

Committee	PLANNING COMMITTEE A	
Report Title	294A BROCKLEY ROAD, LONDON, SE4 2RA	
Ward	Ladywell	
Contributors	Felicity Tait	
Class	PART 1	16 AUGUST 2018

<u>Reg. Nos.</u>	DC/18/106122
<u>Application dated</u>	01 March 2018
<u>Applicant</u>	Mr/Ms Johnson Cantel Developments
<u>Proposal</u>	Retrospective application for the alteration and conversion of the first and second floor as 2 x 1 bed/2 person self-contained flats at 294A Brockley Road, SE4
<u>Applicant's Plan Nos.</u>	01 rev A; 03 rev A; 04 rev A; Flats A & B Plans; Planning and Design Statement (MIALEX, February 2018) received 2 March 2018 17-1299-02A received 2 May 2018 15 rev A received 5 June 2018 14 rev C received 11 June 2018 13 rev G; email confirming use of storage and refuse area received 19 July 2018
<u>Background Papers</u>	(1) DE/10/C/TP (2) Development Management Local Plan (adopted November 2014) (3) Core Strategy (adopted June 2011) (4) London Plan (March 2016)
<u>Designation</u>	PTAL 4 Local Open Space Deficiency Not in a Conservation Area Not a Listed Building B Road

1.0 Property/Site Description

- 1.2 The existing property, 294A Brockley Road, is a three bedroom flat set over the upper two floors of its host building, with commercial use at the ground floor below. The building is located on the eastern side of Brockley Road, at its junction with Braxfield Road.

- 1.3 The surrounding area along Brockley Road is characterised by ground floor shops with flats above on Brockley Road and terraced residential properties on the surrounding streets.
- 1.4 The property is not a Listed Building or located within a Conservation Area, although the buildings immediately opposite the site on Brockley Road are located within the Brockley Conservation Area.
- 1.5 Previous officer reports on the adjoining site, St Cyprian's Hall, have stated that the facade of this church hall and the adjoining Victorian shops are regarded, by virtue of their contribution to the street scene, as non-designated Heritage assets.

2.0 Planning History

- 2.1 DC/16/097205 – Alteration and conversion of the first and second floor flat into 2 one-bedroom self-contained flats, together with alterations to the side elevation. This refusal mirrors that of the application that is currently under assessment.
- 2.2 *The proposed residential units would provide an unacceptable standard of accommodation, by virtue of their failure to meet the minimum unit floor area, contrary to the Technical Housing Standards – Nationally Described Space Standard (March 2015), Policy 3.5 Quality and Design of Housing Developments of the London Plan (adopted March 2015, incorporating March 2016 Minor Alterations) and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014) and the London Plan Housing SPG (March 2016).*
- 2.3 Appeal – APP/C5690/W/16/3160150 – Appeal was dismissed as the Inspector who concluded that the proposed development would not provide acceptable living conditions for future residents in terms of the provision of internal living space by virtue of its failure to meet the minimum unit floor area, contrary to the THS (March 2015), Policy 3.5 Quality and Design of Housing Developments of the London Plan (adopted March 2015, incorporating March 2016 Minor Alterations) and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014) and the London Plan Housing SPG (March 2016). The proposal is in overall conflict with the development plan. On the main issue the appeal must fail.
- 2.4 Refusal - DC/17/100023 - The alteration and conversion of the first and second floor flat at 294A Brockley Road SE4 into 2 one-bedroom self-contained flats, together with alterations to the side elevation.
- 2.5 *The proposed residential units would provide an unacceptable standard of accommodation, by virtue of their failure to meet the minimum unit floor area, contrary to the Technical Housing Standards – Nationally Described Space Standard (March 2015), Policy 3.5 Quality and Design of Housing Developments of the London Plan (adopted March 2015, incorporating March 2016 Minor Alterations) and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014) and the London Plan Housing SPG (March 2016).*

2.6 Appeal – APP/C5690/W/17/3175074 – Appeal was dismissed. The Inspector considered the scheme in light of the previously dismissed appeal on the site in addition merits of the re-submitted scheme. The Inspector concluded that the scheme would conflict with the development plan when considered as a whole in light of the relevant policies.

2.7 ENQ/17/00447 - Alleged unauthorised conversion from commercial to residential dwelling without planning permission.

3.0 Current Planning Applications

The Proposals

3.1 As stated above the current application mirrors that of the refused scheme DC/16/097205 and DC/17/100023. The application includes the alteration and conversion of the first and second floor flat at 294A Brockley Road SE4 into 2 one-bedroom, two person self-contained flats.

3.2 The provision for two people within each flat differs to the two refused schemes that proposed two, 1b/1p flats. The layout of the flats is almost identical to the two refused schemes with the exception of the 2nd/3rd floor void area within Flat B.

3.3 No external alterations are proposed to the side elevation of this scheme, unlike the refused schemes.

3.4 The reason why the applicant has submitted an almost identical application to that of the two previously refused schemes is that they believe that the flats now comply with the technical housing standards with the by virtue of new accurate CAD measurements and the inclusion of the communal entrance and staircases and a 2nd/3rd void within the existing roof within the GIA calculations. These spaces were previously excluded from the refused schemes.

4.0 Consultation

4.1 This section outlines the consultation carried out by the Council following the submission of the application and summarises the responses received. The Council's consultation exceeded the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

4.2 Site notices were displayed and letters were sent to residents and business in the surrounding area and the relevant ward Councillors.

Written Responses received from Local Residents and Organisations

4.3 One (1) submission was received from the Brockley Society's Planning Group during the public notification period. The content of the submission is summarised below:

- That ignoring the London Borough of Lewisham and the Planning Inspectorates decisions and developing the site anyway shows a flagrant disregard for planning regulations.

- Given the applicants contempt for the decisions of both Lewisham's Planning Office and the Planning Inspectorate, the Brockley Society believes that trust in the owners' word has been diminished and questions the proposed new measurements.

Written Responses received from Statutory Agencies

Highways

- 4.4 Highways initially had concerns in relation to the cycle parking being located in a storage room on the first floor. However having worked through several options with the applicant it was decided that the best option was the proposed bike storage located on the wall of the entrance hallway. Whilst not optimal this was considered to be acceptable given the constraints of the site.

5.0 Policy Context

Introduction

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-
- (a) the provisions of the development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

A local finance consideration means:

- (a) 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
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL)
- 5.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) makes it clear that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. The development plan for Lewisham comprises the Core Strategy, the Development Management Local Plan, the Site Allocations Local Plan and the Lewisham Town Centre Local Plan, and the London Plan. The NPPF does not change the legal status of the development plan.

National Planning Policy Framework

- 5.3 The revised NPPF was published on 24th July 2018 and is a material consideration in the determination of planning applications. It contains at paragraph 11, a 'presumption in favour of sustainable development'. Annex 1 of the NPPF provides guidance on its implementation. In summary, this states in paragraph 213, that policies in the development plan should not be considered out

of date just because they were adopted prior to the publication of the NPPF and in regard to existing local policies, that ‘...due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)’.

- 5.4 Officers have reviewed the Core Strategy and Development Management Local Plan for consistency with the NPPF and consider there are no issues of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraph 213 of the NPPF.

National Planning Practice Guidance

- 5.5 On 6 March 2014, DCLG launched the National Planning Practice Guidance (NPPG) resource. This replaced a number of planning practice guidance documents, and is subject to continuous periodical updates in different subject areas.

London Plan Consolidated with Alterations since 2011 (March 2016)

- 5.6 The London Plan policies relevant to this application are:-

- Policy 3.3 Increasing housing supply
- Policy 3.5 Quality and design of housing developments
- Policy 6.9 Cycling
- Policy 6.13 Parking
- Policy 7.4 Local character
- Policy 7.6 Architecture
- Policy 8.3 Community infrastructure levy

London Plan Supplementary Planning Guidance (SPG)

The London Plan SPG's relevant to this application are:

- Housing (2012)

Core Strategy

- 5.7 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Development Management Local Plan and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Lewisham Core Strategy as they relate to this application:

- Core Strategy Policy 1 Housing provision, mix and affordability
- Core Strategy Policy 14 Sustainable movement and transport
- Core Strategy Policy 15 High quality design for Lewisham

Development Management Local Plan

- 5.8 The Development Management Local Plan was adopted by the Council at its meeting on 26 November 2014. The Development Management Local Plan, together with the Site Allocations, the Lewisham Town Centre Local Plan, the Core

Strategy and the London Plan is the borough's statutory development plan. The following lists the relevant strategic objectives, spatial policies and cross cutting policies from the Development Management Local Plan as they relate to this application:

5.9 The following policies are considered to be relevant to this application:

DM Policy 1 Presumption in favour of sustainable development
DM Policy 22 Sustainable design and construction
DM Policy 29 Car parking
DM Policy 30 Urban Design and Local Character
DM Policy 31 Alterations/extensions to existing buildings
DM Policy 32 Housing design, layout and space standards
DM Policy 37 Non designated heritage assets including locally listed buildings, areas of special local character and areas of archaeological interest

Residential Standards Supplementary Planning Document (August 2006/ Updated 2012)

5.10 This document sets out guidance and standards relating to design, sustainable development, renewable energy, flood risk, sustainable drainage, dwelling mix, density, layout, neighbour amenity, the amenities of the future occupants of developments, safety and security, refuse, affordable housing, self containment, noise and room positioning, room and dwelling sizes, storage, recycling facilities and bin storage, noise insulation, parking, cycle parking and storage, gardens and amenity space, landscaping, play space, Lifetime Homes and accessibility, and materials.

Brockley Conservation Area Supplementary Planning Document (December 2005)

5.11 This document advises on the content of planning applications, and gives advice on external alterations to properties. It lays out advice on repairs and maintenance and specifically advises on windows, roof extensions, satellite dishes, chimneystacks, doors, porches, canopies, walls, front gardens, development in rear gardens, shop fronts and architectural and other details. It also sets out detailed guidance on the limited development that will be accepted within Brockley Mews - mainly within Harefield Mews.

6.0 Planning Considerations

6.1 The main issues to be considered in respect of this application are:

- a) Principle of Development
- b) Design, scale and impact on the host building and surrounding area
- c) Standard of residential accommodation and amenity space
- d) Transport and Servicing Issues
- g) Impact on Adjoining Properties

Principle of Development

6.2 Officers do not object to the principle of the first and second floors being converted to flats provided that all the associated statutory policies can be met. DM Policy 2

'Prevention of loss of existing housings' does not apply in this instance, as the ground floor was up until recently used as an A1 use (funeral home). As such, the building is not considered to be a consolidated and existing single dwelling house and the provision of DM Policy 2 do not apply.

Design, scale and impact on the host building and surrounding area

- 6.3 There will be no design changes to the building. This iteration of the scheme has removed the insertion of two new high level windows in the side elevation that was previously proposed. The exterior door appears to have been recently painted and there also appears to have been some new hard landscaping in the form of pavement constructed at the side elevation. However as this hard landscaping relates to the ground floor use this falls outside the assessment of this application. As such as the applicant only proposes internal alterations with no exterior alterations officers are satisfied that the exterior design of the building and the impact that it would have would not be detrimental to the streetscene or the surrounding area, including the adjacent non-designated heritage asset or the Brockley Conservation Area located opposite the site.

Standard of Residential Accommodation and amenity

- 6.4 The NPPF states that planning decisions should seek to provide a high standard of amenity for future users (para 127(ff)). London Plan policy 3.5 'Quality and Design of Housing Developments' sets out minimum space standards which should be applied to all new housing developments. London Plan Policy 3.5 also seeks convenient and efficient room layouts to meet the changing needs of Londoners over their lifetimes.
- 6.5 At a regional level, guidance on the implementation of London Plan Policy 3.5 has been produced in the form of the Housing SPG (2016), as well as more recently to respond to the Department for Communities and Local Government's publication Technical housing standards – nationally described space standard (in March 2015).
- 6.6 Locally, DM Policy 32 of the Lewisham Development Management Local Plan (2014) expects all new housing to respond positively to the site specific constraints and opportunities as well as to the existing and emerging context for the site and surrounding area. DM Policy 32 also reinforces the prescribed minimum standards for housing development as set out in London Plan Policy 3.5 and notes shape and layout of rooms as indicators of housing quality.
- 6.7 The housing standards state that new 1 bed, 2 person units should be provided with 50m² of internal floor area, with bedrooms having a minimum area of 12.5m², width of 2.75m and 1.5m² of utility space. As the proposed flats would be a 1 bedroom 2 person flats the 50m² minimal spatial standard provisions apply.
- 6.8 The applicant's justification for the submission of an application that almost mirrors that of the two previously refused schemes is that an independent CAD survey has demonstrated that the actual internal floor space breakdown for Flat A is 50.2sqm and for Flat B is 67.4sqm. The applicant notes that the floor space now includes

the entrance hallway, staircase and internal bicycle storage/utility areas, in addition to the precise measurements of the main living areas of each flat.

- 6.9 They further note that that the GIA calculations accord with the definition of internal floor space specified within paragraph 8 of the National Space Standards that states:
- 6.10 *“The Gross Internal Area of a dwelling is defined as the total floor space measured between the internal faces of perimeter walls that enclose the dwelling. This includes partitions structural elements, cupboards, ducts, flights of stairs and voids above stairs.”*
- 6.11 Officers note that the applicant included the communal entrance and stairs area (14.6sqm) as part of the GIA. They have then split this communal GIA area evenly (7.3sqm) and applied it the GIA of Flat A and Flat B.
- 6.12 Officers note that the National Space Standards definition for GIA refers to flights of stairs being included within this definition. However, this should not apply to communal staircases, only private staircases. As such, officers have not included the staircase that is used exclusively for Flat B within the GIA calculations for Flat A. The officer has also not included the communal staircase on the ground floor, nor the part of the corridor and staircase on the first floor that both Flat A and Flat B require for access within the GIA measurements for Flats A & B.
- 6.13 As such, without the inclusion of this communal space for each of the flats, Flat A will have a GIA of 44.5sqm, while Flat B will have a GIA of 60.1sqm. This difference in area is because of the inclusion of the communal stairway that is used exclusively for the Flat B residents after it passes the Flat A door within the GIA calculations for Flat B and the additional void area. As such, Flat A fails to comply with the minimum National Space Standards and Flat B does comply. It is noted that both bedrooms would have an area of 11.8sqm and would be at least 2.75m wide, which is policy compliant.
- 6.14 Having regards to technical spatial requirements for storage, Flat B complies with 1.14sqm being accommodated within the bedroom and 2.2sqm being accommodated within the 2nd/3rd plan area. Officers initially questioned the practicality and functionality of the void storage space if it to be the sole storage provided within Flat B. However having undertaken a site inspection this area is essentially a 2nd/3rd floor that is used for storage and a laundry and appears to be quite functional. Having regards to Flat A, this flat has 1.14sqm of storage accommodated within the bedroom. The technical guidance states that a built-in wardrobe counts towards the GIA and bedroom floor area requirements, as long as the wardrobe does not reduce the effective width of the bedroom, which it does not in this instance. An additional 1.6sqm of storage space is proposed on the landing before the entrance to Flat A. The applicant has confirmed that this would be for the exclusive use of the residents of Flat A. DM Policy 32 states that storage facilities should ensure the long term sustainability and usability of the homes. Whilst not optimal, due to its close proximity to Flat A and the fact that it will be used exclusively by the residents of Flat A this storage arrangement is considered to be acceptable.

- 6.15 London Planning Housing SPG and DM Policy 31 require that a minimum ceiling height of 2.5 metres be provided for at least 75% of the dwelling area is strongly encourage. The applicant has provided sections that show the ceiling height for Flat A to be 2.8m and Flat B to be 2.5m complying with the minimum requirements.
- 6.16 Both units are be dual aspect and it is considered that they would have adequate outlook and access to daylight and sunlight. No private amenity space would be provided for the flats. However officers note that few units above commercial uses (or in this case former commercial uses) on shopping parades have any private amenity space. As such, officers raise no objection in this regard.
- 6.17 Notwithstanding Flat A's non-compliance with GIA minimum spatial requirements for a two person unit, the officer considers that the unit does exhibit a good quality design in relation to its general floor layout and functionality. DM Policy requires all new residential development to meet the functional requirements of future residents. It also requires accommodation that is of a good size, good outlook, have an acceptable shape layout, with the habitable rooms receiving direct daylight and sunlight and providing adequate privacy.
- 6.18 The proposed layout is considered to be a good design. The bedrooms are of a conventional and functional shape, meet the minimum area requirements and receive adequate daylight. The Lewisham Residential SPD states that living rooms in flat conversions *should accommodate a settee, two easy chairs, a television, one or two small items and other items such as for example, a bookcase or other form of storage.* The kitchen/dining/living area has an open play layout, is dual aspect and is of a convention shape that's layout makes the space feel large. The space can easily accommodate the furnishing required by the Residential SPD. The bathrooms are also large and follow a conventional rectangular layout located centrally within the building. Further the units are dual aspect and provide sufficient storage space
- 6.19 In summary and for the reason specified below officers on balance, consider the small non-compliance of the minimum spatial requirements for Flat A to be acceptable due to its good quality design and the fact that its floor plan essentially mirrors that of Flat B. As stated above both the units effectively have a mirroring floor layout with the exception of the 2nd/3rd storage area within Flat B. Only by virtue of the additional GIA that Flat B obtains due to the inclusion of the stairwell area that leads to Flat B after it passes the front door of Flat A does it comply.
- 6.20 Having regards to the definition of GIA, both the officer and the applicant have a differing interpretation of what constitutes GIA. Whilst this differing interpretation could be tested via an appeal, officers have taken an on balance approach to the non-compliance of Flat A with the minimum GIA requirements due to its good quality design. Whilst the works have been carried out without the benefit of planning permission, they do not constitute illegal activity, but are at the developers own risk. Officers consider that the accommodation has been constructed to a high quality and something that is sustainable and functional. Due to the pragmatic approach that is being taking in relation to the additional information that has been provided by the applicant and the good quality of the

design of the flats when viewed in person, the officer considers that the applicant has addressed the previous reason for refusal.

Highways and Traffic Issues

- 6.21 Core Strategy Policy 14 and DM Policy 29 states that a managed and restrained approach to car parking provision will be adopted to contribute to the objectives of traffic reduction while protecting the operational needs of major public facilities, essential economic development and the needs of people with disabilities.
- 6.22 The applicant has proposed a car free scheme. This site has a PTAL rating of 4, which is good and demonstrates that the site is reasonably well served by public transport. Given the reasonable accessibility levels of the site, it is considered that there would be unlikely to be a significant impact on parking demand in the vicinity and a car free development would be acceptable and in accordance with Policy 14 of the Core Strategy (2011) and Policy 6.13 of the London Plan (2016).
- 6.23 The London Plan requires 1 cycle space per studio and 1 bedroom unit and 2 cycle spaces for all other dwellings. Therefore, this proposal would theoretically require two new cycle spaces. Having proposed several alternatives to highways, it was ultimately decided that the storage of the bikes in the entrance hallway on the wall was the most acceptable form of storage. Whilst not optimal, highways agreed that given the site constraints that this was the most practicable place to store them, this being relatively typical of this residential unit type.
- 6.24 Having regards to the refuse arrangement the flats will use the existing refuse area on the ground floor. This is the arrangement that was used for the previous dwelling. The area is large enough to accommodate such waste and as such officers have no concerns with this arrangement.

Impact on Adjoining Properties

- 6.25 Core Strategy Policy 15 states that new development should be designed in a way that is sensitive to the local context. More specific to this, DM Policy 32 requires development to achieve high quality design and internal layout of new development in order to ensure the long term sustainability of new housing development by meeting the present and future needs of the occupants.
- 6.26 It must therefore be demonstrated that proposed development is neighbourly and that significant harm will not arise with respect to overbearing impact, loss of outlook, overshadowing, loss of light, loss of outlook or general noise and disturbance.
- 6.27 As the applicant is not proposing any alterations to the exterior of the building there would be no impact to the amenity of adjoining occupiers. Further, the additional unit would also not give rise to any additional noise concerns.

7.0 Local Finance Considerations

- 7.1 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:
- (a) 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
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).
- 7.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 7.3 The Mayor of London's CIL is therefore a material consideration. CIL is payable on this application and the applicant has completed the relevant form.

8.0 Equalities and Human Rights Considerations

- 8.1 Section 149 of the Equality Act 2010 (“the Act”) imposes a duty that the Council must, in the exercise of its functions, have due regard to:-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 The protected characteristics under the Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.3 The duty is a “have regard duty” and the weight to attach to it is a matter for the decision maker bearing in mind the issues of relevance and proportionality.
- 8.4 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: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 8.5 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

- 8.6 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:
<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>
- 8.7 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.
- 8.8 Under the Human Rights Act 1998, the Council must not act in a way which is incompatible with the rights referred to in the Act. There is an exception to this, in that the Council will not be acting unlawfully if Acts of Parliament mean that it cannot act in any other way. The relevant human rights in this instance are the:
- Right to respect for the home, under Article 8; and
 - Right to peace enjoyment of possessions, under Article 1 of Protocol 1.
- 8.9 However, these rights are not absolute, and may lawfully be infringed in certain defined circumstances. Where infringement is permissible, it must occur in accordance with, or subject to, the conditions provided for by the law. It must also be proportionate; i.e. it must achieve a fair balance between competing interests and not go beyond what is strictly necessary to achieve the purpose involve.
- 8.10 On balance, it is considered that the interference with the owners' human rights described above are proportionate. As such, the application is not considered to raise any Human Rights Act implications.

9.0 Conclusion

- 9.1 This application has been considered in the light of policies set out in the development plan and other material considerations.
- 9.2 Officer's note that this is third application submitted by the applicant for a scheme that essential mirrors the two previous refusals. Both the units effectively have a mirroring floor layout with the exception of the 2nd/3rd void storage area within Flat B. Flat A fails to meet the minimum GIA requirements, while Flat B only complies due to the inclusion of the stairwell. In relation to the definition of GIA, both the officer and the applicant have a differing interpretation of what constitutes GIA.
- 9.3 Whilst this differing interpretation could be tested via an appeal, officers have decided to take a pragmatic approach to the non-compliance of Flat A with the minimum GIA requirements due to its good quality design (conventional and functional layout, dual aspect, storage) and the fact that its floor plan essentially mirrors that of Flat B which is policy compliant. As such, the officer considers

that the applicant has overcome the previous reasons for refusal and the current application is thus recommended for approved subject to relevant conditions.

10.0 RECOMMENDATION (C)

GRANT PERMISSION subject to the following conditions:-

1

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

01 rev A; Flats A & B Plans; Planning and Design Statement (MIALEX, February 2018) received 2 March 2018

17-1299-02A received 2 May 2018

15 rev A received 5 June 2018

14 rev C received 11 June 2018

13 rev G; email confirming use of storage and refuse area received 19 July 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.

2.

(a) A minimum of **2** secure and dry cycle parking spaces shall be provided within the development as indicated on the plans hereby approved.

(b) Full details of the cycle parking facilities shall be submitted in writing to the local planning authority for approval within 3 months of the grant of approval.

(c) All cycle parking spaces shall be provided and made available for the occupants of the development and maintained thereafter.

Reason: In order to ensure adequate provision for cycle parking and to comply with Policy 14: Sustainable movement and transport of the Core Strategy (2011).

INFORMATIVES

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