

PLANNING COMMITTEE B

SUMMONS AND AGENDA

Date of Meeting: **THURSDAY, 29 FEBRUARY 2024 TIME 7.00 PM**

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

Members of the Committee are summoned to attend this meeting:

Membership Councillors:

Jack Lavery (Chair)
Billy Harding
Liz Johnston-Franklin
Hilary Moore
John Muldoon
Oana Olaru
John Paschoud
Aliya Sheikh (Vice-Chair)

The public are welcome to attend our committee meetings, however, occasionally committees may have to consider some business in private.



Jeremy Chambers
Monitoring Officer
Laurence House
London SE6 4RU
Date: Tuesday, 20 February 2024

For further information please contact:
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ordinator

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Order Of Business			
Item No	Title of Report	Ward	Page No.
1.	Minutes		1 - 6
2.	Declarations of Interests		7 - 10
3.	UNIT 1, ASHBY MEWS, LONDON SE4 1TB		11 - 150
4.	GARAGES AT LAND ON WESTERN SIDE OF MILLBANK WAY, LONDON SE12		151 - 264
5.	135 MINARD ROAD, LONDON SE6 1NN		265 - 328

Committee	PLANNING COMMITTEE (B)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date 29 February 2024

MINUTES

To approve the minutes of the meeting of Planning Committee (B) held on the.

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MINUTES OF THE PLANNING COMMITTEE B

Thursday 14 December 2023

Present: Councillor Lavery (Chair), Councillor Muldoon, Councillor Moore, Councillor Paschoud

Apologies: Councillor Harding, Councillor Johnston-Franklin and Councillor Olaru

Also present: Councillor Penfold

1. Minutes

The minutes of the last meeting were agreed.

2. Declarations of Interest

No interests were declared.

3. LAND TO THE REAR OF 14-48 GEOFFREY ROAD, LONDON, SE4

- 3.1. The Planning Officer gave an illustrative presentation of the application for the demolition of existing structures on the site rear of 14 - 48 Geoffrey Road, SE4 and construction of a development comprising of 8 non-residential two-story dwellings (Class C3), with associated landscaping and ecological enhancements, refuse and recycling storage and cycle storage.
- 3.2. The key considerations for the application were Principle of Development; Design; impact on neighbouring amenity; transport impact; and natural environment. It was the officer recommendation to approve the application.
- 3.3. Members asked what the impact would be on the corridor and if officers had considered this. The officer stated that it was considered acceptable by the ecologists and that the application site was not part of the sink but adjacent to it. Under condition 21 outlined in the report, ecology officers will review this.
- 3.4. It was also asked what the evidence was of badgers, bats and hedgehogs on and around the site. The planning officer replied that ecology officers had reviewed and that no badgers found on site. Any reports on bats are secured under planning conditions outlined in the report, which also secures hedgehog highways.
- 3.5. The applicant then gave their presentation. Their key points were:
- 3.6. The scheme was developed following an extensive application process and meetings with residents. The redevelopment of small sites such as this is specifically supported by the London Plan including a target for 3800 new homes in Lewisham on small sites during the London plan. The report confirms that the site complies with the council small sites SPD which is a key material consideration when assessing this application.

- 3.7. He also stated that the proposal was subject to scrutiny by officers, so the concerns were addressed and the proposals have been revised from 9 to 8 homes with smaller footprints and which are lower than they were previously. The applicants also achieved an increase in biodiversity net gain and tree planting with changes to the elevational design. The applicant summarised that the scheme would deliver a number of benefits and comprises the following key features; the redevelopment of an under-utilised Brownfield site in a sustainable location close to Brockley station; the delivery of eight new homes including for families; a scheme which is sensitively designed in the context of the Brockley conservation area as acknowledged by the conservation and heritage officer; a scheme which will result in an uplift to 17 new trees on site; an improved urban green factor of 0.49; and new residents to the area which will bring increased spending capacity for local businesses.
- 3.8. It was asked that, in consideration that the first version of this scheme is currently being appealed, which scheme the applicant would progress with if this application approved. The agent representing the applicant stated that it would be a commercial decision for the client.
- 3.9. The objector addressed the Committee. His main points were as follows:
- 3.10. He highlighted that the revised scheme relies heavily on planning conditions to get it over the line. He stated that it is considered good practise to keep the number of conditions to a minimum and the proposal has at least 27 separate conditions, like refuse collection, tree planting, fire hydrants, parking, assessments of air quality dust prevention and noise. A number of these conditions will be challenging to monitor or enforce and without enforcement they are meaningless.
- 3.11. The objector expressed concern about refuse collection, stating that 24 large bins in eight caddies will block the footpath for pedestrians who will be forced to step out into an already busy and dangerous junction. Increased use of the access road adds further confusion over right of way to an intersection that is already prone to speeding and regular road rage incidents according to the Metropolitan Police and TfL.
- 3.12. The legal conditions required to satisfy the various ecological parties consulted are also unworkable in particular the applicants plan to mitigate the biodiversity loss. Extreme noise levels from breaking trains have slipped through the cracks of the assessment process. He relayed the deep emotional and mental impact this 10 year planning saga has had on some residents.
- 3.13. The planning officer stated that it is a known approach to condition and secure further details as set out in the report and that it is not required that all information be obtained or submitted at the time of application. In terms of the number of conditions, he said that the matters they cover what is necessary and enforceable.

- 3.14. The objector was asked to clarify the issue of road safety. He stated that it was already a confusing junction and that there was a dangerous intersection on a pavement.
- 3.15. It was assured that the refuse collection was not a planning condition but a legal requirement which will be reviewed by highways officer. In terms of enforceability, it would be dealt with by planning enforcement and would need to go to court.
- 3.16. It was asked what consequences of misuse of area for parking would be. The planning officer stated that it would be for the residents of dwellings to raise the issue. Condition 20 refers to the prevention of on-site parking.
- 3.17. Councillor Penfold spoke under standing orders. His main points were:
- 3.18. The issues arising from the previous application were quality, accommodation, effect on the environment including the loss of seven trees, the design, the narrow access road and parking pressures. He said that there had been lots of work done on the development itself. Paragraph 242 of the report says in terms of accessibility for emergency vehicles would be able to access the site safely using the access route. However, the fire trucks would not be able to access the site due to the width of the access road. This was deemed acceptable in the previous application and did not fall under a reason for refusal given there are no changes to the width of the access road.
- 3.19. Concerning the access to the site and how parking will be dealt with, he stated that the issue had not been addressed and that there would be a problem with vehicles getting in and out and reversing out of extremely narrow pathways. He also raised that the adaptations that have been made caused the loss of four parking spaces.
- 3.20. It was MOVED, SECONDED and RESOLVED to approve the application, subject to informative and section 106 agreement as set out in the report.

4. 23 Lammas Green, London SE26 6LT

- 4.1. The planning officer gave an illustrative presentation of the application for the listed Building Consent for the alteration and partial demolition of existing boundary wall and the construction of new boundary wall adjacent to 23 Lammas Green SE26. The key considerations were limited to section 16 of Planning (Listed Buildings and Conservation Areas) Act 1990. It was the officer recommendation to approve the application.
- 4.2. There were no questions for the officer. The applicant gave their presentation. their key points were:
- 4.3. The current application is almost identical to the previous but has benefited from the revisions in response to the conservation officers' feedback with a revised heritage statement and more refined configurations. The new timber gates conditions have been deemed acceptable and the new wall will be submitted for the conservation's approval to ensure the proposed material will

reflect the character and setting of the conservation area. He said that it is hoped that the proposed work will be undertaken early next year, and they are mindful that a lot of the comments received to this applications have related to works approved on the 2021 planning permissions and it's not within is not this applications. They wanted to reassure all the members that the city corporation will continue to collaborate with residents.

- 4.4. There were no questions for the applicant. The objector gave their presentation. Their key points were:
- 4.5. The proposed planting did not provide any mitigation for privacy. The proposed wall would be visible and will encroach into the space. On accessibility they stated that gradient of the pathway is steep and may not be compliant with mobility legislation. Concern was expressed in the quality of design and for the quality of life for residents. It was expressed that the City of London had done something of which both they and Lewisham could feel proud of and had designed the estate to sit around the beautiful cedar and oak trees. The original design was sensitive and socially progressive and sheltered the area from traffic and the homes shared the big vast beautiful views over to the north downs. The decision to demolish the wall, they said, was sensitive mitigation measure which was put in place to screen the auto-close garages by ripping it out along with the screening trees.
- 4.6. The planning conformed that sheet-piling had been covered under condition 32 but did not fall within scope of this planning application.
- 4.7. Regarding outstanding complaints regarding damage- the planning officer said that this outside scope of planning application and to be considered by City of London.
- 4.8. It was MOVED, SECONDED and RESOLVED to approve the application.

Committee	PLANNING COMMITTEE (ABC)	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: 29 February 2024

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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Planning Committee B

UNIT 1, ASHBY MEWS, LONDON, SE4 1TB

Date: 21 February 2024

Key decision: No.

Class: Part 1

Ward affected: Brockley

Contributors: Thomas Simnett, 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 16 individual objections, and an objection from the Brockley Society.

Application details

Application ref. no.:	DC/23/132001
Application Date:	22 June 2023
Applicant:	Mr Pierson of PD Planning UK Ltd acting on behalf of Mr Lowe
Proposal:	Partial demolition of the front of the existing light industrial (Use Class E) building and alteration and extension to provide a terrace of 4 two-storey, live/work units (Use Sui Generis), together with the provision of private amenity space, associated cycle parking and refuse collection facilities at Unit 1 Ashby Mews SE4.
Background Papers:	(1) Submission drawings (2) Submission technical reports and documents (3) Internal consultee responses
Designation:	Air Quality Management Area Brockley Conservation Area Brockley Conservation Area Article 4(2) Direction Borough-wide Small HMO Article 4(2) Direction PTAL 4
Screening:	N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site at Unit 1, Ashby Mews comprises a two-storey light industrial (Use Class E (g) (iii)) building with brick walls and a part-glazed, shallow-pitched roof. The building is positioned at the rear of the site along the boundary with the residential properties on Manor Avenue and has been extended in parts to the north and west by single-storey elements. The walls of these single storey elements are flush with Ashby Mews and are punctuated by windows and doors. A larger opening with a substantial solid metal gateway leads to a small courtyard at the northern end of the site, whilst at the southern end there is a timber construction at first floor level.
- 2 To the east, the site adjoins the rear gardens of properties in Manor Avenue. The site has a 30m deep side return into Ashby Mews. Ashby Mews is a private road. To the west, the site is adjacent to a number of single storey live/work units and garages to the rear of Upper Brockley Road. To the north of the site is a modern brick-built part single, part two-storey residential building located at the junction of Ashby Mews and Ashby Road, which was previously used by Lewisham Council as offices and was converted to residential use following a change of use granted in 2014.
- 3 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.

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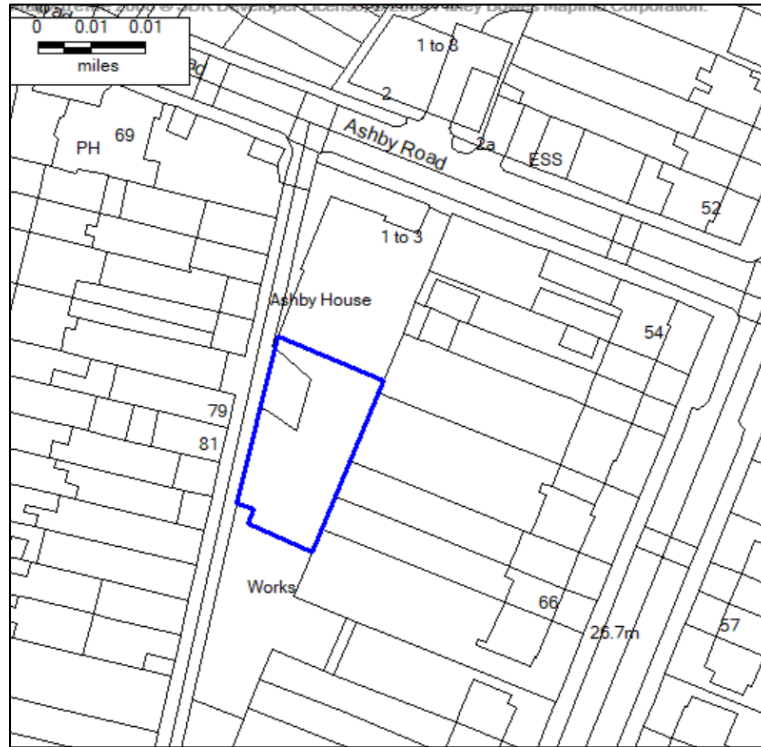


Figure 1 – Site Location Plan

Character of area

- 4 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' generally serve residential garaging and commercial workshops, which are mainly single storey in height. To the north is Ashby Road which runs east to west and is mainly a thoroughfare with sporadic areas of piecemeal residential development at the ends of gardens.

Heritage/archaeology

- 5 The site is located within the Brockley Conservation Area, which is covered by an Article 4(2) Direction, the Direction removes permitted development rights of dwellinghouses for development within the following: Part 1, Classes A, C, and F and Part 2 Classes A, B and C. 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

- 6 The site has a PTAL rating 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.

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2 RELEVANT PLANNING HISTORY

7 **DC/13/085211:** The construction of extensions at first floor level, to create a live/work unit and other alteration for Units 1 & 2 on Ashby Mews. **Refused on 17 February 2014 – reasons for refusal:**

(a) *The proposed first floor extensions by reason of their size, cumulative bulk, design and materials, would result in a series of buildings of excessive scale and mass in this modest Mews location, significantly undermining the visual and hierarchical relationship between the houses in Manor Avenue and Upper Brockley Road and the buildings within the Mews, causing demonstrable harm to the character of this part of the Brockley Conservation area. The proposed first floor extension would therefore contrary...*

8 Subsequently **allowed at appeal (APP/C5690/A/14/2214727) dated on 09 July 2014.**
Note: This permission was partially implemented with respect to Unit 2 only.

9 **DC/18/106947:** Prior approval for the change of use from Use Class B1(c) (light industrial) to Use Class C3 (residential) in the form of 2 x 2-bed and 2 x 3 bed units at Unit 1, Ashby Mews, SE4 pursuant with Class PA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
Recommended for refusal. However, as the decision was not received by the applicant within the statutory 8-week time period from the local planning authority the development benefited from deemed prior approval.

10 **DC/19/110960:** Replacement of the roof covering, the installation of new and replacement rooflights, windows and doors and the provision of cycle and refuse storage was submitted to facilitate the implementation of the Prior Approval scheme (DC/18/106947). **Refused on 03 May 2019 – reasons for refusal:**

(a) *In the absence of a daylight/sunlight report, there is insufficient evidence to demonstrate the proposed reduced area of rooflights would offer satisfactory level of daylight and sunlight to the rooms which they serve. As such the proposed development would fail to provide a satisfactory living environment for future occupants of the four new residential units, contrary...*

(b) *The proposed rooflights by reason of their varying size and type, as well as their position with the roofslope, fail to preserve and enhance the host building and the conservation area. As such, the proposal is contrary...*

(c) *In the absence of information regarding the waste and recycling facilities, it is not clear whether the proposed refuse and recycling strategy is adequate for the number of person that would live in these units. As such, the proposal is contrary...*

11 **DC/19/112165:** The re-covering of the roofs, the installation of replacement glazed panels to the rooflights, windows and doors on the front elevation, re-painting of the external walls the provision of cycle and refuse storage at Unit 1, Ashby Mews, SE4 in order to facilitate the implementation of the Prior Approval scheme (DC/18/106947).
Granted on 27 June 2019

12 **DC/20/116637:** Change of use from existing light industrial use (Use Class B1c) to residential use (Use Class C3) at Unit 1, Ashby Mews, SE4, together with construction of front dormer windows, installation of rooflights to front and rear roofslopes, installation of

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new windows and doors, external re-decoration and associated cycle parking and amenity. **Refused on 30 July 2020 – reasons for refusal:**

- (a) *The proposed development for additional residential unit over the already approved through deemed consent prior approval would result in an increase in refuse provision which cannot be accommodated in a way which would not result in harm to pedestrian and highway safety or visual clutter in or visible from the public realm. Accordingly, the proposal is contrary...*
- (b) *The proposed development by reason of additional bulk introduced to the front roof slope, addition of a roof terraces and the design of the front elevation at the ground floor would result in a form of development which does not maintain or enhance the special historic character and appearance of the host building. The development therefore fails to preserve or enhance the character and appearance of the Brockley Conservation Area, affecting the setting of the application building and its contribution to the immediate area and wider conservation area. Accordingly, the proposal is contrary....*
- (c) *The applicant has failed to demonstrate that the proposed development above the fallback position would not result of unacceptable increase in on-street parking stress or demonstrate that it would not have a detrimental impact on the safe and efficient operation of the adjacent public highway, and fail to promote sustainable methods of transport and less private car ownership. Accordingly, the proposal is contrary...*

13

DC/21/121776: Change of use from light industrial use (Use Class E(g)(iii)) to residential use (Use Class C3) at Unit 1, Ashby Mews, SE4; Construction of first floor side extension; Construction of part single/part two storey front extensions; Construction of rear courtyards; Installation of rooflights to front and rear roof slopes; Installation of new windows and doors; External re-decoration; and Associated cycle parking and amenity. **Refused on 26 August 2021 – reasons for refusal:**

- (a) *The application fails to demonstrate that the provision of light industrial use is no longer viable at the premises, or that the change of use to residential would not have an adverse impact on the sustainability of the provision of industrial services within Ashby Mews and Brockley SE4, contrary...*
- (b) *Insufficient information has been submitted to demonstrate that the proposed residential units would have adequate daylight and sunlight, and the design of the dwellings would result in a poor outlook from the ground floor, resulting in a poor standard of accommodation. The proposals are therefore contrary...*
- (c) *The proposed development by reason of additional bulk introduced by the front extensions and the design of the front elevation at the ground floor would result in a form of development which does not maintain or enhance the special historic character and appearance of the host building. The development therefore fails to preserve or enhance the character and appearance of the Brockley Conservation Area, affecting the setting of the application building and its contribution to the immediate area and wider conservation area. Accordingly, the proposal is contrary...*
- (d) *The development fails to provide the required number of cycle parking spaces for each unit and fails to comply with London Cycling Design Standards, contrary....*

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- (e) *The submitted Unilateral Undertaking to address waste and recycling facilities, and measures to prevent future occupiers from obtaining parking permits in the local controlled parking zone is insufficient by reason of failure to provide timescale for implementation and set out the specific mitigation to offset impacts. The proposals would therefore result in an unacceptable increase in on-street parking, impact on the same and efficient operation of the adjacent public highway, and fail to promote sustainable methods of transport. Contrary...*
- (f) *The provision of residential units would be contrary to the established live/work, light industrial and creative industries character of Ashby Mews, SE4 therefore being harmful to the character of the Brockley Conservation Area and would introduce unacceptable impacts with regard to access and servicing of Ashby Mews. Contrary to...*

14 Subsequently **dismissed at appeal (ref. APP/C5690/W/21/3287376) dated on 27 October 2022** and the Inspector made the following conclusions:

- The Inspector agreed with reasons a, d and f as set out above in para 13. They did not agree with reasons b and c, however they did not make assess the Unilateral Undertaking given the appeal was dismissed.
- *Para 9: Whilst the principle of development is established through the grant of permission by the GPDO, some of the conditions and limitations under Class MA concern issues that the Council has used to substantiate its refusal of planning permission for the appeal proposal. For this reason, I do not accept that Class MA provides a fallback position in the way that the appellant suggests; it is not clear that the Council would grant prior approval should an application be submitted*
- *Para 19: ...very limited marketing information provided and the elapsed time, it has not been demonstrated to my satisfaction that an employment use at the appeal premises is not viable or suitable at the present time. For these reasons the proposal would adversely affect employment land provision and would conflict with Policy 5 of the LCS and Policy DM11 of the LDMLP, and with the Framework, in this regard.*
- *Para 29: the replacement of a light industrial use with a residential development proposal would detract from the mixed character of the area, given the other uses to be found here, including the wholly residential development next door.*
- *Para 47: the proposed internal or rear storage arrangements are likely to discourage residents from bicycle use...*
- *Para 50: For these reasons the proposed development would adversely affect the living conditions of future occupiers with particular regard to bicycle use.*

2.1 OTHER RELEVANT PLANNING HISTORY

- 15 **DC/20/115212:** Lawful Development Certificate (Existing Development) in respect of the commencement of development for a two-storey mixed-use building on land to the rear of 108 Manor Avenue fronting onto Ashby Mews, SE4. **Granted on 09 March 2020**
- 16 **DC/20/119758:** Demolition of the existing garage building at Unit 4a, Ashby Mews (land at the rear of 93 Upper Brockley Road) and redevelopment of the site including excavation works to provide two-storey live/work unit (Sui Generis Use) together with all necessary associated works. **Granted on 14 June 2021**

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- 17 **DC/22/126664:** Change of use of the existing building in light industrial use (Use Class E(g)) to live/work unit (Use Class Sui Generis), including excavation work to provide lower ground floor, raising the roof, alterations to the elevations including the installation of new windows and doors, provision of a bike store, refuse, recycling and soft landscaping to the rear at Unit 8, Ashby Mews SE4. **Granted on 20 July 2022**
- 18 **DC/22/128207:** The construction of a single storey building for use as an art and design studio to the rear of 133 Upper Brockley Road SE4, accessed from Ashby Mews. **Granted on 01 December 2022**
- 19 **DC/22/128187:** The demolition of the existing brick walls and storage shed and construction of two-storey, plus basement live/work unit to the rear of 108 Manor Avenue SE4. **Granted on 15 June 2023**

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

Background

- 20 The application site has an extensive planning history as outlined in Section 2 above, in 2014 the Planning Inspectorate allowed an appeal (DC/13/085211) which sought permission for two live/work units at Units 1 and 2 Ashby Mews. A Prior Approval application was submitted by the applicant in 2019 to establish purely residential units, which the Council were minded to refuse. However, as the decision was not received by the applicant within the statutory 8-week time period from the local planning authority the development benefited from deemed prior approval.
- 21 Subsequent applications were then submitted to seek approval for alterations to the application site to facilitate the implementation of the Prior Approval scheme. However, the Prior Approval scheme was not implemented within the required timeframe and therefore was no longer implementable.
- 22 Following this the applicant sought planning permission for the change of use to purely residential, however these applications were refused, and a subsequent appeal was also dismissed in October 2022. The application before members is a revised scheme following the appeal dismissal which seeks to address the reasons for dismissal as this report will set out below.

Scope of application

- 23 Full planning permission is sought for the partial demolition of the front elevation part of the building fronting Ashby Mews and removal of the front roofslope, while retaining the retaining rear roofslope and wall. The application involves the construction of replacement part-one and part-two storey extension and introduction of a shallow pitch front roofslope which would form part of the two-storey element of the proposed scheme in order to facilitate the provision of four live/work units. The application also seeks permission for the change of use of the existing light industrial (Use Class E (g) (iii) to four live/work units (Use Class Sui Generis).
- 24 The proposed front roof alteration would extend the existing pitched roof of the warehouse building along the entire length of the site (north to south) the roofing material would be changed to zinc cladding and have a number of rooflights inserted to

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both the front and rear roofslopes. To the front elevation the existing mix of single storey structures would be demolished and replaced with a part-one and part-two storey extension that feature facing brickwork to match the existing. The part-one and part-two storey extension would incorporate a rooftop terrace for each live/work unit with a 1.4m high parapet wall provided to the terrace.

- 25 The 'live' residential accommodation would be located on the first floor of each of the live/work units and would comprise a single one-bedroom two-person unit. The 'work' element would be located on the ground floor with access to a courtyard and dedicated office area.
- 26 Refuse and recycling facilities would be provided within a store to be located to the northern edge of the site adjacent to Ashby Mews. A cycle store would be installed provided to each of the live/work units within the courtyards.



Figure 2 – proposed development

Revisions

- 27 Following comments received from Conservation and Highway Officers amendments were sought. Conservation Officers requested that the applicant remove the planting that was shown on their plans which would have been located within the punctuated elements on the first-floor terraces. Clarifications were also sought on the zinc roofing material and window details. Highway Officers requested further information on cycle storage provisions which the applicant provided.

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3.2 COMPARISON WITH PREVIOUS SCHEME

28 The previously refused scheme, shown in **Figure 3** below, was for four (4) new residential units and its design is broadly similar to the proposed scheme before members. The main differences in the two schemes relates to the location and design of the cycle storage and the revised scheme proposes four (4) live/work units rather than four solely residential units.

29 These alterations are a direct consequence of the appeal decision (ref. APP/C5690/W/21/3287376) which highlighted three aspects of the previous scheme (loss of employment, impact on the conservation area and cycle provision) which resulted in the dismissal of that appeal scheme.



Figure 3 - Previously refused development (DC/21/121776)

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

30 The applicant has not carried out any public consultation prior to submission of this planning application.

4.2 APPLICATION PUBLICITY

31 Site notices were displayed on 20 July 2023 and a press notice was published on 19 July 2023.

32 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 13 July 2023.

33 25no. responses received, comprising 16no. objections and 9no. support.

4.2.1 Comments in objection

Comment	Para where addressed
Principle of Development	
Enforceability of live/work units	71

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Size of employment space	65
Loss of fallback position	72
Lack of affordable housing	83
Small number of dwellings has little impact on meeting Lewisham's housing targets	83
Residential Quality	
Unit mix and size	106
Office space located on ground floor	112
Narrow units	111
Lack of outlook	122
Lack of sunlight and daylight/reliance on rooflights	122
Inadequate fire safety arrangements	134
Urban Design and Impact on Heritage Assets	
Overdevelopment of the site	154
Inappropriate design for mews	155
Excess height of four storeys	154
Erosion of mews character	157
Impact on conservation area	159
Creation of gated development	158
Impact on Adjoining Properties	
Light pollution: from live/work units and street lighting	211
Increased noise and disturbance	210
Impact on granny annex at No. 68 Manor Avenue	195
Loss of privacy	198
Refuse arrangements	210
Loss of sunlight and daylight	203
Transport	
Parking impacts	181
Servicing and deliveries	170
Access and egressing from mews	185
Construction impacts	185
Natural Environment	
Reduce available green space	218
Impact on habitats and bats	236 to 238

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4.2.2 Comments in support

Comment	Para where addressed
Principle of development	
Availability of workspace	64
Existing lawful use has greater potential for highway impacts	62
Urban Design and Impact on Heritage Assets	
High quality design	155
Brings the building back into use and improves vitality of the mews	157
Scale and bulk of building similar to existing	154
Impact on Adjoining Properties	
Terrace boundary walls should be increase in height to increase privacy	198

4.2.3 Neutral comments

34 A number of neutral comments relating to non-material planning considerations were also raised as follows:

Comment	Officer response
Previous Appeal: The inspector failed to raise concerns with neighbouring amenity must be an oversight.	the appeal decision did not consider the impact on neighbouring amenity to be an issue that warranted the dismissal of the appeal scheme. As such the Inspector considered the previous scheme (DC/21/121766) to be acceptable in terms of neighbouring amenity.
Live/work units: local residents have requested the Council provide a list of live/work units which have been checked to ensure compliance with planning permission and details of any action taken.	matters of enforcement action relating to other live/work units within Lewisham is not relevant in the assessment of this application.
History of applicant: local residents were concerned that the planning history of this site and the applicant raises suspicions that it would not become a live/work when implemented.	an assessment of this application can only be undertaken as per the details submitted; it would be inappropriate to bring into question the validity of the proposal. Should the applicant not implement a live/work unit in the event planning permission is granted it would become a planning enforcement matter.

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<p>Future alterations: concerns were raised by local residents that future alterations to the layout of the live/work units could reduce neighbouring amenity.</p>	<p>an assessment can only be undertaken on the application as submitted, should the applicant wish to make further alterations in the future which require planning permission a separate planning application would be required where the Local Planning Authority can make an assessment.</p>
<p>Public right of way and ownership of Ashby Mews: concerns were raised by local residents that any attempt to obstruct or limit public access to Ashby Mews would be detrimental to the community and should not be permitted. Additionally, any proposed development must respect the rights of all parties involved.</p>	<p>Officers are satisfied that the proposed development is within the red line drawing as set out in the application, any issues arising from land ownership and rights of access is a civil matter between those individuals and is not a planning concern.</p>
<p>Access gate on Ashby Mews: local residents raised concerns with the existing gates on Ashby Mews and the impact this has on public perception.</p>	<p>the gate at the northern end of Ashby Mews is existing and does not form part of this application, therefore does not form part of the assessment of the proposed development.</p>
<p>Previous alterations to the mews: local residents raised concerns regarding the loss of the character of the mews through unlawful development such as the gate and tarmacking the mews.</p>	<p>while the LPA is sympathetic of concerns from residents relating to the previous unlawful works along the mews, it does not form part of this application and therefore is not a planning consideration in its assessment.</p>
<p>Impact on house prices: concerns were raised that the proposed development and other surrounding development would reduce the appeal of the surrounding properties and therefore decrease house prices.</p>	<p>the impact on house prices is not a factor when undertaking an assessment of an application, it is therefore not a material planning consideration.</p>

4.2.4 Brockley Society comments in objection

Comment	Para where addressed
Impact on Neighbouring Amenity	
Overlooking and privacy	198
Light pollution	211
Air rights from extant Unit 2 and Unit 1 application (DC/13/85211)	212
Transport	
Use of private refuse collection	169
Sustainable Development	

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Flood Risk and Drainage inc. surface water and SuDS	225
Associated ASHP equipment not shown on plans	250

4.2.5 Brockley Society Comments in support

Comment	Para where addressed
Live/work units	82

4.3 INTERNAL CONSULTATION

- 35 The following internal consultees were notified on 13 July 2023.
- 36 Environmental Health (Air Quality): raised concerns regarding lack of Air Quality Assessment. See para 247 for further details.
- 37 Environmental Health (Site Contamination): raised no objections subject to conditions. See section 6.7.2 for further details.
- 38 Highways: raised no objections subject to conditions. See section 6.4 for further details.
- 39 Conservation: raised no objections subject to conditions and minor revisions. See section 6.3 for further details.
- 40 Ecology: raised no objections to the Preliminary Bat Roost Assessment. See section 6.7.1 for further details.

5 POLICY CONTEXT

5.1 LEGISLATION

- 41 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).
- 42 Planning (Listed Buildings and Conservation Areas) Act 1990: S.72 gives the LPA special duties in respect of heritage assets.

5.2 MATERIAL CONSIDERATIONS

- 43 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.
- 44 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

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45 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.

46 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.

47 However, in this case a slightly different situation exists. The delivery of housing is a government priority set out in the NPPF. Paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

NPPF paragraph 11(c)

'approving development proposals that accord with an up-to-date development plan without delay; or'

NPPF paragraph 11(d)

'where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless;

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.' (This is known as the tilted balance).*

48 In other words, the tilted balance weighs a development's adverse impacts against its benefits, not on a level playing field, but tilted towards granting permission.

49 For planning applications involving the provision of housing as is the case with the present application, footnote 8 to NPPF paragraph 11(d) specifies that policies will be considered out-of-date where:

- (a) the local planning authority cannot demonstrate a five-year supply (or a four-year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with the appropriate buffer, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or*
- (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.*

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- 50 Having regard to the above the Council has failed its Housing Delivery Test (which is an annual measurement that compares the number of net homes delivered over the previous three financial years to the homes required over the same period).
- 51 The latest Housing Delivery Test results demonstrate that across Lewisham housing completions are significantly under-performing, at 51% of the requirement delivery target of 75%. Therefore, the presumption requires that permission should be granted unless either i or ii set out in paragraph 47 above applies. In this instance, both parts of paragraph 11(d) of the NPPF could be triggered given the site is located within Brockley Conservation Area which is a designated heritage asset in which NPPF para 11(d)(i) seeks to protect, and under NPPF para 11(d)(ii) as any harmful impacts must be significant and demonstrable in outweighing the planning benefits in the tilted balance presumption towards granting planning permission.

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework (December 2023) (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)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

53 Lewisham SPD:

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

54 London Plan SPG/LPG:

- The control of dust and emissions during construction and demolition (July 2014)
- Housing (March 2016)
- Optimising Site Capacity: A Design-led Approach LPG (June 2023)
- Small Site Design Codes LPG (June 2023)
- Housing Design Standards LPG (June 2023)
- Air Quality Neutral LPG (February 2023)
- Sustainable Transport, Walking and Cycling LPG (November 2022)

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5.6 OTHER MATERIAL DOCUMENTS

- Brockley Conservation Area Character Appraisal (August 2006)
- Waste management in buildings – Code of practice: BS 5906:2005

5.7 EMERGING LEWISHAM LOCAL PLAN

55 On the 3rd of November 2023 Lewisham Council submitted the Lewisham Local Plan and its supporting documents to the Secretary of State for its independent examination. Relevant policies may now be given weight as appropriate in accordance with para 48 of the NPPF.

6 PLANNING CONSIDERATIONS

56 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

57 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. Due to the failure of the HDT, as the policies are deemed out of date as set out in paragraph 41 of the NPPF, the presumption is to grant planning permission unless the circumstances in paragraph 11(d) (i) or (ii) applies

58 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.

59 The Small Sites Supplementary Planning Document was adopted in October 2021. Its purpose is to provide advice and guidance for preparing or reviewing planning applications for residential development on a small site in Lewisham. It defines small sites as any that fall below 0.25 hectares in size. As the proposal is for a live/workspace, only the sections of the document that deal with mixed-use developments and the residential components are relevant and will be assessed.

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6.1.1 Employment use

Policy

- 60 LP Policy E4, CS Policy 5 and DMLP Policy DM11 are relevant as they seek to protect employment uses on the smaller sites in office, industrial and warehouse/storage and commercial use. Section 20.4 of the Small Sites SPD (and para 20.4.1 in particular) discourages single demise live/work proposals.

Discussion

- 61 The application building is a vacant warehouse building which its last known use was an artist studio, this would fall within light industrial use (Use Class E (g) (iii)). The proposal is to change the current use to live/work. Live/work is defined as the provision of segregated living and working accommodation in a single, self-contained unit. It is distinct from "working from home" as "live/work" involves the provision of purpose-designed workspace and does not fall within a specific use class under the Town and Country Planning (Use Classes Order) 1987 (as amended). Live/work units are therefore Sui Generis. The existing building has a total commercial GIA of 521m², as a result of the proposed works there would be a reduction to the employment space of 25.91% is proposed. This equates to a reduction in the employment floorspace of 135m².
- 62 While this loss of employment space is regrettable, the building, by virtue of its age, large size and poor condition means that it is not capable of reasonable occupation in its current form and state without carrying out significant refurbishment works to bring it to current modern standards. Furthermore, the site access arrangements are limited for large vehicles and given its adjacency to residential flats at the end of the mews the "agent of change" principles would apply to any other scheme which sought to intensify the industrial use. It is therefore likely that any future commercial occupiers that require a building of such size would be cautious of introducing any noisy activity or large vehicles into the area, because of the likely impact on the living conditions of neighbouring properties. This is supported by the marketing information which the application has submitted alongside this application.
- 63 The applicant has submitted two letters from various property agents that explains that due to the general poor condition of the application property and its large size there have been limited interest of the property with regards to renting the property or for the sale of the freehold. The letters support the assertion set out by the applicant in their planning statement that units of a smaller size would likely be more viable on the open market. As such Officers are satisfied with this reduction in employment floorspace and subdivision of the existing building into smaller units so long as they are retained as live/work units.
- 64 A number of letters of support were submitted which praised the proposed scheme in relation to improving the availability of employment workspace within the borough.
- 65 Local residents raised concerns with regards to the proposed size of the employment floorspace within the objections to scheme, as they were worried the large size of the ground floor could be converted to be used as residential floorspace in the future. It should be noted that the proposal would result in the reduction of the employment floorspace by over 25% which would help improve their market viability for future tenants. As referenced in the letters from property agents the current large size of the light industrial warehouse is not marketable, the letters indicated a reduced size similar to that proposed here would be more attractive to buyers and renters.

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- 66 With regards to the point raised about the ground floor employment floorspace's large size which could make it attractive for future occupiers to use it for residential purposes there would be a planning condition that secures the use as employment floorspace. Should the employment floorspace not be used for its intended purposes Planning Enforcement could take enforcement action against any breach of planning condition should be it be expedient to do so.
- 67 The appeal decision for the previous application DC/21/121776 identified that the change of use to solely residential use would have a harmful impact with regards to the loss of employment land and this in turn would have a harmful impact with regards to the significance of the Brockley Conservation Area. In assessing this impact, the Inspector reached the following conclusion (Appeal Ref: APP/C5690/W/21/3287376 paras 11 to 20)

“Policy 5 of the Lewisham Core Strategy 2011 (LCS) and Policy DM11 of the Lewisham Development Management Local Plan 2014 (LDMLP) concern employment locations such as the appeal site, and amongst other things, require that where an employment use is to be lost it is demonstrated that such a use is no longer viable or suitable. The appellant has provided statements from two firms regarding the marketing of the appeal property in its employment use.

However, little detail is provided regarding the marketing of the property, and no information similar to that provided by the appellant at appendix F of their statement is before me. The first marketing attempts were in 2017, almost five years ago; the second attempts were made in 2020/2021, during the Covid-19 pandemic.

I note the appellant's comments about the effective use of land and the introduction of Class E to the Town and Country Planning (Use Classes) Order 1987 (as amended), which encompasses a range of commercial uses of which there are said to be a plentiful supply of vacant units in the area. I also note the importance of small, brownfield and windfall sites for the delivery of housing.

However, no compelling evidence regarding the availability of commercial properties in the area has been provided and I note that making effective use of land would apply to employment uses as well as housing.

Ashby Mews is surrounded by residential development and whilst I observed no industrial activity occurring there during my visit, such activity has historically taken place here. The appellant states that the condition, design, materials and size of the appeal building, would require considerable investment, and there is limited access and parking for large commercial vehicles, making it unattractive for commercial use.

However, the presence of live/work spaces and other small-scale commercial or workshop buildings that could be used by craftsmen, artisans or artists suggests that such employment uses can operate at the northern end of the mews successfully, notwithstanding the residential developments and constraints stated by the appellant. Any redevelopment of the appeal building would require significant investment.

The appellant is not seeking live/work spaces, which are said to be difficult to finance, although the appellant has provided very little evidence to substantiate this statement. The appellant acknowledges that the design and scale of the proposed dwellings would allow for some home-working to take place. However, the primary use of the properties would be residential.

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Moreover, from the very limited marketing information provided and the elapsed time, it has not been demonstrated to my satisfaction that an employment use at the appeal premises is not viable or suitable at the present time.

For these reasons the proposal would adversely affect employment land provision and would conflict with Policy 5 of the LCS and Policy DM11 of the LDMLP, and with the Framework, in this regard”

- 68 As the paragraphs above makes clear the Inspector’s view of the change of use from light industrial to solely residential with regards to the impact on employment land conflicts with the pertinent plan policies. The revision to the proposed uses of the units from solely residential to live/work units has successfully overcome the land use and policy conflict within the appeal decision and as noted by para 17 of the appeal decision which states, “*employment uses can operate at the northern end of the mews successfully*”.
- 69 Officers note the provisions of the Council’s Small Sites SPD and specifically the wording of para 20.4.1. Live/work units, particularly in larger scale schemes where no end-user is in place, are commonly found later to be occupied solely for residential purposes. The applicant has not indicated that there are any end-users in place to occupy the four units should planning permission be granted, this does pose a risk that they could be occupied solely for residential purposes in the future. While this use would go against the established character of this part of the conservation area, Officers are unable to consider potential breaches of planning control when undertaking an assessment of an application.
- 70 The imposition of the proposed planning condition on the use as a live/work unit would secure the proposed scheme as a live/work development to ensure it would be consistent with the established character of Ashby Mews.
- 71 The enforceability of live/work units was a concern raised within the objections to the scheme. However, conditions are recommended to ensure the live/work unit shall be occupied as a single integrated unit and shall not be occupied other than by the person employed in the business. They will also state that the business floor space of the live/work unit lights shall be finished ready for occupation/use before the residential floor space is occupied and the residential use shall not precede commencement of the business use. The use of the business element of the unit shall not be for any purpose other than for purposes within Class E(g) in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended). Officers are satisfied that the provision of conditions securing the live/work unit as outlined above is sufficient to address the objections to the scheme in this regard.
- 72 Local residents raised concern that the applicant was relying on a fall-back position which they no longer hold, Officers believe this was in reference to DC/18/106947 which allowed the change of use to solely residential use via the Prior Approval route. It should be noted that this application was not implemented and the 3-year time period to complete the development has since lapsed. Officers are satisfied that the applicant has not justified the change of use to live/work units with regard to this lapsed prior approval and nor should it be considered as a fall-back position.

6.1.2 Employment Use Summary

- 73 Officers are satisfied that the proposed scheme is in accordance with the relevant policies and guidance on employment use. Following the dismissal of the 2022 appeal (DC/21/121776) the applicant has revised the scheme to provide four live/work units, this

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would secure the existing employment floorspace at the application site and maintain the light industrial character of Ashby Mews. While there would be a 25.91% reduction of the employment floorspace as evidenced by the two letters from property agents this would help to ensure the proposed units are viable on the open market for buyers and renters.

6.1.3 Live/work use

Policy

- 74 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.
- 75 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.
- 76 LPP D3 sets out that all development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity (as set out in Policy D2 Infrastructure requirements for sustainable densities), and that best delivers the requirements set out in Part D.
- 77 The Core Strategy (CSP) recognises the Borough's need for housing and outlines the objectives to achieve 18,165 new dwellings between 2009/2010 and 2025. Lewisham Core Strategy Spatial Policy 1 'Lewisham Spatial Strategy' that links to Core Strategy Objective 2 'Housing Provision and Distribution' supports the delivery of new housing to meet local need.
- 78 The Brockley Conservation Area Character Appraisal and the Brockley Conservation Area Mews SPD discourages residential development, with the exception of Harefield Mews which has a more developed character. This is because the introduction of residential use in the mews creates a range of planning issues including parking, access, waste management and impact on existing uses.
- 79 The Small Sites SPD (22.5.2) states that a positive type of modern mews development includes a focus on live/work units. It discourages piecemeal development along mews and only considers mews development in general to be acceptable if they would be subordinate additions which retain views of the rear of the frontage properties.

Discussion

- 80 The Housing Delivery Test is an annual statutory measurement of housing delivery. It provides a similar but parallel performance measurement to that required under the five-year housing land supply statement. The latest Housing Delivery Test results demonstrate that across Lewisham housing completions are significantly under-performing, at 51% of the requirement delivery target. The result imposes three penalties upon the Council which are:

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- i. At 95% under-delivery, the failing local planning authority is required to prepare, publish, and implement an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years.
- ii. At 85% under-delivery the failing local planning authority must apply a 20% buffer on top of their established housing requirement, with the intended ambition that the application of the buffer boosts housing delivery; and
- iii. Below 75% under-delivery the presumption in favour of granting planning permission will apply,

81 These take effect immediately. For decision-takers, the imposition of the presumption in favour of granting permission and the engagement of the 'tilted balance' is the most significant and immediate consequence of significant under-performance.

82 Ashby Mews has been subject to incremental change in character over the last decade with the introduction of residential elements to the Mews, particularly through the approval of number of live/work applications at Units 2, 3, 4, 4a, 5 and 8. Whilst the Small Sites SPD does not support piecemeal development of the Mews, Officers are of the view that the specific circumstances of this part of Ashby Mews – as a cluster of live/work units reflecting historic industrial activity – are relevant material considerations to which greater weight can be applied. The principle of providing live/work units in the wider area has therefore been accepted, on balance. This is also supported by the Brockley Society.

83 While local residents have raised concerns that the proposal lacks affordable housing there is no policy requirement for a scheme of this scale to provide any affordable housing. Objections also raised concerns that the proposal would not provide sufficient housing numbers to have a wider public benefit with regard to the delivery of new housing in the borough, the scheme would nevertheless contribute four additional residential units to both the overall housing targets and the small sites target established by LPP H1 and H2. The application site is a windfall site and although its contribution is small it would support Lewisham's annualised small sites housing target as set out in LPP H2. In light of the latest Housing Delivery Test and the imposition of paragraph 11(d) of the NPPF's 'tilted balance' this small contribution carries significant weight in the planning balance exercise and forms the main justification for approval.

6.1.4 Infill development

Policy

84 DMLP Policy 33 defines a variety of sites in residential areas. The policy states that depending on the character of the area and the urban design function a space fulfils in the streetscape, some sites will not be considered suitable for development and planning permission will not be granted. This policy goes on to identify variety of sites within residential areas that may come forward for development. The main types of sites are as follows: a. infill sites, b. backland sites which are defined as 'landlocked', c. back gardens and private amenity areas and d. amenity areas.

85 The site is considered to be suitable infill development for the purposes of DMP 33 and the Small Sites SPD. The wording of DMP 33 part 5 states that Development within street frontages and on street corners will only be permitted where they:

a. make a high quality positive contribution to an area

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b. 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 and to the special distinctiveness of any relevant conservation area

c. result in no significant overshadowing or overlooking, and no loss of security or amenity to adjacent houses and gardens

d. provide appropriate amenity space in line with DM Policy 32 (Housing design, layout and space standards)

e. retain appropriate garden space for adjacent dwellings

f. repair the street frontage and provide additional natural surveillance

g. provide adequate privacy for the new development and

h. respect the character, proportions and spacing of existing houses.

Discussion

86 Whilst the proposed development would marginally increase the build footprint at the site from approximately 477m² to approximately 481m² (which would equate to a 0.83%). There is no objection to this increase in site coverage, the proposed building would largely comply with the character of the area, and it would retain sufficient separation distances to properties on Manor Avenue and those on the opposite side of Ashby Mews. Officers are satisfied that the proposed infill development would comply with the requirements of DMP 33 part 5.

6.1.5 Principle of development conclusions

87 In planning policy terms, the recently published Housing Delivery Test results demonstrate that the development industry is significantly under-performing on delivery across the Borough, completing only 51% of the measured target. For this reason, the Council's decision-takers must take account of the Housing Delivery Test triggered tilted presumption in favour of granting permission.

88 The principle of development of the site to provide four live/work units is therefore supported, subject to conditions controlling the arrangement of the live/work units and limitations on noisy activities.

89 The Planning History section of the report documents that the previous application for this development (ref DC/21/121776) was subject to an appeal, see paras 13 and 14 above. The Appeal Decision (ref APP/C5690/ W/21/3287376) is appended to this report at Appendix 1. In the Inspector's assessment of the appeal case the only significant harms arising from the previous iteration of the development was the change of use from light industrial to solely residential resulting in the total loss of employment land and the poor quality of cycle storage on the site, see paras 67, 68 and 173 for a summary.

90 The current development is fundamentally the same scheme as the previous proposal (DC/21/121776), save for the live/work use proposed thus retaining a degree of employment floorspace on the site and the redesign of the cycle storage facilities. Therefore, the appeal decision is a material consideration which carries considerable weight in the assessment of this application which has also informed the current development proposals. Officers consider that the application has addressed the harms identified in the Appeal Decision and that that decision should be followed, see paras 61

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to 71, 156, 157 and 172 for the detailed assessment, subject to scale and design of the proposed scheme, standard of accommodation, transport and environmental impacts, and impacts on neighbouring amenity which will be assessed in subsequent sections of this report

6.2 HOUSING

General policy

- 91 NPPF para 135 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 SPG, Housing Design Standards LPG; Alterations and Extensions SPD 2019, LBL).
- 92 This section covers: (i) the contribution to housing supply and (ii) the standard of accommodation.

6.2.1 Contribution to housing supply and mix

Policy

- 93 National and regional policy promotes the most efficient use of land.
- 94 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.
- 95 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.
- 96 LLP H10 states that schemes should generally consist of a range of unit sizes. This is supported by CSP 1.
- 97 LPP D2 sets out that the density of development proposals should consider, and be linked to, the provision of future planned levels of infrastructure and be proportionate to the site's connectivity and accessibility by walking, cycling and public transport to jobs and services (including both PTAL and access to local services).
- 98 LPP D3 sets out that all development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity (as set out in Policy D2 Infrastructure requirements for sustainable densities), and that best delivers the requirements set out in Part D.
- 99 The Core Strategy (CSP) recognises the Borough's need for housing and outlines the objectives to achieve 18,165 new dwellings between 2009/2010 and 2025. Lewisham Core Strategy Spatial Policy 1 'Lewisham Spatial Strategy' that links to Core Strategy

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Objective 2 ‘Housing Provision and Distribution’ supports the delivery of new housing to meet local need.

100 The South-East London Strategic Housing Market Assessment identifies a local need for family sized dwellings within Lewisham. A family dwelling suitable for households including children is defined as consisting of three or more bedrooms.

Discussion

101 A key component of the NPPF is the presumption in favour of sustainable development in Paragraph 11. For decision-making this means approving applications that accord with the development plan without delay (paragraph 11(c)), or, where there are no relevant development plan policies, or where the policies most important for determining the application are out-of-date, granting permission unless either:

- i. *the NPPF policies that protect areas or assets of particular importance provides a clear reason for refusing a proposed development; or*
- ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. (paragraph 11(d) – also referred to as the ‘tilted balance’).*

102 Criterion i) of NPPF paragraph 11(d) would not be triggered as the proposed development would not give rise to any harm to the Brockley Conservation Area as set out in Section 6.3 of the report, and as such criterion ii) is applicable. Whether a ‘straight balance’ (where harms outweigh the benefits) or a ‘tilted balance’ is appropriate will depend on whether the policies which are most important for determining the application proposals are out of date. NPPF Paragraph 11 footnote 8 defines ‘out of date’ as including, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five-year housing supply, or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirements over the previous three years.

103 In this instance, the policies which are most important for determining the application are out of date i.e. the ‘tilted balance’ is engaged because, the Council failed the 2022 Housing Delivery Test, delivering only 51% of its housing target between 2019 and 2022.

104 The proposal is a housing windfall site. This is a key consideration in respect of the Housing Delivery Test triggered presumption in favour of granting permission. Proposals on such sites have the greatest potential to address under-performance and consequently the Council’s decision-takers must positively consider these opportunities when they arise. It is important that Council’s decision-takers have confidence that the developer, and their proposal, has a reasonable prospect of being completed within three-years of consent being granted. This is a higher bar than that required within the context of the housing supply triggered presumption.

105 The proposed scheme would contribute four live/work units, while this would only provide a small contribution to both the annualised housing targets for Lewisham and for Small Sites as set out in LPP H1 and H2, it would still be a welcome contribution that carries significant weight in the planning balance and public benefit. In this instance in light of the titled balance Officers consider if any adverse impacts arise the identified harm would have to be significant and demonstrably outweigh the benefits of the scheme. Officers consider that the development is therefore tilted towards granting planning permission given the provision of new four new dwellings.

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106 The proposed units would be one bedroom live/work units, local residents also raised concerns with the unit mixes and size. While CSP 1 requires new development to help to meet local housing need in terms of dwelling sizes, Officers are satisfied that the proposed one bedroom live/work units are acceptable. Live/work units are generally occupied by single person households or by couples forming one household.

6.2.2 Internal and external space standards

Policy

107 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.

108 LPP D6 states that for 1-2 person dwellings, a minimum 5sqm is required, with an extra 1sqm for every additional occupant.

109 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.

Discussion

110 There are no specific policies which sets out the requirements for space standards for live/work units, therefore an assessment of the residential element of the live/work unit has been undertaken with the requirements of LPP D6 as set out below in **Table 1**.

Table 1 – proposed dwelling sizes

Live/Work No.	Unit size	GIA proposed (required) sqm	Bedroom proposed (required) sqm	Built in storage proposed (required) sqm	Private Amenity Space proposed (required) sqm
1	1B/2P	84 (50)	11.5 (11.5)	2.6 (1.5)	45 (5)
2	1B/2P	100 (50)	12.5 (11.5)	2.6 (1.5)	44 (5)
3	1B/2P	100 (50)	15 (11.5)	2.6 (1.5)	28 (5)
4	1B/2P	89 (50)	12 (11.5)	2.6 (1.5)	19 (5)

111 All four live/work units would exceed the requirements of LPP D6 with regard to floor space, bedroom size and storage provision. The floor to ceiling heights would exceed 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 units would benefit from rooftop terraces and ground floor amenity spaces that meet the London Plan requirement, which is supported.

112 Local residents also raised concerns about the proposed office space that is located on the ground floor of the proposed live/work unit and how it could be used as an additional bedroom by future occupiers. Officers are satisfied that the office on the ground floor forms part of the employment floorspace and is not directly accessed from the residential

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element of the scheme. The imposition of a live/work condition will secure the use as employment floor space for future occupiers; therefore, this room has not been included in the GIA of the proposed residential element of the scheme.

Privacy & Ventilation

Policy

- 113 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.
- 114 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

- 115 All four live/work units would be dual aspect as a minimum providing good levels of privacy and passive cross ventilation. The cross ventilation would provide adequate mitigation against overheating. In privacy terms all four units are an appropriate distance from the neighbouring buildings in compliance with the Small Sites SPD guidance. The screening to the roof terraces to the live/work units coupled with the obscure glazing proposed for the ground floor western elevation windows and doors would ensure there would be no direct views into the new live/work units. These measures are considered sufficient to ensure acceptable levels of privacy and would be secured via condition.

Outlook, Daylight and Sunlight

Policy

- 116 The NPPF does not express particular standards for daylight and sunlight. Para 129 (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.
- 117 London Plan Policy D6 seeks high quality design of housing development and requires developments to achieve 'appropriate outlook, privacy and amenity'.
- 118 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of sunlight and daylight for its neighbours.
- 119 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.

Discussion

- 120 An Internal Light Assessment ("ILA") (prepared by NRG Consulting, dated June 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 would be compliant with the BRE standards. As such, Officers are satisfied that the proposed development would receive acceptable levels of natural light.

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121 It should be further noted that the Inspector in the appeal decision for previous application DC/21/121776 concluded that the proposed development would have provided acceptable living conditions for future occupiers with particular regard to natural light and outlook. In assessing this impact, the Inspector reached the following conclusion (Appeal Ref: APP/C5690/W/21/3287376 paras 38 to 42) which are included below:

It is not disputed by the Council that the Internal Daylight Assessment shows that all of the habitable rooms in the proposed dwellings would, as a minimum, meet the BRE standards for internal daylight. The Average Daylight Factor (ADF) standards specified by BRE are easily exceeded for the kitchen/living/dining rooms, which would be at first floor level, and also exceeded for the ground floor bedrooms, with the exception of bedroom 1 of Unit 2 where the minimum standard would be achieved.

It is not disputed that the first floor of the proposed development, which includes the open plan kitchen/dining/living room in all the dwellings would have a good outlook. However, the ground floor level, which includes the bedrooms and the 'study/home office' area would have a very limited outlook.

The submitted drawings show that the windows facing onto Ashby Mews would be obscure glazed in part for reasons of privacy, which is confirmed by the appellant in their final comments. This means that the outlook from these rooms would be very limited. Whilst a small rear courtyard would be provided for each dwelling this would be a manifestly small and enclosed space.

Nevertheless, Table 3 of the Council's officer report shows that the four dwellings would be more than double the expected internal space standards required for a 2-storey dwelling. The 'study/home office' would be part of a large open plan space that would extend from the front to the rear of the proposed dwellings. Most of the bedrooms would exceed the required space standards and whilst bedroom 3 of Unit 3 would not, this room would have a window onto Ashby Mews. I also note there would be large open plan kitchen/dining/living rooms at first floor level and front roof terraces for the proposed dwellings.

Whilst the outlook from the ground floor habitable rooms would be poor, the primary living accommodation would be at first floor level, and together with the dual-aspect and spacious internal layout, I am satisfied that in this case the overall outlook from each of the dwellings would be satisfactory.

122 There are clear similarities in terms of building layout and window openings between the proposed development and the appeal scheme, the main difference between the two schemes is that the proposed development is for live/work where the residential element is located solely on the first floor. Given these similarities and the conclusion reached by the Inspector with regard to outlook, daylight and sunlight Officers are satisfied that the proposals would provide acceptable living conditions for future occupiers of the live/work units with particular regard to natural light and outlook.

Noise & Disturbance

Policy

123 Paragraph 180 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 191 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.

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Discussion

- 124 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. Additionally, the existing commercial use with its associated comings and goings and how it was used is comparable to the live/units proposals there would likely be no discernible difference between the two uses further emphasising the acceptability of the proposals.

Accessibility and inclusivity

Policy

- 125 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

- 126 The constraints imposed by converting and extending an existing building would prevent the provision of wheelchair and accessible and adaptable units as it would not be possible to provide level access to the living areas. It would not be proportionate to require that a lift be installed for access to the residential first floor 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.

Air Quality

Policy

- 127 NPPF para 180 (e) 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

- 128 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 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.

Fire Safety

Policy

- 129 LPP D5 seeks to ensure that developments incorporate safe and dignified emergency evacuation for all building users.
- 130 LPP D12 requires all development proposals must achieve the highest standards of fire safety. There is no planning policy requirement however for a non-major development to submit a Fire Statement.

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131 In terms of Planning Gateway One the definition of ‘relevant buildings’ is a building which:

- contain two or more dwellings or educational accommodation and
- meet the height condition of 18m or more in height, or 7 or more storeys

Discussion

132 The provision of sufficient fire safety measures was raised as a concern within the objections to scheme. The applicant has submitted a Planning Fire Safety Strategy (prepared by PD Planning UK dated June 2023) in support of this application. However, the proposed development is not a “relevant” development that requires the provision of Fire Statement in the context of statutory legislation.

133 Nevertheless, the applicant has set out how the proposal would achieve the highest standards of fire safety in line with LPP D12. The nearest fire hydrant location (Ashby Road) is in excess of 100m of the proposed live/work units therefore a private hydrant will be installed in accordance with BS 9990. This will be secured by condition as requested by Highways.

134 Officers are satisfied that the proposed development has provided sufficient fire safety measures that are commensurate with the scale and nature of the development and appropriate to the planning application.

6.2.3 Residential quality conclusion

135 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

136 The NPPF at para 131 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Policy

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

138 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.

139 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.

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- 140 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.
- 141 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.
- 142 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
- 143 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.
- 144 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.
- 145 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.
- 146 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.
- 147 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.
- 148 The Small Sites SPD provides guidance for the redevelopment of small infill sites (maximum 0.25ha). Sections 26 and 33 are of particular relevance and paragraph 33.1.13 within Section 33 states where development is proposed within Conservation Areas, the accompanying character appraisal takes precedence and applications should demonstrate how proposals are in accordance with it. Further guidance is given with the Brockley Conservation Area Character Appraisal and SPD.

Discussion

- 149 Typically, Brockley Conservation Area's mews are mostly leafy unmade service roads containing mature trees and vegetation. The side of Ashby Mews where this site is located is an exception and has a different character to the rest of Ashby Mews: it has been tarmacked and contains densely packed garages, workshops, and live work units. It has lost some of the characteristic elements of a typical mews and this section risks losing its connection to the rest of Ashby Mews. Conservation Officers consider that any development in this part of the mews must be sensitive and try to enhance the mews character of this location.

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- 150 The northern part of Ashby Mews has a mixed urban character and appearance, within which a light industrial building, single-storey garages and workshops, 2-storey live/work units and the 2-storey flats by the junction with Ashby Road all sit comfortably. It is considered that the significance of this part of the Brockley Conservation Area stems from its historical development, including the design and function of the streets and buildings. The existing building is not a particularly attractive or well-designed structure, but it does contribute to the character of the conservation area by reflecting the historic light industrial character of the mews.
- 151 The proposed development would result in the demolition of the existing single-storey structures along the frontage of the site with Ashby Mews and the removal of the front roofslope to facilitate the proposed changes to the application building. Officers have no concerns in terms of the demolition works.
- 152 In the assessment of the previous application (ref DC/21/121776), 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 first-floor extension as the following assessment with the Officers Report for application DC/21/121776 makes clear:
- “The scheme has been submitted following the refusal of applications reference DC/20/116637, one of the reasons for refusal being the design being out of keeping with the surrounding and the surrounding conservation area.*
- The massing and scale of the scheme has remained almost the same. The current development introduced some punctuating gaps as a result of the part single, part two storey development along the front elevation. This design is considered to result in increased perceived sense of enclosure on the Mews as a result of its height. The development as a whole given its overall scale would not form a development that is appropriate in relation to the existing built form so that it provides a consistent and coherent setting for the space it defined.*
- The design of the ground floor elevation improved. However, the design continues to appear as a residential development and it would harm to special character of the mews and the wider conservation area.”*
- 153 Harm to the character and significance of the Brockley Conservation Area was a main issue for the appeal against application DC/21/121776. The appeal was dismissed; however, the Inspector’s assessment and conclusion of the visual impact of the extension was clear in that the bulk and massing of the extension would not introduce harm to Conservation Area as appeal decision APP/C5690/ W/21/3287376 (see Appendix 1) explains at para 27:
- “The design, scale, massing and materials of the proposal would not be out of keeping with the character or appearance of this part of Ashby Mews and would preserve its significance. The front elevation onto the mews would maintain a semi-industrial appearance, including the presence of ground floor courtyards accessed via solid panel gates for three of the proposed dwellings. The fenestration and doorways would be similar to the existing front elevation and the 2-storey elements do not appear incongruous, given the design, scale and massing of the existing light industrial building. In views from the rear the scale, massing and appearance of the proposal would not be dissimilar to the existing building.”*
- 154 The proposed scheme before Members is the same design as the appeal scheme, with the exception of the revisions which were secured as set out in para 27 of this report. It is therefore evident that the Inspector found the scale and design of the alterations and

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extensions would ensure that the extensions proposed to the existing building would read as subservient additions to the host building and wider townscape. Officers have carefully considered this assessment against the Inspector's conclusion and there has been no relevant change in policy or guidance since that appeal decision.

155 As set out in para 27 of the appeal decision the Inspector noted that the materials of the proposal would not be out of keeping with the character or appearance of this part of Ashby Mews and would preserve its significance. 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, roofing materials and fenestration as advised by the Conservation Officer

156 The appeal decision for previous application DC/21/121776 identified that change of use from light industrial to solely residential would have a less than substantial harm to the Brockley Conservation Area. In assessing this impact, the Inspector reached the following conclusion (APP/C5690/ W/21/3287376 paras 29 to 31)

“Nevertheless, the replacement of a light industrial use with a residential development proposal would detract from the mixed character of the area, given the other uses to be found here, including the wholly residential development next door. No substantive evidence has been provided by the appellant regarding the stated difficulties of financing live/work units, such as are found nearby.

Whilst the northern part of the mews would continue to have some commercial uses, including workshop-type spaces, the extent of these would be significantly reduced. I accept that the dwellings would be suitable for home office uses, but these would be ancillary to the main residential use, and in any event would not be the type of activity traditionally associated with this area.

Consequently, the proposal would result in less than substantial harm to the character of the BCA, which in this area was historically light industrial; I afford great weight to the conservation of the BCA.”

157 As the paragraphs above makes clear the Inspector identifies the harmful impact to the Conservation Area stemmed from the replacement of a light industrial use with a residential development proposal which would detract from the mixed character of the Mews and the Conservation Area generally. The revision to the proposal to include four live/work units instead of the four residential units has successfully overcome the harm identified within the appeal decision and would help to bring the building back into use and improve the vitality of the mews as argued by a number of letters of support.

158 While local residents raised concerns that the proposal would result in a gated development of the mews, the application proposes no such gated element to it with the exception of the front gates to each unit to maintain privacy. Officers are satisfied that should a gated element is implemented the applicant would be breaching planning control and would be a matter for the Council's planning enforcement.

159 Officers are therefore satisfied that the design of the current proposal would lead to no harm to the Brockley Conservation Area.

6.3.1 Urban design and heritage conclusion

160 Officers, having regard to the statutory duties in respect of conservation areas in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied

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the proposal would preserve the character or significance of the Brockley Conservation Area.

- 161 Inspectors only found harm on the Brockley Conservation Area, for the previous scheme, through the change of use and subsequent loss of employment space, Officers are satisfied that the employment use of the live/work units that are now proposed has addressed this reason for dismissal. Given the design of the scheme before Members is largely the same as the appeal scheme it is therefore considered acceptable, and as a result would result in a suitably designed building that responds well to the surrounding area and reflects its live work use in a sensitive mews setting.

6.4 TRANSPORT IMPACT

General policy

- 162 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of paragraph 108. 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.

- 163 Para 115 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

- 164 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.
- 165 LPP T4 states that development proposals should reflect and be integrated with current and planned transport access, capacity and connectivity.

Discussion

- 166 The application site has a PTAL rating of 4, which is indicative to 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 required.

6.4.2 Servicing and refuse

Policy

- 167 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.

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

Discussion

169 The proposal would include a bin store that would be constructed within the northern corner of the site fronting Ashby Mews, located adjacent to the courtyard of Unit 1. The store would accommodate four 240l general recycling bins, four 180l general waste bins and a 70l food waste bin, this would be commensurate with the policy requirement and would ensure that bins would not 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.

170 The servicing demand generated by the proposed live/work accommodation is unlikely to be significant given the scale of development. Therefore, Officers are content that the building can be serviced from the roadside consistent with the existing arrangement for a number of live/work units along Ashby Mews.

6.4.3 Transport modes

Cycling

Policy

171 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

172 Independent cycle storage would be provided to each of the live/work units, each property would be provided facilities for two cycles thereby exceeding the one and a half as stipulated within Table 10.2 of the London Plan. Each store would be covered and would accommodate a Sheffield stands which are considered accessible in accordance with the London Cycle Design Standards. Both Unit 3 and 4 would have a Sheffield wall rail, while Highways Officers raised concern with this design, the final design of the cycle storage can be secured by way of condition and therefore further amendments during the course of this application is not necessary.

173 The appeal decision for the previous application DC/21/121776 identified that the proposed cycle storage would have a harmful impact on the living conditions of future occupiers. In assessing this impact, the inspector reached the following conclusion (Appeal Ref: APP/C5690/W/21/3287376 paras 45 to 49)

“The appellant’s application proposed bicycle storage beneath the stairs in each of the four dwellings.

I note that this can be an acceptable solution for bicycle parking, but there are disadvantages with such an approach. Bicycles are inherently outdoor vehicles and can collect dirt and water on their wheels and frames through use. Moving a wet or dirty bicycle some distance through a home, and storing it in an enclosed space, is unlikely to be attractive to residents and so would discourage them from cycling. The use of the rear courtyards for bicycle storage would also entail moving the bicycles through the dwelling, and the small size of these areas means that this would be a cramped arrangement, that would also detract from their amenity function.

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I am satisfied that the originally proposed bicycle storage arrangements would meet the minimum standards in Table 10.2 of Policy T5 and would be secure. However, the proposed internal or rear storage arrangements are likely to discourage residents from bicycle use.

The appellant has subsequently suggested that for Units 1 – 3 of the proposed development, the front courtyards could be used for bicycle storage, although the small size of the front courtyard at Unit 3 means that this would be a cramped arrangement.

However, Government guidance is clear that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. Even if I were to accept the provision of bicycle storage in the front courtyards of Units 1 – 3, for Unit 4, which does not have a front courtyard, this would not be an option."

174 As the paragraphs above makes clear the Inspector found the location the cycle storage beneath the stairs in each of the four dwellings unacceptable. The revision to the siting of the cycle storage to the front courtyard would improve the accessibility of the cycle storage and therefore encourage cycle use for future occupiers.

175 Accordingly, Officers are satisfied that the revised front courtyard location of the cycle storage has successfully overcome the concerns within the appeal decision. 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

176 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.

177 LP Policy T6.1 together with Tables 10.3 set out the parking standards for residential uses

Discussion

178 No off-street parking would be provided by the development, which is supported given its good PTAL rating of 4. 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.

179 A Transport Statement ("TS") (prepared by YES Engineering Group Limited dated 24 June 2020) was submitted in support of this application. The TS contains the results of two parking stress surveys one conducted in March 2018 and a follow-up survey from June 2020. Both surveys from 2018 and 2020 were conducted over two separate nights, the 2018 survey was completed on Wednesday 14th March and on Thursday 15th March 2018, both at 3am. The results of this survey are included as Appendix B within the TS, the results indicate that there are some 217 on-street parking spaces within 200m of the application site, of the 217 spaces a maximum of 174 parking spaces were occupied at 3am (80.2% stress). This leaves a 43 un-restricted on-street parking spaces for use.

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- 180 An additional parking survey was also completed in June 2020, the results indicate that a maximum 79.9% stress (45 available bays), while it would appear this shows a slight improvement on the 2018 results it should be noted that the 2020 survey included a survey with seven additional spaces albeit the catchment areas are the same for both surveys. It is not explained in the TS why an additional seven spaces were included in the 2020, nevertheless Officers are satisfied with the methodology and results of the two surveys. As the parking stress surveys demonstrate that there is sufficient capacity within the surveyed area to accommodate the proposals should some of the occupants own a car to park in the local area.
- 181 Officers are sympathetic to local residents' concerns which were raised regarding insufficient on-street car parking spaces and the general manner of road users in this area. However, the evidence before Officers as part of this application clearly demonstrates that the maximum degree of parking stress experienced within the catchment area was 80.2% (equating to 43 spaces free) at 03:00; however, at no point would this be considered 'high' (i.e. in excess of 85% stress).
- 182 It should be noted that Highway Officers have suggested that a planning obligation should be secured that would restrict future occupiers from obtaining a residents parking permit should a CPZ be implemented in the future. This request by Highway Officers was a result of the previous scheme (DC/21/121766) which led to a reason for refusal on the unilateral undertaking that was submitted alongside that application. That previous scheme was for four solely residential dwellings comprising three 2 bedroom 4 person and one 3 bedroom 5 person units.
- 183 Officers are satisfied that there are sufficient differences with the previous scheme such as the provision of a family-sized unit and larger housing types which when taken together with the results of the parking stress survey 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 given the results of the parking stress survey and the composition of the 1 bed 2 person live/work units proposed. 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

- 184 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

- 185 The Construction Logistics and Management Plan ("CLMP") (prepared by PD Planning UK, dated June 2023) 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. Highway Officers noted that the CLMP failed to include a vehicle swept paths done for delivery vehicle access from Ashby Road and from Geoffrey Road, if that access would be used. A number of other minor concerns and clarifications were sought by Highways Officers, 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 and provide further swept path drawings as requested by Highways

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6.4.5 Transport impact conclusion

186 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

187 NPPF paragraph 135 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).

188 DMP 31 (1) (b) expects new development to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours.

189 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, Outlook and Privacy

Policy

190 DM Policy 32 expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours. 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.

191 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

192 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.

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

194 The proposed development would be part-single and part-two storey and it would have punctuating gaps. The massing and scale would not be too different to other

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development along this section of the Mews and whilst the scheme would introduce additional massing to the Mews frontage and given the proximity to properties on the opposite site of the Mews, it is not considered that it would warrant a reason for refusal. Those properties would retain similar outlook to the one already enjoyed.

- 195 The massing of the rear of the building was raised as a concern within the objections to scheme. However, the development would be contained within the existing building envelope of the site and would maintain the same height to the rear as the existing. Therefore, it would not introduce any new impacts on neighbouring amenity to the granny annex within the garden of No. 68 Manor Avenue and to Nos. 62 to 66 Manor Avenue who also abut the retained wall.
- 196 The east facing boundary which abuts the rear gardens of residential properties along Manor Avenue will have no windows but two rows of rooflights are proposed to the retained rear roofslope. The first row of rooflight would serve the ground floor only and the second row would be located approximately 2.7m above the finish floor level of the first floor. As such, given their positioning and distance from the Manor Avenue properties there will be no privacy/overlooking issues to the east of the site. While local residents and the Brockley Society raised concerns with light pollution from the proposed roof lights, this is not an uncommon issue in an inner London borough, it does not represent a significant material harm to neighbouring amenity that would warrant a refusal, or the imposition of a planning condition for any approval as requested by the society as it would not meet the six planning tests for conditions.
- 197 All of the windows on the west elevation would be looking towards the opposite side of Ashby Mews and the existing front elevation. The upper floor windows would be set back from the front elevation by 5.0m and on that front elevation there is a parapet wall of 2.4m as measured from the finished floor level of the amenity area of the roof top area.
- 198 Officers are satisfied there would be no significant impact on the amenity to the neighbours along Ashby Mews. It is also important to note that in the assessment of the previous application (ref DC/21/121776), Officers were satisfied that the proposed development would not cause a material harm to any neighbours in terms privacy, outlook or sense of enclosure.

6.5.2 Daylight and Sunlight

Policy

- 199 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of sunlight and daylight for its neighbours.
- 200 The NPPF does not express particular standards for daylight and sunlight. Para 129 (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

- 201 No daylight and sunlight assessment has been submitted in support of this application, however the rear wall and the rear roof pitch would be retained. Officers are satisfied that the proposal would not adversely impact on the amenities of properties facing Manor Avenue in terms of daylight and sunlight given the separation distance of 30m.

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202 The buildings on the opposite side of Ashby Mews are all two storeys in size as such the proposed extensions and alterations to the front elevation along Ashby Mews would not cause material harm to any neighbours in terms daylight and sunlight, privacy.

203 Additionally, the previously refused application (DC/21/121776) was considered acceptable by the Council and Planning Inspector with respect of sunlight and daylight of neighbouring properties. Given the similarities of the proposed development with the refused scheme in terms of the massing and size there is no reason to come to a different conclusion of the impacts in this regard.

6.5.3 Noise and disturbance

Policy

204 The NPPF at para 180(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

205 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.

206 LPP D13 states that development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them.

207 LPP D14 states that residential development should avoid significant adverse impacts to quality of life.

208 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

209 Additional live/work development is unlikely to result in any long-term noise impacts to the surrounding properties given the existing light industrial nature of Ashby Mews. However, there is considerable potential for short-term impacts during the construction phase of development given the scale of the works. This is in terms of noise but also but also from dust and other forms of pollution. Therefore, a condition is recommended to secure the Construction Management Plan in order to minimise the impacts of the development.

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- 210 Some local residents raised concerns the proposed refuse arrangements would cause a disturbance to neighbouring properties and the wider public who use the Mews as a throughfare. Officers are satisfied that the proposed refuse arrangements are in line with the Council's Small Sites SPD guidance and is unlikely to cause a material harm to neighbouring amenity which would otherwise warrant a refuse.
- 211 Some local residents and the Brockley Society raised concerns regarding light pollution from the proposed development regarding the number of rooflights, the suggested remedy was to impose a condition requiring the rooflights have blinds fitted to them. Officers do not consider such a condition would meet the 6-tests for the imposition of planning conditions. Nevertheless, Officers are satisfied that light pollution originating from internal light sources would not give rise to a material impact on neighbouring amenity. Further discussion on the impact of external light pollution on ecology and biodiversity can be found at Section 6.7.1.
- 212 While the Brockley Society raised an objection relating to the air rights from the extant Unit 1 and 2 application (DC/13/85211), Officers are satisfied that this is not a reason to refuse this application. Multiple permissions can be extant on a site without causing it to be a reason for refusal, the applicant will only be able to build out one permission fully if the proposed scheme prevents to the previous scheme of being completed (DC/13/85211).

6.5.4 Impact on neighbours conclusion

- 213 The impact to the living condition of the neighbouring residential properties is therefore considered acceptable subject to the recommended planning conditions set out above.

6.6 SUSTAINABLE DEVELOPMENT

General Policy

- 214 Para. 158 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.
- 215 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

- 216 LPP G5 expects major development to incorporate measures such as high-quality landscaping (including trees), green roofs and green walls.
- 217 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

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- 218 The impact of the development to the availability of green space was raised as a concern within the objections to the scheme. However, the existing application site mainly comprises built form with no existing areas of landscaping or green spaces; it would therefore not reduce the availability of green space than that of the existing site.
- 219 Following comments from Conservation Officers revisions were submitted to omit the proposed holes in the first-floor terrace which were previously designed to allow plants to grow through and have replaced it with areas of soft landscaping at ground floor level to the front elevation along Ashby Mews.
- 220 The proposed climbers on the Ashby Mews elevation are a more appropriate response which would also reinstate green to the mews and could constitute a heritage enhancement, reintroducing elements of the green leafy character. The proposed plans also indicate areas of soft landscaping to the private amenity spaces also.
- 221 A condition is therefore recommended securing the provision of these soft landscaped areas prior to the occupation of the development.

6.6.2 Flood Risk & SuDS

Policy

- 222 NPPF para 165 expects inappropriate development in areas at risk of flooding to be avoided by directing development away from areas at highest risk.
- 223 LPP SI 12 expects development proposals to ensure that flood risk is minimised and mitigated.
- 224 CSP 10 requires developments to result in a positive reduction in flooding to the Borough.

Discussion

- 225 The application site is located in Flood Zone 1 and the scale of development does not require a detailed SuDS scheme. However, the introduction of a soft landscaping and permeable paving would likely reduce run-off rates and therefore has the potential to deliver some drainage benefits which will be secured through a planning condition. 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

- 226 The proposal is considered acceptable sustainable infrastructure terms subject to the condition recommended securing the soft landscaping strategy.

6.7 NATURAL ENVIRONMENT

General Policy

- 227 Contributing to conserving and enhancing the natural environment and reducing pollution is a core principle for planning.
- 228 The NPPF and NPPG promote the conservation and enhancement of the natural environment (chapter 15) and set out several principles to support those objectives.

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229 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

230 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.

231 NPPF para 186 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 181 sets out principles which LPAs should apply when determining applications in respect of biodiversity.

232 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.

233 CSP 12 seeks to preserve or enhance local biodiversity.

234 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

235 The proposed development includes areas of soft landscaping to the front elevation along Ashby Mews and within the private amenity areas of each unit, however, no details have been provided regarding the number and species of planting proposed. As such a prior to first occupation condition is recommended securing the provision of the soft landscaping scheme which should include details of the number of plants and species. It is advised that the use of native pollinator species would be strongly welcomed given their wider benefits to biodiversity and the contribution they make to supporting invertebrates and bees.

236 The impact of the development on habitats and the potential for the building to provide roosting for bats was raised as a concern within the objections to scheme. The applicant has not provided a Preliminary Ecological Appraisal to support this application, given it is not validation requirement for an application of this scale and it does not lie within and is adjacent to a Site of Importance for Nature Conservation or Green Corridor/Chain. Following discussions with the Council's Ecology Officer it was recommended that the applicant undertake a preliminary bat roosting survey to determine the likelihood of the existing building being used by bats. Ecology Officers recommended a preliminary bat roosting survey as a more comprehensive bat emergence survey can only be undertaken between the months of May and September, it was their professional opinion that the likelihood of bats on site was low and therefore a preliminary survey would be sufficient.

237 Following Officers' advice the applicant submitted a Preliminary Roost Assessment (prepared by Arbtech Consulting Limited dated 08 February 2024) which concluded that bats were very unlikely to be roosting within the application building and as such, there

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are not anticipated to be any impacts on roosting bats as a result of the alterations proposed to the building. The report set out a number of biodiversity enhancement opportunities for bats, together with nesting birds. The recommendations include the provision of bat and bird bricks, which the applicant has also agreed to, as part of the application given the limited biodiversity enhancements proposed, a prior to first occupation condition is recommended securing the biodiversity enhancements. The recommendations also include a low impact lighting strategy; a compliance condition will be imposed securing this recommendation.

- 238 The Council's Ecology Officer has reviewed the submitted Preliminary Roost Assessment and has raised no objections to the report and is supportive of the recommendations.

6.7.2 Ground Pollution

Policy

- 239 Failing to deal adequately with contamination could cause harm to human health, property and the wider environment (NPPG, 2014). The NPPF at para 180 (e) 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.

- 240 The NPPF states decisions should contribute to and enhance the natural and local environment by remediating and mitigating contaminated land, where appropriate (para 180). Further, the NPPF at para 189 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.

Discussion

- 241 The applicant has submitted a Preliminary Ground Contamination Risk Assessment Report (prepared by Ashdown Site Investigation Limited dated March 2018) in support of this application. The report states that the site has had a number of uses throughout its history, it is suggested that from 1953 to some time in 1984 it was in use as a publisher's warehouse and it was also used as a laundry at some point during its history before it was in use as a workshop.
- 242 The report states that the site lies within an Environment Agency Source Protection Zone II (Outer Source Protection Zone) with regard to the protection of the quality of groundwater that is abstracted for potable supply; the abstraction relates to groundwater extracted from the chalk aquifer at greater depth beneath the site.
- 243 The preliminary contamination risk assessment has identified potential pollutant linkages relating to both proposed end users of the site and controlled waters. Therefore, the report recommends that an intrusive ground investigation is undertaken in order to allow a quantitative risk assessment of the potential contamination sources that have been identified to be made.
- 244 The Council's Environmental Health Officers have reviewed the application documents and the contents of the preliminary contamination risk assessment, they have recommended a prior to commencement of development condition in order to secure the intrusive ground investigation.

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6.7.3 Air pollution

Policy

245 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.

246 The Air Quality Neutral LPG provides additional guidance and established the benchmark values for assessing whether a development would achieve air quality neutral.

Discussion

247 No Air Quality Assessment has been submitted with the application. The Council's Environmental Health Officers raised concern over the lack of Air Quality Assessment submitted in support of this application, while an AQA is a planning validation requirement given the small scale of development and that other live/work units operate in the surrounding area as a matter of planning judgement it is not required.

248 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. 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

249 In this case the Planning Statement (prepared by PD Planning UK dated June 2023) states that each unit will incorporate a heating system with a gas boiler with NOx emissions rated at less than 40 mg/kWh. Therefore, the development is considered air quality neutral in building emission terms in accordance with the LPG and the provision of the low NOx gas boiler would be secured by condition.

250 It should be noted that the submitted planning statement makes reference to both gas boilers and an Air-Source Heat Pump (ASHP), the applicant has confirmed that the proposed scheme will make use of gas boilers. While the Brockley Society have raised comments relating to the location of the ASHP equipment this is not a planning requirement, and in any case ASHP no longer form part of the proposed scheme.

251 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

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

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7 LOCAL FINANCE CONSIDERATIONS

253 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).

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

255 The CIL is therefore a material consideration.

256 £28,007.84 Lewisham CIL and £16,486.26 MCIL2 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

257 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.

258 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.

259 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.

260 The Equality and Human Rights Commission has recently issued updated 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 statutory guidance issued which can be found on: <https://www.equalityhumanrights.com/guidance/public-sector-equality-duty>

261 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

262 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

263 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.

264 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.

265 This application has the legitimate aim of providing an enlarged building with employment and 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

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

267 In reaching an overall conclusion, the benefits and harms of the development proposals as a whole must be considered and balanced. Statutory duties as set out under section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise must be adhered to, and national policies and guidance followed, unless there is a good reason to depart from them. One of those material considerations include the NPPF paragraph 11(d) presumption in favour of granting permission and that the 'tilted balance' weighs a development's adverse impacts against its benefits, not on a level playing field, but tilted towards granting permission. At the heart of the NPPF in paragraph 11 is a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay, or, where the Development Plan is silent on a matter, or the most relevant policies for determining the application are 'out of date', then the application should be approved unless it is in a protected area as defined by the NPPF, or the harms caused by the proposals would significantly and demonstrably outweigh the benefits when assessed against the NPPF policies as a whole (referred to as the 'tilted balance'). Given the Council's failure of housing delivery, the relevant policies of the Development Plan are deemed to be out of

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date, and the 'tilted balance' is engaged. This is a material consideration weighing in favour of granting planning permission.

- 268 The proposed development is, with the exception of the change of use to live/work and changes to the cycle storage that is intended to overcome the harm identified by the Inspector, fundamentally the same scheme as the previous application (ref DC/21/121766) which was dismissed at appeal in 2022. The appeal was dismissed on two principal grounds relating to the impact the sole change of use to residential would have in terms of the loss of employment land and the impact on the significance of conservation area and the poor internal location of cycle storage. The aforementioned changes have addressed the previous concerns to the Officer's satisfaction. On all other matters the Inspector found that the development would be acceptable, including its visual impact on the Brockley Conservation Area and impact on neighbouring amenity. The weight that should be given to the Appeal Decision is summarised at paras 89 and 90 above
- 269 The principle of developing the site for additional live/work units in a sustainable urban location is acceptable whilst retaining a degree of employment use and is in accordance with the Development Plan and relevant material considerations, including the new Small Sites SPD, on balance having regard to the characteristics of this part of Ashby Mews. The proposal would be subordinate and proportionate to the size and scale of the host retained building form and the surrounding area. The proposed development would of high-quality design and would cause no harm to the host building and wider Brockley Conservation Area.
- 270 In housing terms, the site is considered a sustainable location for live/work units and the quality of the accommodation is supported. Accordingly, the contribution to overall housing supply and small sites housing targets forms a planning merit of the scheme that carries significant positive weight within the overall planning balance not limited by the modest scale of development.
- 271 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.
- 272 Officers have considered the proposal as a whole and it is in accordance with the Development Plan. Even if Members considered that the extent of the departures from some aspects of certain Development Plan policies results in a conclusion that the development does not accord with the Development Plan read as a whole, there are other material considerations which would outweigh that departure. In particular, the planning balance is tilted towards granting planning permission given the Council's failure in relation to the Housing Delivery Test and the engagement of the presumption in granting planning permission for the development the 'tilted balance'. Owing to the significant public benefits - such the provision of four live/work units - the application of the tilted balance, even if the proposals were taken to involve a departure from the Development Plan, planning permission should be granted.

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11 RECOMMENDATION

273 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 (as amended).

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:

Location Plan;

1AM_LW_exist 001;

1AM_LW_prop 001 Rev A;

1AM_LW_prop 002 Rev A;

1AM_LW_prop 003 Rev A;

1AM_LW_prop 004 Rev A;

1AM_LW_prop 005 Rev A;

1AM_LW_prop 006 Rev A;

1AM_LW_prop 007 Rev A;

1AM_LW_prop 008 Rev A;

1AM_LW_prop 009 Rev A;

1AM_LW_prop 010 Rev A;

1AM_LW_prop 011 Rev A;

1AM_LW_prop 012 Rev A;

1AM_LW_prop 013 Rev A;

Planning Fire Statement Strategy (prepared by PD Planning UK dated June 2023);

Preliminary Roost Assessment (prepared by Arbtech Consulting Limited dated 08 February 2024);

Preliminary Ground Contamination Risk Assessment Report (prepared by Ashdown Site Investigation Limited dated March 2018)

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

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3) Construction Management Plan

- (a) No development 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 CMP shall cover:-
- i. Dust mitigation measures.
 - ii. The location and operation of plant and wheel washing facilities
 - iii. Details of best practical measures to be employed to mitigate noise and vibration arising out of the construction process
 - iv. Details of construction traffic movements including cumulative impacts which shall demonstrate the following:-
 - (a) Rationalise travel and traffic routes to and from the site.
 - (b) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction related activity, such vehicle trips to avoid the 30mins before and after Myatt Garden Primary School drop-off and pick-up times.
 - (c) Measures to deal with safe pedestrian movement.
 - (d) Swept path drawings for the largest expected delivery vehicle for delivery vehicle access from Ashby Road and, if vehicle exit is proposed there, Geoffrey Road.
 - v. Security Management (to minimise risks to unauthorised personnel).
 - vi. 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.
 - vii. Details of the training of site operatives to follow the Construction Management Plan requirements
 - viii. Details of any required parking prohibition on Ashby Road
 - ix. Details and location of any skips which shall be used during the construction
 - x. Confirmation that joint dilapidation surveys will be undertaken at each end of Ashby Mews should be carried out with the relevant Lewisham Highway Inspector.
- (b) 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) Site Contamination

- (a) No development or phase of development (including demolition of existing buildings and structures, (except where enabling works for site investigation has been agreed in writing by the local planning authority) shall commence until:-

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- (i) 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.
 - (ii) 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) and relevant correspondence (including other regulating authorities and stakeholders involved with the remediation works) to verify compliance requirements, necessary for the remediation of the site have been implemented in full.

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

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

5) **Materials & Design Quality**

(a) Notwithstanding the hereby approved drawings, no above ground works shall commence on site 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) have been submitted to and approved in writing by the Council, in respect of the following:

- (i) brickwork, mortar, bond and pointing;
- (ii) roofing materials, joins and junctions;
- (iii) windows and reveals
- (iv) external doors;
- (v) rainwater goods;
- (vi) cills and lintels

(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.

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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 and Policy 16 Conservation areas, heritage assets and the historic environment for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character and Policy 36 Listed Buildings, Conservation Areas and other designated heritage assets.

6) Refuse & Recycling Facilities

(a) Prior to the first occupation of the development hereby approved further plans and elevations showing the design and dimensions of the bin store as shown on drawing 1AM_LW_prop 002 Rev A and 1AM_LW_prop 010 Rev A, 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).

7) Cycle Parking Facilities

(a) Prior to first occupation of the development hereby approved, full details of the design and specification of the cycle parking storage to each live/work unit which shall provide for 2no long-stay spaces to each hereby approved unit, as shown on approved drawing 1AM_LW_prop 002 Rev A, 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).

8) Gas Boilers

(a) Prior to first occupation of the hereby approved development, details of the Ultra-Low NOx Gas fired boilers proposed to be installed shall be submitted to and agreed in writing by the local planning authority.

- i. The Ultra-Low NOx Gas fired boilers to be provided for space heating and hot water shall have dry NOx emissions not exceeding 40 mg/kWh (at 0% O₂).
- ii. 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

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specialist to ensure comparable emissions. Following installation, emissions certificates will need to be provided to the council to verify boiler emissions.

- (b) The approved details shall be fully implemented prior to the occupation/use 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 Paragraph 180 of the National Planning Policy Framework (December 2023), Policy SI1 Improving Air Quality of the London Plan (2021), Core Strategy Policy 7 Climate Change and Adapting to the Effects and Policy 9 Improving Local Air Quality of the Core Strategy (2011) and DM Policy 23 Air Quality of the Development Management Local Plan (2014).

9) Soft and Hard Landscaping

- (a) Prior to first occupation of the hereby approved development, further details shall be submitted to and approved in writing by the local planning authority. Such details shall include:
- i. A scheme of hard and soft landscaping for the ground floor and rooftop amenity areas and the elevation fronting Ashby Mews (including details of proposed plant numbers, species and their location including hedges where appropriate) to reinstate elements of the green leafy character to the mews. Species should be chosen for their biodiversity value including pollinator planting and where appropriate native species. and
 - ii. A scheme for surface water management, including specifications of the surface treatments and sustainable urban drainage measures
- (b) Any details as approved under (a) shall be made available for use of occupants of the development and maintained for the lifetime of the development.
- (c) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In order that the front elevation along Ashby Mews reflects the green verdant character of the mews and that the local planning authority may be satisfied as to the details of the proposal and to comply with Policy 15 of the Core Strategy (June 2011), and Policies 25, 30 and 32 of the Development Management Local Plan (November 2014) and Sections 6.7 and 6.8 of the Alterations and Extensions SPD (2019).

10) Ecological Improvements

- (a) Details of the number and location of the integrated bird and 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.

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- (b) The works approved under (a) shall be installed in full before occupation of the building and maintained in perpetuity.

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).

11) 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 S15 Water infrastructure of the London Plan (March 2021).

12) Obscured Glazed Windows

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the new windows to be installed in the Ashby Mews elevation of the building hereby approved as shaded grey on drawing no. 1AM_LW_prop 005 Rev A shall be fitted as obscure glazed prior to first occupation and retained in perpetuity.

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

13) Restriction on Commercial Activity

No process shall be carried on nor machinery installed within the development hereby approved which could not be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

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

14) Live/Work Units

(a) The live/work units hereby approved shall be occupied as single integrated units and laid out as shown on drawing nos. 1AM_LW_prop 002 Rev A and 1AM_LW_prop 003 Rev A.

(b) The ground floor work floorspace of the individual live/work units hereby approved shall be finished and ready for use before the residential floorspace

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is occupied, and the residential use shall not precede commencement of the work use.

- (c) The first floor residential floorspace of the individual live/work units hereby approved shall not be occupied other than by a person solely or mainly employed, or last employed in the business occupying the work floorspace of that unit, a widow or widower of such a person, or any resident dependents.
- (d) The ground floor work floorspace of the individual live/work units hereby approved shall not be used for any purpose other than for purposes within Class E(g) in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modifications

Reason: In order to enable the local planning authority to control any future change of use or subdivision of the property in the interests of protecting the commercial floorspace at ground floor level in accordance with Core Strategy Policy 5: Other employment locations and to ensure an acceptable standard of amenity is provided in the upper floor residential unit in accordance with Core Strategy Policy 1: Housing provision, mix and affordability and with DM Policy 30 Urban design and character of the Development Management Local Plan (November 2014).

15) External Lighting

Any external lighting to be installed as part of the hereby approved development should follow the recommendations set out in Section 4.0 of the Preliminary Roost Assessment (prepared by Arbtech Consulting Limited dated 08 February 2024) which should also be designed in accordance with Guidance Note GN08/23 Bats and Artificial Lighting at Night (Institution of Lighting Professionals, 2023) and shall be retained in that manner permanently.

Reason: In order that the local planning authority may be satisfied that the lighting is installed and maintained in a manner which will minimise possible light pollution to the night sky and associated impact on foraging bats, neighbouring properties and bats and to comply with Policy 12 Open space and environmental assets of the Core Strategy (June 2011), DM Policy 27 Lighting of the Development Management Local Plan (November 2014) and DM Policy 24 Biodiversity, living roofs and artificial playing pitches and local character of the Development Management Local Plan (November 2014).

16) Fire Hydrant

- (a) The development shall be constructed with an on-site private fire hydrant in accordance with the Planning Fire Safety Strategy (prepared by PD Planning UK dated June 2023).
- (b) The fire safety measures as set out in part (a) shall be installed prior to first occupation and be retained for the lifetime of the development.

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Reason: In order that the health and safety of future residents would be safeguarded and to comply with Policies D5 Inclusive design and D12 Fire safety of the London Plan (March 2021).

11.2 INFORMATIVES

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive and proactive discussions took place with the applicant prior to the application being submitted through a pre-application discussion. Further positive discussions took place during the course of the application which resulted in further information being submitted.
- 2) You are advised that prior to commencement of development on site your contractor should join the Considerate Contractors Scheme.
- 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.
- 4) 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>

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12 BACKGROUND PAPERS

- (1) Submission drawings
- (2) Submission technical reports and documents
- (3) Internal consultee responses

13 REPORT AUTHOR AND CONTACT

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Email: thomas.simnett@lewisham.gov.uk

Telephone: 020 8314 6284 (ext 46284)

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**14 APPENDIX 1 – APPEAL DECISION (Appeal Ref:
APP/C5690/W/21/3287376)**

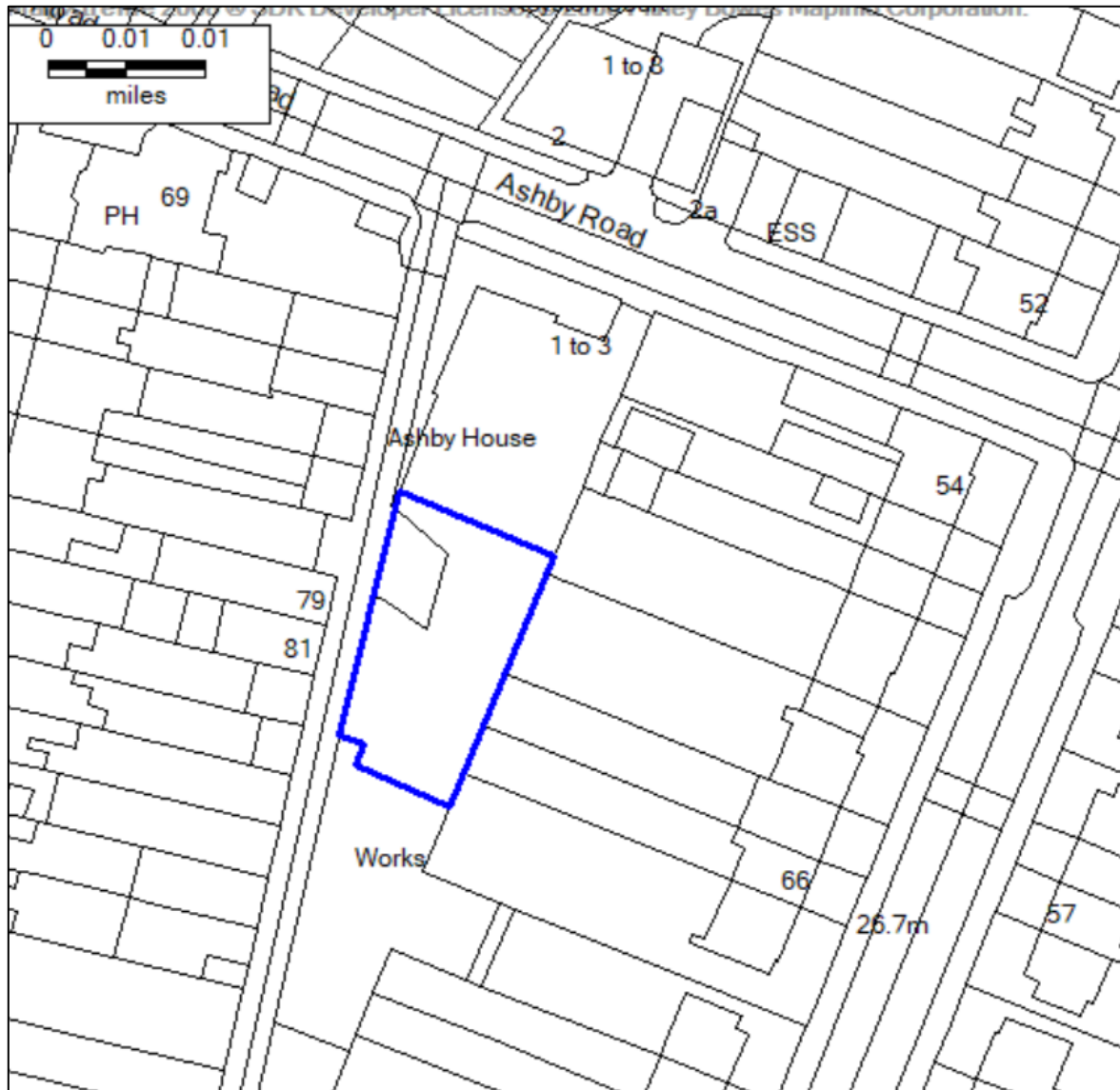
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SITE LOCATION PLAN: DC/23/132001 – UNIT 1, ASHBY MEWS, SE4



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UNIT 1, ASHBY MEWS, LONDON, SE4 1TB

Application No. DC/23/132001

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

Partial demolition of the front of the existing light industrial (Use Class E) building and alteration and extension to provide a terrace of 4 two-storey, live/work units (Use Sui Generis), together with the provision of private amenity space, associated cycle parking and refuse collection facilities at Unit 1 Ashby Mews SE4.



Site location plan

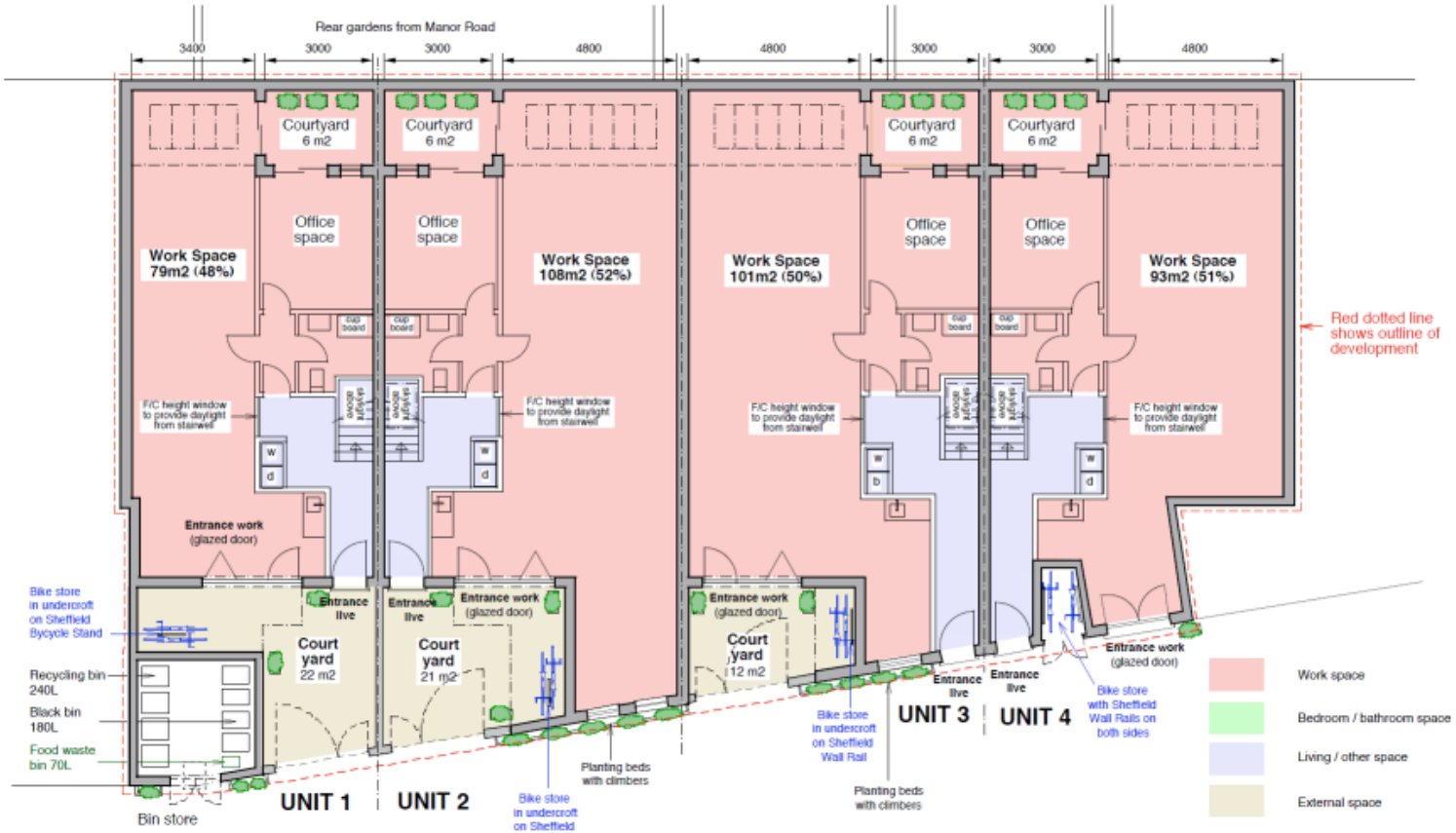
Existing site photos

Page 74

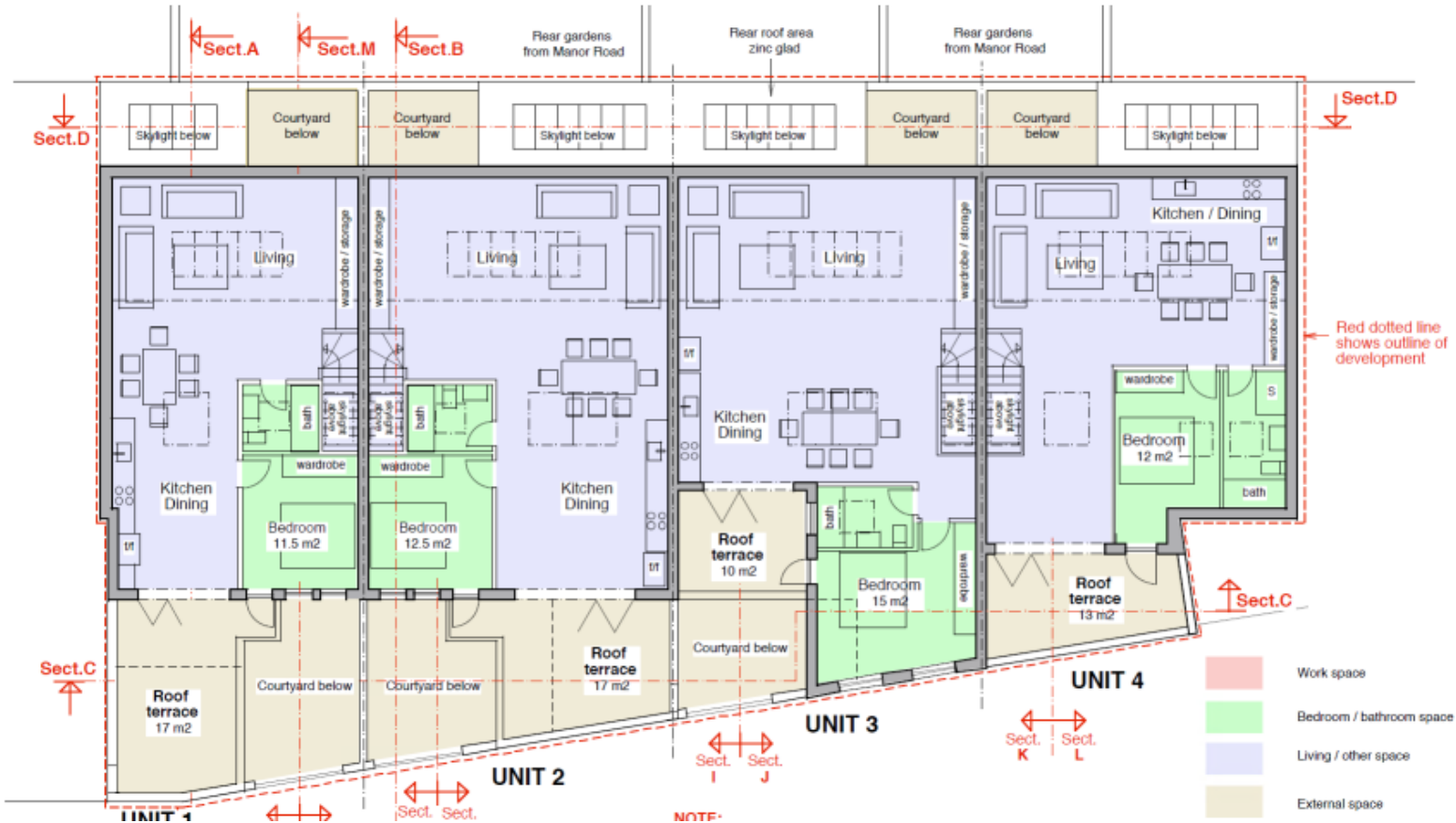


Proposed ground floor plan

Page 75

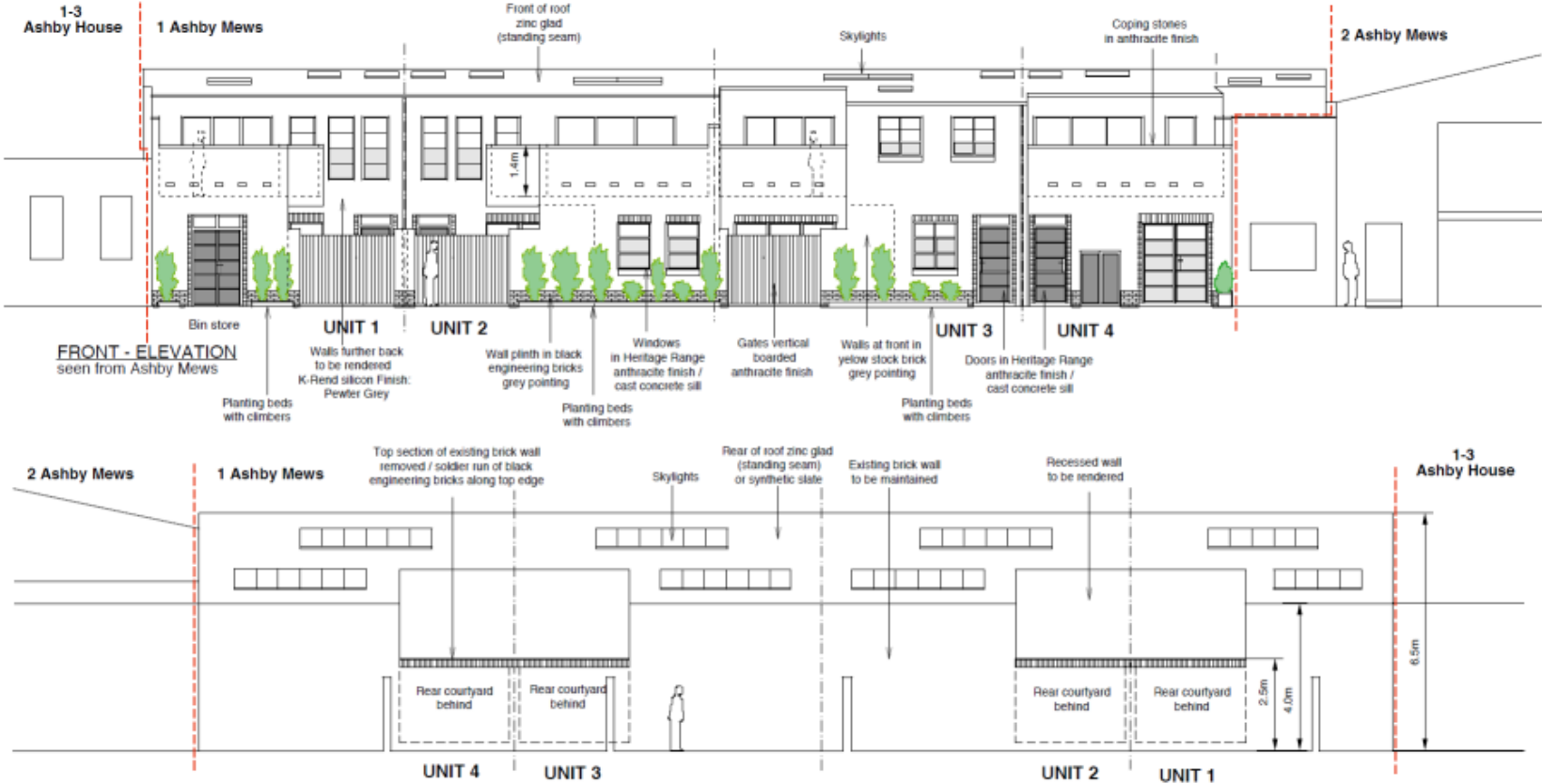


Proposed first floor plans

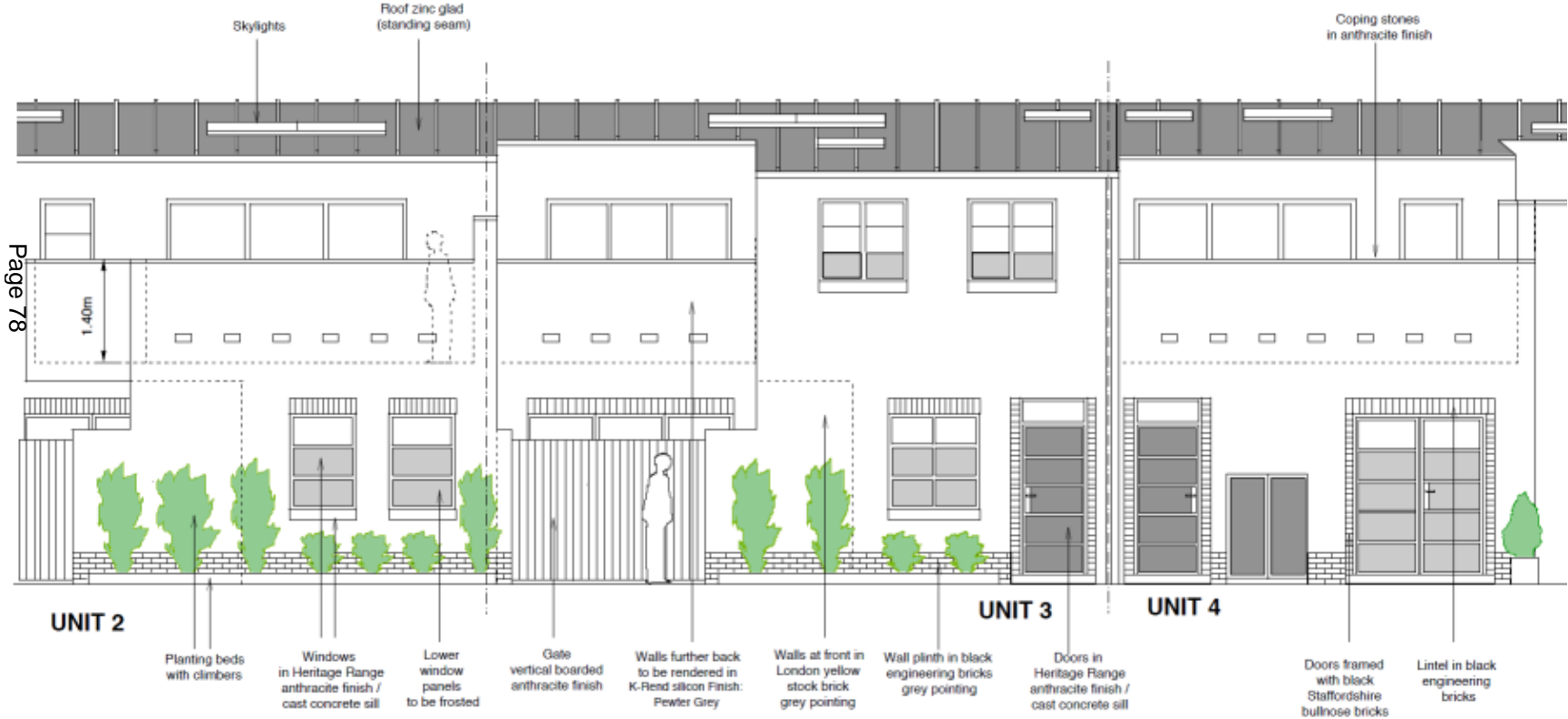


Proposed elevations

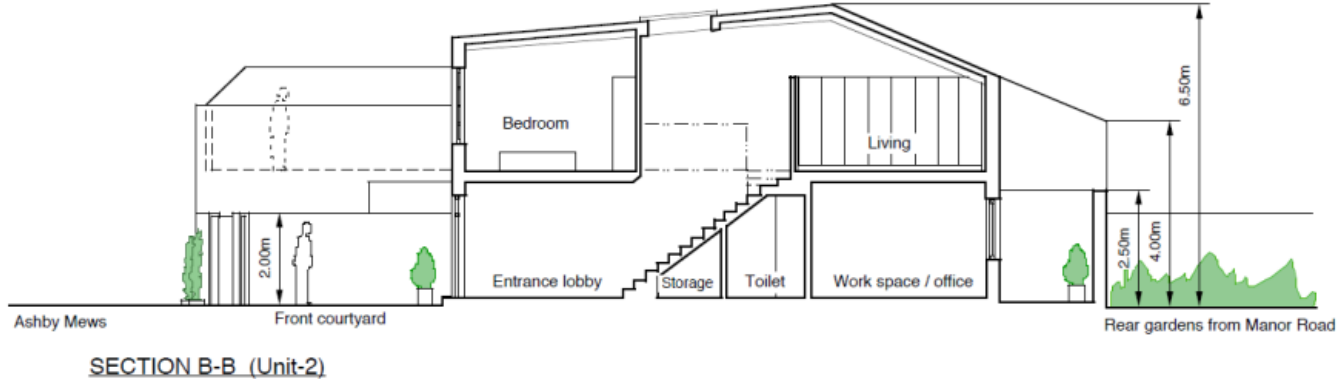
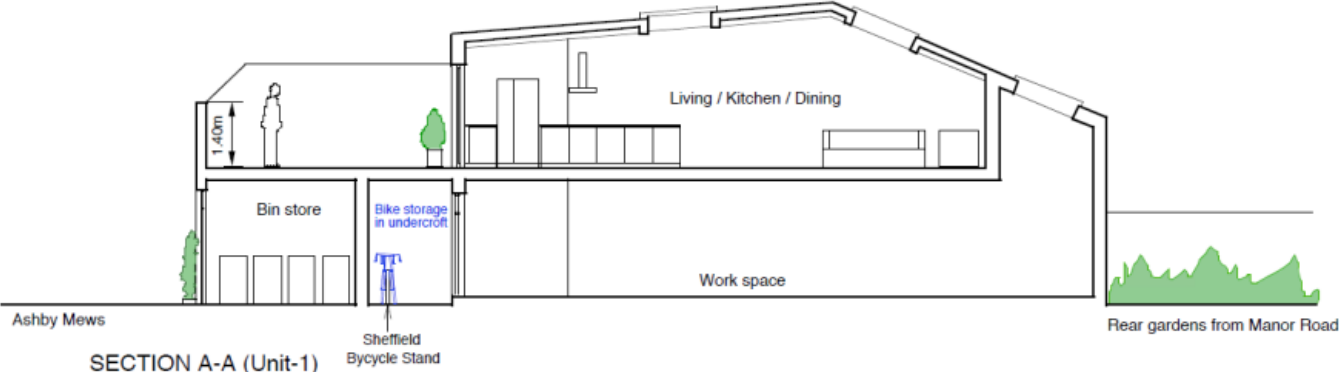
Page 77



Proposed elevations



Proposed sections



Proposed Scheme

Page 80



Key planning consideration

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

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Planning Committee B

GARAGES AT LAND ON WESTERN SIDE OF MILLBANK WAY, LONDON SE12

Date: 21 February 2024

Key decision: No

Class: Part 1

Ward affected: Lee

Contributors: Max Curson, 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 as the application received 11 objections from local residents.

Application details

Application ref. no:	DC/23/133105
Application Date:	15 September 2023
Applicant:	Afraa Homes Limited
Agent:	Planning Architecture Ltd
Proposal:	Demolition of existing garages and construction of 9 dwellinghouses (Use Class C3), together with associated car and cycle parking spaces, refuse and recycling stores, amenity space, landscaping and associated works on land to the Western Side of Millbank Way, London, SE12.
Background Papers:	(1) Submission drawings (2) Submission technical reports and documents (3) Statutory consultee responses
Designation:	PTAL 3 Lee Neighbourhood Forum Air Quality Management Area HMO Article 4 Direction Not in a Conservation Area Not a Listed Building
Screening:	N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site is a plot of land on the western side of Millbank Way. The site comprises four rows of 1960/70s garages, with associated hard and soft landscaping. The garages are not in use having been boarded up since 2012. Bollards have been installed to prevent access to the garage area.
- 2 A large mature unprotected tree is located at the southern end of the site and is prominent when viewed from Dorville Road.

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Figure 1: Site Location Plan

Character of area

- 3 The surrounding area is predominantly residential in character. The built form of the surrounding area is mixed. Millbank Way comprises a terrace of two storey 1960s/70s housing on the eastern side, with the associated but now defunct garages, the subject of this application, located opposite. Three storey blocks of flats are located to the east of the site. Large three and four storey Victorian housing borders the site on its western

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edge. The properties adjoining the site to the north on Osberton Road comprise a three storey block of flats, and generously sized 1930s detached and semi-detached dwellings. The built form on Dorville Road and Silk Close broadly comprises two storey post war terraced properties.

Heritage/archaeology

- 4 The site is not located within a conservation area, nor is it subject to a relevant Article 4 Direction that revokes its permitted development rights to carry out alterations or extensions to the existing garages. It is not a listed building nor located in the vicinity of one.

Surrounding area

- 5 The Edith Nesbitt Pleasure Ground is located 50m to the north of the site. Burnt Ash Road, which provides a range of good and services, is located 200m to the west of the the site. The Leegate Centre, which is set to be redeveloped, is located within a 200m radius of the site.

Local environment

- 6 The site is located within Flood Zone 1 which indicates a low risk of flooding. It is also located within an Air Quality Management Area.

Transport

- 7 The site has a moderate Public Transport Accessibility Level (PTAL) score of 3 on a scale of 1-6b, 1 being lowest and 6b the highest.
- 8 Lee Railway Station is located 400m to the south-west of the site. Burnt Ash Road provides access to a number of bus services.

2 RELEVANT PLANNING HISTORY

- 9 **DC/15/092720:** The demolition of the existing garages on Site A, Land on Western Side of Millbank Way, Lee Green Estate, Cambridge Drive SE12, the construction of a part two/part three storey building to provide 4 one bedroom, 4 two bedroom and 4 three bedroom self-contained flats together with associated landscaping, amenity space, refuse storage and detached cycle store. Granted on 22 February 2018. This permission has now lapsed.



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Figure 2: Front Elevation of previously approved application DC/15/092720.

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 10 Full planning permission is sought for the demolition of the existing garages at the site and the construction of nine residential dwellings (Use Class C3), together with associated cycle parking, refuse storage, car parking, amenity space and landscaping.
- 11 The development would provide 1 (one) two-bedroom four-person unit, 6 (six) three-bedroom six-person units, and 2 (two) three-bedroom five-person units resulting in 9 (nine) units in total.
- 12 Eight of the dwellings would be three storeys in height, with the most northerly dwelling being two storeys. The primary facing material would be red and buff stock brick. Timber cladding would be used in the inset section at ground floor level. The three storey dwellings would each have a mansard style roof finished in grey slate style roof tiles with single front dormers and rooflights to the front and rear roofslopes. All units would have planted green roofs.
- 13 Each dwelling would have access to private amenity space in the form of a rear garden. Cycle storage would be located in the rear garden, with refuse storage located in the front garden. Two parking spaces including a single accessible bay would be provided along the northern edge. The existing dropped kerbs at the site would be reinstated. The existing opening at the north of the site would be enlarged to allow for safe access to the two parking spaces.
- 14 A pocket park would be created at the south of the site facing onto Dorville Road.
- 15 The case qualifies as a major application as it has a GIA in excess of 1,000sqm.
- 16 Minor amendments have been made to the scheme during the course of the application. These amendments were broadly to address concerns raised by technical colleagues. Solar PV equipment, along with other energy efficiency measures, have been incorporated at the request of the Net Zero Manager. Minor amendments to the layout have also been undertaken to address sustainable urban drainage concerns.



Figure 3: Proposed Front Elevation

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3.2 COMPARISON WITH PREVIOUS SCHEME

- 17 Beyond the differences in design, the key variance between the current and the previously consented scheme (DC/15/092720) is the quantum of development and unit mix. The previous scheme provided 4 one-bedroom flats, 4 two-bedroom flats and 4 three-bedroom flats. Whilst the current scheme provides fewer units, it does provide 8 single family homes (defined as three-bedroom units with access to provide amenity space), an increase of 4 when compared to the previous scheme.
- 18 The consented scheme also did not provide any off-street parking or a pocket park. It also provided a lesser quantum of cycle parking.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

- 19 Pre-application advice was provided under reference PRE/23/131160 in May 2023. The pre-application document commented on the number of units, design of the development, servicing and amenity, and the potential impact on trees.

4.2 APPLICATION PUBLICITY

- 20 Site notices were displayed on 10 October 2023 and a press notice was published on 11 October 2023.
- 21 Letters were sent to residents and business in the surrounding area and the relevant Ward Councillors on 10 October 2023. The Lee Manor Society and Lee Neighbourhood Forum were also consulted.
- 22 11 Objections were received regarding the proposal.

4.2.1 Comments in objection

Comment	Para where addressed
Impact to neighbouring residential amenity through loss of privacy and light.	167-170, 176-178.
Loss of green spaces. Insufficient soft landscaping in the design.	195-196, 223-224.
Three storey height is out of keeping with the area.	130
Objection to draft construction management plan.	185
Impact on parking capacity and a lack of parking spaces proposed.	154-156
Overdevelopment of the site in terms of the built footprint.	77
Impact during construction.	185

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Impact on trees.	223
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23 A number of non-material planning considerations were also raised, including impact to those who work from home during the construction period and the impact on private views.

24 The Lee Manor Society commented in support of the scheme, welcoming the provision of family homes. The retention of the green space facing onto Dorville Road was supported, with the request that the area is kept open without being enclosed by railings.

4.3 INTERNAL CONSULTATION

25 The following internal consultees were notified on 10 October 2023:

26 Highways: raised no objections subject to conditions. See paras 140-157 for further details.

27 Environmental Protection: no objections subject to conditions. See paras 108, 182-185, 228, 233 for further details.

28 Urban Design: no objections subject to conditions. See parass 123-135 for further details.

29 Net Zero Manager: requested revisions to the scheme. The scheme was subsequently amended in line with the comments provided. See para 191-192 for further details.

30 Flood Risk Manager: requested revisions to the scheme. The scheme was subsequently amended in line with the comments provided. See para 205-207 for further details.

31 Ecology: requested revisions to the proposed green roofs. See paras 187 and 217 for further details.

32 Tree Officer: raised no objections subject to conditions. See para 223-224 for further details.

4.4 EXTERNAL CONSULTATION

33 The following External Consultees were notified on 10 October 2023.

34 London Fire: did not provide comments.

35 Metropolitan Police: raised no objection subject to a Secure by Design condition. Given the scale of development, and its typical residential terraced form, Officers have decided not to include a secure by design condition due to the impact it would have on the pocket park (no benches or seating areas to prevent loitering and a hoop top boundary treatment).

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5 POLICY CONTEXT

5.1 LEGISLATION

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

5.2 MATERIAL CONSIDERATIONS

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

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

39 The weight given to a relevant material consideration is a matter of planning judgement. 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.

40 However in this case a slightly different situation exists. The delivery of housing is a government priority set out in the NPPF. Paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

NPPF paragraph 11(c)

‘approving development proposals that accord with an up-to-date development plan without delay; or’

NPPF paragraph 11(d)

‘where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless;

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.’ (This is known as the tilted balance).

In other words, the tilted balance weighs a development's adverse impacts against its benefits, not on a level playing field, but tilted towards granting permission.

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- 41 For planning applications involving the provision of housing as is the case with the present application, footnote 8 to NPPF paragraph 11(d) specifies that policies will be considered out-of-date where:
- (a) the local planning authority cannot demonstrate a five-year supply (or a four-year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with the appropriate buffer, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or
 - (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.
- 42 Having regard to the above the Council has failed its Housing Delivery Test (which is an annual measurement that compares the number of net homes delivered over the previous three financial years to the homes required over the same period).
- 43 The latest Housing Delivery Test results demonstrate that across Lewisham housing completions are significantly under-performing, at 51% of the requirement delivery target of 75%. Therefore, the presumption requires that permission should be granted unless either i or ii set out in paragraph 40 above applies. In this instance, although NPPF paragraph 11(d)(i) is not triggered as the site does not relate to a designated heritage asset, NPPF paragraph 11(d)(ii) is still applicable, and any harmful impacts must be significant and demonstrable in outweighing the planning benefits in the tilted balance presumption towards granting planning permission.

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2023 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

44 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

45 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)
- Planning Obligations Supplementary Planning Document (February 2015)

46 London Plan SPG/SPD:

- Planning for Equality and Diversity in London (October 2007)
- Play and Informal Recreation (September 2012)

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- The control of dust and emissions during construction and demolition (July 2014)
- Crossrail Funding (March 2016)
- Homes for Londoners: Affordable Housing & Viability (August 2017)
- 'Be Seen' Energy Monitoring Guidance LPG (September 2021)
- Whole Life-Cycle Carbon Assessments LPG (March 2022)
- Circular Economy Statements LPG (March 2022)
- Energy Assessment Guidance (June 2022)
- Characterisation and Growth Strategy LPG (June 2023)
- Optimising Site Capacity: A Design-led Approach LPG (June 2023)
- Small Site Design Codes LPG (June 2023)
- Housing Design Standards LPG (June 2023)
- Urban Greening Factor LPG (February 2023)
- Air Quality Positive LPG (February 2023)
- Air Quality Neutral LPG (February 2023)
- Sustainable Transport, Walking and Cycling LPG (November 2022)

EMERGING LEWISHAM LOCAL PLAN

- 47 On the 3rd of November 2023 Lewisham Council submitted the Lewisham Local Plan and its supporting documents to the Secretary of State for its independent examination. Relevant policies may now be given weight as appropriate in accordance with para 48 of the NPPF.

6 PLANNING CONSIDERATIONS

- 48 The main issues are:

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

6.1 PRINCIPLE OF DEVELOPMENT

General policy

- 49 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. Due to the failure of the HDT, as the policies are deemed out of date as set out in paragraph 41 of the NPPF, the presumption is to grant planning permission unless the circumstances in paragraph 11(d) i or ii applies

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50 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.

Provision of residential units

Policy

51 National, regional and local planning policies all indicate that development should aim to make the most effective use of land. Indeed, the London Plan makes housing a priority.

52 The Core Strategy (CSP) recognises the Borough's need for housing and outlines the objectives to achieve 18,165 new dwellings between 2009/2010 and 2025. The London Plan (LPP) at Policy H1 increases Lewisham's ten-year (2019/20 - 2028/29) housing target at 16,670, or 1,667 as an annualised average. Lewisham Core Strategy Spatial Policy 1 'Lewisham Spatial Strategy' that links to Core Strategy Objective 2 'Housing Provision and Distribution' supports the delivery of new housing to meet local need.

53 The South East London Strategic Housing Market Assessment identifies a local need for family sized dwellings within Lewisham. A family dwelling suitable for households including children is defined as consisting of three or more bedrooms.

54 LPP D3 sets out that all development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity (as set out in Policy D2 Infrastructure requirements for sustainable densities), and that best delivers the requirements set out in Part D.

55 *Discussion*

56 The Housing Delivery Test is an annual statutory measurement of housing delivery. It provides a similar but parallel performance measurement to that required under the five-year housing land supply statement. The latest Housing Delivery Test results demonstrate that across Lewisham housing completions are significantly under-performing, at 51% of the requirement delivery target. The result imposes three penalties upon the Council which are:

- i. At 95% under-delivery, the failing local planning authority is required to prepare, publish, and implement an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years.
- ii. At 85% under-delivery the failing local planning authority must apply a 20% buffer on top of their established housing requirement, with the intended ambition that the application of the buffer boosts housing delivery; and
- iii. Below 75% under-delivery the presumption in favour of granting planning permission will apply,

These take effect immediately.

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57 For decision-takers, the imposition of the presumption in favour of granting permission and the engagement of the 'tilted balance' is the most significant and immediate consequence of significant under-performance.

58 The South East London Strategic Housing Market Assessment identifies a local need for family sized dwellings within Lewisham. A family dwelling suitable for households including children is defined as consisting of three or more bedrooms with access to provide amenity space. The proposal would see the provision of 8 well-sized family units, with a further single two-bedroom unit. This would make a welcome contribution to Lewisham's housing targets and provide family accommodation which would meet an identified housing need and carry a significant planning and public benefit.

Infill Development

59 The site is considered to be suitable infill development for the purposes of DMP 33 and the Small Sites SPD. The wording of DMP33 states that Development within street frontages and on street corners will only be permitted where they:

- a. make a high quality positive contribution to an area
- b. 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 and to the special distinctiveness of any relevant conservation area
- c. result in no significant overshadowing or overlooking, and no loss of security or amenity to adjacent houses and gardens
- d. provide appropriate amenity space in line with DM Policy 32 (Housing design, layout and space standards)
- e. retain appropriate garden space for adjacent dwellings
- f. repair the street frontage and provide additional natural surveillance
- g. provide adequate privacy for the new development and
- h. respect the character, proportions and spacing of existing houses.

60 The site has a convenient and direct access to the public highway for servicing and is located within a residential area. The massing and height of the development sits comfortably between the two storey properties on Millbank Way and the three and a half storey properties on Leyland Road. The development wouldn't harm the amenity of the neighbours and would provide a sufficient garden amenity space and an overall high standard of residential quality. As such, the site is considered to be suitable for an infill development.

Loss of garages

61 The Council previously supported the principle of the development of the site through application DC/15/092720. The Small Sites SPD notes that planning applications which propose the replacement of existing garages will need to demonstrate these structures are no longer required. In many cases, the loss of garages can be supported as they are often in disrepair, and not sufficiently large to accommodate modern vehicles. The existing garages at the site are not in use, having been boarded up and bollards have been erected to prevent vehicle access since 2012. As they are not currently used for

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parking there would not be a net loss in off-street parking availability. Therefore, in principle, the loss of the garages can be supported.

62 The existing garages offer limited architectural contribution and are a reflection of their function. The demolition of the garages is supported subject to the replacement development being of high-quality design.

6.1.1 Principle of development conclusions

63 In planning policy terms, the recently published Housing Delivery Test results demonstrate that the development industry is significantly under-performing on delivery across the Borough, completing only 51% of the measured target. For this reason, the Council's decision-takers must take account of the Housing Delivery Test triggered tilted presumption in favour of granting permission.

64 The proposal would provide nine high quality residential units, eight of which would be family-sized dwellings. The provision of family-sized dwellings would make a welcome contribution to Lewisham's housing targets and deliver a housing type of identified need. This carries a substantial planning merit and public benefit. The site is also suitable for an infill development and the loss of the existing garages is acceptable as they have been boarded up and not been in use since 2012. The principle of development is therefore acceptable subject to other material planning considerations are to be met such as the design, standard of living accommodation and highway impacts among others. These matters are discussed further in detail in the remainder of this report.

6.2 HOUSING

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

6.2.1 Contribution to housing supply and housing mix

Policy

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

67 LPP D2 sets out that the density of development proposals should consider, and be linked to, the provision of future planned levels of infrastructure and be proportionate to the site's connectivity and accessibility by walking, cycling and public transport to jobs and services (including both PTAL and access to local services).

68 LLP H10 states that schemes should generally consist of a range of unit sizes. This is supported by CSP 1.

69 Policies H1, H2 and D6 support the most efficient use of land and development at the optimum density. Defining optimum is particular to each site and is the result of the design-led approach. Consideration should be given to: (i) the site context; (ii) its connectivity and accessibility by walking and cycling and existing and planned public transport (including PTAL); and (iii) the capacity of surrounding infrastructure.

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Discussion

- 70 A key component of the NPPF is the presumption in favour of sustainable development in Paragraph 11. For decision-making this means approving applications that accord with the development plan without delay (paragraph 11(c)), or, where there are no relevant development plan policies, or where the policies most important for determining the application are out-of-date, granting permission unless either:
- i. the NPPF policies that protect areas or assets of particular importance provides a clear reason for refusing a proposed development; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. (paragraph 11(d) – also referred to as the ‘tilted balance’).
- 71 Criterion i) of NPPF paragraph 11(d) would not be triggered as the proposed development would not affect any designated heritage assets, and as such criterion ii) is applicable. Whether a ‘straight balance’ (where harms outweigh the benefits) or a ‘tilted balance’ is appropriate will depend on whether the policies which are most important for determining the application proposals are out of date. NPPF Paragraph 11 footnote 8 defines ‘out of date’ as including, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five-year housing supply, or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirements over the previous three years.
- 72 In this instance, the policies which are most important for determining the application are out of date i.e. the ‘tilted balance’ is engaged because, the Council failed the 2022 Housing Delivery Test, delivering only 51% of its housing target between 2019 and 2022.
- 73 The proposal is a housing windfall site. This is a key consideration in respect of the Housing Delivery Test triggered presumption in favour of granting permission. Proposals on such sites have the greatest potential to address under-performance and consequently the Council’s decision-takers must positively consider these opportunities when they arise. It is important that Council’s decision-takers have confidence that the developer, and their proposal, has a reasonable prospect of being completed within three-years of consent being granted. This is a higher bar than that required within the context of the housing supply triggered presumption.
- 74 Table 1 below sets out the measures of density criteria required by the supporting text to LPP D3 (para 3.3.22 of the LP) for all sites with new residential units.

Table 1: Measures of Density

Criteria	Value	Criteria/area
Site Area (ha)	0.12	n/a
Units	9	75
Habitable rooms	43	358.3
Bedrooms	27	225
Bedspaces	50	416.6

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- 75 Table 1 demonstrates that the overall density for the site is relatively modest for all measures given the location.
- 76 LPP D2 advises that density should be linked to the provision of infrastructure for the area and accessibility in terms of sustainable transport modes. The site has a PTAL rating of 3, with Lee Railway Station located 400m from the site. Burnt Ash Road, 200m from the site provide access to a number of bus routes and goods and services, whilst the Edith Nesbitt Pleasure Ground is located 50m north of the site. Given the proximity to public transport and services, and the existing built form and urban grain, the level of density proposed is considered appropriate.
- 77 The key issue is whether the site is being optimised. Policy D3 of the London Plan requires development to make the best use of the land by following a design-led approach to optimise the capacity of sites. As established through application DC/15/092720, the site can accommodate 12 residential units. The unit mix provided was 4 x 1 bedroom units, 4 x 2 bedroom units and 4 x 3 bedroom units. The built footprint of the current scheme is considered appropriate of the site given the need to provide sufficiently sized residential rear gardens, cycle parking, refuse storage, car parking and children's play space. The mature tree facing onto Dorville Road is of high ecological and visual value and prevents the proposed terrace extending to the south. Officers are satisfied that the built footprint proposed is maximised for the site. As such, any objection to the scale of development would need to be through the unit mix.
- 78 Internally, whilst the units are large, they are not egregiously oversized. The largest unit would be 34 sqm above the minimum requirements of Policy D6 of the London. The Housing Design Standards LPG, adopted in 2023, introduces best practice minimum space standards of residential dwellings, to accompany the minimum space standards set out in LPP D6 to ensure new homes are for fit-for-purpose and of the highest design quality. For a three-bedroom six-person unit, the largest unit sized proposed, the best practice GIA is set at 120sqm for a three-storey dwelling. The proposed six person units, at 128sqm and 133sqm, are broadly in line with the best practice guidance.
- 79 Whilst the proposal would provide three fewer units than the previous permission, it would provide twice as many family-sized units, with the units provided being of a greater housing need and standard of accommodation exceeding the best practice minimum space standards. If a 12-unit scheme had not previously been consented at the site, Officers would have no objections to the scale of development proposed in the current scheme. As such, Officers are satisfied that the proposed development optimises the site. The provision of eight high-quality family-sized units is welcomed and carries a substantial planning merit. The unit mix predominantly comprises three-bedroom family sized units, with an additional two-bedroom unit. The surrounding area is suburban in nature and characterised by family use. Family housing (three bedrooms with a garden) is of the highest value and demand to Lewisham's housing stock. Given the suburban location Officers are satisfied that the unit mix proposed is appropriate.

Summary

- 80 The proposed density and contribution to housing supply is considered proportionate and the unit mix appropriate for the site and scale of development proposed.

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6.2.2 Affordable Housing

Policy

- 81 Paragraph 65 of the NPPF states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:
- a) provides solely for Build to Rent homes;
 - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
 - c) is proposed to be developed by people who wish to build or commission their own homes; or
 - d) is exclusively for affordable housing, a community-led development exception site or a rural exception site.
- 82 Policy H4 of the London Plan states that all major developments of 10 or more units triggers an affordable housing requirement. CSP1 requires housing development on qualifying sites (10 or more dwellings) to provide as much affordable housing as is financially viable. Policy H03 of the draft Lewisham Local Plan states that Development proposals for new housing, including mixed-use developments, with site capacity to accommodate 10 or more dwelling units must deliver the maximum amount of genuinely affordable housing.

Discussion

- 83 The proposed development is a major development by virtue of new development being greater than 1,000sqm in residential floor area. It would not provide any affordable housing units.
- 84 It is noted that the NPPF which is a material planning consideration requires all major development proposals should expect at least 10% of the total number of homes to be available for affordable home ownership. This conflicts with the affordable housing policies of the current and emerging Development Plan which set the threshold for a scheme delivering affordable housing as development proposals of 10 or more units. The London Plan and wider Lewisham Development Plan clearly set the threshold for affordable housing at 10 units. Lewisham has consistently taken the approach that affordable housing provision would only be required for developments of 10 units or more. Whilst the failure to provide affordable housing would conflict with NPPF paragraph 65, given the wider policy stance of the Development Plan, the significant material planning benefit of the provision of eight family housing units (out of the nine residential units proposed in total), and the engagement of the titled balance in favour of development through the Council's failure of the HDT, Officers consider the non-provision of affordable housing to be acceptable in this instance.

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6.2.3 Residential Quality

General Policy

- 85 NPPF para 135 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).
- 86 The main components of residential quality are: (i) space standards; (ii) outlook and privacy; (iii) overheating; (iv) daylight and sunlight; (v) noise and disturbance; (vi) accessibility and inclusivity; and (vii) children's play space.

Internal space standards

Policy

- 87 LPP D6 requires new homes to meet specific space and other standards. LPP D6 requires single bedrooms to have a floor area of at least 7.5sqm and double bedrooms to have a floor area of at least 11.5sqm. The minimum floor to ceiling height must be 2.5m for at least 75 per cent of the GIA.
- 88 DMP 32 requires all new residential developments to provide accommodation of a good size, a good outlook, with acceptable shape and layout of rooms, with main habitable rooms receiving direct sunlight and daylight, and adequate privacy.
- 89 LPP D6 states that for 1-2 person dwellings, a minimum of 5sqm private external amenity space is required, with an extra 1sqm for every additional occupant. Additional guidance is provided within the London Plan Housing SPG at Standard 26.

Discussion

- 90 Four dwelling types are proposed. The table below sets out proposed dwelling sizes.

Table 2: Internal space standards – proposed v target

Unit type	No of bedrooms	No. of persons	2 storey dwelling (proposed (target))	3 storey dwelling (proposed (target))	Built-in storage (proposed (target))
1	2b	4p	94 (79)	N/A	Complies (2.0)
2	3b	6p	N/A	132 (108)	Complies (2.5)
3	3b	6p	N/A	128 (108)	Complies (2.5)
4	3b	5p	N/A	133 (99)	Complies (2.0)

- 91 All of the proposed residential accommodation would exceed the internal space standards in terms of overall GIA, bedroom sizes and the provision of storage. The

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internal floor to ceiling heights would meet the London Plan requirement set by policy D6 of 2.5m for 75% of the overall GIA. All of the gardens are appropriately sized to provide private amenity space which would exceed the requirements of LPP D6.

- 92 Overall, Officers are satisfied that the proposed floorplans would provide well considered and efficient layouts that comply with the internal and external space standards.

Outlook & Privacy

Policy

- 93 LPP D6 requires development to achieve ‘appropriate outlook, privacy and amenity’. Policy D6 also seeks to maximise the provision of dual aspect dwellings. This is echoed in DM policy 32.
- 94 DMP 32(1)(b) expects new developments to provide a ‘satisfactory level’ of privacy, outlook and natural lighting for its future residents.
- 95 Section 12.4 of the Small Sites SPD (October, 2021) sets out that there should generally be no less than 10m between the blank wall of a new home and an existing principal window serving a habitable room, and no less than 16m between new and existing principal facing windows at upper levels, unless steps are taken to achieve privacy in some other way

Discussion

- 96 All units proposed would be dual aspect with unobstructed outlook to the front and rear. The fenestration patterns are typical of those generally provided in family housing. Each habitable room would be served by a generously sized window which would provide a good quality level of outlook.
- 97 The front garden landscaping provides a level of natural screening and privacy to the ground floor front windows. The layout of the development would generally provide in excess of 16m separation distance between the front facing windows of the proposed development and the properties opposite on Millbank Way. The only transgression would be between Unit 03 and No.8 Millbank Way, which would have separation distance of 15.2m. Given the minor nature of the transgression, and the fact that the properties are located at an angle, Officers are satisfied that the separation distances are reasonable.

Overheating

Policy

- 98 LPP D6 states that housing development should be designed to achieve adequate levels of ventilation.
- 99 LPP SI 4 states that major development proposals should demonstrate through an energy strategy how they will reduce the potential for internal overheating.

Discussion

- 100 Each unit would be dual aspect which would provide good levels of passive ventilation to prevent overheating. An Overheating Assessment (Mach Group, December 2023, Rev 01) was submitted with the application. The measures proposed, along with the dual aspect nature and generous ceiling height, are sufficient to prevent overheating. All units

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would meet Part O Building Regulations and London Plan guidance for overheating. No mechanical ventilation is required.

Daylight and Sunlight

Policy

- 101 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its future residents.
- 102 DMP 32(4)(c) sets out that there will be a presumption that residential units provided should be dual aspect. Any single aspect dwellings provided will require a detailed justification as to why a dual aspect dwelling is not possible and a detailed demonstration that adequate lighting and ventilation can be achieved. North facing single aspect flats will not be supported.
- 103 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. In new dwellings, the BRE minimum recommended average daylight factor (ADF) is 1 % for bedrooms, 1.5% for living rooms and 2 % for kitchens. For sunlight the measure is Annual Probable Sunlight Hours (APSH) with a target of achieving a minimum of 25% of annual sunlight hours. All of the daylight sensitive spaces have been assessed (Living rooms/Kitchens, Study room & Bedrooms).

Discussion

- 104 An Internal Daylighting Assessment (Mach Group, September 2023, Rev 01) was submitted with the application. The report focuses on assessing House Type 4 as the worst-case building for internal daylighting. Considering all spaces have large glazing areas, house type 4 was chosen because it contains the rooms with the deepest layout among other house types which might become a major limiting factor of daylighting performance. All habitable rooms comfortably meet the BRE standard targets in terms of daylight distribution and sunlight hours. As such, Officers are satisfied that the proposed development would receive sufficient levels of natural light.

Noise & Disturbance

Policy

- 105 The NPPF at para 180 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 noise pollution. Development should help to improve local environmental conditions. Paragraph 180 goes on to state 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.

Discussion

- 106 A Noise Impact Assessment (Compliance 4 Buildings Ltd, July 2023, v2) was submitted with the application. Sound levels were measured from two different positions with the ambient noise levels found to be 53 and 48 dba during the daytime and 48 and 42 dba at night. Environment Health reviewed the submitted details and raise no concerns, subject to the conditions for sound insulation and a Construction Management Plan.

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Air Quality

Policy

- 107 NPPF para 180 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 air pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality. Proposals should be designed and built to improve local air quality and reduce the extent to which the public are exposed to poor air quality. Poor air quality affects people's living conditions in terms of health and well-being. People such as children or older people are particularly vulnerable.

Discussion

- 108 An Air Quality Assessment (Compliance 4 Buildings Ltd, August 2023, v2) was submitted with the application. The assessment concludes that existing and future concentrations of pollutants at proposed residential use are predicted to be below the relevant air quality standards. The AQA was reviewed by Environmental protection who raised no objections to the proposal, subject to conditions for a Dust Management Plan, further details of the Air Source Heat Pumps and a standard Non-Road Mobile Machinery condition.

Accessibility and inclusivity

Policy

- 109 LPP D7 requires that 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. All the remaining dwellings should achieve M4(2) 'accessible and adaptable' standards.

Discussion

- 110 No wheelchair housing units are proposed as the development, being nine units in size, is under the threshold for providing wheelchair accessible units. The units are designed to M4(2) standards and this would be secured via condition.

Children's play space

Policy

- 111 Policy 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.
- 112 CSP 12 seeks to provide opportunities for sport, recreation, leisure and well-being by, inter alia, maximising opportunities for sport and recreation through well-designed and managed spaces, which take into account the Mayor's Children and Young People's play space requirements in a safe environment.

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113 DMP 32 expects all new-build housing development will be required to be provided with a readily accessible, secure, private and usable external space and include space suitable for children's play.

114 Play and Informal Recreation (GLA, 2012) provides detailed guidance, including Table 4.6 which sets out prospective play space typologies, summarised as (i) doorstep playable space; (ii) local playable space; (iii) neighbourhood playable space; and (iv) youth space.

Discussion

115 Using the GLA's population yield calculator, the proposed development is estimated to have a child yield of 4.3. The Mayor's Play Space SPG (2012) sets out that for proposals generating a child yield of less than 10 children, on site designated play space is not required. Nevertheless, the proposal would provide 175sqm of children's play space at the southern end of the site, facing onto Dorville Road. The area would be surrounded by planting. It is expected that older children would travel offsite to local parks, such as the Edith Nesbitt lease Ground, located 50m to the north of the site. As such, the provision of children's play space is supported and is considered to be a planning merit of the scheme.

Summary of Residential Quality

116 Subject to standard conditions regarding air quality and sound insulation, the proposed residential quality is assessed to be of sufficient standard to satisfy the relevant policies.

6.2.4 Housing conclusion

117 The unit mix and density proposed is assessed to be appropriate for the site and context. The standard of accommodation is of sufficient quality. The proposal is non-objectionable with regard to housing.

6.3 URBAN DESIGN

General Policy

118 The NPPF at para 131 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

119 London Plan (Policy D3) and Core Strategy (Policy 15) design policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design, whilst the Development Management Local Plan, most specifically DM Policy 30, seeks to apply these principles.

120 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.

121 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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- 122 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.

Discussion

- 123 The existing site comprises a number of single-storey 1960/70s garages and hardstanding. The garages are unused and in a poor state of repair, having been boarded up at some point in the past. Bollards have been erected to prevent access to the garages and discourage fly tipping and informal parking. The site at present is not attractive in appearance and does not positively contribute to the character or appearance of the surrounding area.
- 124 The development would see the construction of a single part two, part three staggered terrace comprising 9 residential dwellings oriented on the western side of Millbank Way. The southernmost eight dwellings would be three storeys in height, and the northern most dwelling would be two storeys. The primary facing material would be red and buff stock brick. Timber cladding would be used in the inset section at ground floor level. The three storey dwellings would each have a mansard style roof, finished in grey slate style roof tiles. All units would have planted green roofs.

Layout

- 125 Each unit would be of generous width with short front gardens and larger rear gardens. Two car parking spaces would be provided at the north of the site. Refuse storage would be provided in the front gardens and cycle parking in the rear gardens. The exception to this is Units 01 and 09, the end units, which have side access to refuse storage and cycle parking in their rear gardens. The layout proposed is considered appropriate given the nature of the plot.
- 126 The development would retain the open/landscaped corner at the southern aspect of the site facing onto Dorville Road. This is supported as it would protect the large category A tree while providing additional play space within the neighbourhood. Community consultation for the previous application found that the tree was valued highly.
- 127 The play space could benefit from further design details and a way to differentiate it from the playground already provided at Edith Nesbitt Gardens. Further details on the landscaping and the boundary treatment would be secured via condition.

Form and Scale

- 128 The proposal is for a row of nine townhouses staggered in three sets. Units 02-09 would be three storeys in height, set across a traditional two storeys with a mansard roof. Unit 01 at the northern end is the anomaly at two storeys in height with a flat roof design. The height of Unit 01 has been determined as a result of complying with the BRE 25 degree daylight rule for the properties on Osberton Road (illustrated in figure 31 of the Small Sites SPD).
- 129 Whilst the break in roofline is unfortunate in design terms, it is a requirement to protect neighbouring amenity and is unavoidable. Officers consider that the drop in roof line, from three storeys to two, is a better design solution at the site than a gradual rise from two storey to three (for example going from two storey to two and a half storeys,

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potentially via an internal mezzanine level). This allows the family housing provision at the site to be maximised.

- 130 The overall massing, although more solid along the street, has a lower roof pitch than that previously consented. The built form, scale and mass proposed broadly follows the design principles set out in the Small Sites SPD section 32 (garage sites) which states that the height of proposed development should generally follow the predominant height of the properties surrounding it. The rear properties on Leyland Road are three and a half storeys and those opposite the proposal site on Millbank Way are two storeys with a pitched roof. Overall, the proposal at 2 principal floors with a mansard roof angled away from the primary façade is a successful transition between the properties on Leyland Road and Millbank Way.

Aspect and Internal Layout

- 131 The internal layouts are well arranged on the ground floor, maximising cross ventilation and dual aspect, while also allowing for flexibility in the future; the kitchen/dining room could be sectioned off if desired by future occupants, which is encouraged in the housing design standards LPG.
- 132 The upper floors of the units would provide generously proportioned bedrooms which would suit family living, as well as a small study which would support home working.

Materiality and Appearance

- 133 The proposal includes red and buff brick; slate roofs, anthracite grey windows/rain-water goods, and timber cladding highlights on the ground floor. The most northern and southern three properties on the terrace would be clad in red brick, with the middle three in a lighter buff brick.
- 134 The material palette has been chosen to complement the context, but in a detailed and contemporary way. The use of different bricks, and the staggered style of the footprint, helps to break up the massing of the terrace. The planted green roofs would ensure that the green character of the surrounding area is maintained. The overall design of the dwellings and the material palette is considered to be of high quality. The development would utilise contemporary design features, whilst the use of red and buff brick, allows the proposed terrace to sit comfortably within the properties at Millbank Way and Leyland Road. Further details of the materials would be secured via condition.

6.3.1 Urban design conclusion

- 135 The design of the development would utilise contemporary design features, whilst referencing the material palette of the surrounding properties through the choice of brick. The height of the development sits comfortably between the two storeys properties on Millbank Way and the three and a half storey properties on Leyland Road. The result is a well design scheme of appropriate scale, which would sit comfortably within the existing streetscene.

6.4 TRANSPORT IMPACT

General policy

- 136 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 102. This includes: (a) addressing impact on the transport

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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.

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

138 Regionally, the Mayor’s Transport Strategy (‘the MTS’, GLA, March 2018) sets out the vision for London to become a city where walking, cycling and green public transport become the most appealing and practical choices. The MTS recognises links between car dependency and public health concerns.

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

Discussion

140 The existing site, due to its use as garages, has dropped kerbs to facilitate vehicle entry and egress. The dropped kerbs would be reinstated throughout most of the site to provide more convenient pedestrian access. At the north of the site, two parking spaces would be established. The area in which the parking spaces would be located currently has a dropped kerb. There would be alterations to the dropped kerb and hardstanding arrangement to provide the parking spaces. This would be secured via the legal agreement.

6.4.1 Local Transport Network

Policy

141 The NPPF at paragraph 114 states that significant impacts on the transport network (in terms of capacity and congestion) should be mitigated to an acceptable degree.

Discussion

142 The application site has a PTAL rating of 3 which indicates an average access to public transport. Lee Railway Station is located 400m to the south-west of the site. Burnt Ash Road, located 200m to the west, provides access to a number of bus services. The scale of development is relatively modest. Officers are satisfied that nine additional residential units could comfortably be accommodated within the local transport network.

6.4.2 Servicing and refuse

Policy

143 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.

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

145 Paragraph 12.14.3 of the Small Sites SPD (2021) sets out that generally residents should have to carry their waste no more than 30m from their front door to a storage point, and this collection point should be positioned no more than 10m from the public highway.

Discussion

146 Refuse storage would be located in the front garden for seven of the units, with refuse storage located in the rear garden for Units 01 and 09, accessed via a side path. The refuse storage for all units would have convenient and level access to Millbank Way for collection. All refuse storage would be comfortably located within 10m of the public highway.

147 240l of refuse storage is required for each three bedroom unit, with 170l required for the two bedroom unit. The plans show two 240l bins would be provided for each residential dwelling. This is a sufficient quantum of refuse provision and is considered acceptable. A condition requiring the refuse storage is provided ahead of occupation is recommended.

6.4.3 Transport modes

Cycling

Policy

148 The Council supports the NPPF's guidance on promoting sustainable transport methods. For this reason, the Council requires residential development to provide cycle parking in accordance with the requirements of Policy T5 and Table 10.2 of the London Plan. LPP T5 also requires that cycle parking would meet the London Cycling Design Standards.

149 For residential schemes of between 5-40 dwellings, two short stay cycle parking spaces should be provided.

Discussion

150 Two cycle parking spaces are required for each unit. The cycle parking spaces would be provided in the rear gardens. The quantum of cycle parking proposed is considered acceptable. Units 01 and 09 would have direct access to the street from the garden. The other units would not and would need to carry the bicycles through the house to the cycle parking spaces. Whilst this arrangement is suboptimal, Officers consider it to be an acceptable compromise given the tight nature of the site, the existing narrow footpath at the front of the houses, and the small front gardens. To ensure the cycle parking is sufficiently secure and weatherproof, further details of the enclosures would be secured via condition.

151 Two short stay cycle parking spaces would be provided in the children's play space. This is a sufficient quantum of short stay cycle parking. The cycle parking spaces would be appropriately located and are non-objectionable.

Private cars

Policy

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152 LPP 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. Table 10.3 of the London Plan sets the maximum car parking standards for residential developments.

153 LPP T6.1 states that disabled persons parking should be provided for development proposals delivering 10 or more units. Disabled parking counts towards the maximum parking provision for the development

Discussion

154 Table 10.3 allows up to 0.25 parking spaces per dwelling for PTAL 3 areas within Inner London Boroughs. The proposed development would provide nine residential units, which allows for 2.25 parking spaces, rounded down to two. The two proposed parking spaces are non-objectionable and comply with the requirements of LPP T6 and Table 10.3. One of the parking spaces to be provided would be a disabled persons parking space. Whilst nine unit schemes are not required to provide accessible parking, the provision of an accessible parking space is welcomed. A parking design and management condition is recommended for any approval to ensure the final design, allocation and monitoring of the parking is acceptable.

155 The site is not located within a controlled parking zone (CPZ), nor is the surrounding road network. Therefore, the Council do not have any means to restrict parking on the surrounding road network. A Parking Survey / Transport Statement (Green Rhino Planning) was submitted with the application. A parking survey, using the Lambeth methodology, was undertaken at 02:30am on Monday 10th and Tuesday 11th of July 2023. The Lambeth Parking Survey Methodology states that an area of 200 meters from the development should be surveyed, then extend to the next junction, in all available directions. This area is a reasonable length that people will walk to find a parking space around their home. 200m also approximately equates to an average two minute walk, again a reasonable distance to walk to park and retrieve a car. At the time of the surveys all local schools were in operation and no school holidays had started. There were also no travel restrictions imposed, therefore the number of people traveling for business and holidays would not be impacted.

156 The parking survey found 403 parking spaces were located within 200m of the site. Of that 403, 197 (49%) spaces were parked on the 10th and 196 (48%) were parked on the 11th. 206 parking spaces were available on the 10th and 207 available on the 11th. The current parking capacity is well below the 85% threshold for when parking capacity is considered to be stressed. The parking survey was reviewed by Lewisham's internal Highways Department who did not raise any objections. The results of the survey demonstrate that there is sufficient parking availability on the surrounding area, and the development would not lead to any unreasonable impact on parking stress or highway safety.

6.4.4 Transport impact conclusion

157 The proposal would provide a sufficient level of refuse storage and cycle parking. The application has demonstrated that the surrounding area could comfortably accommodate any overspill parking associated with the development. As such, the transport impacts of the proposal are considered acceptable.

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6.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 158 NPPF para 135 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 191 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.
- 159 This is reflected in relevant policies of the London Plan (LPP D3), the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (London Plan Housing SPG 2017).
- 160 The main impacts on amenity that generally arise from this type of development include: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas; (iv) noise and disturbance and (v) light pollution.

6.5.1 Enclosure and Outlook

Policy

- 161 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of outlook for its neighbours.

Discussion

- 162 The proposed development would see the construction of a terraced block comprising eight three storey dwellings and a single two storey dwelling. The Small Sites SPD, at figure 27 and 31, sets out how impacts to outlook will be assessed. New buildings should not obstruct a line drawn from the vertical centre of a habitable room window at a 25 degree angle, nor a 43 degree line struck from a point 1.6m above ground level at the boundary, where that boundary is within 10m of the rear of the existing property. The section drawings on page 20 of the Design and Access Statement demonstrate that the 25 degree test would be passed for the ground floor windows of both the existing properties on Millbank Way and Leyland Road. As such, Officers are satisfied that the proposal would not impact outlook.

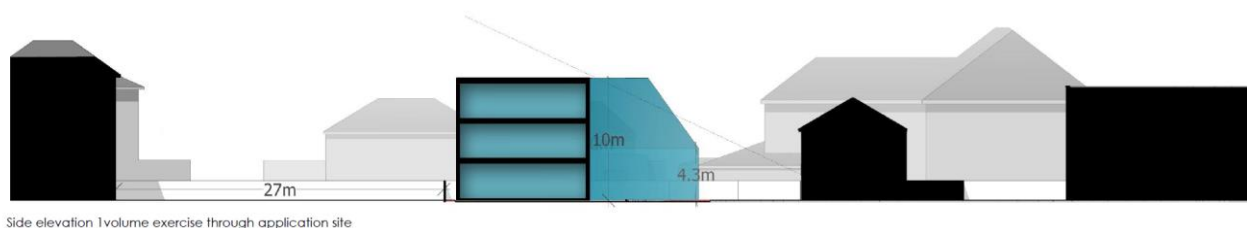


Fig 4: section showing a 25-degree test from Millbank Way.

- 163 The massing of the development would be located a sufficient distance from the gardens of the properties on Millbank Way to prevent any impact in terms of increased enclosure. The three storey properties would be approximately 9m in height. The massing at third storey would be set at an angle due to the mansard roof. The shallowest rear garden would be at least 3m in depth for units 07-09 and increasing for the other units as the footprint of the developments staggers forwards. Officers are satisfied that given the size

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of the gardens at Leyland Road (around 27m in depth), that the massing of the proposed development would not harm the impact of the properties at Leyland Road through increased enclosure. Flats 08 and 09 would be located 3m from the shared boundary with No.17 Dorville Close. Officers are satisfied that the 3m set in from the boundary is sufficient to prevent any unreasonable impact to the outlook of No.17. No.17 would continue to have unobstructed direct views rearwards to the north and westwards.

- 164 Unit 01 would have a shared a boundary with the rear gardens of No.4 and 6 Osberton Road. Unit 01 would be set in 2.7m from the boundary of the rear gardens on Osberton Road. Unit 01 is two storeys with a height of 6.25m. The rear windows of No. 4 and 6 pass a 25-degree test. The reduced height and set in from the boundary are sufficient to prevent any unreasonable impact to the in terms of loss of outlook or increased enclosure for the properties on Osberton Road.

6.5.2 Privacy

Policy

- 165 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy for its neighbours.
- 166 The Small Sites SPD notes that Lewisham is an inner-London borough, and expectations of individual privacy need to be balanced with the need to achieve appropriate levels of residential density. Generally, there should be no less than 16m between new and existing principal facing windows at upper levels. Windows within two walls that are at an angle of more than 30 degrees to one another do not generally count as facing.

Discussion

- 167 The front windows would face eastwards at the rear windows would face westwards. As detailed in the residential quality section of this report, the layout of the development would generally provide in excess of 16m separation distance between the front facing windows of the proposed development and the properties opposite on Millbank Way. The only transgression would be between Unit 03 and No.8 Millbank Way, which would have separation distance of 15.2m. Given the minor nature of the transgression, and the fact that the properties are located at an angle, Officers are satisfied that the separation distances are sufficient to prevent any unreasonable loss of privacy to the properties on Millbank Way.
- 168 In general terms, the privacy of the first 10m of rear gardens (defined as the area of rear garden extending 10m beyond the furthest rear part of the dwelling, for the width of the main part of that property) should be protected from direct overlooking from habitable room windows of new dwellings. To protect these areas, conventional windows (ie. vertically aligned with clear glass) should be located more than 6m from the rear edge of this 10m privacy area.
- 169 The rear windows of units 01 to 07 would be located around 27m from the rear elevation of the properties on Leyland Road, significantly in excess of the 16m requirements of the Small Sites SPD. As such, Units 01 to 07 would not impact the privacy of the neighbours.
- 170 Units 08 and 09 would adjoin the rear garden of No.17 Dorville Road. The upper floor windows would look out onto the 10m protected privacy zone of the rear garden of No.17

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and potentially No.15. The upper floor layouts of Units 08 and 09 have been designed to protect privacy. Non-habitable rooms are located at the rear of the property at first floor level, with the windows serving a bathroom and study respectively. The windows serving these rooms would be located at a high level. A condition is recommended that the windows are obscure glass to protect the privacy of the rear gardens of No.15 and 17. The rear rooflights at second floor level would be located high on the rear roof slope and faced skywards. Officers are satisfied that the rooflights would not impact the privacy of the neighbours.

6.5.3 Daylight and Sunlight

Policy

- 171 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of sunlight and daylight for its neighbours.
- 172 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.
- 173 The NPPF does not express particular standards for daylight and sunlight. Para 129 (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.
- 174 The GLA states that 'an appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines should be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time.' (GLA, 2017, Housing SPG, para 1.3.45).
- 175 The Vertical Sky Component (VSC) is the amount of skylight received at the centre of a window from an overcast sky. The Annual Probably Sunlight Hours (APSH) and Winter Probably Sunlight Hours (WPSH) is a measure of how much sunlight the window can receive with and without the new development.

Discussion

- 176 A Daylight and Sunlight Impact Assessment Report (Mach Group, August 2023, Rev 00) was submitted with the application. The report assessed the impact on the following properties:
- 15 & 17 Dorville Road (south)
 - 41 Leyland Road (west)
 - 39 Leyland Road
 - 37 Leyland Road
 - 35 Leyland Road
 - 33 Leyland Road
 - 31 Leyland Road
 - 29 Leyland Road

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- 2 & 4 Osberton Road (north)
- 6 Osberton Road
- 8 Osberton Road
- 1- 8 Millbank Way (east)

177 The report assessed the impact of the proposed development on 150 windows throughout the above properties. The report found that all 150 assessed windows comfortably passed the BRE recommended guidelines in terms of VSC, APSH, and WPSH. As such, the proposed development would have a negligible impact on access to daylight and sunlight.

6.5.4 Noise and disturbance

Policy

178 The NPPF at para 180 (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 191 (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.

179 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.

180 LPP D14 states that residential development should avoid significant adverse impacts to quality of life.

181 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

182 A Noise Impact Assessment (Compliance 4 Buildings Ltd, July 2023, v2) was submitted with the application. Sound levels were measured from two different positions with the ambient noise levels found to be 53 and 48 dba during the day and 48 and 42 dba at night.

183 The proposal would introduce additional residential development into a residential area. The development would not introduce any noise or disturbance beyond typical residential use. Environmental Protection reviewed the document and raised no objections in terms of neighbouring impact.

184 A condition for further details, including noise rating of the Air Source Heat Pumps is also proposed. Given the separation distances between the site and the neighbouring

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properties, Officers are satisfied that ASHPs could comfortably be installed and operated without impact neighbouring amenity.

- 185 There is potential for short-term impacts during the construction phase of development given that there is residential development within the surrounding context. This is in terms of noise but also but also from dust and other forms of pollution. Therefore, a comprehensive Construction Management Plan is recommended to be secured by condition in order to minimise the impacts of the development. A condition would also be imposed limiting the time of works and deliveries relating to the construction phase.

6.5.5 Impact on neighbours conclusion

- 186 No unreasonable adverse impacts to the living conditions of the neighbouring properties have been identified and therefore the development would comply with LPP D3, CSP 15 and DMP 32.

6.6 SUSTAINABLE DEVELOPMENT

General Policy

- 187 Para. 158 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.

- 188 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 Energy and carbon emissions reduction

Policy

- 189 LPP SI2 stated that major development should achieve zero carbon and should minimise peak energy demand in accordance with the following energy hierarchy: Be lean: use less energy; Be clean: supply energy efficiently; Be green: use renewable energy; and Be seen.
- 190 CSP 8 also states that developments of greater than 1,000sqm should fully contribute to CO2 emission and make a financial contribution to a carbon offset fund if this cannot be adequately achieved on site.

Discussion

- 191 A Sustainability and Energy Statement (Mach Group, August 2023, Rev 00) was submitted with the application. The statement was reviewed by the Net Zero Manager who raised concerns with the proposal to put in new gas connections at the site as Air Source Heat Pumps will be installed and used for both heating and hot water. A gas connection is not required for these properties and is not in line with the phasing out of gas in domestic properties. The failure to provide solar PV panels was also noted to be unacceptable. Concerns were also raised with regard to fabric efficiencies, air tightness and overheating.

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192 Following reception of the Net Zero Manager's comments, the Applicant subsequently amended the scheme to provide solar PV panels and improved the fabric efficiencies and air tightness to increase the saving achieved on residential CO2 emissions from 55% to 64%. The Net Zero Manager confirmed that the revised CO2 emissions are acceptable. A financial contribution of £14,040 for carbon offsetting would be secured via s106 agreement.

6.6.2 Urban Greening

Policy

193 LPP G5 expects major development to incorporate measures such as high-quality landscaping (including trees), green roofs and green walls.

194 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

195 The application site currently comprises a number of single storey garages and hardstanding. An area of greenery is located at the south of the site, facing onto Dorville Road. 11 would be removed due to poor health or to facilitate development. Three of the trees are category B and five are category C.

196 The development would incorporate planted green roofs, replacement trees, flower planting, hedges and amenity grassland. A UGF of 0.4 would be achieved, satisfying the requirements of LPP G5. As such, Officers are satisfied that the urban greening of the proposed development would be considered acceptable, and a considerable improvement over the existing arrangement.

Living roofs

197 Planted green roofs would be provided on each of the units. The Ecological Regeneration Manager reviewed the proposal and recommended that biodiverse living roofs are used on all units. A standard condition for further details of the biodiverse living roofs is recommended.

6.6.3 Flood Risk

Policy

198 NPPF para 165 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.

199 LPP SI12 expects development proposals to ensure that flood risk is minimised and mitigated.

200 CSP 10 requires developments to result in a positive reduction in flooding to the Borough.

201 Further guidance is given in the NPPG.

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Discussion

- 202 The site is located within Flood Zone 1 which indicates a low risk of flooding. As such, the proposed development is not considered to be vulnerable to flooding and additional mitigation is not required.

6.6.4 Sustainable Urban Drainage

Policy

- 203 LPP SI13 expects development to achieve greenfield run-off rates in accordance with the sustainable drainage hierarchy.
- 204 CSP 10 requires applicants to 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.

Discussion

- 205 The application initially proposed to attenuate runoff using water butts, permeable paving with an underlying attenuation tank and green roofs. It proposed to discharge at a peak rate of 2 l/s to a combined sewer along Dorville Road. The Flood Risk Manager reviewed the submitted documents and requested further details on the topography of the site, why other smaller scale green SuDS such as tree pits and rain gardens have not been included and provide further justification on the proposed drainage rates.
- 206 The Applicant subsequently provided revised documents, including a Surface Water Drainage Strategy Report (T.A. Tompson LLP, November 2023, Rev A) and a revised surface water drainage layout plan. The Applicant confirmed that small scale green SuDS measures were scoped out of the development due to the small size of the rear gardens, which has been maximised for amenity use (grassed area). The front garden areas provide permeable paving or access, with the small remaining area designated for planting. Officers are satisfied that this is a reasonable SuDS approach to take.
- 207 Two litres per second drainage rate represents a 95% reduction from the brownfield/existing run-off rate, which is well below the Planning Policy Guidance of a minimum 50% reduction and has been agreed by Thames Water. The revised documents were reviewed by the Flood Risk Manager who confirmed their previous concerns have been addressed. As such, Officers are satisfied with the run-off rates the development would provide, subject to conditions for details of the final drainage design and evidence is submitted to demonstrate that the sustainable drainage scheme for the site has been completed in accordance with the submitted details.

6.6.5 Sustainable development conclusion

- 208 The proposed development would be the UGF target score of 0.4 and would result in a considerable increase in greenery and soft landscaping at the site. The site has a low level of flood risk, whilst the sustainable urban drainage proposal is considered acceptable. A carbon offsetting financial contribution would be secured via s106. As such, the proposed development is considered with regard to sustainable development.

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6.7 NATURAL ENVIRONMENT

General Policy

- 209 Contributing to conserving and enhancing the natural environment and reducing pollution is a core principle for planning.
- 210 The NPPF and NPPG promote the conservation and enhancement of the natural environment (chapter 15) and set out several principles to support those objectives.
- 211 The NPPF at para 191 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 Ecology and biodiversity

Policy

- 212 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.
- 213 NPPF para 180 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 185 sets out principles which LPAs should apply when determining applications in respect of biodiversity.
- 214 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.
- 215 CSP 12 seeks to preserve or enhance local biodiversity.
- 216 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

- 217 A Preliminary Ecological Appraisal Preliminary Roost Assessment (Arbtech, August 2023) was submitted with the application. The PEAR was reviewed by the Ecological Regeneration Manager who noted the findings and supported the recommendations. The PEAR does not recommend any enhancements for hedgehogs or invertebrates, and these should be provided in the form of hedgehog highways in boundary fences and invertebrate hotels. A condition is recommended to secure details of the hedgehog highways, invertebrate hotels, along with bat and bird bricks and swift bricks. A wildlife sensitive lighting scheme would also be secured via condition, as recommended in Table 8 of the PEAR.

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6.7.2 Green spaces and trees

Policy

- 218 Section 197 of the Town and Country Planning Act gives LPAs specific duties in respect of trees.
- 219 NPPF para 180 expects development to contribute to and enhance the natural and local environment.
- 220 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.
- 221 CSP 12 seeks to protect trees and prevent the loss of trees of amenity value, with replacements where loss does occur.
- 222 DMP 25 states that development schemes should not result in an unacceptable loss of trees, especially those that make a significant contribution to the character or appearance of an area, unless they are considered dangerous to the public by an approved Arboricultural Survey. Where trees are removed as part of new development, replacement planting will normally be required. New or replacement species should be selected to avoid the risk of decline or death arising from increases in non-native pests and diseases.

Discussion

- 223 An Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (Trevor Heaps Arboricultural Consultancy Ltd, August 2023) was submitted with the application. 11 trees would be removed due to poor health or to facilitate development. Three of the trees are category B and five are category C. The large mature tree facing onto Dorville Road would be retained. The tree is of ecological and visual amenity value. Of the trees to be removed, T4 a category B sycamore, and T12 a category B mature horse chestnut, are of good quality in both ecology and visual amenity grounds. The loss of these trees is regrettable. Three replacement trees are proposed. Officers recommend a condition for further replacement trees, using the “right tree, right place, right reason” to offset the two good quality trees which are to be lost.
- 224 A scheme of soft landscaping is proposed. The proposed use of native species is welcomed. The private gardens are planned to largely have ‘turf grass roll’ and very minimal other planting. It is recommended to use flower rich turf which is better for biodiversity and can withstand frequent mowing and to increase the area of flower rich perennial planting. Small shrubs and trees could be also considered in the gardens. Final details of the soft landscaping are recommended to be secured via condition.

6.7.3 Ground pollution

Policy

- 225 Failing to deal adequately with contamination could cause harm to human health, property and the wider environment (NPPG, 2014). The NPPF at para 180 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,

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unacceptable levels of soil pollution. Development should help to improve local environmental conditions.

226 The NPPF states decisions should contribute to and enhance the natural and local environment by remediating and mitigating contaminated land, where appropriate (para 180). Further, the NPPF at para 189 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.

227 DMP 28 reflect national policy and is relevant.

Discussion

228 A Ground Investigation Report (RSA Geotechnics Ltd, March 2015) was submitted with application DC/15/092720. The report was reviewed by Environmental Protection who raised no concerns with ground contamination subject to a condition for a desk top study and site assessment, a site investigation report and a remediation scheme. The use of the site has not changed since the previous report in March 2015. As such, no new contamination would have arisen in the intervening period. Environmental Protection confirmed that ground pollution could be dealt with via a suitably worded condition.

6.7.4 Air pollution

Policy

229 NPPF para 180 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 air pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality. Proposals should be designed and built to improve local air quality and reduce the extent to which the public are exposed to poor air quality. Poor air quality affects people's living conditions in terms of health and well-being. People such as children or older people are particularly vulnerable.

230 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. Further guidance is given in the Mayor of London's Air Quality Strategy.

231 CSPs 7 and 9 reflect the national and regional guidance and are relevant.

232 DMP 23 sets out the required information to support application that might be affected by, or affect, air quality.

Discussion

233 An Air Quality Assessment (Compliance 4 Buildings Ltd, August 2023, v2) was provided with the application. The AQA concludes that existing and future concentrations of pollutants at the proposed residential use are predicted to be below the relevant air quality standards, and therefore the site is considered suitable for residential use. During operational phase, the proposed development would have no significant impact on local air quality and is air quality neutral. Dust mitigation measures are recommended during construction phase. The AQA was reviewed by Environmental protection who raised no objections subject to the imposition of conditions for Dust Management Plan (included

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within the Construction Management Plan condition), further details of the Air Source Heat Pumps and a standard Non-Road Mobile Machinery condition.

6.7.5 Natural Environment conclusion

234 The proposed development is assessed to be generally acceptable in regard to the impacts to the natural environment.

7 LOCAL FINANCE CONSIDERATIONS

235 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).

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

237 The CIL is therefore a material consideration.

238 £67,205.64 Lewisham CIL and £49,644.68 MCIL2 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

239 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.

240 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.

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

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- 242 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>
- 243 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
- 244 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>
- 245 All units would be built to Part M(2) inclusivity standards. Therefore it has been concluded that there is no impact on equality.

9 HUMAN RIGHTS IMPLICATIONS

- 246 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
- 247 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.
- 248 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

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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.

- 249 This application has the legitimate aim of providing nine new residential units. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

10 LEGAL AGREEMENT

- 250 The National Planning Policy Framework (NPPF) states that in dealing with planning applications, local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. It further states that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. The NPPF also sets out that planning obligations should only be secured when they meet the following three tests:

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

- 251 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.

- 252 The following are the draft heads of terms to which the Applicant has agreed in writing:

Financial Contribution

- Carbon Offsetting financial contribution of £14,040.
- Local labour financial contribution of £4,770

Non-Financial Contribution

- To fully participate in the Local Labour and Business Scheme.
- S278 highway works to reinstate existing crossovers to adoptable standards and the widening of the existing crossover.

Monitoring and Costs

- Meeting the Council's reasonable costs in preparing and monitoring the legal obligations

- 253 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

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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

- 254 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 255 Planning permission was previously granted for a similar form of residential on the site which has now lapsed. The current proposals are similar save for the quantum, unit mix and some design changes.
- 256 In reaching an overall conclusion, the benefits and harms of the development proposals as a whole must be considered and balanced. Statutory duties as set out under section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise must be adhered to, and national policies and guidance followed, unless there is a good reason to depart from them. One of those material considerations include the NPPF paragraph 11(d) presumption in favour of granting permission and that the 'tilted balance' weighs a development's adverse impacts against its benefits, not on a level playing field, but tilted towards granting permission. At the heart of the NPPF in paragraph 11 is a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay, or, where the Development Plan is silent on a matter, or the most relevant policies for determining the application are 'out of date', then the application should be approved unless it is in a protected area as defined by the NPPF, or the harms caused by the proposals would significantly and demonstrably outweigh the benefits when assessed against the NPPF policies as a whole (referred to as the 'tilted balance'). Given the Council's failure of housing delivery, the relevant policies of the Development Plan are deemed to be out of date, and the 'tilted balance' is engaged. This is a material consideration weighing in favour of granting planning permission.
- 257 The provision of nine residential units is welcomed. In particular, the provision of eight family-sized units would deliver a housing type of an identified need and carries a significant planning merit and public benefit. The site is suitable for an infill development and the loss of the existing garages is acceptable. The units and well-sized for family living and would provide an overall high standard of residential quality. The design and massing of the development is well considered, sitting comfortably between the properties on Millbank Way and Leyland Road. The material palette, along with the design, would provide a high-quality scheme which would sit comfortably within the streetscene. The scheme meets the requirements of the London Plan in terms of car parking, cycle parking and urban greening. There are no environmental reasons to refuse the application.
- 258 In light of the above, Officers recommend that the committee resolve to grant planning permission subject to the completion of a S106 legal agreement.
- 259 Officers have considered the proposal as a whole and it is in accordance with the Development Plan. Even if Members considered that the extent of the departures from some aspects of certain Development Plan policies results in a conclusion that the development does not accord with the Development Plan read as a whole, there are other material considerations which would outweigh that departure. In particular, the

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planning balance is tilted towards granting planning permission given the Council's failure in relation to the Housing Delivery Test and the engagement of the presumption in granting planning permission for the development the 'tilted balance'. Owing to the significant public benefits such the provision of nine residential units eight of which to be family-sized the application of the tilted balance, even if the proposals were taken to involve a departure from the Development Plan, planning permission should be granted.

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12 RECOMMENDATION

260 That the Committee resolve to **GRANT** planning permission subject to the completion of a S106 legal agreement and to the following conditions and informatives:

12.1 CONDITIONS

1) Full Planning Permission Time Limit

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

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

2) Develop in accordance with the Approved Plans

01; 02; 04 Rev B; 05 Rev G; 06 Rev G; 07 Rev F; 09 Rev A; 10 Rev A; 11 Rev A; 50 Rev A; 52 Rev A; 53 Rev A; and 61. Received 21 September 2023.

PH/230692/100; and 48599BWLS-01. Received 01 November 2023.

100 Rev B. Received 14 December 2023.

3) Materials and detailed design

a) Prior to commencement of the above ground works, a detailed schedule and specification including manufacturer's literature or detailed drawings shall be submitted to and approved in writing by the local planning authority. Details shall include in respect of the follow:

- i) brickwork, mortar, bond and pointing (specification & sample panels to be constructed on site);
- ii) brick detailing, coping and lintels (sections at scale 1:5)
- iii) roofing materials, parapets and roof junctions (sections at scale 1:10);
- iv) windows, external doors and reveals (specification & sections at scale 1:5);
- v) rainwater goods;
- vi) balconies and balustrades;
- vii) residential entrances

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

Reason: In order that the local planning authority may be satisfied as to the detailed design and treatment of the development 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).

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4) **Soft Landscaping and replacement trees**

- a) A scheme of soft landscaping (including details of any trees or hedges to be retained and proposed plant numbers, species, location and size of trees and tree pits) and details of the management and maintenance of the landscaping for a period of five years shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works. The scheme shall include details of two suitable replacement trees adhering to the "right tree, right place, right reason" principles.
- b) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

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

5) **Cycle parking**

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

Reason: In order to ensure adequate provision for cycle parking and to comply with Policy T5 cycling and Table 10.2 of the London Plan (March 2021) and Policy 14: Sustainable movement and transport of the Core Strategy (2011).

6) **Refuse & Recycling Facilities**

The refuse storage hereby approved shall be provided in full accordance with Dwg Nos. 05 Rev B prior to first occupation of the development hereby approved 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).

7) **Construction Management Plan**

No development 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 CMP shall cover: -

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- 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.
 - (iii) Measures to deal with safe pedestrian movement.
- e) Security Management (to minimise risks to unauthorised personnel);
- f) Details of the training of site operatives to follow the Construction Management Plan requirements and any Environmental Management Plan requirements (delete reference to Environmental Management Plan requirements if not relevant); and
- g) Details of the construction hours and activity. No works or deliveries in connection with the construction phase of development be undertaken 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.

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).

8) Ground Contamination

- a) No development or phase of development (including demolition of existing buildings and structures, except where prior agreement with the Council for site investigation enabling works has been received) 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, (including subsequent correspondences as being

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necessary or desirable for the remediation of the site) to and approved in writing by the Council.

- 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 or phase of development shall not be occupied until a closure report for the development or phase 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 (2014).

9) **Obscure Glazed Windows**

The windows to be installed in the rear (western) elevations of Units 08 and 09 at first floor level, as shown on drawing 10 (Rev A) shall be fitted as obscure glazed prior to first occupation of these units and retained in perpetuity.

Reason: To safeguard the privacy of future residents and to comply with 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).

10) **Air Source Heat Pumps (ASHP)**

- a) No development shall take place until a scheme including the details of the location, type and specification and enclosure of the proposed air source heat pump shall be submitted to and approved in writing by the local planning authority. The approved plant shall be implemented in its entirety in accordance with details approved under this condition before any of the development is first occupied or the use commences and shall be retained as such thereafter.

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- b) The facilities as approved under part (a) shall be implemented in its entirety in accordance with details approved under this condition before any of the development is first occupied and shall be retained as such thereafter.

Reason: In order that the local planning authority may be satisfied that the development is not going to result in significant health impacts to existing and future residents from a deterioration in local air quality and to comply with Development Management Local Plan (November 2014) Policy 23 Air quality.

11) **Non-Road Mobile Machinery**

All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://www.london.gov.uk/what-we-do/environment/pollution-and-air-quality/non-road-mobile-machinery-register/login/register>.

Reason: In order that the local planning authority may be satisfied that the demolition and construction process will minimise air pollution and to comply with Policy S11 Improving air quality of the London Plan (March 2021).

12) **Sound Insulation**

No occupation of any residential unit shall occur until an acoustic compliance report has been submitted to and approved in writing by the local planning authority. The acoustic compliance report shall confirm that all recommended sound insulation measures set out within the Noise Impact Assessment prepared by Compliance 4 Buildings Ltd. Ref. 202321319M1319C/2 dated 21st July 2023 have been implemented in their entirety and that sound testing of the implemented works has been undertaken to demonstrate that with the residential units will achieve levels not exceeding 30dB LAeq (night) and 45dB LMax (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details.

Reason: To safeguard the amenities of the consented residential units and the area generally, specifically to prevent noise break-in and structural borne noise from the adjoining noise-generating use and wider noise generating activities such as the railway line and the Old Kent Road and to comply with Paragraph 180 of the National Planning Policy Framework, Policies D13 Agent of change and D14 Noise of the London Plan (March 2021) and DM Policies 26 Noise and Vibration and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

13) **Boundary Treatment**

- a) Details of the proposed boundary treatments, including a detailed specification of any gates, walls or fences, shall be submitted to and approved in writing by

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the local planning authority prior to the first occupation of the development hereby approved.

- b) The approved boundary treatments shall be implemented in accordance with part (a) prior to first occupation of the buildings and retained and maintained in perpetuity.

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

14) Car Parking Spaces

The 2 car parking spaces, including the disabled persons car parking space, for the new residential accommodation shown on approved drawing 05 (Rev G) shall be provided prior to the first occupation of the development hereby approved and retained permanently thereafter.

Reason: To ensure the permanent retention of the spaces for parking purposes 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 Residential parking and Table 10.3 of the London Plan (March 2021).

15) Urban Greening

The consented development shall achieve an Urban Greening Factor target score of 0.4 in full accordance with approved drawing 100 (Rev A) and shall be implemented in full accordance prior to first residential occupation of the development hereby approved and maintained as such thereafter.

Reason: To comply with Policy G5 Urban greening of the London Plan (March 2021).

16) Biodiverse Living Roof

a) Notwithstanding the hereby approved plans, details of the biodiverse living roofs shall be submitted to and approved in writing by the local planning authority prior to the above ground works of the development hereby approved commencing on site. A 1:20 scale plan of the living roof that includes contoured information depicting the extensive substrate build up and a cross section showing the living roof components shall be submitted for approval. The living roof shall be:

- i) biodiversity based with extensive substrate base (depth shall vary between 150-220mm settled substrate depth with peaks and troughs - average not less than 133mm)
- ii) will include details of access and watering provision arrangements for the proposed biodiverse living roof along with details for management/establishment guarantees for a minimum of two growing seasons
- iii) plug planted & seeded with an agreed mix of species within the first planting season following the practical completion of the building works

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(focused on minimum 75% native and wildflower planting, and no more than a maximum of 25% sedum coverage) and additional features (e.g. logs, boulders, sand)

- iv) not 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.

- b) The development shall be carried out strictly in accordance with the details so approved, shall be maintained for the lifetime of the development and no change there from shall take place without the prior written consent of the local planning authority.

- c) Evidence that the roof has been installed in accordance with parts a) to b) above 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 Policy G1, G5, G6, and SI 13 of 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) and in accordance with best practice and the requirements of the Lewisham Biodiversity Planning Guidance.

17) **Wildlife Enhancement Measures**

- a) Details of the number and location of the wildlife enhancement measures, in accordance with the recommendations of Table 8 of the Preliminary Ecological Appraisal (Arbtech, August 2023, issue 2) shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved. Details shall include:
 - i. 3 integrated bat bricks,
 - ii. 2 integrated swift bricks (installed together)
 - iii. 2 other bird bricks
 - iv. 2 bug hotels (e.g. bricks)
 - v. hedgehog highways in boundary fencing

- b) The works shall be carried out in accordance with the approved details prior to the occupation of the development and shall be maintained as such for the lifetime of the development.

Reason: To comply with Policy G6 Biodiversity and access to nature of the London Plan (March 2021), Policy 12 Open space and environmental assets of the Core Strategy (June 2011), and DM Policy 24 Biodiversity, living roofs and artificial playing pitches and local character of the Development Management Local Plan (November 2014).

18) **External Lighting**

- a) Prior to first occupation of the development hereby approved 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.

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- b) 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.
- c) The external lighting strategy approved under part (a) shall be installed in full accordance with the approved drawings prior to occupation and such directional hoods shall be retained permanently.

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, wildlife habitats and neighbouring properties and to comply with DM Policy 24 Biodiversity, living roofs and artificial playing pitches and DM Policy 27 Lighting of the Development Management Local Plan (November 2014).

19) Tree Protection Plan

Any on-site and off-site trees identified to be retained in the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (Trevor Heapds Arboricultural Consultancy Ltd, August 2023), hereby approved shall be protected in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations) for 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).

20) Piling Method Statement

- a) No piling or any other foundation designs using penetrative methods shall take place, other than with the prior written approval of the local planning authority.
- b) Details of any such operations must be submitted to and approved in writing by the local planning authority (in consultation with Thames Water) prior to the commencement of development on site (excluding demolition) and shall be accompanied by details of the relevant penetrative methods.
- c) Any such work shall be carried out only in accordance with the details approved under part (b).

Reason: To prevent damage to the underground sewerage utility infrastructure and pollution of controlled waters and to comply with Core Strategy (2011) Policy 11 River and waterways network and Development Management Local Plan (November 2014) DM Policy 28 Contaminated land.

21) Sustainable Urban Drainage

- a) Prior to commencement of groundworks (excluding site investigations and demolition), the applicant must submit a final detailed drainage design including drawings and supporting calculations to the Lead Local Flood Authority for review and approval, aligned with the Surface Water Drainage

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Strategy Report (Revision A – November 2023) and associated drawings for written approval from the local planning authority. The applicant should confirm that there is a suitable infiltration rate for the area of the site discharging to the ground via infiltration. A detailed management plan confirming routine maintenance tasks for all drainage components must also be submitted to demonstrate how the drainage system is to be maintained for the lifetime of the development.

- b) No building hereby permitted shall be occupied until evidence (photographs and installation contracts) is submitted to demonstrate that the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan for all of the proposed drainage components.
- c) The development shall be carried out in accordance with the approved scheme prior to first occupation of the hereby approved development and thereafter the approved scheme is to be retained in accordance with the details approved therein.

Reason: To prevent the risk of flooding to and from the site in accordance with relevant policy requirements including but not limited to London Plan Policy SI 13, its associated Sustainable Design and Construction SPG, the Non-Statutory Technical Standards for Sustainable Drainage Systems and Lewisham Council's Core Strategy Policy 10 and to comply with the Non-Statutory Technical Standards for Sustainable Drainage Systems, the National Planning Policy Framework (Paragraph 103), the London Plan (Policies SI 12 and SI 13) along with associated guidance to these policies and Lewisham Council's Core Strategy Policy 10.

22) Gas Boilers

In the event that gas boilers are proposed the boilers shall have dry NOx emissions not exceeding 40 mg/kWh.

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

23) Accessible Dwellings

All units hereby approved shall be constructed to meet Requirement M4(2) and delivered prior to first occupation.

Reason: To ensure that there is an adequate supply of accessible housing in the Borough in accordance with Policy D7 Accessible housing of the London Plan (March 2021), 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).

24) Air tightness

Prior to first occupation of the development hereby approved, evidence that the units have been constructed to achieve an air tightness figure below 3m³/m²/h shall be submitted to an approved in writing by local planning authority.

Reason: In order to comply with Policy SI2 Minimising greenhouse gas emissions of the London Plan (2021) and Core Strategy Policies 7 Climate change and

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adapting to the effects and 8 Sustainable design and construction and energy efficiency (2011).

25) **Parking Management Plan**

- a) The development shall not be occupied until a Parking Design and Management Plan (PDMP) has been submitted to and approved in writing by the local planning authority. The PDMP must include all of the following information:
- i) The number of car proposed indicating how the car parking will be designed and managed, with reference to Transport for London guidance on parking management and parking design.
 - ii) Details of the proposed two parking spaces would be allocated.
 - iii) Details of monitoring and review
 - iv) Details of how informal parking would be managed and enforced.
- b) The development shall be implemented in accordance with the approved PDMP and shall be maintained for the lifetime of the development.

Reason: In order to prevent any adverse impacts to parking capacity and safeguard highway safety and to comply with Policies T6 Car parking and T6.1 Residential parking of the London Plan (March 2021) and Policy 14: Sustainable movement and transport of the Core Strategy (2011).

26) **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).

27) **Permitted Development Rights Removed**

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

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

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.

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- 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.
- 4) 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.
- 5) The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.
The notification must be in writing and must include—
 - (a)the name of the developer;
 - (b)the address or location of the development; and
 - (c)the date of completion.

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13 BACKGROUND PAPERS

- 261
- 1) Submission drawings
 - 2) Submission technical reports and documents
 - 3) Statutory consultee responses

14 REPORT AUTHOR AND CONTACT

262 Report author: Max Curson (Senior Planning Officer)

Email: max.curson@lewisham.gov.uk

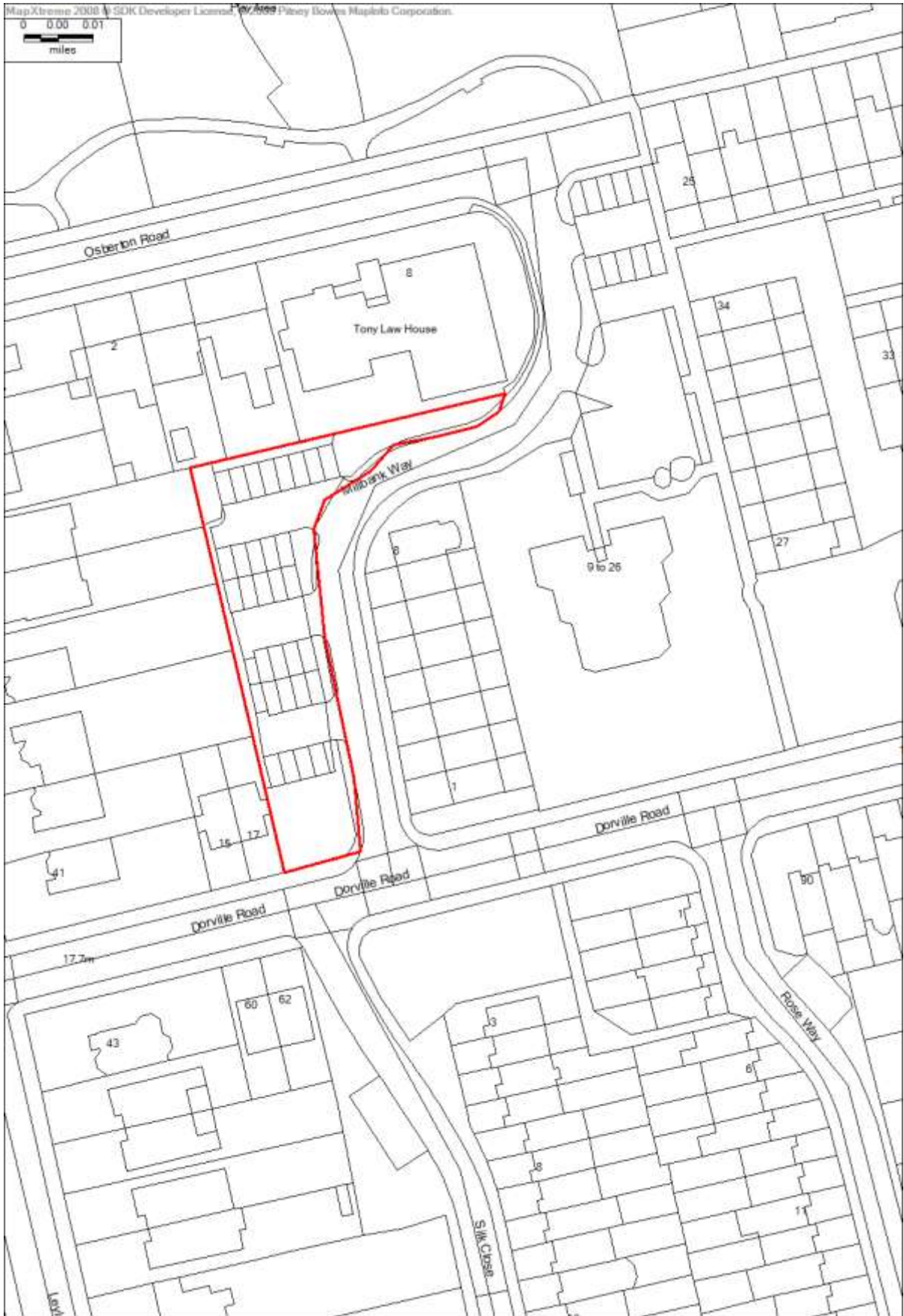
Telephone: 020 8314 7219

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Garages at Millbank Way, London, SE12

Application No. DC/23/133105

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

Demolition of existing garages and construction of 9 dwellinghouses (Use Class C3), together with associated car and cycle parking spaces, refuse and recycling stores, amenity space, landscaping and associated works on land to the Western Side of Millbank Way, London, SE12.

Site Location Plan



Aerial View





Site History

DC/15/029720: The demolition of the existing garages on Site A, Land on Western Side of Millbank Way, Lee Green Estate, Cambridge Drive SE12, the construction of a part two/part three storey building to provide 4 one bedroom, 4 two bedroom and 4 three bedroom self-contained flats together with associated landscaping, amenity space, refuse storage and detached cycle store.

Granted 22 February 2018.

Previous Scheme

Page 213



EXTENT OF SITE A

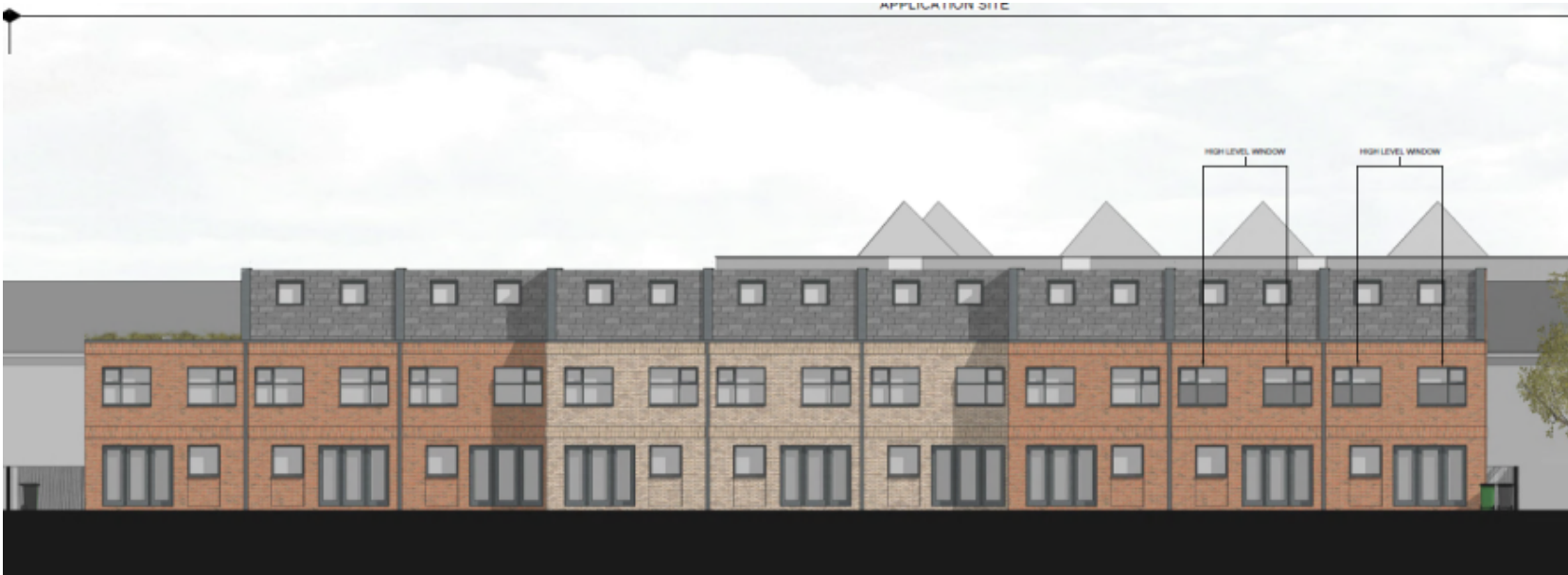
no. 6 Osberton Road

Front Elevation



Rear Elevation

Page 215

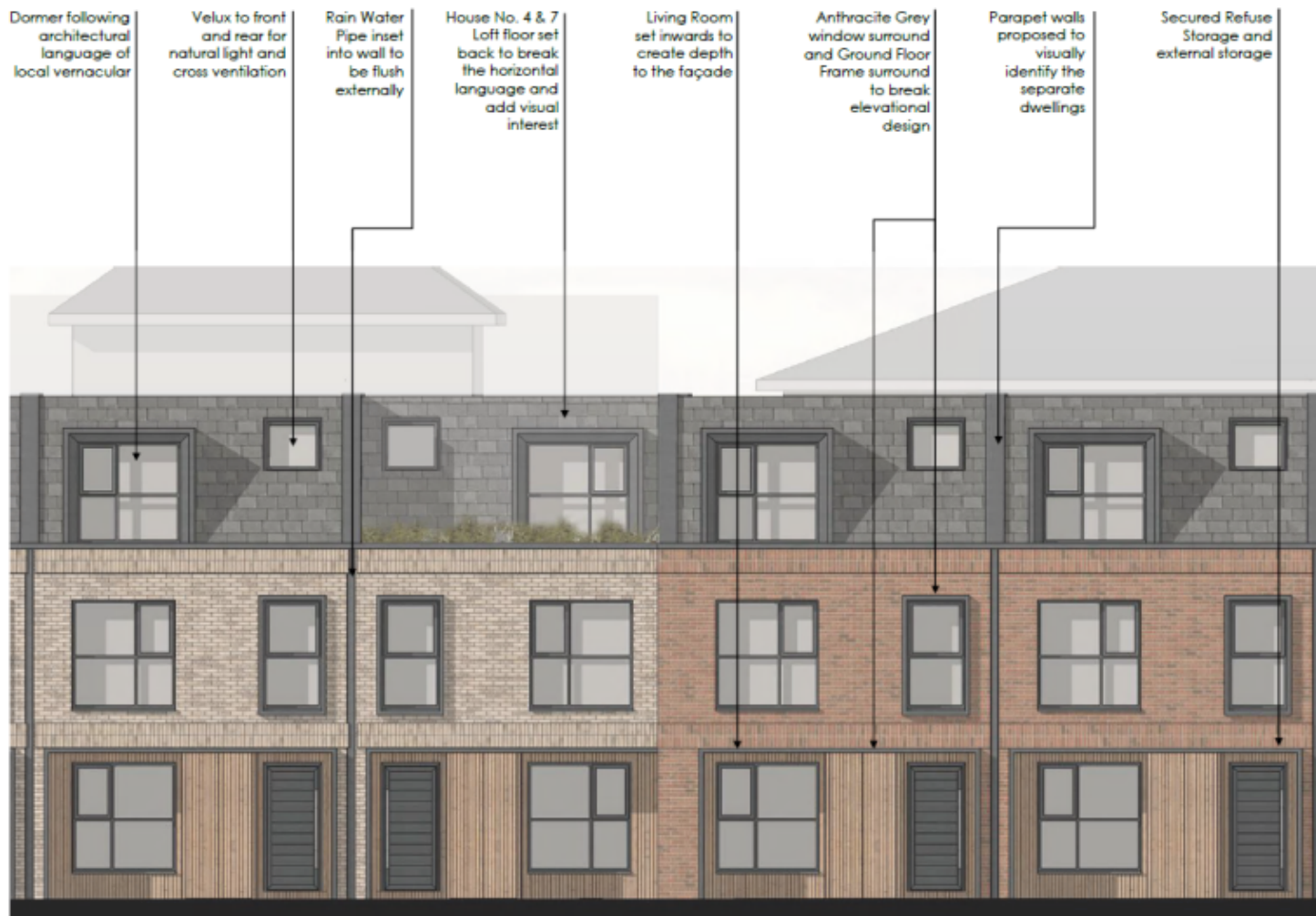


Side Elevation



Page 216



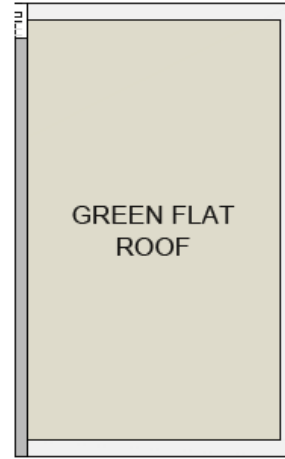
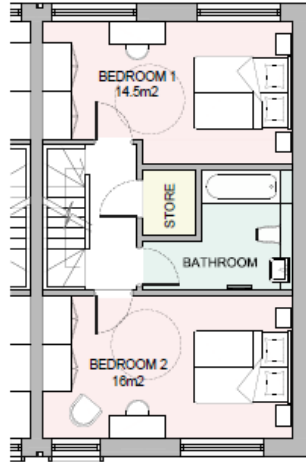
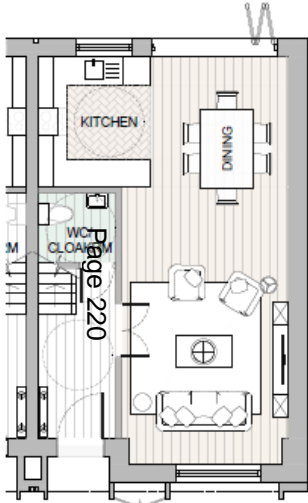




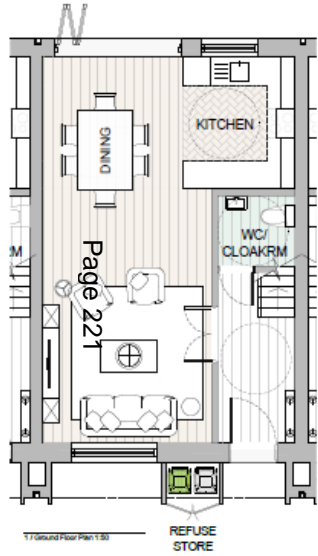
Landscape Plan



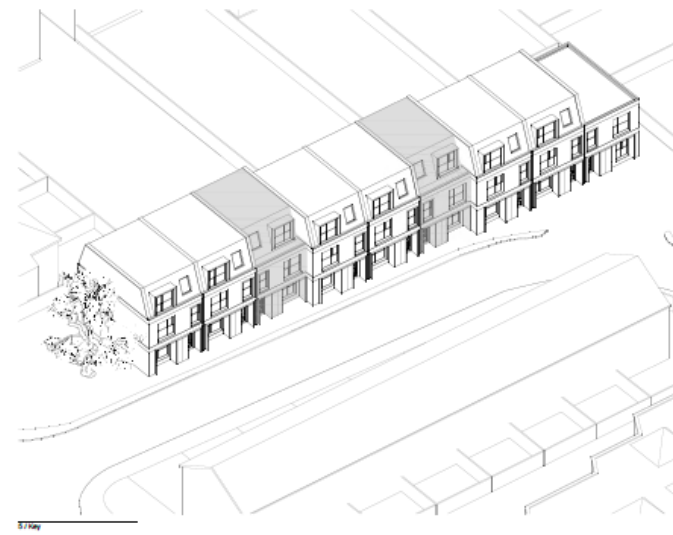
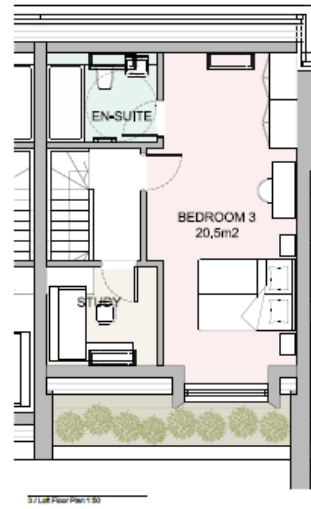
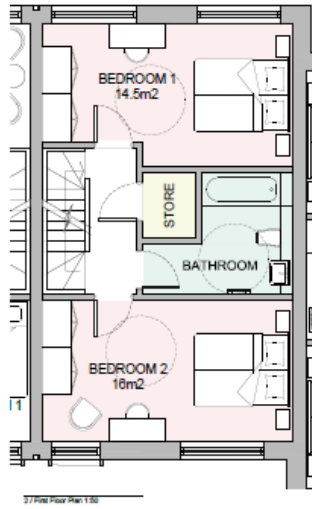
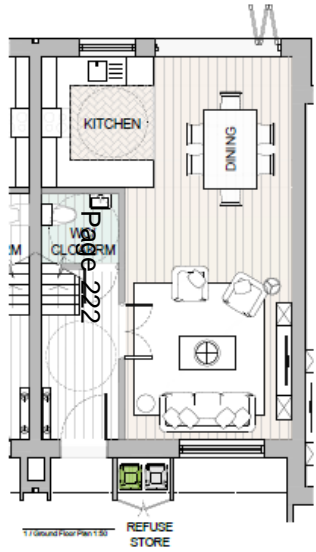
House Type 1



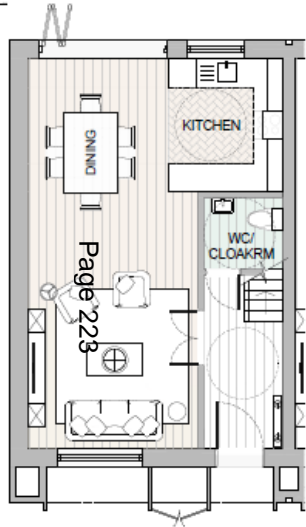
House Type 2



House Type 3



House Type 4



17 Ground Floor Plan 1:50



27 First Floor Plan 1:50



37 Second Floor Plan 1:50



57 Key

Key Planning Considerations

- Principle of development
- Housing
- Urban Design
- Impact on neighbouring amenity
- Transport
- Sustainable Development
- Natural Environment

Unit sizes

House No.	Unit type	London Plan minimum GIAs per unit type (2 and 3 storey dwellings) (sqm)	GIA per unit proposed (sqm)
1	2 bed 4 person	79 (2 storeys)	94
2	3 bed 6 person	108 (3 storeys)	133
3	3 bed 6 person	108 (3 storeys)	133
4	3 bed 6 person	108 (3 storeys)	128
5	3 bed 6 person	108 (3 storeys)	133
6	3 bed 6 person	108 (3 storeys)	133
7	3 bed 6 person	108 (3 storeys)	128
8	3 bed 5 person	99 (3 storeys)	133
9	3 bed 5 person	99 (3 storeys)	133

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Planning Committee B

135 MINARD ROAD, LONDON, SE6 1NN.

Date: 21 February 2024

Key decision: No.

Class: Part 1

Ward affected: Hither Green

Contributors: Beverley Bewaji, Planning Officer

Outline and recommendations

This report sets out the Officer's recommendation for approval of the above proposal. This application is before committee for a decision due to the submission of 12 individual objections.

Application details

Application ref. no:	DC/23/133184
Application Date:	12 October 2023
Applicant:	TEE ESTATE
Proposal:	Retrospective application for the erection of a single storey rear extension at 135 Minard Road SE6 1NN.
Background Papers:	(1) Submission Papers (2) Submission Technical Reports and supporting Documents. (3) Internal Consultee Responses (4) External Consultee Responses
Designation:	PTAL 2 Corbett Neighbourhood Forum Local Open Space Deficiency HMO Article 4 Direction
Screening:	N/A

1 SITE AND CONTEXT

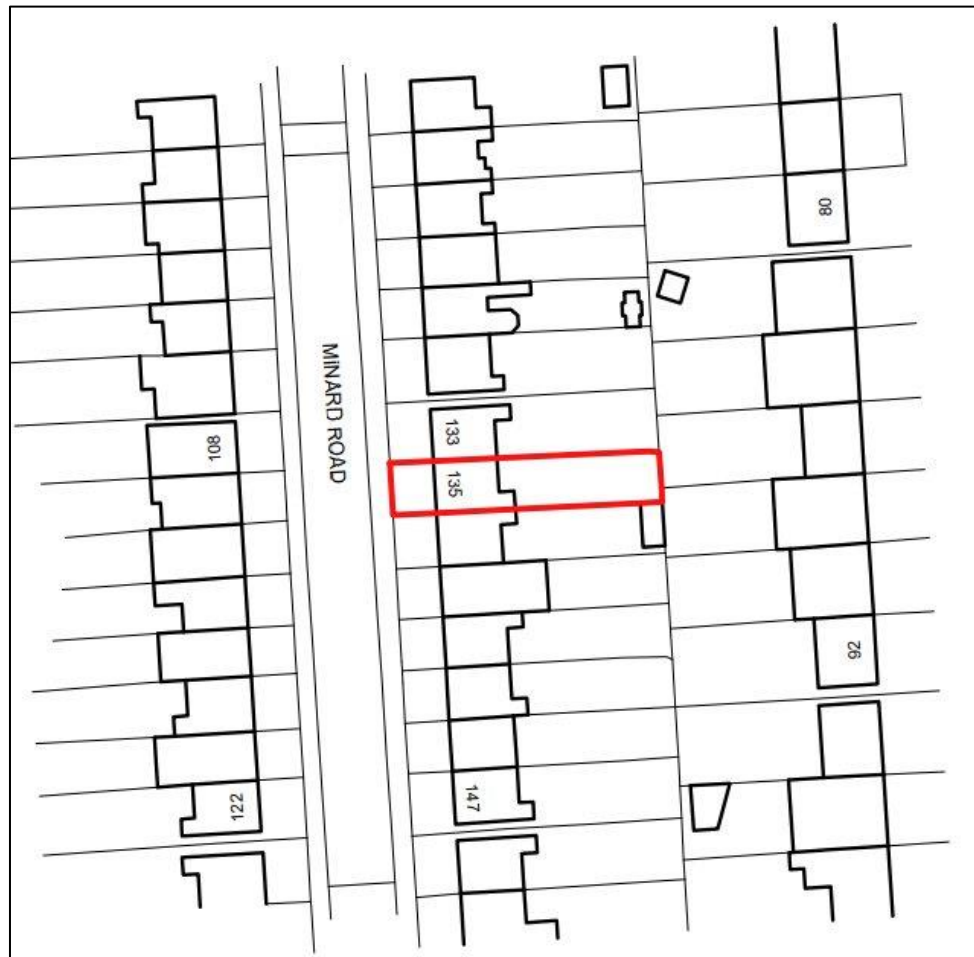
Site description and current use

- 1 The application property at No.135 Minard Road is a two-storey mid-terrace residential dwelling which is currently in use as a small HMO (Use Class C4). The site is largely rectangular in shape and is located on the east side of Minard Road. The property has a typical Victorian layout with an original single-storey rear projection which has been recently extended and the subject of this application. The site also benefits from a modest rear garden.
- 2 The property was not covered by the borough-wide Article 4 Direction that has removed permitted development rights for change of use from a single dwelling (Use Class C3) to a small HMO (Use Class C4) at the time that the change of use occurred.
- 3 The site property is not located within a conservation area and is not nor adjacent to a listed building. The area is residential in character with existing projections present on properties adjoining.

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Site Location Plan

Character of area

- 4 The surrounding area is predominately residential in nature comprising two storey terraces.

Heritage/archaeology

- 5 The application is not located within a conservation area. The building is not statutorily listed (designated heritage asset) and nor is it locally listed (non-designated heritage asset).

Surrounding area

- 6 The surrounded area site is predominately residential in nature and is comprised of a mix of buildings which were built between 1900 and 1929. The application site is in Corbett society Forum.
- 7 Local school, shops, and supermarkets within short distance of the property.

Local environment

- 8 The site is located within flood zone 1 which is indicative to low probability to flood risk.

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Transport

- 9 The Public Transport Accessibility Level (PTAL) rating of a site is a measure of its relative accessibility to public transport considering factors such as distance, type and frequency of service. PTAL ratings are categorised into categories, 1a to 6b, where 6b represents an excellent level of accessibility and 1a a very poor level of accessibility. The application site has a PTAL rating of 2. Minard Road provides access to a number of buses.
- 10 The site is not within a controlled parking zone (CPZ) and, Catford Bridge train station is within 10-20 minutes walking distance.

2 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 11 ENF/23/00170 – unauthorised HMO use and ground floor rear extension – case under investigation.

3 CURRENT PLANNING APPLICATION

THE PROPOSALS

Background

- 12 It is important to note that the existing property is currently in use as a small HMO (Use Class C4) which was implemented prior to the borough-wide HMO Article 4 Direction that came into effect on 19th January 2024. An HMO licence was granted for up to 6 persons at the property in July 2023. The existing plans are indicative of the 6-person HMO unit. An inspection of the property by Officers in late 2023 confirms the HMO use of the property.
- 13 A single-storey rear extension without the benefit of planning permission has been constructed on the site which is the subject of the current planning application. A rear dormer extension has also been constructed under permitted development. As such, planning permission is not sought for the current HMO use or rear dormer, and retrospective planning permission is only sought to regularise the unauthorised single-storey rear extension.

Scope of application

- 14 The existing single-storey full-width rear extension has a depth 3m and a maximum height of 3m with a flat roof design.
- 15 Planning permission is required as the development does not constitute permitted development as it projects beyond the side elevation of the original single-storey rear outrigger and is greater than half the width of the dwellinghouse and thereby conflicts with A.1 (j)(iii) of the General Permitted Development Order 1995 (as amended).
- 16 The extension has been finished in brickwork with a felt roof, to match the existing. The rear elevation contains a pair of uPVC, double glazed windows and single doors.
- 17 Revised plans were received during the application to reflect the current and correct layout of the property following a site inspection and objections received from residents.

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4 CONSULTATION

PRE-APPLICATION ENGAGEMENT

- 18 No pre-application engagement was held with the applicant prior to the lodgement of the current application.

APPLICATION PUBLICITY

- 19 Site notices were displayed on 16/10/2023.
- 20 Letters were sent to residents and business in the surrounding area, and the Corbett Neighbourhood Forum and the relevant Ward Councillors were consulted on 16/10/2024.
- 21 12 individual objections and 2 letters of support were received regarding the proposal.

Comments in objection (residents and businesses)

Comment	Para were addressed
Construction of the extension without consultation with neighbours.	Although good practice there is no requirement for the applicant to formally consult with neighbours prior to the application being lodged. Neighbour notification letters were sent out during the application.
Noise, traffic and anti -social behaviour.	Planning permission is only sought for the retention of the single-storey rear extension and not for the use of the property. Officers are of the opinion the development does not give rise to any noise, traffic or anti-social impacts.
Plans are misleading.	The plans have been updated following the identification of inconsistencies in the original drawings.
The extension has been built from the wrong floor level.	The application has been assessed based on the built form.
Lack of correct information in the submission, the documents / planning forms and how the property is being used	The latest plans are sufficient to allow Officers to make a proper and accurate assessment of the application. Planning permission is only sought for the retention of the single-storey rear extension and not for the use of the property.
The application is a misrepresentation of the current layout, with a loft dormer and rear extension subdivided into 6 bedrooms and use as an HMO.	The plans have been updated following the identification of inconsistencies in the original drawings. Any current use of the property as an HMO would be subject to an HMO licence.
The ground floor extension (now built) is against permitted development	Planning permission is only sought for the retention of the single-storey rear extension

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	and is not a lawful development certificate application.
It's too high from ground level and is now overbearing, intrusive and impacting neighbouring privacy.	Officers have assessed the impact on neighbouring amenity to be acceptable. Para 46 - 48
Increased noise once completed and during building	Officers are of the opinion the development does not give rise to any noise and disturbance impacts.
The development has two doors, but one is shown on the drawing.	The plans have been updated following the identification of inconsistencies in the original drawings.
No party wall in place	This is covered by the Party Wall Act 1996 and is not a material planning consideration.
Building works started in June and not in August.	This is not relevant to the assessment of the application, but a site visit confirmed the works have been completed.

Comments in support (residents and businesses)

Comment	Para were addressed
In general support of the application	Noted.
The proposal is acceptable, and the depth of the extension is less than 3m.	Para 37 to 38 and 44 to 45.
The proposal is in keeping with the design of the house.	Para 37 to 38.

INTERNAL CONSULTATION

22 No internal consultees were notified.

EXTERNAL CONSULTATION

23 No external Consultees were notified.

POLICY CONTEXT

LEGISLATION

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

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MATERIAL CONSIDERATIONS

- 25 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.
- 26 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.
- 27 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 afore mentioned directions and the test of reasonableness.

NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2023 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

DEVELOPMENT PLAN

28 **The Development Plan comprises:**

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)

SUPPLEMENTARY PLANNING GUIDANCE

29 **Lewisham SPG/SPD:**

- Alterations and Extensions Supplementary Planning Document (April 2019)

PLANNING CONSIDERATIONS

30 **The main issues are:**

- Principle of Development

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- Urban Design
- Impact on Adjoining Properties

PRINCIPLE OF DEVELOPMENT

General policy

31 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.

32 The development is general supportive of people extending or altering their homes. As such, the principle of development is supported subject to an assessment of detail.

6.2 URBAN DESIGN

General Policy

33 The NPPF at paragraph 131 states the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

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

35 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.

36 DMLP 31, states that extensions will not be permitted where they would adversely affect the architectural integrity of a group of buildings as a whole or cause an incongruous element in terms of the important features of a character area.

Discussion

37 The extension replaces the original single-storey small outrigger with a full-width replacement that extends 3m from the rear elevation of the host building with a maximum height of 3m with a flat roof design. Timber steps and handrails grant access from the 2 individual doors into the rear garden. The yellow bricks match the existing building which will naturally age over time. The extension does not take up more than half the depth of the rear garden.

38 Although the original ground floor rear outriggers remain in the majority of the terrace it is noted that there are examples of properties that have been extended rearwards including Nos. 139, 129 and 127 Minard Road with further examples located to the North. This being

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the case, Officers take the view that the scale and size of the extension is respectful and subservient to the host building and in keeping with the character of the prevailing pattern of rear developments that can be found in the same terrace.

6.3 Urban design conclusion

39 In summary, the extension, due to its scale and design and use of materials, preserves the character and appearance of the host dwelling and its wider surroundings.

40 Officers conclude that the proposal responds sensitively to its context and the character of the site and surrounding area and therefore should be approved in terms of its design.

7.0 LIVING CONDITIONS OF NEIGHBOURS

General Policy

41 NPPF paragraph 135 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 paragraph 191 it states decisions should ensure that new development is appropriate for its location taking into account the likely effect (including cumulative effects of pollution on health and living conditions).

42 This is reflected in relevant policies of the Core Strategy (CP15), The Local Plan (DMLP 31) and associated Council guidance (Alterations and Extensions SPD 2019).

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

Discussion

44 The extension projects 3m beyond the rear extent of the neighbouring property at No. 133 Minard Road and be sited on the common boundary with a maximum height of 3m. This projection and height are in accordance with the Council's SPD which recommends a maximum depth and height of 3m so as to safeguard neighbouring amenity. Given its compliance the development does not give rise to any impact in terms of loss of daylight/sunlight and outlook to the occupiers of No. 133 Minard Road.

45 Turning to the impact on the adjoining property at No. 137 Minard Road located on the opposite side, this property benefits from a 1m deep original rear outrigger which straddles the property boundary. Likewise, the siting and scale of the extension on the application site does not incur any significant degree of loss of living conditions currently enjoyed by the occupiers of neighbouring property at No. 127 Minard Road.

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46 There are no openings to the flank walls of the extension and as such no overlooking effects into 133 and 137 Minard Road are incurred.

47 **Impact on neighbour's conclusion**

48 The development does not introduce any unacceptable harmful impacts to the living conditions of any of the neighbouring properties and therefore is compliant to Core Strategy Policy 15 and Local Plan Policy 31 and the provisions of the Council's Alterations and Extensions SPD.

8.0 LOCAL FINANCE CONSIDERATIONS.

49 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).

50 The weight to be attached to a local finance consideration remains a matter for the Decision maker.

51 The CIL is therefore a material consideration.

52 This application does not attract CIL.

9.0 EQUALITIES CONSIDERATIONS

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

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

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic and person who do not share it.

55 The duty continues to be a "have regard duty" and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality.

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It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

56 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention in drawn in 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/tecnical-guidance-public-sector-equality-duty-england>

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

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

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

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

10 HUMAN RIGHTS IMPLICATIONS

60 In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1989. Section 6 of the Human Rights Act 1998 prohibits authorises (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights, certain parts of which

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were incorporated into English law under the Human Rights ACT 1998. Various convention rights are likely to be relevant including:

- Article 3: United Nations Convention on the Rights of the Child (“NCRC”)
- Article 8: Respect for your private and family life, home, and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

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

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

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

11 CONCLUSION

64 Retrospective planning permission is sought only for the single-storey rear extension. The proposal is acceptable. The size and design quality maintains the character of the host property and its wider surroundings. It does not create any significant loss of amenity in terms of daylight/sunlight, outlook and privacy impacts on the adjoining residential properties.

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

66 In reaching this recommendation. Officers have given weight the comments and objections that were received regarding this application and consider the development preserves the host building in terms of the design. No unacceptable harm arises to the living conditions of neighbours, therefore Officers recommend that planning permission should be granted subject to the imposition of suitable planning conditions.

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12 RECOMMENDATION

67 That the committee resolve to GRANT planning permission subject to the following conditions and informatives.

12.1 CONDITIONS

1) DEVELOP IN ACCORDANCE WITH PLANS.

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

MR.135.L.P.RV00; MR.135.EX-AP.01 Rev B; MR.135.EX-AP.02; MR.135.EX-AP.03; Rev A; MR.135.PRE.EX.01 Rev B; and MR.135.PRE-EX.03 Rev A.;5ND15.

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

2) USE OF FLAT ROOF

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 roofed extension approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011), and DM Policy Alterations and Extensions to existing buildings including residential extensions, of the Development Management Local Plan (November 2014).

12.2 INFORMATIVES

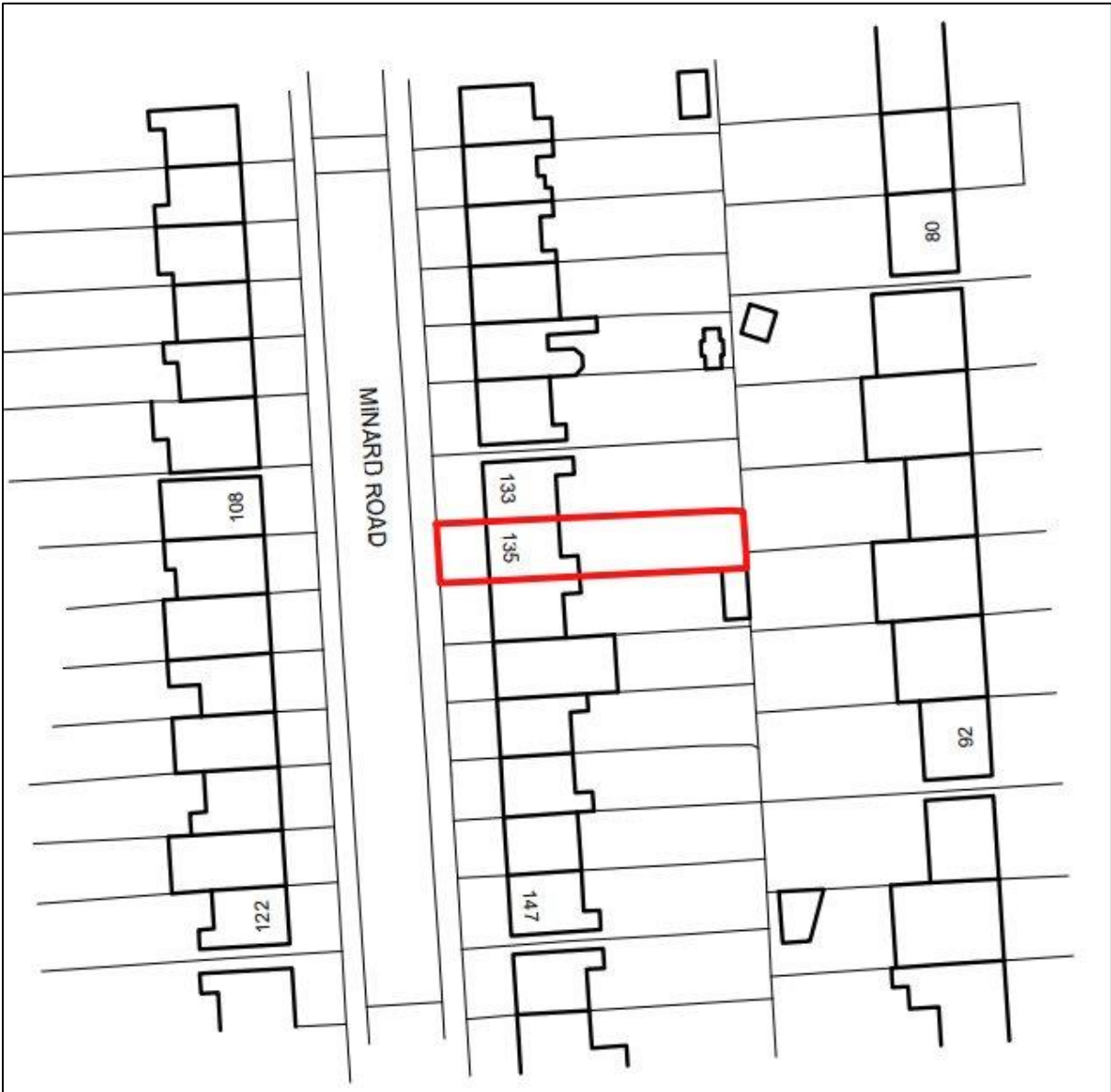
- 1) Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the details advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.
- 2) You are advised of the appropriate party wall agreements will be needed as required by the Party Wall Act.

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135 Minard Road, London SE6 1NN

Application No. DC/23/133184

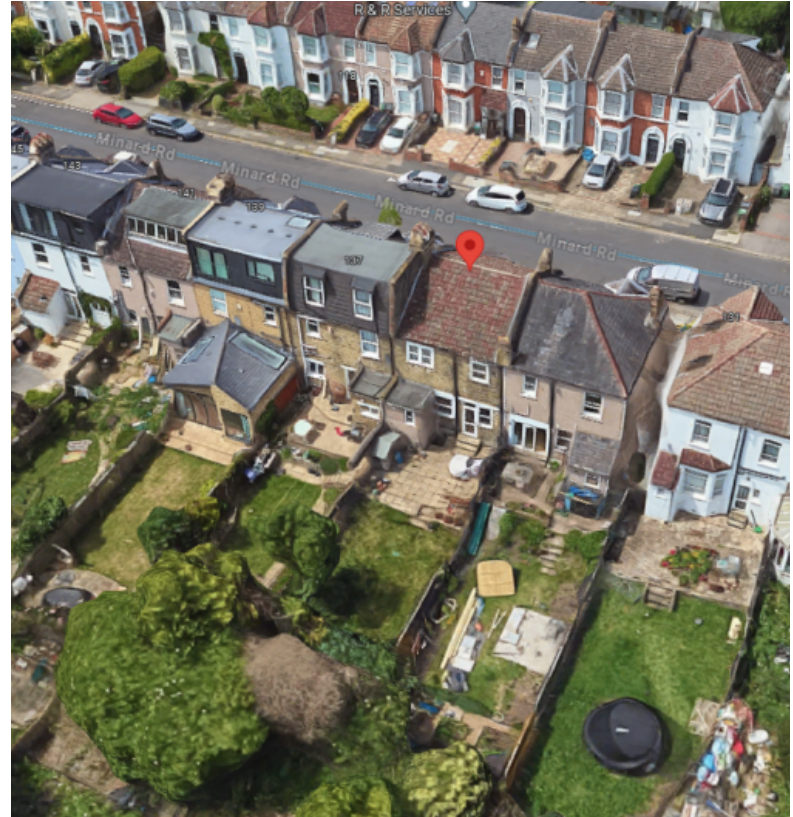
This presentation forms no part of a planning application
and is for information only.

Retrospective application for the erection of a single storey rear extension at 135 Minard Road SE6.

Site Location Plan



Aerial Views



Existing Rear

Page 285



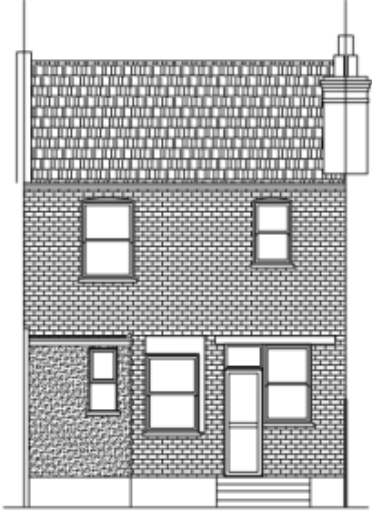
Pre-existing and Existing Plans



Pre-existing and Existing Elevations



PRE-EXISTING FRONT ELEVATION



PRE-EXISTING REAR ELEVATION



EXISTING FRONT ELEVATION
(AS PROPOSED)



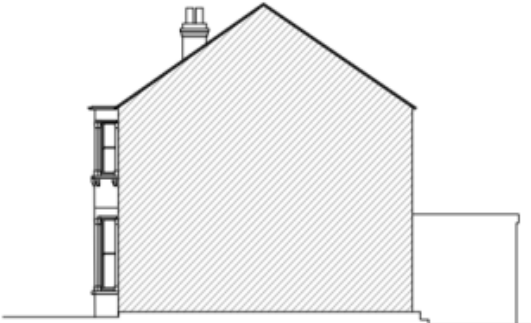
EXISTING REAR ELEVATION
(AS PROPOSED)

Pre-existing and Existing side elevations

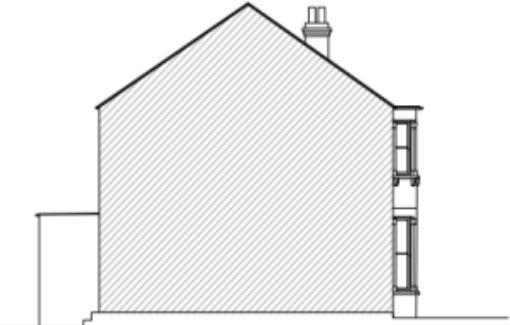
Page 288



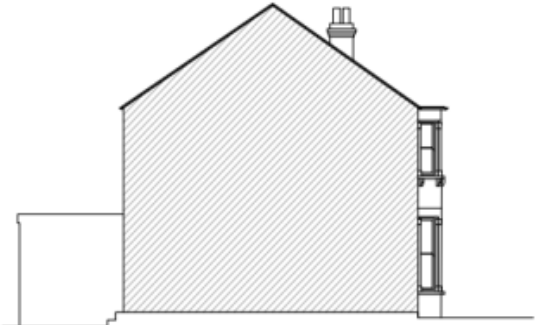
PRE-EXISTING SIDE ELEVATION 1



EXISTING SIDE ELEVATION 1
(AS PROPOSED)



PRE-EXISTING SIDE ELEVATION 2



EXISTING SIDE ELEVATION 2
(AS PROPOSED)

Key planning considerations

- Urban Design
- Impact on Neighbouring Amenity

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