

Committee	PLANNING COMMITTEE B	
Report Title	1 Tyrwhitt Road	
Ward	Ladywell	
Contributors	Alfie Williams	
Class	PART 1	15 November 2018

<u>Reg. Nos.</u>	DC/17/104231
<u>Application dated</u>	23/10/17
<u>Applicant</u>	Mr & Mrs Patel
<u>Proposal</u>	The construction of a single-storey rear replacement extension and change of use, alteration and conversion of the ground floor at 1A Tyrwhitt Road SE4 to a 2 bedroom flat (use Class C3), together with the installation of timber sash windows at the front and alterations to the shop front.
<u>Applicant's Plan Nos.</u>	185/100/P; 185/101/P; 185/102/P; 185/103/P; 185/104/P; 185/121/P; 185/122/P; 185/123/P; 185/234/P1; Design, Access & Heritage Statement (October 2017 - Jo Townsend Architects) received 24 October 2017; 185/111/P1; 185/112/P1 received 1 December 2018; Supporting Document for Change of Use; Letter from Richard Cleminson (21 February 2018) received 28 February 2018; 185/201/P3; 185/202/P3; 185/203/P3; 185/204/P3; 185/211/P3; 185/212/P3; 185/221/P3; 185/222/P3; 185/223/P3; 185/224/P3; 185/231/P3; 185/232/P3; 185/233/P3;
<u>Background Papers</u>	(1) Case File LE/187/1A/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	PTAL 5 Local Open Space Deficiency Brockley Article 4 Direction

1.0 Summary

1.1 This report sets out officer's recommendation in regard to the above proposal. The report has been brought before members for a decision as:

- Permission is recommended to be approved and:

- there is 1 or more objection from a recognised residents' association or community/amenity group within their area

2.0 Property/Site Description

- 2.1 The application site is a three storey mixed use Victorian property located on the eastern side of Tyrwhitt Road close to the junction with Loampit Hill. The property is comprised of a retail unit at ground floor level with two flats arranged over the first and second floors. The retail unit operated as an Off Licence for 22 years up until July 2017 and has been vacant since that point.
- 2.2 The front elevation of the property faces Tyrwhitt Road and looks out onto the Talbot public house located on the opposite side of the road. The site is within 100m of a parade of shops located at 55-63 Loampit Hill. The parade is comprised of five shops including a large convenience store, a pharmacy and builders' suppliers. To the south of the site is a large three storey residential building, similar in size to the host property, constructed in 2012.
- 2.3 The majority of the ground floor is taken up by the shopfront with a side door providing access to the flats above. The shopfront retains the original pilasters; however, modern alterations including an uPVC fascia sign and uPVC casement windows on the upper floor detract from the character of the property.
- 2.4 At the rear, the property has a three-storey outrigger located in the centre of the rear elevation. At ground floor level there is an existing single storey timber outbuilding that provides storage for the retail unit.
- 2.5 The property is located within the Brockley Conservation Area and is subject to an Article 4 Direction. The property is not listed and nor does it affect the setting of a listed building.

3.0 Planning History

- 3.1 In March 1992, planning permission was refused for the erection of single storey extensions at the front of 1 Pretoria Parade, Tyrwhitt Road SE4 to provide additional floorspace for the existing shops.
- 3.2 In August 2017, an application was granted for a Lawful Development Certificate (existing) in respect of the use of the first and second floors as self-contained flats (C3) at 1 Tyrwhitt Road SE4. (Reference DC/17/101992)

4.0 Current Planning Applications

The Proposals

- 4.1 The construction of a single storey extension to the rear of the property to facilitate the change of use of the ground floor retail unit to provide a 2b4p flat. The extension would project from the outrigger and infill the southern side return. The extension would measure 7.5m in depth projecting 4.1m from the outrigger with a width of 5.9m. The roof would be flat with a height of 3.3m and would accommodate two large rooflights. The extension would be constructed with London stock bricks and would feature an aluminium framed patio door.

- 4.2 The extension would provide a kitchen and dining room with the two bedrooms and living room sited within the volume of the host building. Access to the flat would be gained via the existing communal entrance to the side of the front elevation.
- 4.3 In addition, the development also includes alterations to the front elevation. These include the installation of retail style fenestration at ground floor level with a combination of clear and opaque glazing with grey tiled stall risers. The existing entrance door to the flats on the upper floors would be replaced with traditional style timber front door. The first and second floor windows would be replaced with timber sliding sash windows. The refuse and recycling bins for all of the three flats within the building would be stored within the front garden along the southern side boundary. A front boundary would be constructed with a stock brick dwarf wall with black painted metal railings and a black painted metal pedestrian gate.
- 4.4 It is noted that the design of the front elevation, front boundary treatments and location of the bin and bike stores was revised following discussions with officers.

Supporting Documents

Design, Access & Heritage Statement prepared by Jo Townsend Architects

- 4.5 This statement provides a description of the subject site and its contribution to the Brockley Conservation Area. It outlines the contextual analysis, consultation, design, schedule of accommodation, refuse strategy, and transport impact.

Supporting Document

- 4.6 This statement gives background information regarding the retail unit and documents the recent operating history and future financial viability as a retail unit.

5.0 Consultation

- 5.1 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 met those required by the Council's adopted Statement of Community Involvement.
- 5.2 Site notices were displayed and letters were sent to residents and businesses in the surrounding area and the relevant ward Councillors. The Council's Highways Department were also consulted in addition to the Brockley Society. Two letters of objection were received in response to the proposal including an objection from the Brockley Society.

Written Responses received from Local Residents and Organisations

- 5.3 The Brockley Society objected for the following reasons:
- The proposed front wall is incongruous and inappropriate, and quite unlike the traditional railings that feature in Brockley CA, including nearby neighbours.
 - The applicant needs to justify the change of use. The two nearby convenience stores have been in successful operation for more than 25

years. Asda opening on Loampit Hill was not described by the owners as a reason for closing the shop and has little impact on the residents who have always used the two local shops. A similar or different model of shop could be very successful in this position.

- The proposed change of use represents a loss of employment space.
- The proposed change of use represents a loss of business space.
- Finally, we regret the loss of small business and object in principle. Brockley CA needs the businesses and shops that exist on its periphery. Closing this would be detrimental to the character and resources for the CA.

5.4 A local resident objected to the application because the space previously provided a useful and valuable commercial space. The local area would significantly benefit from retaining this commercial space, either under the current Class A1 use or under a change of use to Class A3 to allow use of the space as a coffee shop, cafe or other similar outlet. The continuing success of nearby properties on Loampit Hill, e.g., 57 Loampit Hill (DC/15/094336), shows that there is high demand for Class A1 and Class A3 premises in this area, and that such premises can be successful if properly managed.

5.5 A second period of consultation was undertaken as documents detailing viability and marketing for the retail unit were not originally published. The second consultation period also exceeded the minimum statutory requirements and met those required by the Council's adopted Statement of Community Involvement.

5.6 One letter of objection was received in response to the second period of consultation. The objection concerned the loss of the A1 use and noted that the applicant has failed to market the unit for more than 12 months contrary to DM Policy 16. In addition, it was highlighted that the area supports a number of successful businesses, including previously vacant and run-down premises and that a new café/deli will be opening at 63 Loampit Hill in the near future.

5.7 A third period of consultation was undertaken in October. The consultation involved the display of a site notice and press advert in accordance with the statutory requirement. No representations were received in response to the site notice.

6.0 Policy Context

Introduction

6.1 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.

6.2 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 (NPPF) 2018

- 6.3 The NPPF, originally published in 2012, was revised on 24th July 2018 and is a material consideration in the determination of planning and related applications.
- 6.4 It contains at paragraph 11, a 'presumption in favour of sustainable development'. Annex 1 of the revised 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 revised 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)'.
- 6.5 Officers have reviewed the Core Strategy and Development Management Local Plan for consistency with the revised NPPF and consider there is no issue of significant conflict. As such, full weight can be given to these policies in the decision making process in accordance with paragraphs 213 of the revised NPPF.

National Planning Practice Guidance 'NPPG' (2014 onwards)

- 6.6 On 6th 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 difference subject areas

London Plan (March 2016)

- 6.7 The London Plan was updated on 14 March 2016 to incorporate the Housing Standards and Parking Standards Minor Alterations to the London Plan (2015). The new, draft London Plan was published by the Mayor of London for public consultation on 29 November 2017 (until 2 March 2018). The Mayor published proposed modifications to the Draft Plan in August 2018. The document is at an early stage in the process and has some limited weight as a material consideration when determining planning applications. The policies in the current adopted London Plan (2016) relevant to this application therefore are:

Policy 3.3 Increasing housing supply
Policy 3.5 Quality and design of housing developments
Policy 3.8 Housing choice
Policy 5.3 Sustainable design and construction
Policy 6.9 Cycling
Policy 7.4 Local character
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology

There are no policies in the draft London Plan (2017) which deviate materially from adopted policies and would be of particular relevance to this application.

London Plan Supplementary Planning Guidance (SPG)

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

Housing (2016)

Core Strategy

6.9 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:

Spatial Policy 5 Areas of Stability and Managed Change
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
Core Strategy Policy 16 Conservation areas, heritage assets and the historic environment

Development Management Local Plan

6.10 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:

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

DM Policy 1	Presumption in favour of sustainable development
DM Policy 16	Local shopping parades and corner shops
DM Policy 19	Shopfronts, signs and hoardings
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 36	New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens

Residential Standards Supplementary Planning Document (August 2006, revised 2012)

- 6.12 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.

Shopfront Design Guide Supplementary Planning Document (March 2006)

- 6.13 This document seeks to promote good design in order to enhance the character and appearance of the borough as a whole. The guide advises on the use of sensitive design and careful attention to detail and that whilst shopfront design encompasses a wide variety of styles and details there are certain basic rules that apply everywhere.

Brockley Conservation Area Supplementary Planning Document (December 2005)

- 6.14 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.

7.0 Planning Considerations

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

- a) Principle of Development
- b) Design and Conservation
- c) Housing
- d) Highways and Traffic Issues
- e) Impact on Adjoining Properties

Principle of Development

- 7.2 The main planning consideration relating to the principle of development is the loss of the existing A1 residential unit. DM Policy 16 seeks to retain retail uses within sites that are not designated as Town or Districted Centres to protect the needs of local residents and the character of the area. The policy also establishes a framework under which changes of use will be considered, summarised below.

- 7.3 DM Policy 16 states that changes of use from A1 in local shopping parades will only be considered in cases in which an applicant can demonstrate:

- a. the availability of similar alternative shopping facilities within a comfortable walking distance (approximately 400 metres or less)
- b. a balance to the number and type of units within the parade

c. that reasonable attempts have been made to market vacant shop units, for more than 12 months, at an appropriate rent

d. the replacement use will result in no harm to the amenity of adjoining properties.

- 7.4 The application site is a short distance (approximately 20m) from the small parade of shops located at 55 to 63 Loampit Hill. The parade is comprised of five shops including a convenience store. It is also noted that the site is located within 400m of shopping parades on Lewisham Way and Loampit Vale.
- 7.5 The viability and marketing evidence submitted with the application documents the operating history of the shop. The documents provide financial evidence demonstrating the declining financial performance of the shop and the various responses to the decline, including extensions to the operating hours and diversification of the products provided. The decline is attributed to an increase in competition from the larger convenience store on Loampit Hill in addition to multinational retailers opening on Loampit Vale. A letter from a commercial agent advised that the unit was not viable as a commercial premises due to the location and declined to market the unit for letting as a commercial premises.
- 7.6 It is acknowledged that the unit has not been marketed for twelve months. However, the financial information and advice from the letting agent are considered sufficient evidence to demonstrate the shop is no longer viable as a commercial unit.
- 7.7 Tyrwhitt Road is predominantly residential in character and therefore the addition of a 2 bedroom flat is not considered to have an adverse impact on residential amenity. It is also noted that the upper two floors of the building are already in residential use.
- 7.8 DM Policy 16 also states that a change of use to residential use will only be considered acceptable at the end of a parade in order to preserve the continuity of retail frontage. The shop is visually separated from the parade on Loampit Hill by virtue of both its location on Tyrwhitt Road and the distance between the building and the corner shop at 63 Loampit Hill. The change of use is therefore not considered detrimental to the retail character of the Loampit Hill parade.
- 7.9 The proposed development is considered to satisfactorily meet the criteria established by DM Policy 16 and therefore the loss of the A1 unit is considered acceptable.

Design and Conservation

- 7.10 Urban design is a key consideration in the planning process. Part 10 of the NPPF makes it clear that national government places great importance on the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 7.11 In relation to Lewisham, Core Strategy Policy 15 outlines how the Council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to the local context and responds to local character.

- 7.12 DM Policy 30 carries through the principle of high quality design which complements the existing typology. DM Policy 31 requires development proposals for alterations to be of a high, site specific and sensitive design quality and to respect and/or compliment the form, setting period, architectural characteristics and detailing of the original building, including external features such as chimneys and porches. High quality matching or complimentary materials should be used appropriately and sensitively in relation to context.
- 7.13 As the application site is located within the Brockley Conservation Area, regard will be given to the Council's duties under s72 of the Planning (Listed Buildings & Conservation Areas) Act 1990. Section 72 of the act requires that local planning authorities pay special attention in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. 'Preserving' in the context of the statutory duty means doing no harm.
- 7.14 Regard will also be given to Chapter 16 of the NPPF (2018), Core Strategy Policy 16 and DM Policy 36 which seek to manage new development affecting designated heritage assets in a manner that sustains and enhances their heritage significance, including the contribution of their setting.
- 7.15 The application building is highly visible from public viewpoints within the Brockley Conservation Area and makes a strong contribution to the streetscene. Small shopping parades were fundamental to 19th and early 20th century terraced housing developments and they continue to make an important contribution to the special qualities of such areas. The proposed development would see the installation of a Victorian style shopfront in the front elevation, retaining the original pilasters with glazing proportions and stall risers that emphasise the former retail character of the building. The ground floor alterations preserve a record of the original architectural use, respecting the form and architectural character of the building in accordance with DM Policy 36.
- 7.16 UPVC Windows are identified as inappropriate alterations that have a detrimental impact on the appearance of the Brockley Conservation Area within the Character Appraisal. In addition, DM Policy 36 encourages the reinstatement of important architectural features. The installation of timber sliding sash windows to the front elevation would enhance the appearance of the property by restoring an original feature and removing the unsympathetic contemporary casement windows. The proposed stock brick dwarf wall with metal railings along the front boundary would be in keeping with the prevailing character of the road and is therefore considered acceptable.
- 7.17 The proposed single storey rear extension would be of typical appearance incorporating a combination of historically appropriate materials and high quality contemporary design features. Given the large size of the property, the extension is considered subordinate in scale. The proposed extension is considered to preserve the character of the Brockley Conservation Area by virtue of the appropriate scale, form and materials and is therefore compliant with DM Policy 36.
- 7.18 The importance of sustaining and enhancing the significance of heritage assets is emphasised throughout Chapter 16 of the revised NPPF. Officers consider that the proposed alterations to the front elevation of the property accord with this

emphasis by virtue of preserving the former retail character at ground floor level and restoring important architectural features on the upper floors. The proposed scheme is considered to make a positive contribution to the streetscape that enhances the character of the Brockley Conservation Area in accordance with the principles of Core Strategy Policy 16 and DM Policy 36.

Housing

a) Size of Residential Accommodation

- 7.19 The Core Strategy Spatial Policy 1 defines the location of the site as within an Area of Stability and Managed Change, which means that Spatial Policy 5 is relevant to this site. This states that the Areas of Stability and Managed Change will deliver approximately 2,590 additional new homes over the period of the Core Strategy (2011-2026). This accounts for approximately 14% of the borough's requirement in order to meet local housing need and contribute towards meeting and exceeding London Plan targets.
- 7.20 The proposed flat would have a GIA of 87m² and would be comprised of two double bedrooms arranged over one storey. Both bedrooms would be located at the front of the flat and both would have a floor area of 12m². The two storage spaces have a combined area of 3.1m². To the rear of the property, the flat would benefit from a private amenity space measuring 9m².

b) Standard of Residential Accommodation

- 7.21 DM Policy 32 states that the London Plan will be used to assess that new residential units provide an appropriate level of residential quality and amenity. The proposed GIA of 87m² exceeds the 70m² required, within the Technical Housing Standards, for a 1 storey 2b4p flat. Both bedrooms exceed the 11.5m² area and minimum widths required within the Technical Housing Standards. The level of storage provided is also policy compliant.
- 7.22 Floor to ceiling heights are in excess of 2.3m (as measured from the plans provided with the application). The flat would be provided with a dual aspect by virtue of windows facing two directions to enable an acceptable amount of daylight and sunlight into habitable rooms in accordance with the standards identified within DM Policy 32.
- 7.23 The London Plan recognises the importance of private amenity space as a means of retreat. For that reason, all new development should have private open space. The London Plan Housing SPG states that for 1-2 person dwellings, a minimum 5m² is required and an additional 1m² per person thereafter. The SPG also states that the minimum depth and width should be 1.5m. The 9m² of private amenity space provided would therefore comply with the specifications of the London Plan.
- 7.24 Given the above, officers are satisfied that overall, the design and layout of the new flat created would be suitable and the proposal would provide an appropriate standard of residential accommodation in accordance with the revised NPPF, the London Plan, the London Plan Housing SPG, the Technical Housing Standards and the Council's DMLP. Therefore, the development is considered to provide adequate amenities for future residents.

Highways and Traffic Issues

- 7.25 Table 6.3 of the London Plan requires that two Cycle Spaces should be provided. Further to the London Plan requirements, Transport for London's (TFL's) 'London Cycling Design Standards' sets out that cycle parking should be fit-for-purpose, secure, dry and well-located.
- 7.26 A cycle store containing 2 cycle spaces has been proposed in accordance with the requirements of the London Plan. The cycle store would be located in the rear garden with access onto Loampit Hill via the side alley.
- 7.27 DM Policy 29 supports reducing the provision of on-site car parking on sites with a PTAL level 4 or higher. Therefore, the principle of a car free development is considered acceptable.
- 7.28 The refuse and recycling bins would be stored within the front garden of the building and would not present an obstruction to the public highway.

Impact on Adjoining Properties

- 7.29 DM Policy 31 states that residential development should result in no significant loss of privacy and amenity (including sunlight and daylight) to adjoining houses and their back gardens.
- 7.30 The proposed single storey extension is set in from the boundary with the adjoining property at Pretoria Court by approximately 0.6m. Pretoria Court is set back considerably from the rear elevation of the application property. It is considered that the set in from the boundary and siting of the adjoining property would prevent an unacceptable impact on amenity at Pretoria Court by way of overbearing impact or reduced outlook.
- 7.31 The property is separated from the properties to the north on Loampit Hill by an alley. The alley measures 1.5m in width and is considered to prevent the extension from having a significant impact on No's 55-63 Loampit Hill. It is also noted that the properties to the north of the site are in commercial use at ground floor level. The proposed extension does not feature side windows and is therefore not considered to cause unacceptable overlooking to adjoining properties.
- 7.32 The proposed windows on the front elevation maintain existing openings and are a mix of obscure glazing to provide privacy and clear glazing similar to the existing windows. Officers are satisfied that the windows would not result in any additional overlooking to neighbouring properties.

8.0 Local Finance Considerations

- 8.1 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).
- 8.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.

8.3 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.

9.0 Equalities Considerations

9.1 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.

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

(a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

(b) advance equality of opportunity between people who share a protected characteristic and those who do not;

(c) foster good relations between people who share a protected characteristic and persons who do not share it.

9.3 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.

9.4 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: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

9.5 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

9.6 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: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

9.7 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 minimal impact on equality.

10.0 Human Rights Implications

10.1 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:

- Right to a fair trial
- Respect for your private and family life, home and correspondence
- Peaceful enjoyment of one's property

10.2 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.

10.3 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with 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.

10.0 Conclusion

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

10.2 Officers consider the loss of the A1 retail unit to be policy compliant. The development meets the relevant design and housing standards whilst having an acceptable impact on residential amenity and the local highway network. Furthermore, the scheme would enhance the character of the Brockley Conservation Area and therefore the proposed development is considered acceptable.

11.0 **RECOMMENDATION**

GRANT PERMISSION subject to the following conditions:-

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

185/100/P; 185/101/P; 185/102/P; 185/103/P; 185/104/P; 185/121/P; 185/122/P; 185/123/P; 185/234/P1 received 24 October 2017; 185/111/P1; 185/112/P1 received 1 December 2018; Supporting Document for Change of Use; Letter from Richard Cleminson (21 February 2018) received 28 February 2018; 185/201/P3; 185/202/P3; 185/203/P3; 185/204/P3; 185/211/P3; 185/212/P3; 185/221/P3; 185/222/P3; 185/223/P3; 185/224/P3; 185/231/P3; 185/232/P3; 185/233/P3;

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

3. No development shall commence above ground level on site until a detailed schedule and specification of all front facing materials to be used on the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the local planning authority may be satisfied as to the external appearance of the building and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character and DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens.

4. The shopfront shall be installed in full accordance with drawing 185/221/P3 prior to the occupation of the ground floor commercial unit and retained thereafter.

Reason: To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character and DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient

monuments and registered parks and gardens.

5. (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) No development shall commence on site until the full details of the cycle parking facilities have been submitted to and approved in writing by the local planning authority.
- (c) All cycle parking spaces shall be provided and made available for use prior to occupation of the ground floor unit.

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).

6. (a) No development shall commence above ground level on site until drawings showing the landscaping of the front garden (including details of the permeability of hard surfaces) have been submitted and approved in writing by the local planning authority.
- (b) All landscaping works which form part of the approved scheme under part (a) shall be completed prior to occupation of the ground floor unit.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies 5.12 Flood risk management and 5.13 Sustainable Drainage in the London Plan (2015), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) Policies 25 Landscaping and trees, 30 Urban design and local character and 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens.

7. (a) Details of the proposed front boundary treatments including any gates, walls or fences shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works.
- (b) The approved boundary treatments shall be implemented prior to occupation of the ground floor unit and retained in perpetuity.

Reason: To ensure that the boundary treatment is of adequate design in the interests of visual and residential amenity and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and

their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens of the Development Management Local Plan (November 2014).

8. The new windows to the first and second floors shall be installed in full accordance with drawing 185/221/P3 prior to the occupation of the ground floor commercial unit and retained thereafter.

Reason: To ensure that the local planning authority may be satisfied as to the external appearance of the building and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character and DM Policy 36 New development, changes of use and alterations affecting designated heritage assets and their setting: conservation areas, listed buildings, schedule of ancient monuments and registered parks and gardens of the Development Management Local Plan (November 2014).

9. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the use of the flat roofed extension hereby approved shall be as set out in the application and no development or the formation of any door providing access to the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 31 Alterations and extensions to existing buildings including residential extensions of the Development Management Local Plan (November 2014).

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.