



Planning Committee B

Report title:

81 Sydenham Road, London, SE26 5UA

Date: 9th July 2024

Key decision: No.

See "[Legal Requirements](#)" in the guidance for more information.

Class: Part 1

See "[Legal Requirements](#)" in the guidance for more information.

Ward affected: Sydenham

Contributors: John Rapson, Planning Officer

Outline and recommendations

This report sets out the officer recommendation of approval for this application for Full Planning Permission.

The case has been brought before committee for a decision due to 17 individual objections received.

Application details

Application reference number(s): DC/24/134418

Application Date: 08 January 2024

Applicant: Mr Esengul

Proposal: The installation of 3 fridges condensing units to flat roof with wooden enclosure on the rear elevation at 81 Sydenham Road SE26

Background Papers: Submission Drawings

Designation: PTAL 5
Air Quality
Major District Centre
Sydenham Thorpes Conservation Area
Area of Archaeological Priority – Sydenham
Thorpes Conservation Area Article 4 Direction
Small HMO Article 4 Direction

Screening: N/A

1 SITE AND CONTEXT

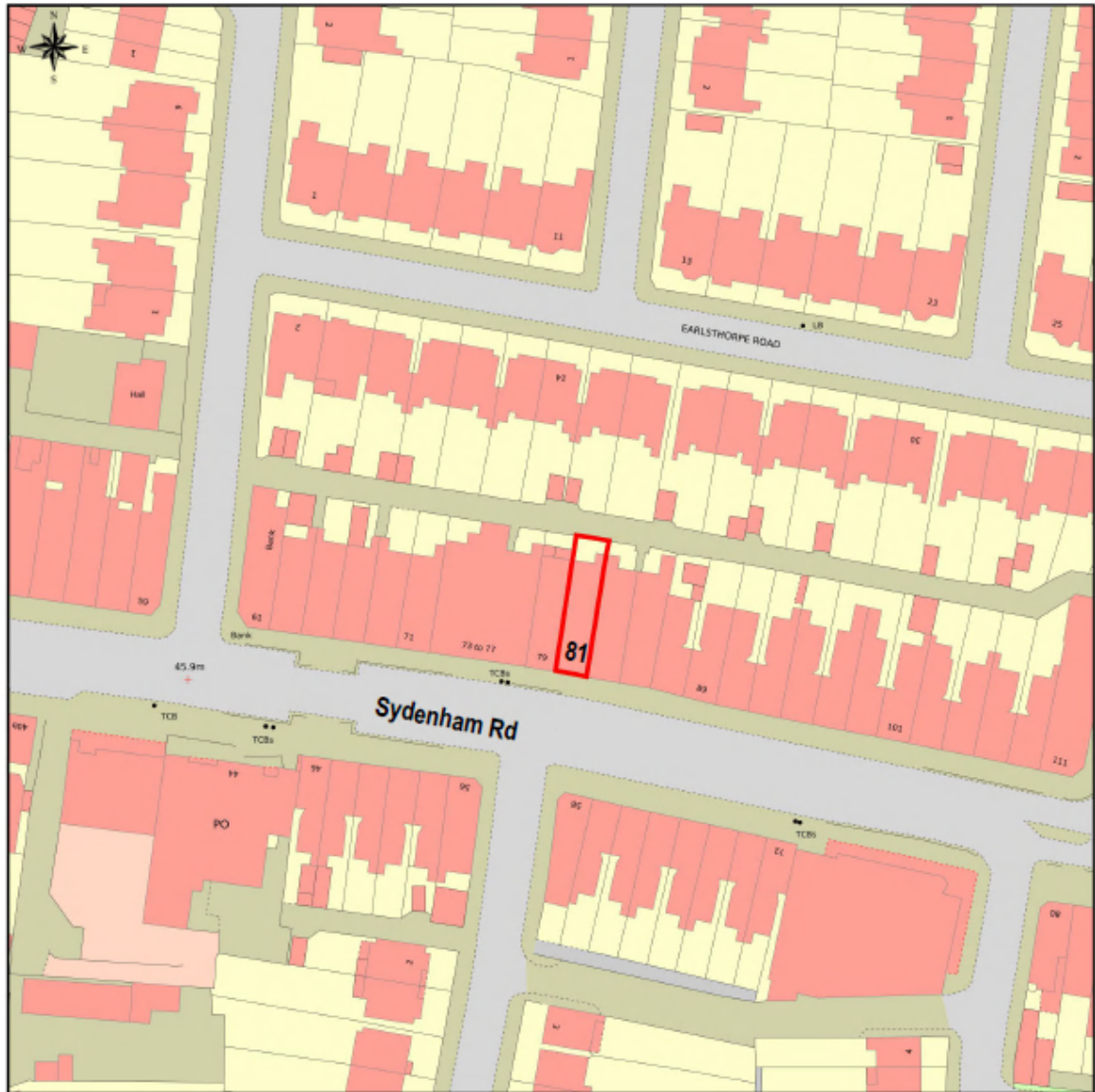
Site description and current use

- 1 This application relates to the rear of a ground floor commercial unit (Use Class E) located at No. 81 Sydenham Road. The property is a three-storey mid-terraced mixed-use building, with a supermarket on the ground floor and residential use above. The rear of the site fronts on the rear service road. This is an un-adopted road that services the rear of the properties fronting the southern side of Earlsthorpe Road and those on the northern side of Sydenham Road.
- 2 The site is designated as being within the primary shopping frontage of The Sydenham Town Centre, a major district centre for the borough. It is also designated within the extended Sydenham Thorpes Conservation Area, which includes an Article 4 Direction, that removes permitted development rights for single family dwelling houses and Sydenham Thorpe Conservation Article 4 direction which removes permitted development rights for particular types of relatively minor works to buildings.
- 3 The site has a Public Transport Accessibility Level (PTAL) score of 5 on a scale of 1-6b, 1 being lowest and 6b the highest.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>



Site Location Plan

2 RELEVANT PLANNING HISTORY

- 4 **DC/02/051642:** The display of a partly internally illuminated fascia sign to the front of 81 Sydenham Road. **Granted 19 August 2002.**
- 5 **DC/06/63493:** The display of internally-illuminated fascia and projecting signs at Woolwich Plc, 81 Sydenham Road. **Granted 15 December 2006.**
- 6 **DC/07/04510:** The removal of the existing ATM and the installation of two ATM's in the front elevation of 81 Sydenham Road. **Granted 23 February 2007.**
- 7 **DC/07/064511:** The display of non illuminated panel signs and internally illuminated light boxes to the new ATM's in the front elevation of 81 Sydenham Road. **Granted 23 February 2007.**

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- 8 **DC/12/80266:** The installation of replacement internally illuminated fascia sign and ATM signs and a non-illuminated projecting sign to the front elevation at 81 Sydenham Road. **Granted 12 July 2012.**
- 9 **DC/12/80262:** The installation of 1 new condenser unit to the rear elevation at 81 Sydenham Road. **Refused 20 July 2012** for the following reason:
- “The proposed condenser unit would introduce a further unsightly addition that would add to the cumulative visual affect of the existing 5 condenser units, intensifying the existing visual harm caused. In addition, no attempt has been made by the applicant to either justify why a fourth condenser is required for this unit. Neither has any attempt been made to minimise the impact or screen the unit from public view. As such it would detract from the quality of the host building and visual amenity of the streetscene and be harmful to the character and appearance of the Sydenham Thorpes Conservation Area. As such, the proposal is contrary to Policies URB 3 Urban Design, URB 6 Extensions and Alterations, URB 16 New Development and Changes of Use, and Alterations to Buildings in Conservation Areas, in the adopted Unitary Development Plan (2004) and Objective 10: Protect and enhance Lewisham’s character, Spatial Policy 3: District Hubs, Spatial Policy 5: Areas of Stability and Managed Change, Policy 15: High quality design for Lewisham, Policy 16 Conservation Areas, Heritage Assets and the historic environment in the Lewisham Core Strategy (June 2011)”*
- 10 **DC/12/081028:** The retention of one condenser unit to the rear of 81 Sydenham Road SE26. **Granted 26 June 2014.**
- 11 **ENF/21/00187:** Changes to shopfronts in Conservation Area and air conditioning unit at the rear without planning permission. Erection of wooden structure to rear of property. **Enforcement notice issued 9 February 2022 following an investigation.**
- 12 **APP/C5690/C/22/3293897:** Appeal of ENF/21/00187. Appeal allowed and planning permission granted **10 August 2023.**
- 13 **PRE/22/126871:** Wood structure at the back of the garden. **Letter sent 16 June 2022.**

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

Background

- 14 The site has been subject to an extensive planning history.
- 15 A single condenser unit was retrospectively approved in 2014 under planning ref. DC/12/081028.
- 16 An enforcement case and subsequent appeal resulted in granting of planning permission in 2023 to allow additional condensing units which had been installed without the benefit of planning permission to the rear of the application site. In allowing the appeal by the Planning Inspector imposed a condition which required the submission of an attenuation scheme within 3 months of the appeal decision and approved within 11 months of the same decision with such approved details retained thereafter. It is important to note that

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

the applicant did not provide details of the attenuation scheme and therefore have been advised by Planning Enforcement to submit this application.

17 The unauthorised units have since been removed and this application only seeks planning consent for new replacement units.

Scope of Application

18 Full planning permission is sought for the installation of 3 fridge condensing units with timber enclosure on the rear ground floor flat roof at 81 Sydenham Road SE26.

19 These would be arranged in a straight line at the rear of the patio on top of an existing extension. The units would be contained within acoustic metal enclosures with a 23dB mitigation loss and then the top and sides of the enclosures to be covered by timber panelling.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

20 None was sought.

4.2 APPLICATION PUBLICITY

21 Site notices were displayed on 6th February 2024 and a press notice was published on 7th February.

22 Letters were sent to residents and business in the surrounding area and the relevant Ward Councillors and the Sydenham Society on 6th February 2024.

23 17 responses were received, comprising 17 objections.

4.2.1 Comments in objection

Comment	Para where addressed
Noise and Disturbance	51 & 52
Harm to Visual Amenity	46 & 47
Harm to the Conservation Area	46 & 47
Privacy Impacts	54

24 A number of other comments were also raised as follows:

25 **Sound mitigation measures have not been proposed:** Acoustic metal enclosures have been proposed and would act as mitigation and attenuate noise level.

26 **Failure to comply with enforcement and non-compliant development:** Officers are considering the scheme as proposed. Enforcement action on site has been resolved.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

27 **Inaccuracies in acoustic reports:** The Council's Environmental Health Protection Team have reviewed the submitted report and not raised concerns regarding inaccuracies.

4.3 INTERNAL CONSULTATION

28 The following internal consultees were notified on 1st February 2024.

29 **Environmental Health Protection:** Noted that no acoustic assessment has been provided but was satisfied that noise emissions can be dealt with via recommended conditions. See 50 & 51 for further details.

30 **Conservation:** raised no objections. See 45 & 46 for further details.

5 POLICY CONTEXT

5.1 LEGISLATION

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

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

5.2 MATERIAL CONSIDERATIONS

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

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

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

5.3 NATIONAL POLICY & GUIDANCE

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

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

5.4 DEVELOPMENT PLAN

36 The Development Plan comprises:

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

6 PLANNING CONSIDERATIONS

37 The main issues are:

- Principle of Development
- Urban Design and Impact on Heritage Assets
- Impact on Adjoining Properties

6.1 PRINCIPLE OF DEVELOPMENT

General policy

38 The site lies in the primary shopping frontage of The Sydenham District Centre subject to relevant policies include London Plan Policies SD6, SD8, and Local Plan Policy DM14.

39 The Development Plan is generally supportive of operational improvements to commercial properties. The principle of development is supported subject to details.

6.2 URBAN DESIGN AND IMPACT ON HERITAGE ASSETS

Policy

40 Section 72(1) of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

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

42 LPP HC1, CSP 15 and 16, DMLP 30, 31 and 36 and the provisions of the Alterations and Extensions SPD reflects this and are relevant. Also relevant is the Sydenham Thorpe Conservation Area Character Appraisal.

Discussion

43 81 Sydenham Road is part of a commercial terrace that lies in the Sydenham Thorpes Conservation Area. In 2007 the CA was extended to include the parade of shops lining Sydenham Road, which is contemporary with the Sydenham Thorpes estate.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- 44 81 Sydenham Rd is part of an unusual three-storey flat roofed terrace with shops at ground floor (Nos. 73-85 Sydenham Rd - odd). This group is built of red brick with two-storey stone surrounds every two bays of windows, air bricks and crittall windows, some of which have now been replaced. It has an austere style and regular rhythm on its front elevation, which suggests it was an early post war reconstruction, possibly inspired by modernist/art deco architecture. At the rear, the group has three-storey, part-width outriggers and single-storey brick infill covering all of the rear plots. There is a regular pattern of stairs to the rear to access higher floors, and many small extensions, an irregular pattern of windows and ventilation equipment to the rear on the ground floor. Opposite, small garages contribute to the secondary character of this mews as a subservient service area for the shops on Sydenham Road and the large, semi-detached houses on Earlsthorpe Road.
- 45 The proposed 3 no. condenser units would be arranged in a straight line on top of the existing rear extension. The units would be contained within acoustic metal enclosures with the top and sides of the enclosures to be covered by timber panelling.
- 46 Conservation Officers state that *“the rears of this group comprises a number of extensions and ventilation units, creating a cluttered, confused assortment of elements related to the shopfronts on Sydenham Road. The introduction of timber boxes would hide additional clutter and would not cause harm to the character and appearance of this part of the Conservation Area”*.
- 47 Due the rear location, existing environment and use of sympathetic materials Officers consider that the current proposal would lead to no harm to the Sydenham Thorpe Conservation Area.

Summary

- 48 Officers, having regard to the statutory duties in respect of Conservation Areas in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would preserve the character and appearance of the Sydenham Thorpe Conservation Area.

6.3 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 49 CP15, DMP31(c) and the provisions of the Alterations and Extensions SPD are relevant.

Discussion

- 50 The main impacts on amenity arise from: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas; and (iv) noise and disturbance.
- 51 The primary impact for this application relates to noise and disturbance from the condenser units on the rear neighbours (Most affected No. 22, 20, 18, 16, 14, 14A, 12, 10 Earlsthorpe Road). Officers have consulted with the Council’s Environmental Health Protection Team who have reviewed the provided Acoustics Report and raised no objection subject to the imposition of a compliance condition.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

52 Officers consider that the adverse impacts relating to noise to be satisfactorily addressed via the suggested compliance condition. Any breach of the condition will be subject to enforcement action.

53 The proposed condenser units are situated approximately 18m from the nearest adjoining neighbours and therefore will not cause any impacts regarding overbearing, loss of outlook and sunlight/daylight.

54 There is no anticipated privacy loss given there are no new habitable rooms nor windows in the proposals.

Summary

55 Officers support the proposals regarding impacts on the living conditions of neighbours due to non-substantial impacts on neighbours and impacts that can be adequately addressed via condition.

7 LOCAL FINANCE CONSIDERATIONS

56 Under Section 70(4) 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).

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

58 The CIL is therefore a material consideration.

59 The application does not attract CIL.

8 EQUALITIES CONSIDERATIONS

60 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.

61 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.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- 62 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.
- 63 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>
- 64 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
 - Meeting the equality duty in policy and decision-making
 - Engagement and the equality duty
 - Equality objectives and the equality duty
 - Equality information and the equality duty
- 65 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>
- 66 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

9 HUMAN RIGHTS IMPLICATIONS

- 67 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 3: United Nations Convention on the Rights of the Child (“NCRC”)
 - Article 8: Respect for your private and family life, home and correspondence
 - Protocol 1, Article 1: Right to peaceful enjoyment of your property

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- 68 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.
- 69 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.
- 70 This application has the legitimate aim of providing new equipment associated with the existing employment use. The rights potentially engaged by this application, including Article 8 and Protocol 1 is not considered to be unlawfully interfered with by this proposal.

10 CONCLUSION

- 71 The proposed scheme has been applied for following an extensive planning history including appeals. Historically, the site benefited from a 2014 planning consent for the installation of single condensing unit. Additional unauthorised units were subject to Planning Enforcement, and they were allowed on appeal in 2023 on the basis that the attenuation details to be submitted within 3 months of the decision. No details were submitted which resulted in further enforcement action and the lodgement of the current planning application.
- 72 All the pre-existing authorised and unauthorised units have been removed on the site and planning permission is now sought for the installation of new condensing units. The new scheme seeks to mitigate impact on neighbours in terms of noise and disturbance following enforcement action.
- 73 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 74 The proposed development is considered acceptable regarding urban design, impact on heritage assets, and living conditions of neighbours. Therefore, the application is recommended for approval subject to conditions.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

11 RECOMMENDATION

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

11.1 CONDITIONS

1) FULL PLANNING PERMISSION TIME LIMIT

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

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

2) DEVELOP IN ACCORDANCE WITH APPROVED PLANS

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

- A102 dated 17/05/2024
- A103 dated 17/05/2024
- A104 dated 29/01/2024
- A105 dated 29/01/2024
- Heritage Statement
- Spec Sheet – HRB/6-500/30 BPN
- Acoustic Report DAA Group Re. Issue 01 (04/03/2024)

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

3) MATERIALS

- (a) Prior to their first use the development hereby approved shall be constructed in those materials as submitted namely: timber enclosure and in full accordance with plans ref. A102 dated 17/05/2024 and A103 dated 17/05/2024.
- (b) The scheme shall be carried out in full accordance with those details, as approved and retained and maintained for the lifetime of the development.

Reason: To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard in the area and wider Sydenham Thorpes Conservation Area in accordance with Core Strategy Policies 15 and 16 of the Lewisham Core Strategy (June 2011) and DM Policies 30 and 36 of Lewisham Development Management Local Plan (November 2014).

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

4) MECHANICAL SERVICES - NOISE CONTROL

- a) The condensing units hereby permitted shall be installed in strict accordance with the details provided in the acoustic report submitted by DAA Group Re. Issue 01 dated 4th March 2024. The units shall thereafter be retained as approved. The units shall not be used unless the equipment is installed in compliance with these details.
- b) A commissioning acoustic test report shall be undertaken within 2 (two) weeks of the mechanical services installation in order to demonstrate the limiting noise levels detailed in the above report, i.e., Table 5.3 - Proposed noise emissions criterion, have been achieved. The results of the tests shall be submitted to and approved in writing by the local planning authority.

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

11.2 INFORMATIVES

Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.

12 BACKGROUND PAPERS

- A102 dated 17/05/2024
- A103 dated 17/05/2024
- A104 dated 29/01/2024
- A105 dated 29/01/2024
- Heritage Statement
- Spec Sheet – HRB/6-500/30 BPN
- Acoustic Report DAA Group Re. Issue 01 (04/03/2024)

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

13 REPORT AUTHOR AND CONTACT

76 John Rapson

John.rapson@lewisham.gov.uk

020 83142013

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>