC/15/92810).
- 12 On 15 October 2015 the Council determined that Prior Approval under Class O of Part 3 of Schedule 2 of the General Permitted Development Order 2015 for prior approval in respect of change of use of 1-3 Ashby Road SE14, from office use (Class B1(a)) to residential (Class C3) to create 9 self-contained units was not required (reference DC/15/93310).
- 13 On 12 February 2016, planning permission was granted for alterations to the existing office building at 1-3 Ashby Road SE4, comprising the introduction of light wells to the rear part of the building and a new light well adjoining the boundary with 54 - 60 Manor Avenue, together with minor alterations to the external elevations of the building and

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new landscaping of the Ashby Road and Ashby Mews frontages (reference DC/15/93717).

- 14 On 7 March 2022, planning permission was refused for the construction of part single-storey and part two-storey roof extensions to create 3 self-contained flats, together with the conversion of an existing studio to provided additional living accommodation at 1-3 Ashby Road SE4, with associated 8 cycle spaces, refuse storage and a new green roof (DC/21/124306). The application was refused for the following reason:

The proposed extension, by reason of its height, bulk, scale, massing and design, would introduce an unsympathetic and visually intrusive form of development that would fail to respect the historic spatial character and pattern of development. The proposed development would therefore fail to preserve or enhance the character and appearance of the Brockley Conservation Area contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Part 16 Conserving and Enhancing the Historic environment of the NPPF, Policy HC1 Heritage, Conservation and Growth of the London Plan (March 2021), Policies 15 High quality design for Lewisham and 16 Conservation areas, heritage assets and the historic environment of the adopted Core Strategy (June 2011), and DM Policies 30 Urban design and local character, 31 Alterations and extensions to existing buildings, 33 Infill, backland, back garden and amenity area development and 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens of the Development Management Local Plan (November 2014).

- 15 On 18 November 2022, an appeal (Appeal Ref: APP/C5690/W/22/3296443) against the refusal of application DC/21/124306 was dismissed with the inspector reaching the following conclusion at para 22. It is notable that the inspector's assessment of the visual impact of the extension was clear that the bulk and massing of the extension would not introduce harm to conservation area, therefore the Council's reason for refusal was not upheld. As set out above, the appeal was dismissed on the ground that the extension would be harmful to the living conditions of Flat 2.

"Based on the evidence before me, I therefore find that the proposed development would cause significant harm to the living conditions of occupants of flat 2 in terms of outlook and light. It would therefore be contrary to Policy 15 of the Lewisham Core Strategy (2011), DM Policies 31 and 32 of the Lewisham Development Management Local Plan (2014) and Policies D3 and D6 of The London Plan (2021). These policies require, amongst other things, that developments including extensions; have no significant loss of amenity (including sunlight and daylight) to adjoining houses, provide a satisfactory level of outlook and natural lighting for neighbours, deliver appropriate outlook and amenity, and provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context, whilst avoiding overshadowing."

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 16 The construction of a roof extension to facilitate the provision of three additional self-contained residential units and the conversion of an existing studio unit to provide a three-bedroom self-contained flat.

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- 17 The proposed roof extension would be part-single, part-two storey to the front (facing Ashby Road), raising the height of the building to three storeys. At first floor level the extension would feature facing brickwork to match the existing. At second floor level the extension would be set back and would be clad in zinc. The extension also includes an additional storey to the rear facing onto Ashby Mews. This section of the extension would also be clad in Zinc. The extensions would have shallow pitched roofs which would incorporate rooflights.
- 18 The additional residential accommodation would be comprised of a one-bedroom flat at first floor level with one two-bedroom and one studio flats at second floor level. The floor area of an existing studio unit (Flat 09) at first floor level would be increased from 30sqm to 94sqm to provide a three-bedroom flat. The layouts of the remaining eight existing flats would be unaltered. All three additional units and the extended flat would be provided with balconies.
- 19 Refuse and recycling facilities would be provided within a store to be located in the front garden. A cycle store would be installed adjacent to the western elevation with access onto Ashby Mews.

3.2 COMPARISON WITH PREVIOUS SCHEME

20 The proposed development is broadly the same as the scheme refused in March 2022 (Ref DC/21/124306) with the only changes connected to addressing the impact to light and outlook to Flat 2, which was the sole reason given by the Inspector for dismissing the appeal. The key changes are listed below:

- Reduction to the depth of the two-storey extension to the eastern portion of the building and associated reduction in internal floorspace as shown on Figure 2 below.
- Alteration to the layout of Flat 10 from a two-bedroom three-person flat to a one-bedroom two-person unit.
- Alteration to the layout of Flat 11 from a one-bedroom two-person flat to a single person studio.
- Additional window in the western side elevation serving Flat 9.
- Additional screens to the balconies of Flats 9 and 10

Figure 2. Drawing showing change to the depth of the extension and relationship to the rooflights serving Flat 2 with the massing removed highlighted in red.



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4 CONSULTATION

4.1 APPLICATION PUBLICITY

21 Site notices were displayed and a press notice was published on 1 March 2023. Letters were sent to residents and business in the surrounding area as well as to the relevant ward Councillors and Brockley Society on 20 February 2023.

22 21 representations were received in response, comprising 20 objections and one comment in support. One petition against the development was also received with six signatures.

4.1.1 Comments in objection

Comment	Para where addressed
Principle of development	
Principle of residential development	46
Lack of affordable house contribution	48
Housing mix	49
Overdevelopment	50
Residential quality	
Accessibility of the flats	71
Urban design and heritage matters	
Adverse impact to the Conservation Area	89-97
Adverse impact to Ashby Mews	89-95
Design of extensions	89-95
Impact of ASHP	93 & 152
Impact to the public realm	94
Transport	
Increase traffic	102
Waste & bin management	105
Deliveries and servicing	106
Parking stress	113-114
Living conditions of neighbours	
Overbearing enclosure	123-128
Loss of outlook	123-128
Loss of privacy	131-133
Loss of light	142-146

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Noise and disturbance	151-152
Disturbance from construction	151
Sustainable development	
Loss of soft landscaping	158
Flood risk & urban drainage	162

23 The Brockley Society also submitted comments raising the following objections:

Comment	Para where addressed
Principle of Development	
Unit mix	49
Accessibility of the flats	71
Urban Design & Heritage	
Harm to the Conservation Area	89-95
Harm to Ashby Mews	89-95
Transport Impact	
Waste management	105
Cycle parking	108-110
Living Conditions of Neighbours	
Loss of outlook	124-128
Loss of privacy	131-133
Loss of light	142-146
Increased noise & disturbance	151-152
Sustainable Development	
Flood risk & urban drainage	162

24 A number of other comments were also raised that are not material to this application for the following reasons:

- Impact house prices: it is generally accepted that the impact of development to neighbouring land values is not in and of itself a consideration that can be given weight. Although, the material impacts to neighbouring land and properties can be assessed.
- Rainwater leakage: roof leakage would be adequately addressed by Building Regulations.
- Structural impact: structural matters are adequately addressed by Building Regulations.
- Leaseholder rights: leaseholder matters are subject to a separate legislative framework so are not material to this planning application.
- Right to mews access: right of access on to Ashby Mews is a civil matter which is not considered to be a material planning consideration.

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- Fire Safety: is addressed by building regulations for this scale of development.
- Inadequate pre-application engagement: pre-application engagement with residents is encouraged, but is not a requirement; and that engagement does not relate to the planning merits of the scheme itself. .
- Loss of industrial uses: the building is not in industrial use
- Age of the building: in this case the incorrect reference to the age of the building does not have a material impact on the assessment of the application.

4.1.2 Comments in support

Comment	Para where addressed
High quality design	89-96

25 The comment also praised the extent of the pre-application engagement. This is welcome but is not a requirement and therefore cannot be attributed any positive weight in this assessment.

4.1.3 Local Meeting

26 Due to the number of submissions received, a virtual Local Meeting was held on Tuesday 6th June 2023. The meeting was chaired by Councillor Lahai-Taylor. A record of the Local Meeting is contained in Appendix 1 of this report. The issues raised at the Local Meeting were consistent with the matters raised in the written submissions as summarised above.

4.2 INTERNAL CONSULTATION

27 The following internal consultees were notified on 20 February 2023.

28 Conservation: raised no objections in light of the appeal decision for application DC/21/124306 subject to imposing a condition for the materials and design detailing.

29 Highways: raised no objections subject to conditions, see the Transport Section for details.

5 POLICY CONTEXT

5.1 LEGISLATION

30 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).

31 Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990: impose particular duties on the LPA in respect of listed buildings and conservation areas, respectively.

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5.2 MATERIAL CONSIDERATIONS

- 32 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.
- 33 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 national policy as a material consideration.
- 34 While there is no duty to follow a previous planning decision, which includes a decision taken by an Inspector appointed on behalf of the Secretary of State to determine a planning appeal, there is a principle of consistency in planning law. Where a subsequent decision would essentially depart from a previous decision (or, in other words, in reaching that decision the decision-maker was necessarily disagreeing with that previous decision), the decision-maker would be expected to give cogent reasons for that departure.
- 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)
- 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:

- Alterations and Extensions Supplementary Planning Document (April 2019)
- Brockley Conservation Area Supplementary Planning Document (December 2005)
- Small Sites Supplementary Planning Document (October 2021)

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38 London Plan LPG:

- Small Site Design Codes (June 2023)
- Optimising Site Capacity: A Design-led Approach (June 2023)
- Housing Design Standards (June 2023)
- Air Quality Neutral (February 2023)

5.6 OTHER MATERIAL DOCUMENTS

- Brockley Conservation Area Character Appraisal (August 2006)

6 PLANNING CONSIDERATIONS

39 The main issues are:

- Principle of Development
- Residential Quality
- Urban Design
- Impact on Adjoining Properties
- Transport
- Sustainable Development
- Natural Environment

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.

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

42 LPP H1 seeks to optimise the potential of housing delivery, especially on sites with good public transport access level (PTALs) of 3-6 and close to town centres. The target set for Lewisham in the LP is 16,670 homes between 2019-29, or 1,667 as an annualised average.

43 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.

44 LPP H5 supported by CSP 1 require contributions to affordable housing on sites capable of providing 10 or more dwellings.

45 LPP H10 advises that schemes should generally consist of a range of unit sizes.

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Discussion

- 46 The existing use of the building is residential and therefore the proposal would not conflict with any employment or commercial uses within the building. As such, the site is appropriate for a higher density of development taking into account the residential character of the area and sustainable location. Therefore, the principle of an additional storey for residential accommodation is accepted.
- 47 The scheme would contribute three additional residential units to both the overall housing targets and the small sites target established by LPP H1 and H2. Furthermore, the development includes an extension to an existing unit to provide a family sized flat (3 bedrooms). The South East London Strategic Housing Market Assessment (SHMA) identifies that the main housing need in Lewisham is for family housing, with the provision of family housing attributed policy weight within the Core at Strategy Objective 3 and CSP 1. As such the contribution to both housing and family housing are identified as planning merits of the scheme and carry positive weight within the overall planning balance.
- 48 The proposed development would increase the number of units in the building to 12 and therefore the requirements of LPP H5 and CSP 1 are considered relevant. Both LPP H5 and CSP 1 are clear that contributions to affordable housing will be sought on sites capable of providing 10 or more dwellings. The conversion of the building was carried out via the prior approval process. Prior approval legislation does not require a contribution to affordable housing and therefore the addition of three properties would not meet the threshold for an affordable housing contribution as set out within CSP 1 and LPP H5.
- 49 The development includes a good range of unit sizes comprising one, two and three bedroom flats. Accordingly, the proposed unit mix would be consistent with the requirements of LPP H10 and is therefore supported.
- 50 The addition of three residential units is not considered to constitute the overdevelopment of the site as the site characteristics justify the increase in density. These characteristics include the large footprint of the building, the good PTAL rating and the proximity to amenities and shopping parades on Lewisham Way and Brockley Road.
- 51 The provision of a single occupancy residential unit necessitates an assessment against DMP 32.4.e, which states that single person units are required to be of exceptional design quality and highly accessible locations. In this case the site is considered highly accessible and therefore suitable for single person accommodation for the reasons set out within para 50 above. The residential accommodation provided by the flat is also considered to be of an exceptional standard given the dual aspect, oversized internal floor area and policy compliant provision of external amenity space. As such, the proposed studio flat is supported.

6.1.1 Principle of development conclusions

- 52 In summary, Officers are satisfied that a contribution to affordable housing is not required as the building was converted via prior approval and the number of additional units would therefore not trigger a contribution. The provision of three additional dwellings and a new family unit would contribute towards local housing targets and an identified housing need, which are considered planning merits. The principle of development is therefore supported.

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- 53 The Planning History section of the report documents that the previous application for this development (ref DC/21/124306) was subject to an appeal, see paras 14-15 above. The Appeal Decision (ref APP/C5690/W/22/3296443) is appended to this report at Appendix 2. In the Inspectors assessment of the application the only significant harm arising from the previous iteration of the development was the loss of outlook and natural light to Flat 2 located on the ground floor level of the host building, see paras 125-128 and 144-146 for a summary.
- 54 The current development is fundamentally the same scheme as the previous proposal, save the modifications that have been undertaken to the massing in order to address the harm to Flat 2. Therefore, the appeal decision is a material consideration which carries considerable weight in the assessment of this application. Officers consider that the application has addressed the harm identified in the Appeal Decision and that that decision should be followed, see paras 125-127 and 144-146 for the detailed assessment.

6.2 RESIDENTIAL QUALITY

General Policy

- 55 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 Design Standards LPG; Alterations and Extensions SPD 2019, LBL).
- 56 The main components of residential quality are: (i) space standards; (ii) outlook, privacy and ventilation; (iii) daylight and sunlight; (iv) noise and disturbance; (v) accessibility and inclusivity; and (vi) air quality.

6.2.1 Internal and external space standards

Policy

- 57 London Plan Policy D6 and DM Policy 32 seek to achieve housing developments with the highest quality internally and externally and in relation to their context and sets out the minimum space standards. These policies set out the requirements with regard to housing design, seeking to ensure the long-term sustainability of new housing provision.
- 58 LPP D6 states that for 1-2 person dwellings, a minimum 5sqm is required, with an extra 1sqm for every additional occupant.

Discussion

- 59 The table below sets out proposed dwelling sizes.

Flat No.	Unit size	Required GIA sqm	GIA sqm	External sqm
9	3b5p	86	93	8
10	1b2p	50	51	5
11	1b1p	39	42	5
12	2b4p	70	71	7

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60 All six units would either meet or exceed the requirements of LPP D6 with regard to floor space, bedroom size and storage provision. The floor to ceiling heights would be 2.5m for the majority of the residential floor space which meets the London Plan requirement and would contribute to a good standard of internal residential accommodation. All four flats would benefit from balconies that meet the London Plan requirement, which is supported.

6.2.2 Outlook, Privacy & Ventilation

Policy

61 London Plan Policy D6 seeks high quality design of housing development and requires developments to achieve 'appropriate outlook, privacy and amenity'. Policy D6 also seeks to maximise the provision of dual aspect dwellings.

62 This is echoed in DM policy 32 which also states that there should be a minimum of separation distance of 21m between directly facing habitable windows on main rear elevations. The Small Sites SPD guidance revised this figure to 16m

Discussion

63 All four flats would be dual aspect as a minimum providing good levels of outlook and passive cross ventilation. The cross ventilation would provide adequate mitigation against overheating. In privacy terms all four flats are an appropriate distance from the neighbouring buildings in compliance with the Small Sites SPD guidance. The screening to the side of the balconies for Flats 10 and 11 coupled with the obscure glazing proposed for the southernmost window would ensure there would be no direct views towards the adjacent bedroom of Flat 9. These measures are considered sufficient to ensure acceptable levels of privacy and would be secured via condition.

6.2.3 Daylight and Sunlight

Policy

64 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of sunlight and daylight for its neighbours.

65 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.

66 The NPPF does not express particular standards for daylight and sunlight. Para 125 (c) states that, where there is an existing or anticipated shortage of land for meeting identified housing need, LPAs should take a flexible approach to policies or guidance relating to daylight and sunlight when considering applications for housing, where they would otherwise inhibit making efficient use of a site.

Discussion

67 A Daylight and Sunlight Report (Daylight & Sunlight UK Limited, January 2023) has been submitted with the application. The report provides an analysis of the internal levels of sunlight and daylight for the residential accommodation against the relevant standards of the BRE *Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice 2022* guidance. The results confirm that all of the proposed residential accommodation

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would be complaint with the BRE standard. As such, Officers are satisfied that the proposed development would receive acceptable levels of natural light.

6.2.4 Noise & Disturbance

Policy

68 Paragraph 174 of the NPPF states decisions should amongst other things prevent new and existing developments from contributing to, being put at an unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Paragraphs 186 states decisions should mitigate to reduce a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts to quality of life.

Discussion

69 The surrounding area is predominately residential save for the commercial uses within Ashby Mews. These uses are compatible with residential accommodation as emphasised by their location at the end of residential gardens. The surrounding roads do not generally experience high levels of traffic and therefore Officers are satisfied that additional mitigation against external noise would not be required.

6.2.5 Accessibility and inclusivity

Policy

70 London Plan Policy D7 requires 10% of residential units to be designed to Building Regulation M4(3) 'wheelchair user dwellings' i.e. designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users; with the remaining 90% being designed to M4(2) 'accessible and adaptable'.

Discussion

71 The constraints imposed by converting and extending an existing building would prevent the provision of wheelchair accessible and adaptable units as it would not be possible to provide level access. It would not be proportionate to require that a lift be installed given the modest scale of development. Therefore, in this case the failure to provide M4(2) and M4(3) compliant accommodation is considered acceptable taking into account the otherwise high-quality standard of accommodation and positive contribution to housing supply.

6.2.6 Air Quality

Policy

72 NPPF para 174 states that planning decisions should among other things prevent new and existing development being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air pollution.

Discussion

73 The application site is located within an Air Quality Management Area. However, no assessment has been submitted quantifying air quality at the application site. Despite the absence of a report Officers are satisfied that the residential location coupled with

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the distance from the main roads would ensure that the passive ventilation provided by the windows would be adequate to mitigate any harm from air pollution.

6.2.7 Residential quality conclusion

74 Overall, the standard of residential accommodation is generally good quality and compliant with the relevant standards and policies.

6.3 URBAN DESIGN & HERITAGE IMPACT

General Policy

75 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.

Policy

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

77 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the LPA to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

78 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to, amongst other things, designated heritage assets. As far as relevant to the present application, that requires an LPA to place great weight on any harm to a designated heritage asset (which includes a conservation area). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be given great weight, and be weighed against the public benefits of the proposal.

79 LPP HC1 states that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.

80 LPP D3 states that development proposal should respond positively to the existing character of a place by identifying the special characteristics and features of the locality.

81 CSP 15 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

82 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.

83 DMP 30 requires a site specific response that creates a positive relationship to the existing townscape, natural landscape, open spaces and topography to preserve and / or create an urban form which contributes to local distinctiveness such as plot widths, building features and uses, roofscape, open space and views, panoramas and vistas including those identified in the London Plan, taking all available opportunities for enhancement.

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- 84 DMP 31 states that development proposals for alterations and extensions, including roof extensions will be required to be of a high, site specific, and sensitive design quality, and respect and/or complement the form, setting, period, architectural characteristics, and detailing of the original buildings, including external features such as chimneys, and porches. High quality complementary materials should be used, appropriately and sensitively in relation to the context.
- 85 DMP 33 supports the principle of new development within a street frontage but seeks to ensure that the proposed development would make a high quality positive contribution to the area whilst also providing a site-specific creative response to the character and issues of the street frontage typology.
- 86 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.
- 87 The Small Sites SPD provides guidance for the redevelopment of small infill sites (maximum 0.25ha). Sections 27, 30 and 33 are of particular relevance and paragraph 30.1.6 within Section 30 warns that that in most cases vertical intensification within Conservation Areas will be resisted.
- 88 Further guidance is given with the Brockley Conservation Area Character Appraisal and SPD.

Discussion

- 89 In the assessment of the previous application (ref DC/21/124306), Officers identified that an extension would introduce less than substantial harm to the Brockley Conservation Area. This harm was principally attributed to the bulk and massing of the second-floor extension as the following assessment with the Officers Report for application DC/21/124306 makes clear:

“The proposed third storey extension would be set back from the front façade by 1.5m and set in from both sides by 0.8m. The third storey would measure 16.1m wide with a height of between 2.2m and 2.6m due to the slope of the roof. This would represent a significant increase in additional bulk and massing to the building and would therefore increase its prominence within the streetscene.

This section of Ashby Road connects Manor Avenue and Upper Brockley Road, which historically are grander than the side roads and Mews’ located to the rear. Buildings in Ashby Mews and at the entrances of mews’ have historically been lower in height and scale and therefore visually secondary and subservient to the main residential roads. The introduction of the third storey would subvert the historic context and pattern of development by competing with the buildings on Manor Avenue and Upper Brockley Road in terms of height and stature thereby eroding the hierarchical spatial character of the Conservation Area.”

- 90 Harm to the character and appearance of the Brockley Conservation Area was a main issue for the appeal against application DC/21/124306. This appeal was dismissed; however, the inspector’s assessment of the visual impact of the extension was clear that the bulk and massing of the extension would not introduce harm to conservation area as appeal decision APP/C5690/W/22/3296443 (see Appendix 2) explains at paras 8-11:

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“On the Ashby Mews elevation, the roof extension would step down as the building progresses into the mews. The plans show that the extension would be lower than the Royston Court development opposite the site and the descent of the resulting building into the mews would sit comfortably with the buildings in the mews whilst drawing on some of the design features of the mews buildings in terms of materials, colours and form.

On the Ashby Road elevation the roof extension creates the most perceptible change to the appearance of the building in relation to its surroundings due to the increase in scale and mass. It would however be seen in the context of the three storey terraces of Manor Avenue and Upper Brockley Road, and opposite Royston Court that has accommodation over three levels.

I find that the design approach in this case, whereby a distinct separation from the main body of the host building is proposed, would relieve any potential dominance of the building. This is combined with the set-back from the edge of the building on the Ashby Road elevation, would create an extension that would appear as a softer roof addition as opposed to a potentially more overbearing upward continuation of the existing building in terms of design and siting. The overall scale would remain subservient in the context of the terraced properties either side and would not be out of character within the area as a whole. When combined with the separation from the terraces, I do not consider that the resulting building would visually compete with them

It follows that I do not consider that there would be harm to any of the non-designated heritage assets in the BCA, including Ashby Mews to the rear of the site. Open views to the rear of properties on Manor Avenue and Upper Brockley Road and across their gardens would remain appreciable following the development.”

- 91 It is therefore evident that the Inspector found the siting and design of the extension would ensure that the third storey would read as a subservient addition to the townscape. Officers have carefully considered this assessment, and consider that it is correct and there has been no relevant change in policy or guidance since that decision.
- 92 At paras 6 and 7 of the appeal decision the Inspector gives weight to the materials and design quality as a factor in preventing visual harm. As such, it is considered necessary to impose a condition securing details of the materials and design details to ensure that the proposed level of design quality is delivered. This would include details of the brickwork, cladding materials and fenestration as advised by the Conservation Officer.
- 93 A condition is also recommended securing details of the siting and appearance of the proposed Air Source Heat Pump and intakes to ensure that these would be sensitively located to prevent any visual harm to the Conservation Area.
- 94 The impact of the development to the public realm was raised as a concern within the objections to scheme. However, the development would be contained to the curtilage of the property and therefore would not introduce any permanent physical obstructions to any public areas
- 95 Officers are therefore satisfied that the current proposal would lead to no harm to the Brockley Conservation Area.

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6.3.1 Urban design conclusion

96 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 character and appearance of the Brockley Conservation Area.

97 Therefore, the proposed development is considered acceptable in urban design terms.

6.4 TRANSPORT IMPACT

General policy

98 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of paragraph 106. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and a choice of transport modes.

99 Para 111 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”.

6.4.1 Local Transport Network

Policy

100 The NPPF at paragraph 106 states that significant impacts on the transport network (in terms of capacity and congestion) should be mitigated to an acceptable degree.

101 LPP T4 states that development proposals should reflect and be integrated with current and planned transport access, capacity and connectivity.

Discussion

102 The application site has a PTAL of 4, which is a good level of public transport accessibility. Officers are therefore satisfied that the relatively modest scale of development could be accommodated within the existing transport infrastructure and network without any significant additional mitigation.

6.4.2 Servicing and refuse

Policy

103 CSP13 sets out the Council’s waste management strategy for new development and states that major developments should be designed to incorporate the existing and future long-term needs of waste management and disposal.

104 Storage facilities for waste and recycling containers should meet at least BS5906:2005 Code of Practice for waste management in Buildings.

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Discussion

- 105 An additional bin store would be constructed within the front garden to accommodate the increased requirement generated by the three additional and one enlarged flats. The store would accommodate four bins which would be commensurate with the policy requirement and ensure that bins are unlikely to cause obstructions to the footway. A condition is recommended securing details of the appearance of the store and the provision of the facilities prior to the occupation of the building.
- 106 The servicing demand generated by the proposed residential accommodation is unlikely to be significant given the scale of development. Therefore, Officers are content that the building can continue to be serviced from the roadside consistent with the existing arrangement.

6.4.3 Transport modes

Cycling

Policy

- 107 Residential development is required to provide cycle parking in accordance with the requirements of Policy T5 and Table 10.2 of the London Plan.

Discussion

- 108 A cycle store would be provided to the west of the property providing facilities for eight cycles thereby exceeding the seven stipulated within Table 10.2 of the London Plan. The store would be covered and would accommodate four Sheffield stands which are considered accessible in accordance with the London Cycle Design Standards.
- 109 The objections to the development have questioned whether the store would be safe and accessible given that it would be accessed via Ashby Mews, which is an unadopted road in private ownership with a gated entrance. In response the applicant has confirmed that the cycle store would be accessible even were the gates to be closed. This has been confirmed on site by Officers and it was also apparent that the mews is publicly accessible. As such, Officers are satisfied that the cycle store would be practically and feasibly accessible.
- 110 A condition is recommended securing details of the appearance of the store and the provision of the facilities prior to the occupation of the development.

Cars

Policy

- 111 LP Policy T6 supported by CSP 14 and DMP 29 require developments to take a restrained approach to parking provision to ensure a balance is struck to prevent excessive car parking provision that can undermine cycling, walking and public transport use.
- 112 LP Policy T6.1 together with Tables 10.3 set out the parking standards for residential uses

Discussion

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- 113 No off-street parking would be provided by the development, which is supported given the PTAL rating. The additional residential accommodation would likely generate parking demand within the surrounding streets. There are no on-street restrictions, in the form of a CPZ preventing car parking, so it is not possible to prevent parking in the surrounding area.
- 114 The applicant has not provided a parking survey to document parking capacity in the area. The objections to the development state that parking stress is high. However, a site visit and general knowledge of the area indicates that there is sufficient capacity in the surrounding roads to accommodate what is likely to be a modest amount of additional demand. Therefore, as a matter of planning judgement Officers are satisfied that no additional mitigation is required. In coming to this conclusion Officers have taken into account the scale of development proposed, the good PTAL and the provision of cycling facilities.

6.4.4 Construction

Policy

- 115 LPP T7 states that development proposals should facilitate sustainable freight movement by rail, waterways and road. Additionally, LPP T7 requires that construction logistic plans should be developed in accordance with TfL guidance

Discussion

- 116 The Draft Construction Management Plan (CMP) (Entran, November 2021) indicates that the construction impacts to the local transport and highway network would not be significant with no obstructions necessary other than for deliveries and loading. However, the draft CMP lacks detail and fails to address some crucial features of the surrounding area such as the proximity to Myatt Garden Primary School and the associated school road. As such, a more comprehensive CMP would be secured by condition. It is envisaged that an acceptable CMP would include limits on the timing of deliveries so as to avoid school drop-off and pick-up times.

6.4.5 Transport impact conclusion

- 117 The proposed development is considered to have an acceptable impact on the surrounding highway and transport network subject to the imposition of the conditions recommended above.

6.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 118 NPPF paragraph 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 D3, D6 and D14) and in the Development Management Local Plan (DMP 30, 32 and 33).
- 119 DMP 31 (1) (b) expects new development to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours.

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120 The main impacts on amenity arise from: (i) overbearing sense of enclosure/ loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas; and (iv) noise and disturbance.

6.5.1 Enclosure and Outlook

Policy

121 DMP 32 expects new residential development to result in no harmful increased sense of enclosure and no significant loss of outlook to neighbouring dwellings.

122 The Small Sites SPD (October 2021) in subsection 12.3 provides guidance in respect of separation distances buildings.

Discussion

123 The Small Sites SPD provides guidance on appropriate distances between new development and existing properties to ensure that impacts to amenity are within acceptable levels. Figure 27 of the SPD states that new development should generally not intercept a 25-degree line from the centre of the ground floor windows nor a 43-degree line from a point 1.6m above ground level 10m from the rear elevation.

124 The 25-degree and 43-degree lines have not been modelled by the applicant. However, the rear gardens of the properties on Manor Avenue are approximately 32m in length and the distance from the rear elevations on Upper Brockley Road is approximately 35m. Therefore, exercising planning judgement, Officers consider that the impacts to outlook levels at the surrounding residential properties would be acceptable.

125 Turning to the impact to the existing flats within the application site. The extensions would be built above the level of the majority of the existing flats and would not impede any first-floor windows. The three rooflights being removed to facilitate the development serve a communal corridor, a bathroom and a dual aspect living room for Flat 3. The loss of these rooflights would therefore not be harmful to existing levels of outlook.

126 The appeal decision for previous application DC/21/124306 identified that the extension would have a harmful impact to outlook for Flat 2 due to enclosing the rooflights serving a bedroom. In assessing this impact the inspector reached the following conclusion (Appeal Ref: APP/C5690/W/22/3296443 paras 16 and 17)

“The second bedroom to the property in terms of daylight, sunlight and outlook, is served solely by two flat rooflights that are recessed into the ceiling of the room. The existing side elevation of the first floor of the appeal building sits immediately adjacent to these rooflights. The proposed development would create two storeys either side of these rooflights, wrapping around them.

I accept that the existing outlook from the room is poor, however it nevertheless encompasses a changing sky and would be significantly harmed and worsened by having two storeys either side which would severely curtail the outlook.”

127 As the paragraph above makes clear the inspector attributes the harmful impact to locating the extension adjacent to the two rooflights. The revision to the siting of the proposed extension would set the extension away from the rooflights meaning that the rooflight would continue to receive largely unimpeded sunlight and daylight from east. There would be some impact from the balconies of the extension, particularly the privacy screens, but these would be set back further than the extension as previously proposed

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with considerably less bulk. Accordingly, Officers are satisfied that the reduction to the massing of the extension has successfully overcome the limited scope of harm identified within the appeal decision.

- 128 The reduction to the massing of the extension would not introduce any additional impacts to the ground floor flats above that assessed for the previous application. As such, Officers conclude that the impact to the outlook of the other ground floor flats would be acceptable. This assessment is consistent with the appeal decision.

6.5.2 Privacy

Policy

- 129 DM Policy 32 states that adequate privacy is an essential element in ensuring a high level of residential amenity. Unless it can be demonstrated that privacy can be maintained through design, there should be a minimum of separation distance of 21m between directly facing habitable windows on main rear elevations. This separation distance will be maintained as a general rule but will be applied flexibly dependent on the context of the development.
- 130 The Small Sites SPD guidance revised this figure to 16m and at Figs. 29-31 states that conventional windows serving habitable rooms in new dwellings should be at least 6m from the private garden zone defined as the area of garden 10m from the rear elevation.

Discussion

- 131 The distances between the side elevation windows within the proposed extension and the rear elevation windows and rear garden privacy zones at the adjacent properties on Manor Avenue and Upper Brockley Road would be compliant with the Small Site SPD guidance and therefore the impacts are considered acceptable.

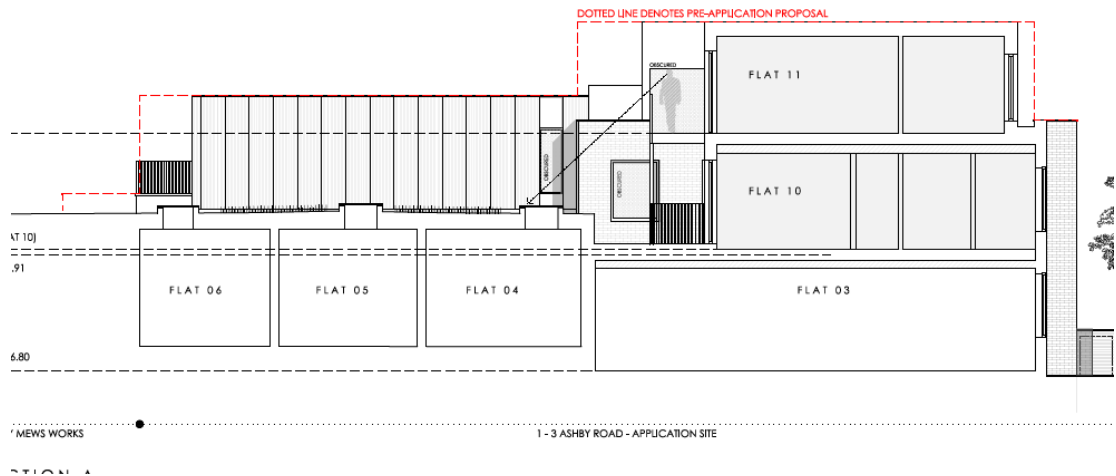
Flats 10 and 11 would feature balconies within close proximity to the rear gardens on Manor Avenue. Screens would be installed to the eastern side of the balconies to prevent views towards the gardens. The balconies would also be screened to the west to prevent overlooking towards adjacent windows at Flat 9. The unusually thick roof coupled with the separation distance would ensure that direct overlooking into the ground floor flats to the rear from the balconies via the rooflights would not be possible, this is illustrated within Figure 3 below.

Figure 3. Section drawing showing views from the Flat 11 Balcony towards the rear

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- 132 The two windows in the eastern side elevation of Flat 9 located adjacent to rooflights would be fitted with opening restrictors to prevent the unlikely scenario of a resident leaning out of the window and being afforded direct overlooking to the flats below. The opening restrictors and balcony screening would be secured by condition. A condition is also recommended preventing the use of the green roof as an amenity terrace.
- 133 The proposed balcony for Flat 9 would feature a 1.8m screen to the rear to ensure that the balcony would not have primary outlook entirely over the neighbouring Unit 1 Ashby Mews, given the potential to limit development on that site. The balcony would retain outlook to the sides, which is considered acceptable given the existing unit does not benefit from any external amenity space. The screen would also limit outlook to the adjacent windows and doors serving the living room. This is not considered harmful as the living room is dual aspect with windows with unconstrained outlook to the west. The provision of the screening would be secured by condition.

6.5.3 Daylight and Sunlight

Policy

- 134 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of sunlight and daylight for its neighbours.
- 135 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards however this is not formal planning guidance and should be applied flexibly according to context.
- 136 The NPPF does not express particular standards for daylight and sunlight. Para 125 (c) states that, where there is an existing or anticipated shortage of land for meeting identified housing need, LPAs should take a flexible approach to policies or guidance relating to daylight and sunlight when considering applications for housing, where they would otherwise inhibit making efficient use of a site.
- 137 The three methods for calculating daylight are as follows: (i) Vertical Sky Component (VSC); (ii) Average Daylight Factor (ADF); and (iii) No Sky Line (NSL).
- 138 The VSC is the amount of skylight received at the centre of a window from an overcast sky. The ADF assesses the distribution of daylight within a room. Whereas VSC assessments are influenced by the size of obstruction, the ADF is more influenced by factors including the size of the window relative to the room area and the transmittance

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of the glazing, with the size of the proposed obstruction being a smaller influence. NSL is a further measure of daylight distribution within a room. This divides those areas that can see direct daylight from those which cannot and helps to indicate how good the distribution of daylight is in a room.

139 The BRE guide target value for VSC is 27%. However, where the values are lower than this in the existing situation, the BRE allows a reduction of 20%, subject to mitigating factors. While any reduction of more than 20% would be noticeable, the significance and therefore the potential harm of the loss of daylight is incremental. The following is a generally accepted measure of significance:

- 0-20% reduction – Negligible
- 21-30% reduction – Minor Significance
- 31-40% reduction – Moderate Significance
- Above 40% reduction – Substantial Significance

140 Sunlight is measured as follows: (i) Annual Probable Sunlight Hours (APSH); and (ii) Area of Permanent Shadow (APS)

141 The APSH relates to sunlight to windows. BRE guidance states that a window facing within 90 degrees due south (windows with other orientations do not need assessment) receives adequate sunlight if it receives 25% of APSH including at least 5% of annual probable hours during the winter months. If the reduction in APSH is greater than 4% and is less than 0.8 times its former value then the impact is likely to be noticeable for the occupants. The APS relates to sunlight to open space: the guidance states that gardens or amenity areas will appear adequately sunlit throughout the year provided at least half of the garden or amenity area receives at least two hours of sunlight on 21st March.

Discussion

142 A Daylight and Sunlight Report (Daylight & Sunlight UK Limited, January 2023) has been submitted with the application. The report provides an assessment of the impact of the proposed development against the relevant BRE standards for the windows and amenity spaces at the following properties

- Royston Court
- 54-58 Manor Avenue
- 69-75 Upper Brockley Road
- 1-3 Ashby Road (Ground Floor)

143 The report concludes that the proposed development would comply with BRE guidelines in terms of the impact to sunlight (where relevant) and daylight levels at windows and overshadowing to amenity spaces for all of the residential accommodation in the surrounding properties.

144 For the residential accommodation located at ground floor level of the host building the report finds that the impact to sunlight (where relevant) and daylight levels would be fully BRE compliant. This differs from the previous scheme where the report found that the NSL (in the Daylight and Sunlight Report, this is referred to as Daylight Distribution (DD)) value for a bedroom within Flat 2 would fall to 49% of the existing level, 31% below the target value of 80%. The harm to light and outlook levels for this room formed the only

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reason for dismissing the appeal for application DC/21/124306 and is summarised at paragraphs 19-21 of appeal decision APP/C5690/W/22/3296443 which are included below:

“For flat 2, or indeed Ashby House generally, no assessment of the VSC has been undertaken. For bedroom 2 of flat 2 the report states that the DD would be reduced to about half and would fail to meet BRE guidelines. The report continues that the bedroom would still be in excess of the Average Daylight Factor (ADF) Assessment, however the report highlights, this is not one of the principal assessments that is required to be undertaken in order to assess daylight to surrounding buildings.

In terms of the resulting impact, the appellant draws comparison with a hotel room in a city centre that looks directly onto another tall building opposite that the room becomes brighter as you move towards the window as more sky is seen. The appellant continues that, the rear of the room is not pitch black just because it cannot see the sky directly, instead it benefits from the reflected (indirect) light. The comparison is, however, quite a different scenario to the appeal proposal, and fundamentally relates to a hotel room as opposed to a habitable room in a dwelling. I therefore give the comparison limited weight in the appeal.

I acknowledge that the Council took a different view in their assessment of the effect of the proposed development on the living conditions of existing occupants. The Council acknowledged the failure to meet the BRE target but considered that the harm would not warrant refusal of the application given that this is the only transgression. I appreciate that this is the only transgression and relates to one habitable room in one dwelling, however I do not consider that this justifies causing the significant harm I have identified as a matter of planning judgement. This is despite the room achieving an ADF that would meet the BRE guidance. My assessment also acknowledges the current visual amenity of the dwelling as a whole as outlined above. This reinforces the significance of ensuring that other habitable rooms in the property in respect of living conditions, are not significantly harmed.”

- 145 The Daylight and Sunlight Report demonstrates that the reduction to the massing of the extension has successfully overcome the harm identified within the appeal decision by ensuring that the NSL/DD value would be compliant with the BRE requirement. The report also provides an assessment for VSC and finds that both rooflights serving the room would fall to approximately half the existing value but that the absolute value for both rooflights would exceed 27% in compliance with the BRE guidelines. As such, Officers are satisfied that the impact to natural light to Flat 2 would be within acceptable levels.
- 146 The objections to the development and comments at the Local Meeting questioned the methodology and conclusions of the report on the basis that the report was not compiled with the benefit of a site visit to the neighbouring properties. Officers have no concerns with the methodology employed for the report and are satisfied that the assessment and assumptions were undertaken in accordance with the industry guidelines and best practice. This includes modelling the impacts based on floor plans and other remote tools rather than on site.

6.5.4 Noise and disturbance

Policy

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- 147 The NPPF at para 170(e) states decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. At para 180(a) of the NPPF states that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life
- 148 The National Planning Policy Guidance for Noise (July 2019) advises on how planning can manage potential noise impacts in new development. It states that local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider whether or not:
- a significant adverse effect is occurring or likely to occur;
 - an adverse effect is occurring or likely to occur; and
 - a good standard of amenity can be achieved.
- 149 LPP D14 states that residential development should avoid significant adverse impacts to quality of life.
- 150 DMP 26 states that the Council will require a Noise and Vibration Assessment for noise and/or vibration generating development or equipment and new noise sensitive development, where appropriate, to identify issues and attenuation measures, prepared by a qualified acoustician

Discussion

- 151 No long-term impacts are likely to arise from the provision of a residential development within a predominately residential area. The objections to the development and questions within the local meeting raised disturbance from construction activity as a significant concern, particularly for residents who work from home. Officers concur that there is potential for disturbance during the construction phase so consider it necessary to impose conditions for a Construction Management Plan and to limit the time of works and deliveries to neighbourly hours. These conditions would not eliminate disturbance during weekdays but would ensure that disturbances are minimised as far as is practical and are therefore considered sufficient given the short-term nature of the noise impacts.
- 152 The Energy and Sustainability Statement (PES, January 2023) submitted with the application details that an Air Source Heat Pump (ASHP) would be installed to deliver the heating and hot water demands of the development. Limited information has been submitted regarding the location of the ASHP or any noise attenuation required to prevent noise from exceeding background noise levels at the nearest residential windows. A condition is recommended to secure this information prior to the equipment being installed.

6.5.5 Impact on neighbours conclusion

- 153 The reduction to the massing of the proposed extension compared to the 2021 scheme is considered sufficient to overcome the harm to Flat 2 identified within the appeal decision. This amendment coupled with the conditions recommended above would therefore ensure that the impacts to the living conditions of the neighbouring properties would be within acceptable levels.

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6.6 SUSTAINABLE DEVELOPMENT

General Policy

- 154 Para. 149 of the NPPF requires Local Planning Authorities to take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies and decisions should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts.
- 155 CS Objective 5 reflect the principles of the NPPF and sets out Lewisham's approach to climate change and adapting to its effects. CSP 7, CSP 8 and DMP 22 support this

6.6.1 Urban Greening

Policy

- 156 LPP G5 expects major development to incorporate measures such as high-quality landscaping (including trees), green roofs and green walls.
- 157 CSP 7 expects urban greening and living roofs as part of tackling and adapting to climate change. DMP 24 requires all new development to take full account of biodiversity and sets standards for living roofs.

Discussion

- 158 The site mainly comprises built form with areas of landscaping restricted to the front garden and a narrow area of planting along the Ashby Mews frontage. A modest area of the planting would be lost to accommodate a bin store. This would be adequately compensated by the installation of a living roof system to the remaining areas of flat roof at first floor level delivering a net increase in urban greening. A condition is therefore recommended securing the provision of the living roof prior to the occupation of the development. It is deemed necessary that this be a prior to commencement condition to ensure the structure's design accommodates the weight of a living roof.

6.6.2 Flood Risk & SuDS

Policy

- 159 NPPF para 159 expects inappropriate development in areas at risk of flooding to be avoided by directing development away from areas at highest risk. Para 163 states development should only be allowed in areas at risk of flooding where mitigation measure can be included.
- 160 LPP SI 12 expects development proposals to ensure that flood risk is minimised and mitigated.
- 161 CSP 10 requires developments to result in a positive reduction in flooding to the Borough.

Discussion

- 162 The application site is not located in a flood risk zone and the scale of development does not require a detailed SuDS scheme. However, the introduction of a green roof would

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likely reduce run-off rates and therefore has the potential to deliver some drainage benefits. This has not been substantiated by a detailed report and therefore does not carry weight as a planning merit.

6.6.3 Sustainable Infrastructure conclusion

163 The proposal is considered acceptable sustainable infrastructure terms subject to the condition recommended securing the provision of the living roof.

6.7 NATURAL ENVIRONMENT

General Policy

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

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

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

6.7.1 Biodiversity & Ecology

Policy

167 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.

168 NPPF para 170 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. NPPF para 175 sets out principles which LPAs should apply when determining applications in respect of biodiversity.

169 LPP G6 expects Sites of Importance for Nature Conservation (SINCs) to be protected. Development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain.

170 CSP 12 seeks to preserve or enhance local biodiversity.

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

Discussion

172 The proposed development includes the provision of a green roof at first floor level to the remaining area of flat roof. The details submitted with the application indicate that this would be sedum system. Sedum roofs do not provide the species richness or quality of planting required to maximise the contribution to biodiversity. Therefore, a pre-

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commencement condition is recommended securing the provision of an extensive biodiverse living roof.

6.7.2 Trees

Policy

- 173 S.197 of the Town and Country Planning Act gives LPAs specific duties in respect of trees.
- 174 NPPF para 131 seeks to retain trees wherever possible while para 170 expects development to contribute to and enhance the natural and local environment.
- 175 LPP G7 expects development proposals to ensure that, wherever possible, existing trees of value are retained. Where it is necessary to remove trees, adequate replacement is expected based on the existing value of the benefits of the trees removed, determined by, for example, i-tree or CAVAT or other appropriate valuation system.
- 176 CSP 12 seeks to protect trees and prevent the loss of trees of amenity value, with replacements where loss does occur.
- 177 DMP 25 sets out the required information for landscaping plans and their management, along with the information required to support development affecting trees. The policy 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

- 178 The application site features mature trees in the front and side landscaped area. No harmful impacts to these trees are anticipated given that the development would not feature any significant building works at ground level and the trees do not project significantly above the existing level of the adjacent roof. A standard condition is recommended to ensure the trees are protected during works.

6.7.3 Air pollution

Policy

- 179 LPP SI1 states that development proposals should seek opportunities to identify and deliver further improvements to air quality and should not reduce air quality benefits that result from the Mayor's or boroughs' activities to improve air quality.
- 180 The Air Quality Neutral LPG provides additional guidance and established the benchmark values for assessing whether a development would achieve air quality neutral.

Discussion

- 181 No Air Quality Assessment has been submitted with the application. However, the information submitted is sufficient to undertake an assessment against the benchmark values for building and transport emissions set by the Air Quality Neutral LPG.

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Regarding building emission the LPG states that minor development will be considered Air Quality Neutral where:

- the new heating system is a heat pump or other zero-emission heat source;
- the new heating system includes one or more individual gas boilers with NOx emissions rated at less than 40 mg/kWh; or
- the development is connecting to an existing heat network

182 In this case the Energy and Sustainability Statement (PES, January 2023) states that the development would utilise an ASHP. Therefore, the development is considered air quality neutral in building emission terms in accordance with the LPG and the provision of the ASHP would be secured by condition.

183 Turning to transport emissions, the LPG states that minor development will be assumed to be Air Quality Neutral where it complies with the maximum parking standards set by LPP T6 and T6.1. No on-site parking is proposed as part of the development and therefore the scheme would comply with the guidance. As such, the development is considered Air Quality Neutral.

6.7.4 Natural Environment conclusion

184 Officers are satisfied that there would not be any adverse impacts to the natural environment.

7 LOCAL FINANCE CONSIDERATIONS

185 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).

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

187 The CIL is therefore a material consideration.

188 £21,760.54 Lewisham CIL and £14,377.50 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

189 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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- 190 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.
- 191 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.
- 192 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>
- 193 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
- 194 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>
- 195 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

196 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

197 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.

198 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.

199 This application has the legitimate aim of providing a extending a building with residential uses. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1: Right to peaceful enjoyment of your property are not considered to be unlawfully interfered with by this proposal.

10 CONCLUSION

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

201 The proposed development is, with the exception of a reduction to the massing of the extension intended to overcome the harm identified by the Inspector, fundamentally the same scheme as the previous application (ref DC/21/124306) which was dismissed at appeal in 2022, on narrow grounds. The appeal was dismissed solely on the grounds that the extension would cause a harmful reduction to light and outlook to Flat 2 on the ground floor of the host property. The aforementioned change has addressed the limited scope of harm to Officer's satisfaction. On all other matters the Inspector found that the development would be acceptable, including its impact on the Brockley Conservation Area. The weight that should be given to the Appeal Decision is summarised at Para 53 above.

202 In housing terms, the site is considered a sustainable location for intensification at the density proposed and the unit mix and quality of the accommodation are supported. Accordingly, the contribution to overall housing supply and small sites housing targets forms a planning merit of the scheme that carries positive weights within the overall planning balance limited by the modest scale of development.

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203 Finally, Officers have identified no further concerns in terms of urban design nor additional impacts to the living conditions of the neighbouring properties. In addition, the impacts to transport, sustainable infrastructure and the natural environment are considered acceptable. As such, the proposed development is recommended for approval subject to conditions.

11 RECOMMENDATION

204 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:

EX.001 Rev A;
EX.100 Rev B;
EX.101 Rev A;
EX.102 Rev A;
EX.103 Rev A;
EX.104 Rev A;
EX.105 Rev A;
EX.106;
EX.107;
EX.108;
PA 001;
PA.100 Rev B;
PA.101 Rev E;
PA.102 Rev E;
PA.103 Rev C;
PA.104 Rev B;
PA.105 Rev B;
PA.106 Rev E;
PA.107 Rev C;
PA.108 Rev B;
PA.109 Rev A;
PA.110 Rev A;
PA.111;
PA.112 Rev E;
PA.113 Rev D;
PA.114
OS.01 Rev A.

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

3. **Construction Management 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) The location and operation of plant and wheel washing facilities
- (c) Details of best practical measures to be employed to mitigate noise and vibration arising out of the construction process
- (d) 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, such vehicle trips to avoid the 30mins before and after Myatt Garden Primary School drop-off and pick-up times.
 - (iii) Measures to deal with safe pedestrian movement.
- (e) Security Management (to minimise risks to unauthorised personnel).
- (f) Measures to ensure no construction activity (including works and deliveries taken at or despatched to the site) shall take place other than between the hours of 8 am and 6pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.
- (g) Details of the training of site operatives to follow the Construction Management Plan requirements

The measures specified in the approved details shall be implemented prior to commencement of development and shall be adhered to during the period of construction.

Reason: In order 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. **Materials & Design Quality**

(a) No above ground works shall commence on site (excluding demolition) until a detailed schedule and specification including manufacturer's literature or detailed drawings including horizontal and vertical cross sections at suitable scales (e.g. 1:5, 1:10 or 1:20 where relevant), in respect of the following:

- (i) brickwork, mortar, bond and pointing (sample panel on site);
- (ii) exterior cladding materials, joins and junctions;

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- (iii) windows and reveals
- (iv) external doors;
- (v) rainwater goods;
- (vi) balconies and balustrades

has been submitted to and approved in writing by the Council.

(b) The works shall then be carried out in full accordance with the approved details prior to the first occupation of the development, and retained thereafter.

Reason: To ensure that the high design quality demonstrated in the plans and submission is delivered so that 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.

5. Refuse & Recycling Facilities

(a) Prior to the first occupation of the development further plans and elevations showing the design and dimensions of the bin store for the approved residential accommodation as shown on drawing PA.001, shall be submitted to and approved in writing by the local planning authority.

(b) The refuse and recycling facilities shall be installed in accordance with the details approved under Part (a) 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 Facilities

(a) Prior to first occupation, full details of the design and specification of the cycle parking store and facilities for 8 long-stay spaces, as shown on approved drawing PA.001, shall be submitted to and approved in writing by the local planning authority.

(b) All cycle parking spaces shall be provided in full accordance with the details approved under part (a) 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).

7. Living Roof

(a) Notwithstanding the specification submitted with the application, prior to the commencement of the development details of an extensive biodiversity living roof system (substrate depth of 80–150mm) to include specification, drawings and maintenance details for the living roof and details of any structural works required, laid

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out in accordance with drawing PA.101 Rev D, shall be submitted to and approved in writing by the local planning authority.

(b) The living roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair or escape in case of emergency.

(c) Evidence that the roof has been installed in accordance with (a) shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved.

Reason: To comply with 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).

8. Tree Protection Plan

Any trees shown to be retained on the drawings hereby approved shall be protected in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction - Recommendations) the entirety of the construction period including demolition and site preparation, such protection to include the use of protective barriers to form a construction exclusion zone, employ suitable 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).

9. Screening

(a) The residential units hereby approved shall not be occupied until full details of the siting and specification of the screening to all of the roof terraces and balconies, to comply with approved drawings PA.101 Rev E and PA.102 Rev E, have been submitted to and approved in writing by the local planning authority.

(b) The privacy screens shall be installed in full accordance with the details approved by part (a) prior to the occupation of any of the residential units and retained for the lifetime of the development.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to protect the privacy of the approved residential accommodation and to comply with DM Policy 32 Housing design, layout and space standards of the Development Management Local

10. Air Source Heat Pumps (ASHP)

(a) No ASHP shall be installed until details of the location, specification and appearance of the ASHP equipment, which shall include details of the equipment's

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noise rating and measures to alleviate visual impact, noise and vibration, have first 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 residential accommodation and shall thereafter be permanently retained and maintained.

Reason: In order to safeguard local air quality and the amenities of the residential occupiers and to minimise the visual impact in compliance with Policies D14 Noise and SI1 Improving Air Quality of the London Plan (March 2021) and Policies 26 Noise and vibration, 30 Urban design and local character and 37 Non-designated heritage assets including locally listed buildings, areas of special local character and assets of archaeological interest of the Development Management Local Plan (November 2014).

11. Window Opening Restrictions

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the windows to be installed in the eastern elevation of the extensions (annotated as fixed on drawings PA.101 Rev E and PA.102 Rev E) hereby approved shall be fixed shut and retained as such in perpetuity.

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

12. Water Efficiency

Mains water consumption shall be compliant with the Optional Requirement set out in Part G of the Building Regulations of 105 litres or less per head per day.

Reason: In order to minimise the use of mains water and to comply with Policy SI5 Water infrastructure of the London Plan (March 2021).

13. Unit Mix

The development hereby approved, shall provide six residential units comprised of 1 one-person studio, 1 one-bedroom two-person, 1 two-bedroom four-person and 1 three-bedroom five-person flats.

Reason: To comply with the unit mix assessed under this application.

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

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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. 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 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

LOCAL MEETING - 1-3 ASHBY ROAD

TUESDAY 6 JUNE 2023

DC/23/130234 - Construction of part single-storey and part two-storey roof extensions to create 3 self-contained flats, together with the conversion of an existing studio to provided additional living accommodation at 1-3 Ashby Road SE4, with associated cycle storage, refuse storage and a new green roof.

Participants:

- *Cllr Ayesha Lahai-Taylor (Chair)*
- *Alfie Williams (Senior Planning Officer)*
- *Ray Musmar (Applicant)*
- *Ellis Heath (Agent)*
- *Jan Donovan (Agent)*
- *Daniel Morris (Architect)*

Notes of the meeting

Chair – Welcomes everybody to the meeting

Alfie Williams (AW) – Provides a brief introduction detailing the purpose and rules of the meeting

Ellis Heath (EH) – Gives a presentation beginning with the history of the site and background to the application. Then provides an overview of the proposed development.

At this stage of the meeting the chair opened the meeting for questions and comments.

Questions and comments (Q) from members of the public and the answers (A) given by the application team and Council Officers are detailed below:

Q: AM – Made a statement relating to the impact of the development to existing leaseholders and the lack of transparency from the owners when purchasing the flats. Also emphasised the stressful impact and financial expense of this process. Asked question relating to the disruption from the construction phase.

A: Jan Donovan (JD) – noted that the leaseholders concerns are civil matters and stated that the applicant would accept a condition for a Construction Management Plan (CMP).

A: Ray Musmar (RM) – added that the majority of the build would be off-site to minimise disruption with works on-site restricted to the internal fit out.

Q: SO – Agreed with the Appeal Decision that the impact to light in Flat 2 is a key consideration particularly the impact to the bedroom. Stated that the reduction to the scale of the extension is negligible and asked whether the modelling in the Daylight and Sunlight Report had taken into account the design of the skylight and relationship with the room.

A: EH – answered that the amendments to the design of the extension have been influenced by the light consultant in an effort to reduce the impact.

Q: SO – commented that the modelling has not been undertaken with benefit of a site visit to the flats.

A: JD – stated that the assumptions in the report take into account the design of the room, depth of the skylight.

Q: DD – offered to share internal photographs.

A: JD - advised that the photos can be shared via email and that the application team will prepare a note providing additional details of the impact to Flat 2.

A: AW - agreed that a note would be appropriate and can be published on the website.

Q: DC – Stated that leaseholders were advised that it would not be possible to extend at roof level when purchasing the flat then went onto note that bugs entering the rooflights are an issue in summer and raised concern that this would be made worse by the living roof. Also questioned whether the roof can accommodate the structural impact of the additional weight following advice from a structural surveyor.

A: JD – answered that the conversion of the building was undertaken utilising permitted development rights which would not allow upward extension. Also emphasised that planning policy supports sustainable development and urban greening. Ended by noting that construction and structural matters will be finalised post planning.

A: DM – stated that the living roof is intended to be a lightweight system in order to minimise the structural impact.

A: JD – added that the final details of the living roof system would be secured by a condition.

Q: DC – asked again about bugs entering through the rooflight.

A: JD – stated that they could investigate types of systems that would minimise this impact.

Q: MF – raised a concern with overlooking from the proposed balcony for Flat 9 due to its proximity to an adjoining commercial building and impact to future development that might come forward on that site.

A: AW – confirmed that the impact to neighbouring sites is a material consideration and would be addressed in Officers assessment of the development.

Q: SC – questioned why no site visit has been undertaken at any of the adjoining properties on Manor Avenue and raised concerns with the impact to the Victorian roofline within the Conservation Area and the loss of light to a neighbouring art studio.

A: AW – confirmed that a site visit has been undertaken which included entry to the application site and an assessment from external viewpoints within the vicinity of the site.

A: EH – stated that the appeal decision concluded that the extension would be compatible with the special character of the Conservation Area. Confirmed that the impact to the art studio has been assessed and that no significant impact is anticipated.

Q: SC – asked whether the application team have been inside the studio

A: EH – answered that they had not but were able to obtain details of the design and layout.

Q: GB – stated that a number of residents work from home and expressed concern with the potential disruption from noise and dust.

A: JD – answered that the finalised CMP will address matters such as dust and noise suppression and highlighted that no demolition is proposed, and that construction will mainly be off-site. Also accepted that there would be some impact but would be minimised as far as possible. Confirmed that the applicant intends to engage with residents throughout the construction process.

Q: JJ – questioned whether the harm identified in the appeal decision has been addressed and expressed concern that the CMP submitted with the application has little regard to residents. Also objected to holding the meeting online as it is not democratic.

A: EH – stated that the CMP submitted with the application is a draft version and that a full version would be secured by condition.

A: AW – agreed to feedback residents' preference for in-person meetings to senior colleagues.

Q: DD - highlighted that Flat 10 has been reduced in size due to the reduced size of the extension so would be below the policy requirement for a two-person dwelling.

A: JD – answered that the intention is that the flat would be a single-person studio

Q: DD - stated that this is not reflected on the plans as it shows a double bed.

Q: JM – expressed concern with how the residents have been treated and stated that the Council should consider getting legal advice. Also asked whether the cycle store would be located within the application site?

A: JD – confirmed that the cycle store would be within the site boundary as shown on the red outline on the site plan.

Q: JM – stated that the gates at the entrance to this stretch of Ashby Mews would endanger cyclist and pedestrian safety due to the location of the store.

A: JD – stated that this is management issue that can addressed post planning.

Chair – asked for clarification of where the cycles would be located.

A: EH: answered that the store would be located on the side elevation within the Mews

Q: MS: stated that the gates cannot be locked as there is a right of way.

Q: JM – disagreed and stated that they can be locked.

Q: KF – asked whether the applicant can guarantee that the development would be completed on schedule to minimise disruption.

A: JD – stated that it cannot be guaranteed as could be subject by matters not in the applicant's control.

Q: KF – stated that prolonged disruption would not be acceptable.

Q: MS – asked for an indication of when a decision would be issued

A: AW – answered that it is too early to say at this stage as Officers would need to reflect on the outcome of this meeting but assured residents that they would be invited to committee if there is a recommendation to approve.

Q: VM & PM – questioned the accuracy of the drawings and noted that there is no footpath access to the cycle store due to gates.

A: JD – confirmed that the applicant would investigate whether the location of the cycle store is practical.

Q: S – asked for confirmation that the impact to Royston Court had been modelled correctly as the building is comprised of flats and is not one dwelling.

A: JD – answered that the assessment has been carried out on individual windows and rooms but would check with the consultant that the modelling reflects the layouts. However, does not anticipate any errors.

Q: NJ: raised concerns with construction phase and the proposed loss of external space for bin stores. Added that there are potential impacts to the safety of children and considerable disruption to people who exclusively work from home.

A: JD – highlighted previous answers on the construction impact and reiterated the applicant's commitment to work with residents. Accepted that there would be a loss of external space but noted that there is policy requirement to increase housing delivery.

Q: JM – expressed concern that the impact to long views across the mews have been ignored and questioned whether the site plan is accurate.

A: JD – agreed to check the red line boundary but understand that it is correct.

A: AW – confirmed that the impact on key views is a material consideration and will be considered.

A: JD – stated that the Heritage Statement includes an assessment of the impact to key views.

The chair brings to meeting to a close at this stage and thanked everyone for taking the time to attend

End

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Appendix 2



Appeal Decision

Site visit made on 28 October 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Appeal Ref: APP/C5690/W/22/3296443

1-3 Ashby House, Ashby Road, London SE4 1PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ashby Road Properties Ltd against the decision of London Borough of Lewisham.
 - The application Ref DC/21/124306, dated 11 November 2021, was refused by notice dated 7 March 2022.
 - The development proposed is the erection of a part single-storey and part two-storey roof extensions to create 3 x new residential homes, and the conversion of an existing studio to create a 3-bed unit, associated cycle and waste storage, and a new green roof.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are 1) whether or not the proposed development preserves or enhances the character and appearance of the Brockley Conservation Area (BCA), and 2) the effect of the proposed development on the living conditions of existing occupants of the appeal building with specific regard to outlook and light.

Reasons

Character and appearance of the BCA

3. The appeal property is a former office building that has been converted to residential properties. It is set back from the footpath edge and is part single storey and part two storey. It is situated at the junction of Ashby Mews and Ashby Road where in the immediate setting is a variety of building sizes and styles. Ashby Mews, that runs to the rear of the building, is a small-scale commercial/industrial area with workshops and studios in utilitarian buildings, some of which appear to be converted to residential properties.
4. The appeal building also lies between Manor Avenue and Upper Brockley Road. These streets comprise grand three storey terraced properties with long rear gardens. The site sits opposite Royston Court that is a two-storey residential building with roof level accommodation.
5. The appeal site lies within the Brockley Conservation Area (BCA) which is characterised as forming a large Victorian suburb that contains several grand terraces of residential properties with decorative architectural features, set amongst a series of mews that run behind some of the terraces.

6. The proposed development comprises a part single, part two storey roof extension to the existing building. The proposed first floor extension at the front of the building would replicate the design of the existing building in terms of materials, fenestration and detailing. This part of the extension would appear as an infill to the existing building, be no higher than the existing building and although it would increase its overall bulk, I do not find that it would cause harm to the character and appearance of the BCA.
7. The remainder of the extension comprises two distinct forms that adopt similar design approaches utilising profiled zinc cladding. This approach, that includes sloping roofs would depart from that of the host building but would draw cues from the grey windows and surrounds in the host building and the form of the workshop buildings on Ashby Mews. The zinc clad roof extension would, for the most part, be set in from the edges of the building with the result being that it would be legible in its own right and would further warrant departing from the design of the host building.
8. On the Ashby Mews elevation, the roof extension would step down as the building progresses into the mews. The plans show that the extension would be lower than the Royston Court development opposite the site and the descent of the resulting building into the mews would sit comfortably with the buildings in the mews whilst drawing on some of the design features of the mews buildings in terms of materials, colours and form.
9. On the Ashby Road elevation the roof extension creates the most perceptible change to the appearance of the building in relation to its surroundings due to the increase in scale and mass. It would however be seen in the context of the three storey terraces of Manor Avenue and Upper Brockley Road, and opposite Royston Court that has accommodation over three levels.
10. I find that the design approach in this case, whereby a distinct separation from the main body of the host building is proposed, would relieve any potential dominance of the building. This is combined with the set-back from the edge of the building on the Ashby Road elevation, would create an extension that would appear as a softer roof addition as opposed to a potentially more overbearing upward continuation of the existing building in terms of design and siting. The overall scale would remain subservient in the context of the terraced properties either side and would not be out of character within the area as a whole. When combined with the separation from the terraces, I do not consider that the resulting building would visually compete with them.
11. It follows that I do not consider that there would be harm to any of the non-designated heritage assets in the BCA, including Ashby Mews to the rear of the site. Open views to the rear of properties on Manor Avenue and Upper Brockley Road and across their gardens would remain appreciable following the development.
12. I therefore find that the proposed development would not cause harm, and would thereby preserve, the character and appearance of the BCA. It would comply with Policies 15 and 16 of the Lewisham Core Strategy (2011), DM Policies 30, 31, 33 and 36 of the Lewisham Development Management Local Plan (2014) and Policy HC1 of The London Plan (2021). These policies require, amongst other things, that developments conserve the Borough's heritage assets, new development or alterations and extensions to existing buildings are compatible with the special characteristics of the area, its buildings, spaces,

settings and plot coverage, scale, form and materials, and be of high-quality design.

13. The proposed development would also comply with the requirement of the National Planning Policy Framework (2021) (the Framework) that development is of high-quality design, and that heritage assets are conserved in a manner appropriate to their significance, and that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Living conditions – existing occupants

14. In addition to the residential properties in the surrounding area, the appeal building itself comprises a number of residential properties.
15. Representations have referred to, amongst other things, the impact on daylight, sunlight and outlook of Flat 2 which is a two-bedroom ground floor flat. This property has habitable room windows which overlook Ashby Mews. These are for a kitchen/living/dining room and a bedroom. It is not disputed that levels of daylight, sunlight and outlook to these rooms are not unacceptably harmed by the proposed development. Whilst I have no reason to form a different view, I observed on my site visit that a combination of their orientation, their close proximity to buildings on Ashby Mews, with landscaping directly in front of these windows, there is likely to be less than ideal levels of outlook or particularly high levels of daylight and sunlight for the property as a whole.
16. The second bedroom to the property in terms of daylight, sunlight and outlook, is served solely by two flat rooflights that are recessed into the ceiling of the room. The existing side elevation of the first floor of the appeal building sits immediately adjacent to these rooflights. The proposed development would create two storeys either side of these rooflights, wrapping around them.
17. I accept that the existing outlook from the room is poor, however it nevertheless encompasses a changing sky and would be significantly harmed and worsened by having two storeys either side which would severely curtail the outlook.
18. In considering the impact on levels of daylight and sunlight, the appellant has submitted a Daylight and Sunlight Report¹. The report states that the two principal assessments that are required to be undertaken in order to assess daylight to existing surrounding buildings are the Vertical Sky Component (VSC) Assessment and the Daylight Distribution (DD) Assessment.
19. For flat 2, or indeed Ashby House generally, no assessment of the VSC has been undertaken. For bedroom 2 of flat 2 the report states that the DD would be reduced to about half and would fail to meet BRE guidelines. The report continues that the bedroom would still be in excess of the Average Daylight Factor (ADF) Assessment, however the report highlights, this is not one of the principal assessments that is required to be undertaken in order to assess daylight to surrounding buildings.
20. In terms of the resulting impact, the appellant draws comparison with a hotel room in a city centre that looks directly onto another tall building opposite,

¹ Daylight and Sunlight (UK) Limited – 17 November 2021 – Ref 1824/JN

saying that the room becomes brighter as you move towards the window as more sky is seen. The appellant continues that, the rear of the room is not pitch black just because it cannot see the sky directly, instead it benefits from the reflected (indirect) light. The comparison is, however, quite a different scenario to the appeal proposal, and fundamentally relates to a hotel room as opposed to a habitable room in a dwelling. I therefore give the comparison limited weight in the appeal.

21. I acknowledge that the Council took a different view in their assessment of the effect of the proposed development on the living conditions of existing occupants. The Council acknowledged the failure to meet the BRE target but considered that the harm would not warrant refusal of the application given that this is the only transgression. I appreciate that this is the only transgression and relates to one habitable room in one dwelling, however I do not consider that this justifies causing the significant harm I have identified as a matter of planning judgement. This is despite the room achieving an ADF that would meet the BRE guidance. My assessment also acknowledges the current visual amenity of the dwelling as a whole as outlined above. This reinforces the significance of ensuring that other habitable rooms in the property in respect of living conditions, are not significantly harmed.
22. Based on the evidence before me, I therefore find that the proposed development would cause significant harm to the living conditions of occupants of flat 2 in terms of outlook and light. It would therefore be contrary to Policy 15 of the Lewisham Core Strategy (2011), DM Policies 31 and 32 of the Lewisham Development Management Local Plan (2014) and Policies D3 and D6 of The London Plan (2021). These policies require, amongst other things, that developments including extensions; have no significant loss of amenity (including sunlight and daylight) to adjoining houses, provide a satisfactory level of outlook and natural lighting for neighbours, deliver appropriate outlook and amenity, and provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context, whilst avoiding overshadowing.
23. The proposed development would also be contrary to the requirement of the Framework that developments create places with a high standard of amenity for existing and future users.

Other Matters

24. I acknowledge that the appellant has undertaken pre-application discussions with the Council and taken on board comments that were made. Such an approach is commendable and promoted by the Framework, however any contradiction between the Council's informal views prior to determination, and its final decision, is not a reason to allow the appeal.
25. Similarly, the appellants undertaking of consultation with existing residents and interest groups is admirable, although it has neutral weight in the planning balance.

Planning Balance and Conclusion

26. The Government's objective as set out in the Framework is to support sustainable housing growth. The proposed development would result in a small increase in the Council's overall housing number, including a family sized unit, and would be in a sustainable location. It would use the airspace above an

existing residential premises and bring a number of additional residents to the area who would contribute to the local economy. Collectively, I give these matters moderate weight in favour of the proposed development.

27. However, the significant harm that I have identified the proposed development would have on the living conditions of the existing occupants of the appeal building attracts significant weight that outweighs the benefits associated with the proposed development. Furthermore, I am not presented with any substantial evidence that the scheme before me is the sole means of achieving the benefits referred to above.
28. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
29. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR



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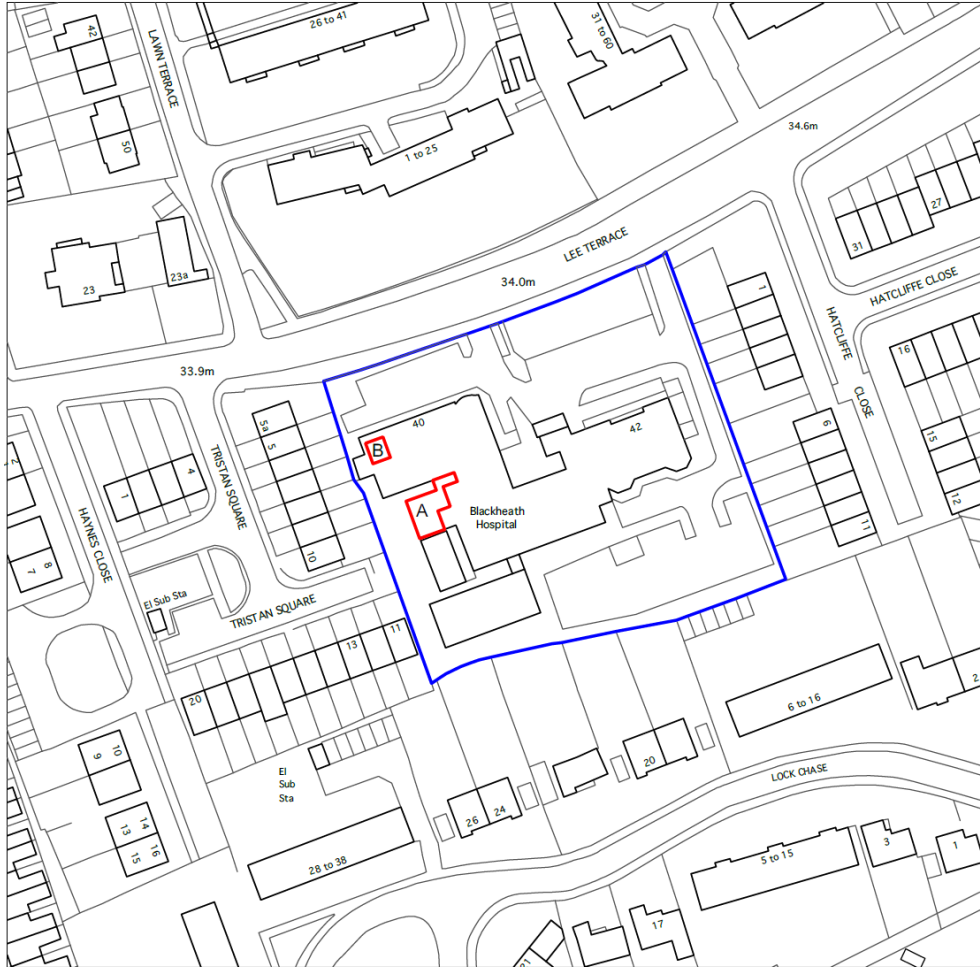
Lewisham

BLACKHEATH HOSPITAL, 40-42 LEE TERRACE, LONDON, SE3 9UD

Application No. DC/22/128708

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

Application submitted under Section 73A of the Town & Country Planning Act 1990 (as amended) for a variation of condition to planning permission DC/21/123944 dated 27 April 2022 to vary the wording of Condition 2 (approved plans) in order to cover alterations to the size of some of the equipment on the rear flat roof, install 3m high visual screening and provide a steel walkway on the rear flat roof to provide maintenance access to the equipment at Blackheath Hospital, 40-42 Lee Terrace SE3.

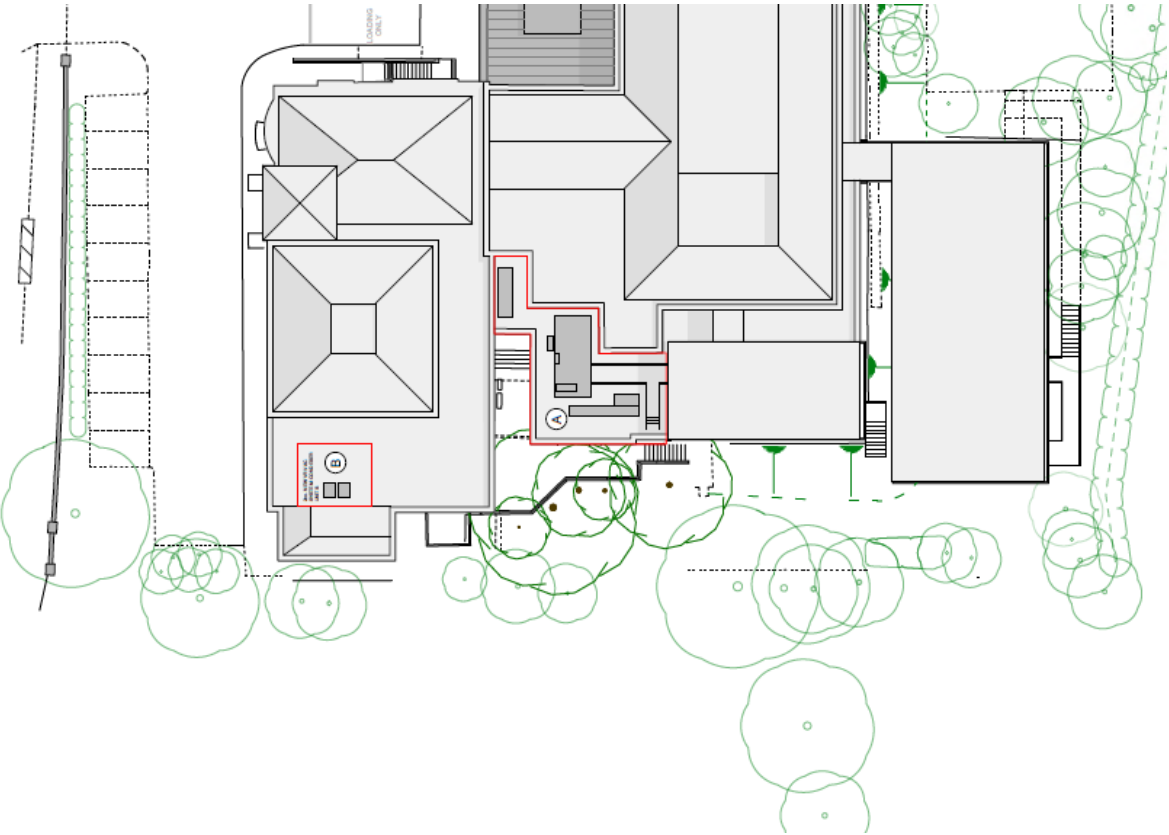


Site Location Plan

Existing Aerial View

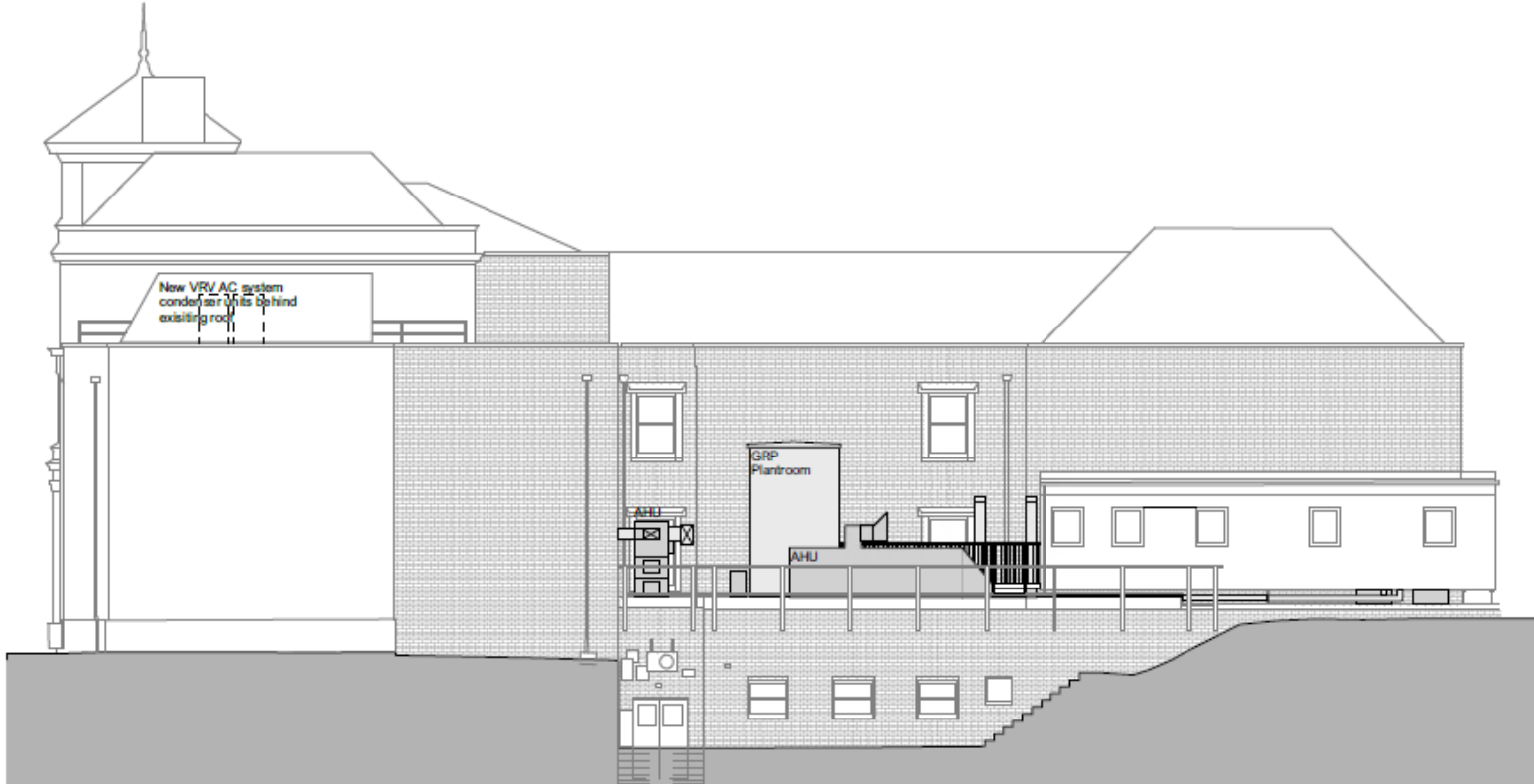


Proposed Site Plan



Proposed West Elevation

Page 420



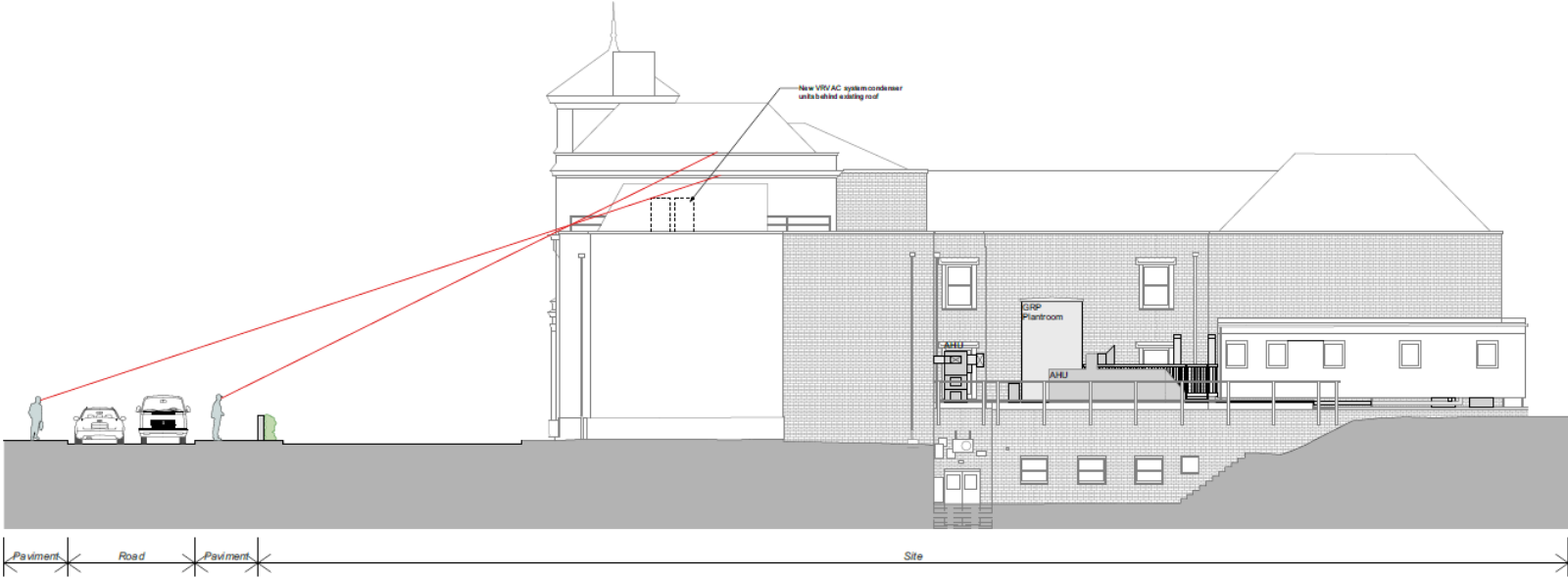
Proposed Screening

Page 421



Proposed West Elevation (Extent Of Visibility)

Page 422

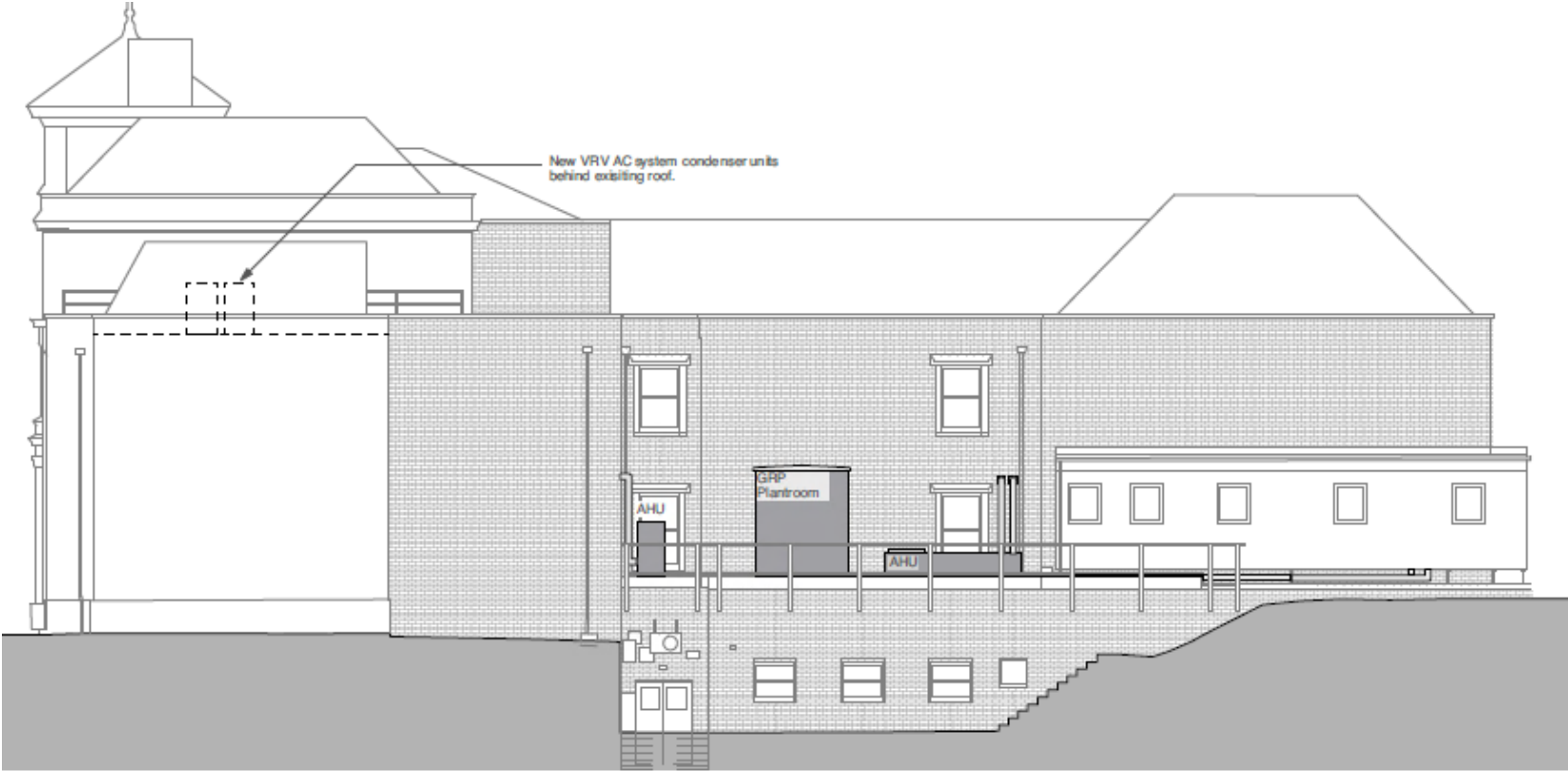


Key planning consideration

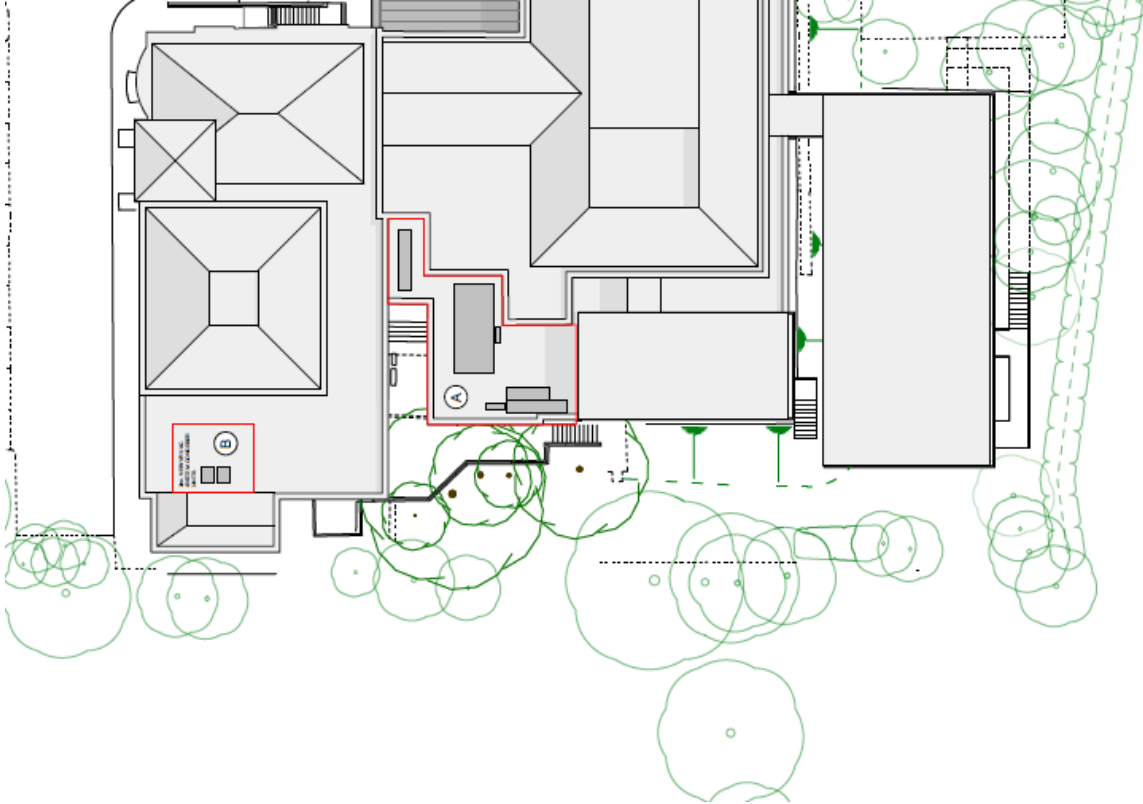
- Urban Design and Impact on Heritage Assets
- Impact on living conditions of neighbours
- Other matters

Previously Approved Elevation

Page 424



Previously Approved Site Plan



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Planning Committee A

Report title:

**BLACKHEATH HOSPITAL, 40-42 LEE TERRACE, LONDON, SE3
9UD**

Date: 18 July 2023

Key decision: No.

Class: Part 1

Ward(s) affected: Blackheath

Contributors: Thomas Simnett

Outline and recommendations

This report sets out the Officer's recommendation of approval for the above proposal subject to the conditions and informatives.

This report has been brought before Committee for a decision due to the submission of five letters of objection from the neighbouring residents.

Application details

Application reference number(s): DC/22/128708

Application Date: 06 October 2022

Applicant: Walsingham Planning submitted on behalf of Circle Health Group

Proposal: Application submitted under Section 73A of the Town & Country Planning Act 1990 (as amended) for a variation of condition to planning permission DC/21/123944 dated 27 April 2022 to vary the wording of Condition 2 (approved plans) in order to cover alterations to the size of some of the equipment on the rear flat roof, install a 3m high visual screen and provide a steel walkway on the rear flat roof to provide maintenance access to the equipment at Blackheath Hospital, 40-42 Lee Terrace SE3.

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

Designation: PTAL 4
Local Open Space Deficiency
Air Quality
Blackheath Conservation Area
Locally List Building
B Road

Screening: Not applicable

1 SITE AND CONTEXT

Site description and current use

- 1 The application site is located on the southern side of Lee Terrace between the residential streets of Hatcliffe Close and Tristan Square. Adjoining the rear of the property are two-storey semi-detached and detached residential dwellings fronting Lock Chase.
- 2 The application property is the BMI Blackheath Hospital which is formed of Nos. 40 and 42 Lee Terrace, No. 40 Lee Terrace is to the west and No. 42 Lee Terrace is to the east. No 42 features a grey brick (now painted) façade with stucco dressings while No 40 has a wholly stuccoed finish with tower.
- 3 The two buildings merged around 1983 when a new link building was built between to allow the site to be used as a single hospital, No. 40 Lee Terrace was also extensively rebuilt and extended at this time.

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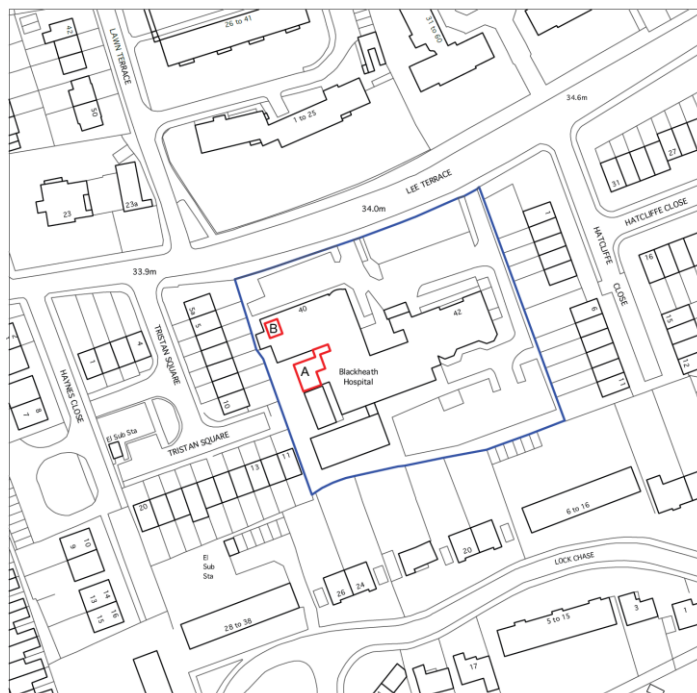


Figure 1 – Site location plan

Character of area

- 4 The hospital is bounded by residential development with Hatcliffe Close adjoining the site to the east, Tristan Square to the west and Lock Chase to the south.

Heritage/archaeology

- 5 The application site is located within the Blackheath Conservation Area and contains two locally listed buildings, which form the principal elevation of the Hospital to Lee Terrace.
- 6 The Local List Descriptions are as follows:

No 40 Lee Terrace

Villa. Detached. 1868. Stucco, stone and slate. Central/principal section built to three storeys with basement and tower. Four bays. Corniced string at second floor level. Slightly projecting quoined entrance bay to left. Flat-arched entrance flanked by Tuscan columns and surmounted by round-arch window with splayed moulded reveal and keystone. This surmounted by cambered-arch window with keystone and decorative stone balustrade; this supported by large enriched brackets. Above parapet, terminates in tower with pyramidal roof, finial and deep projecting eaves with paired brackets. One round-arch window flanked by two blind round-arch windows. To right, low pitched roof surmounted by decorative iron balustrade. To left, bowed section of three bays with half-blind six-pane sashes surmounted by stone balustrade parapet. Corniced string at first floor level. To right, two storey, two bay extension under plain parapet with further, recessed extension of one bay. With no. 42, now part of Blackheath Hospital.

No 42 Lee Terrace

Villa. Detached. 1870. Latterly painted brick and slate with stone and stucco Blackheath Conservation Area dressings. Two storeys with attics. Symmetrical façade. Three bays flanked by two projecting bays. Pitched roof to central section, pyramidal roof with highly

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decorative oculus dormers to projecting bays. Deep bracketed eaves. Central bays have replaced casements with at first floor, fine iron balconets over corniced string. Ground floor windows are flat arched with central flower motif and spaced by archlevel nail-head strings. To projecting bays, three-light sash windows to ground floor separated by plain columns and flanked by plain pilasters. Columns and pilasters surmounted by variation on composite capitals. To first floor, three light sashes similarly divided but surmounted by plain frieze with central cherub motif enriched by foliage. This in turn surmounted by flat cornice with central camber. Original bricks dark grey. Although now painted, original effect of contrasting brick and stucco still clear. With no. 40, now part of Blackheath Hospital.

Local environment

7 The site falls within Air Quality Management Area.

Transport

8 The site has a Public Transport Accessibility Level (PTAL) score of 4 on a scale of 1-6b, 1 being lowest and 6b the highest.

9 Blackheath Railway Station is located approximately 0.2 miles to the north-east of the application site.

2 RELEVANT PLANNING HISTORY

10 There have been fifteen applications on this site historically, the most relevant application is:

11 **DC/21/123944:** The installation of a rooftop plant and all associated works at Blackheath Hospital 40-42 Lee Terrace SE3. **Granted**

- There has also been a number of approval of details applications relating to discharge of planning conditions to the above application (DC/21/123944). Those are not relevant planning history and so not listed here.

12 **DC/21/124085:** Certificate of Lawfulness (proposed) pursuant to The Town and Country Planning (General Permitted Development) Order 2015 (as amended), Schedule 2, Part 7, Class M for the construction of a single-storey entrance lobby extension at the front of Blackheath Hospital, 40-42 Lee Terrace SE3. **Granted**

13 **DC/21/122611:** Construction of a single storey glazed entrance lobby extension at the front of Blackheath Hospital 40-42 Lee Terrace SE3, together with roof top plant equipment and 2 Air Conditioning condenser units on the side elevations. **Refused – reasons for refusal:**

- 1) The proposed single storey extension to the front, by reason of its scale, design and materials would be an incongruous and architecturally inappropriate addition that would result in substantial harm to the character and appearance of the host locally listed buildings and surrounding Blackheath Conservation Area contrary to NPPF (2021) Paragraph 202, Policy HC1 Heritage conservation and growth of the London Plan (March 2021); Policy 15 High quality design for Lewisham and Policy 16 Conservation areas, heritage assets and the historic environment of the Core

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Strategy (June 2011), DM Policies 30 Urban design and local character, 31 Alterations and extensions to existing buildings including residential extensions; 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens; DM Policy 37 Non designated heritage assets including locally listed buildings, areas of special local character and areas of archaeological interest and the Blackheath Conservation Area Appraisal and SPD

- 2) By virtue of insufficient details and mitigation measures on proposed equipment (external plant, air handling equipment and air condition condenser units) the proposal fails to demonstrate that there would be no adverse impact on surrounding properties in terms of increased noise contrary to Paragraph 130 of NPPF (2021), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Policy 26 Noise and Vibration and 31 Alterations and extensions to existing buildings including residential extensions of the Development Management Local Plan (November 2014).

- 14 **DC/16/099401** – Application submitted under Section 73 of the Town and Country Planning Act 1990 for to allow the variation of Condition (1) of the planning permission DC/03/54427 dated 23 September 2003 for the construction of a single storey modular building linked to the rear of Blackheath Hospital, 40-42 Lee Terrace SE3 to provide additional clinical facilities for a temporary period, as amended by the minor material amendment under Section 73 (DC/15/92524) granted on 27th October 2015, **in order to allow the retention of the temporary building for a further year. Granted.**
- 15 **DC/15/094861** – Demolition of two existing buildings, serving as the Endoscopy Department and ancillary office space, located in the south-western corner of Blackheath Hospital, 40-42 Lee Terrace SE3, together with the construction of a part single part two-storey extension to the south-western corner of the main building for use as an Endoscopy Department and an Intensive Treatment Unit (ITU) in connection with the existing hospital use (Class C2) with ancillary plant room, new roof plant and landscaping works, including replacement trees and the provision of covered bicycle store at the far south-eastern side of the site. **Granted.**
- 16 **DC/09/070870/X** – The re-siting of the existing CT Scanner condensing unit at 40-42 Lee Terrace SE3, together with the formation of a box enclosure to the MRI chiller unit. **Granted**
- 17 **DC/05/061356/FT** – The retention of the existing air conditioning plant and the cladding of the existing enclosure at The Blackheath Hospital, 40-42 Lee Terrace SE3, together with the removal of the existing quench pipe and installation of a new quench pipe to the roof of the bay at the side of building. **Granted**

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 18 This application is submitted under Section 73A of the Town & Country Planning Act 1990 (as amended) for a variation of condition amendment to planning permission DC/21/123944 dated 27 April 2022 to vary the wording of Condition 2 (Approved Plans) in order to cover alterations to the size of some of the equipment on the rear flat roof,

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install 3m high visual screening and provide a steel walkway on the rear flat roof to provide maintenance access to the equipment. Since the works have now been completed it is necessary to amend the wording of or delete entirely other conditions to ensure they continue to meet the Six Tests as set out in the NPPF. See sub-section 7.3 for more detail. .

3.2 COMPARISON WITH PREVIOUS SCHEME

19 The plans submitted with the previously approved scheme showed significantly smaller rooftop equipment (see Figure 2) compared with that the applicant is seeking permission for as part of this application (see Figure 3).

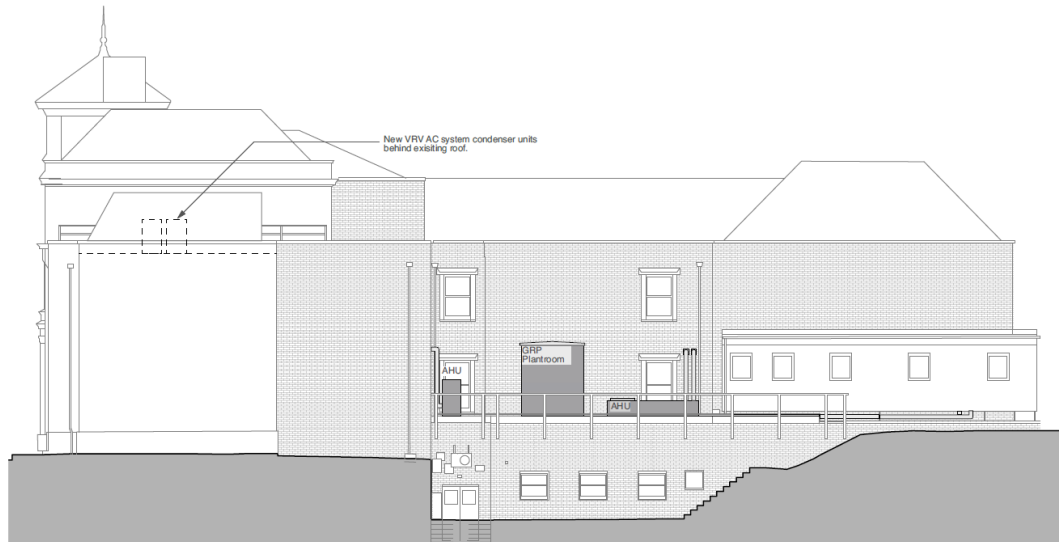
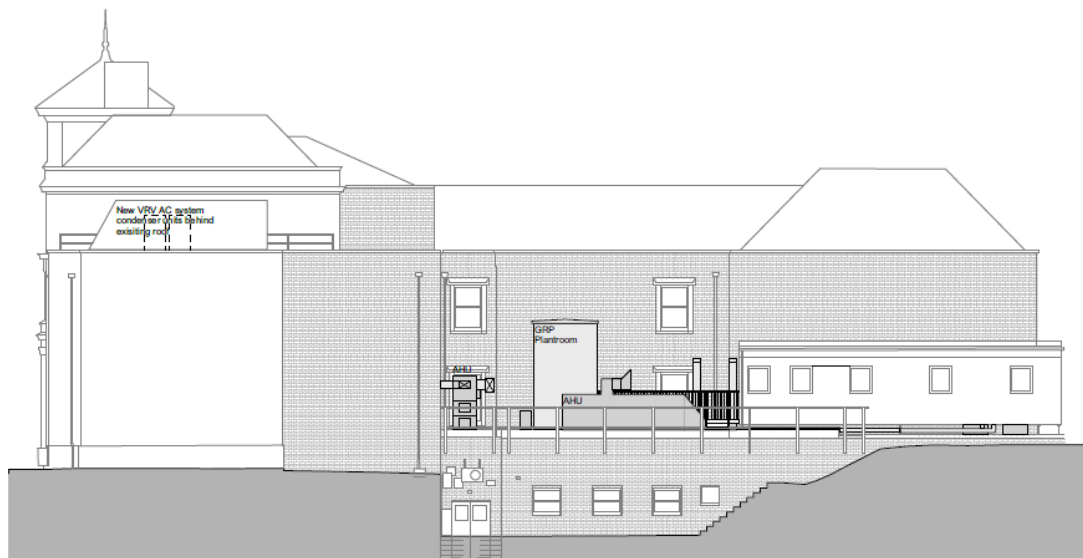


Figure 2 – previously approved rooftop equipment (DC/21/123944)



Proposed West Elevation

Figure 3 – proposed west elevation without screening

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Proposed West Elevation With Plant Screening

Figure 4 – proposed west elevation without screening

20 Officers have been advised by the applicant that incorrect plans were submitted with the previous application. While the equipment proposed had been tested in the Noise Impact Assessment, the size of that equipment was not correctly reflected in the plans. As such the applicant is seeking to amend the wording of Condition 2 (Approved Plans) to replace the incorrect plans with the correct version that accurately shows the size of the equipment. Subsequently, visual screening has been installed which also requires planning permission and this is included in the application. The noise qualities of the equipment was fully assessed in the previous application, and remain unchanged.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

21 There was no pre-application engagement conducted by the applicant.

4.2 APPLICATION PUBLICITY

22 Site notices were displayed on 03 May 2023 and a press notice was published on 03 May 2023.

23 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 25 April 2023.

24 Five representations were received, comprising of five objections.

4.2.1 *Summary of themes of individual objections*

Comment	Para where addressed
Concern regarding visual impact	Paras 52 to 55

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4.3 INTERNAL CONSULTATION

- 25 The following internal consultees were notified on 04 November 2022.
- 26 Environmental Health: satisfied the submitted noise impact assessment addresses the previous planning condition
- 27 Conservation: did not provide comments as this case falls below the current threshold for conservation input due to its scale of development and potential impact on the conservation area. The heritage matters were considered by the case officer with reference to Policy and Guidance.

5 POLICY CONTEXT

5.1 LEGISLATION

- 28 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).
- 29 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990: imposes a duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Likewise, section 72 of the same imposes a duty to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area.

5.2 MATERIAL CONSIDERATIONS

- 30 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.
- 31 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.
- 32 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

33 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

34 London Plan SPG/SPD:

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

5.6 OTHER MATERIAL DOCUMENTS

- Blackheath Conservation Area Character Appraisal

6 APPLICATION TYPE AND SCOPE OF APPLICATION

35 The application has been made under Section 73A(2)(c) of the Town and Country Planning Act 1990 to retrospectively develop land without compliance with conditions previously attached. The conditions proposed to be altered are 2 (Approved Plans) and deletion of Condition 6 (Considerate Constructors Scheme).

36 Section 73A of the Town and Country Planning Act 1990 provides for retrospective applications for planning permission that has already been carried out. They may be for development without planning permission, or, as here, for development which did not comply with a condition.

37 Case law establishes that there is scope for wider or narrower examination of the planning merits depending on the nature and stage of the development and the circumstances of the application. Here, for the reasons given below, the application essentially seeks only to change the size of the rooftop equipment (Condition 2), with the noise elements having been previously assessed in the previous application. As such, the Committee's inquiry is focused principally on the size of the rooftop equipment, as the principle of the development has in other respects been approved in the original permission (and officers are satisfied there has been no material change in the underlying planning framework since then).

38 If granted the legal effect of an application made under Section 73A is to generate a new planning permission with the amended conditions then placed on the application. Since the works are complete, it is necessary for the Council to make appropriate amendments to other conditions. See sub—section 7.3 for more detail.

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7 PLANNING CONSIDERATIONS

39 The main issues are:

- Urban Design and Impact on Heritage Assets
- Impact on Living Conditions of Neighbours
- Other Matters

7.1 URBAN DESIGN AND IMPACT ON HERITAGE ASSET

General Policy

40 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.

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

42 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires an LPA to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

43 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to, amongst other things, designated heritage assets. As far as relevant to the present application, that requires an LPA to place great weight on any harm to a designated heritage asset (which includes a conservation area). 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, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be given great weight, and be weighed against the public benefits of the proposal

Policy

44 London Plan Policy D3 states that development proposals should respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character. It should also 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.

45 Core Strategy Policy 15 High quality design for Lewisham repeats the necessity to achieve high quality design but also confirms a requirement for new developments to minimise crime and the fear of crime.

46 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.

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- 47 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, Lewisham Core Strategy and Lewisham DMLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design. DM Policy 33 seek to protect and enhance the Borough's character and street frontages through appropriate and high-quality design.
- 48 DMP 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.
- 49 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.
- 50 DMP 37 sets out a framework for the protection of the borough's non-designated heritage assets.

Discussion

- 51 There are no amendments proposed to the already approved plant equipment at roof level of Area B, as such this assessment will only consider the amended plant equipment on Area A and visual screening that has been installed since the installation of the equipment. The assessment of the amended design relates only to whether the increased size of the plant equipment and screening would as a result be more visible and therefore have an impact on the character and appearance of the building and the conservation area.
- 52 Some neighbours had raised concerns with the increased visual impact of the amended plant equipment from those properties along Tristan Square; consequently, a site visit was undertaken to understand the relationship of the plant equipment and those properties. The increased visual impact has no discernible impact to the street scene or to the wider conservation area. After discussing the neighbour concerns with the applicant, they had proposed to include screening. The screening is shown on figure 4, above, and on drawing 201048-3013 Rev C1 (and in plan on drawing 201048-1210 Rev C1). It is located on the elevated access to the Area A plant, is 3m high and described as "woodside artificial maple leaf garden fence screening".
- 53 Officers consider the screening, while not necessary in planning terms, further helps to reduce the visual impact of the amended plant equipment. It is also noted that there are trees and shrubs on the boundary of the hospital with the properties that back onto it on Tristan Square would provide natural screening of the plant equipment. In this context the screening has a neutral impact on the building and wider conservation area, preserving the character and appearance.
- 54 The applicant has submitted revised visibility plans for Area A; given its location, the revised plant equipment would remain shielded from the front elevation and would not be visible from the public realm. As such is not considered to adversely affect character and appearance of the building and conservation area. It is recognised that the equipment is larger than approved, and the screening is new, however there is no resultant harm.
- 55 Some further neighbour correspondences were concerned that the installed screening does not fully block the plant equipment from view; Officers do not consider the

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screening is a planning requirement in order for this application to be acceptable and it is not designed to fully shield the plant equipment from view. Given the nature of the use of the site as a hospital, it is not uncommon for plant equipment such as this to be visible from neighbouring properties: that is not itself harmful, and it is considered appropriate in this context.

56 Officers consider that the current proposal would lead to no harm to the Blackheath Conservation Area and the locally Listed Building.

7.1.1 Urban design and impact on heritage assets conclusion

57 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 character and appearance of Blackheath Conservation Area.

58 Officers consider the amended design to be acceptable subject to conditions.

7.2 LIVING CONDITIONS OF NEIGHBOURS

General Policy

59 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At para 180 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.

60 This is reflected in relevant policies of the London Plan (LPP D3), the Core Strategy (CP15), the Local Plan (DMP32).

7.2.1 Noise and disturbance

Policy

61 The NPPF at para 170(e) states decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. At para 180(a) of the NPPF states that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life

62 The National Planning Policy Guidance for Noise (July 2019) advises on how planning can manage potential noise impacts in new development. It states that local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider whether or not:

- a significant adverse effect is occurring or likely to occur;
- an adverse effect is occurring or likely to occur; and
- a good standard of amenity can be achieved.

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63 DMP 26 states that the Council will require a Noise and Vibration Assessment for noise and/or vibration generating development or equipment and new noise sensitive development, where appropriate, to identify issues and attenuation measures, prepared by a qualified acoustician

Discussion

64 There are no proposed changes to the noise levels assessed and considered acceptable in the original permission. The previously approved Noise Impact Assessment ("NIA") (prepared by 24 Acoustics Ltd dated on 27 September 2021) had assessed the larger plant equipment which the applicant is now seeking retrospective permission for.

65 The applicant has explained the reason for this discrepancy between the plant equipment shown on the approved drawings and that installed was due to a miscommunication with the applicants' architects. As such the only difference between the approved scheme and this retrospective scheme is their size, which is accordingly considered as part of the Urban Design and Impact on Heritage Assets.

66 In support of this application the applicant submitted a letter from their noise consultants (sent by 24 Acoustics Ltd dated on 25 October 2022 ref no. R9080-3 Rev 0) which confirmed that the plant equipment proposed had not changed since the preparation of the previously approved NIA. As such, Officers are satisfied that the approved NIA had correctly assessed the impact of the installed plant equipment and the recommended mitigation measures in the aforementioned report are, therefore, still applicable.

67 While the impact of the plant on the living conditions of neighbours in terms of noise and disturbance is a material planning consideration, the impact is the same as that found to be acceptable in the original permission. Consequently, that original permission is a material consideration which carries considerable weight in the assessment of this application. Moreover, by virtue of the already approved permission, the applicant would have a fall-back position to install equipment which is in accordance with the noise levels in that approved document. Officers have carefully considered the proposal and supporting information and conclude there is no reason to depart from the previous in respect of impact on living conditions of neighbours in respect of noise and disturbance.

68 Objections were received regarding how the plant noise commissioning survey did not take measurements from the façade of their homes. Notwithstanding the above point, that there is no reason to now reach a different conclusion on noise impact than that previously reached with the original planning permission, Officers are satisfied that the impact of noise on neighbours has been adequately addressed. Given the location of the noise measurements were closer to the noise emitting plant equipment than the facades of the properties, it is reasonable to conclude that if the noise is acceptable at a point closer to the noise source, then it would remain acceptable at a point farther from the noise source.

7.2.2 Outlook and sense of enclosure

Policy

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

Discussion

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70 The larger plant and screening fence, due to their scale and location, would have no unacceptable impact on the living conditions of neighbours in terms of loss of outlook or overbearing sense of enclosure.

7.2.3 Living conditions of neighbours conclusion

71 Officers consider that the amended scheme is in accordance with the previously approved Noise Impact Assessment therefore noise and disturbance is not relevant to the scope of the current application under s. 73A of the 1990 Act.

7.3 OTHER MATTERS

72 This application is retrospective and the works are complete. Therefore it is necessary to vary other conditions as per the table below. This is to ensure the conditions continue to meet the Six Tests as set out in the NPPF. Paragraph 55 of the Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

Table 1: Comparison of existing and proposed conditions

Original number	Original condition	New number	New conditions
1	Time limit to commence works	-	Deleted: not necessary, works are commenced and completed
2	Approved plans	1	Approved plans: amended to reflect relevant drawings
3	Noise assessment	2	Noise assessment: retained for continued control, amended for clarity
4	Materials	3	Materials: retained for continued control, amended for clarity
5	Ventilation	4	Ventilation: retained for post-installation certification and continued control, amended for clarity
6	Considerate Constructors Scheme	-	Deleted: not necessary, works are commenced and completed

8 LOCAL FINANCE CONSIDERATIONS

73 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).

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

75 The CIL is not liable and is therefore not a material consideration.

9 EQUALITIES CONSIDERATIONS

76 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.

77 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.

78 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.

79 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>

80 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

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- Equality objectives and the equality duty
- Equality information and the equality duty

81 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>

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

10 HUMAN RIGHTS IMPLICATIONS

83 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

84 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.

85 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.

86 This application has the legitimate aim of providing additional capacity with health uses. The rights potentially engaged by this application, including Article 8 and Protocol 1 Article 1 are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

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

88 Officers consider that the proposals, while larger than already permitted, would not negatively affect the character and appearance of the host property and Blackheath

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conservation area. Through the imposition of planning conditions, impacts on urban design and the living conditions of neighbours will continue to be appropriately mitigated.

12 RECOMMENDATION

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

12.1 CONDITIONS

1) **APPROVED PLANS**

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

201048-1002 REV P05 - Site Plan – Proposed;
201048-1008 REV P03 – Proposed Upper Flat Roof;
201048-1011 REV P05 - West Elevation Existing and Proposed;
201048-1013 REV P03 -Proposed West Elevation (Extend of Visibility) ;
201048-1210 REV C1 - West Flat Roof – Proposed New Plant Screening;
201048-3013 REV C1 - Proposed West Elevation Plant Screening;

As previously approved under DC/21/123944 dated on 27 April 2022:

201048-1000 REV P03 - Site Location;
201048-1001 REV P03 - Site Plan - Existing;
201048-1005 REV P01 - West Flat Roof - Existing;
201048-1007 REV P01 - Upper Flat Roof - Existing;
201048-1010 REV P02 - North Elevation Existing and Proposed;

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.

2) **NOISE ASSESSMENT**

In accordance with the Noise Assessment (Technical Report: R9080-1 Rev 1 dated 27 September 2021 as submitted under DC/21/123944 dated on 27 April 2022) the rating level of the noise emitted from fixed plant on the site shall be maintained at 5dB below the existing background level at any time for the lifetime of the development. The noise levels shall be determined at the façade of any noise sensitive property. The measurements and assessments shall be made according to BS4142:2014.

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

3) **MATERIALS**

The hereby approved GRP enclosure as shown on plan 201048-1011 REV P05 and painted to match the colour of the front elevation shall be maintained as such for the lifetime of the development.

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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.

4) **VENTILATION**

Within three months of the date of this decision a post installation certificate demonstrating compliance with the ventilation strategy approved under DC/22/126918 dated on 22 August 2022 shall be submitted to and approved in writing by the Council. The development shall be retained in accordance with the approved details for the lifetime of the development.

Reason: To manage and prevent further deterioration of existing low quality air across London in accordance with London Plan policy 5.3 and 7.14, and NPPF 181.

12.2 INFORMATIVES

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.

13 BACKGROUND PAPERS

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

14 REPORT AUTHOR AND CONTACT

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