



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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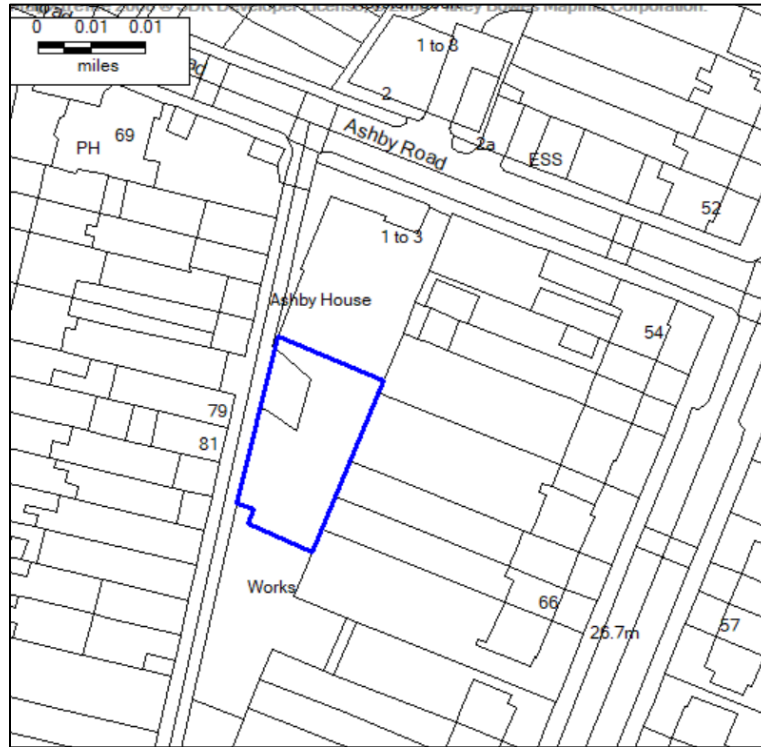


Figure 1 – Site Location Plan

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

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