

Committee	PLANNING COMMITTEE C	
Report Title	179 LEE HIGH ROAD, LONDON, SE13 5PQ	
Ward	Blackheath	
Contributors	Russell Brown	
Class	PART 1	14 March 2019

Reg. Nos. DC/18/109386

Application dated 22.10.2018

Applicant Mr S Riaz

Proposal The demolition of the existing building at 179 Lee High Road, SE13 and the construction of a four storey plus basement building comprising a commercial unit (Use Class A1) at basement and ground floor levels and 3, one bedroom self-contained flats on the upper floors, together with the provision of an internal staircase to the rear and cycle and refuse storage.

Applicant's Plan Nos. 1446-X-100; 1446-X-101; 1446-X-102; 1446-X-200; 1446-X-201; 1446-X-202; 1446-X-203; 1446-30-200 Rev. A; 1446-30-202 Rev. A; OS Map; Daylight and Sunlight Study; Design Statement

Sections for NES Secret Fix System - PPSF02; Construction Method Statement Rev A Received 4th February 2019

1446-30-002; 1446-30-003 Rev. C; 1446-30-100 Rev. B; 1446-30-101 Rev. D; 1446-30-102 Rev. B; 1446-30-103 Rev. B; 1446-30-104 Rev. B; 1446-30-105 Rev. B; 1446-30-106; 1446-30-107; 1446-30-201 Rev. C; 1446-30-203; 1446-30-300 Rev. B; 1446-30-400; Contextual Analysis Received 15th February 2019

Planning Statement Received 18th February 2019

Background Papers

- (1) Case File LE/451/179/TP
- (2) Core Strategy (June 2011)
- (3) Development Management Local Plan (November 2014)
- (4) London Plan (March 2016)

Designation PTAL 2
Area of Archaeological Priority - Lee Lee Neighbourhood Forum

1.0 PROPERTY/SITE DESCRIPTION

- 1.1 The site is located on the north side of Lee High Road (A20) on the junction with Boone Street. Boone's Chapel, a Grade I listed building is to the west. The property itself is a two storey plus basement end-of-terrace building of red brick with the rear part of its east elevation finished in pebbledash. The roof is flat with a front parapet, the windows are timber casements and the shopfront is metal framed with an awning. The ground floor is in use as a hairdresser/barber (Use Class A1) with a flat (Use Class C3) on the first floor. There is a single storey lean-to to the rear and a door giving access to the rear yard, flat and basement.
- 1.2 To the rear of the site there are some flats called Lownes Courtyard within two storey buildings arranged around a hard-paved courtyard and parking spaces. On the other side of Boone Street there is a Baroque style three storey building built in red brick with decorative triangular-shaped gables and timber sash windows. The adjoining terraced property, no. 177, and no. 175 are of the same height, which is a storey in excess of no. 179 and date from the Victorian era. Both have commercial units at ground floor with residential above.
- 1.3 The property is not located within a Conservation Area, nor subject to an Article 4 direction, and is not a listed building. It has a PTAL rating of 2 and is on a Red Route, which extends around the corner onto Boone Street until the rear edge of the site.

2.0 RELEVANT PLANNING HISTORY

- 2.1 Planning permission was **granted** on 9th March 1971 for the reconstruction of the front part of the building to provide a new shopfront at ground floor level and a new bathroom and dressing room at first floor level.
- 2.2 Planning permission was **granted** on 16th of December 1993 for the change of use of the ground floor to an office (Use Class A2).
- 2.3 DC/17/105373: Demolition of the existing building at 179 Lee High Road, SE13 and the construction of a four storey plus basement building comprising commercial unit (Use Class A1) at basement and ground floor levels and 3, one bedroom self-contained flats on the upper floors, together with the provision of an external staircase to the rear, cycle and refuse storage and amenity space. **Refused as the proposals, by reason of the design, mass and materials of the external rear 4 storey staircase would be visually overbearing and incongruous in the streetscene and entrance into Boone Street. Furthermore, the staircase by reason of its height, massing and open nature would have significant adverse impact upon the amenity on the residents of no. 175 and no. 177 Lee High Road and no. 1 Lownes Courtyard, Boone Street by way of visually overbearing impact, including a sense of enclosure, and loss of privacy.**

3.0 CURRENT PLANNING APPLICATION

- 3.1 The proposal involves the demolition of the existing building and the construction of a four storey building with a flat roof and parapet. The building would have a commercial use over the basement ground floor and three, one bedroom flats on the floors above.
- 3.2 The commercial areas over the basement (63.9m²) and ground floor (44m²) would have a total of 107.9m². The residential flats above will each have an area of 50m², resulting in three one bed, two person flats. The internal layout of each flat will be the same throughout, providing a 13.7m² bedroom and a 23m² living, dining and kitchen area. Bathroom and storage areas would also be provided.

Unit No.	Beds	Proposed GIA	Required GIA	Proposed Storage	Required Storage
1	1b2p	50m ²	50m ²	0.66m ²	1.5m ²
2	1b2p	50m ²	50m ²	0.66m ²	1.5m ²
3	1b2p	50m ²	50m ²	0.66m ²	1.5m ²

- 3.3 The refuse store will be located on the ground floor in a lockable store, accessible from the street for ease of use on collection day. Self-contained, lockable cycle store will be provided through the main entrance door on the ground floor.
- 3.4 The entrance to the commercial unit would be on Lee High Road and the entry to the three flats would be on Boone Street via the internal staircase.
- 3.5 The first to third floors of the building would be clad with corten steel, including the rear elevation containing the staircase and the ground floor part where the refuse and cycle stores are located. The ground floor of the building would be constructed of painted timber, with rendered columns and reconstituted stone column heads and cornice, with a chamfered entrance. The building would also feature a single ply membrane roof, aluminium windows and composite doors.
- 3.6 It is noted that the Design Statement has been revised to remove any inconsistencies between it and the drawings.
- 3.7 Since the previous application, the following changes have been made:
- The scale and massing of the rear staircase has been reduced, its materiality has been changed and it has been better incorporated into the host building.
 - The building, including the staircase, has been reduced in depth, resulting in the removal of the amenity space for the flats.
 - The green roof has been removed.

4.0 CONSULTATION

- 4.1 The Council's consultation met the minimum statutory requirements and those required by the Council's adopted Statement of Community Involvement.

- 4.2 A site notice was displayed and letters were sent to 33 adjoining addresses, Blackheath Ward Councillors, TfL and the Lee Neighbourhood Forum.

Written Responses received from Local Residents

- 4.3 Four objections were received, raising the following concerns:

Overdevelopment, height, massing and materials	See paras. 6.10-6.14
Loss of privacy	See para. 6.23
Sunlight and natural light	See paras. 6.17-6.22
Lack of detail in construction method statement	See para. 6.35
Standard of accommodation	See paras. 6.27-6.31
Parking	See para. 6.34
Use of the commercial space	See para. 6.7
Inconsistencies	See para. 3.7

- 4.4 The impact on drainage and foundations was also raised as an objection. This is not considered a material planning consideration in this case: the Party Wall Act and Building Regulations provide legislative control on this issue.

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.

- 5.2 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).

- 5.3 Section 38(6) of the Planning 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, Development Plan Document (DPD) (adopted in June 2011), DMLP (adopted in November 2014) and policies in the London Plan (March 2016). The NPPF does not change the legal status of the development plan.

National Planning Policy Framework (NPPF) 2018

- 5.4 The revised NPPF, originally published in 2012, was published on 24th July 2018 and is a material consideration in the determination of planning and related applications.

- 5.5 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)'.
- 5.6 Officers have reviewed the Core Strategy and Development Management Local Plan for consistency with the 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 NPPF.

National Planning Practice Guidance 'NPPG' (2014 onwards)

- 5.7 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.

The Development Plan

- 5.8 The London Plan, Lewisham's Core Strategy, together with the Site Allocations DPD, the Lewisham Town Centre Local Plan and the Development Management Local Plan constitute the borough's Development Plan.

London Plan (March 2016)

- 5.9 The London Plan was updated on the 14 March 2016 to incorporate Housing Standards and Parking Standards Minor Alterations to the London Plan (2015). The Mayor of London published a draft London Plan on 29 November 2017 and minor modifications were published on 13 August 2018. The Examination in Public commenced on 15 January 2019 and is scheduled to conclude on 17 May 2019. This document now has some limited weight as a material consideration when determining planning applications. The relevant draft policies are discussed within the report (DLPP). The policies in the current adopted London Plan (2016) relevant to this application are:

Policy 3.3 Increasing housing supply
Policy 3.5 Quality and design of housing developments
Policy 3.8 Housing choice
Policy 4.7 Retail and town centre development
Policy 5.3 Sustainable design and construction
Policy 6.9 Cycling
Policy 7.1 Building London's neighbourhoods and communities
Policy 7.3 Designing out crime
Policy 7.4 Local character
Policy 7.6 Architecture
Policy 8.3 Community infrastructure levy

London Plan Supplementary Planning Guidance (SPG)

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

Housing (March 2016)
Sustainable Design and Construction (April 2014)
Character and Context (June 2014)

Core Strategy

5.11 The Core Strategy was adopted by the Council at its meeting on 29 June 2011. The Core Strategy, together 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 1 Lewisham Spatial Strategy
Spatial Policy 5 Areas of Stability and Managed Change
Core Strategy Policy 1 Housing provision, mix and affordability
Core Strategy Policy 6 Retail hierarchy and location of retail development
Core Strategy Policy 8 Sustainable design and constructions and energy efficiency
Core Strategy Policy 13 Addressing Lewisham's waste management requirements
Core Strategy Policy 14 Sustainable movement and transport
Core Strategy Policy 15 High quality design for Lewisham

Development Management Plan

5.12 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 Core Strategy and the London Plan is the borough's statutory development plan. The following policies are 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 22 Sustainable design and construction
DM Policy 30 Urban design and local character
DM Policy 32 Housing design, layout and space standards

Residential Standards Supplementary Planning Document (updated May 2012)

5.13 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.

6.0 PLANNING CONSIDERATIONS

6.1 The relevant planning considerations are:

- a) Principle of development
- b) Design and impact on the character and appearance of the surrounds
- c) Impact on the amenities of adjoining properties
- d) Proposed standard of residential accommodation
- e) Traffic, parking and highways issues
- f) Prevention of crime and disorder
- g) Community infrastructure levy

Principle of development

- 6.2 London Plan Policy 3.3 states that the Mayor recognises the pressing need for more homes in London in order to promote opportunity and provide a real choice for all Londoners in ways that meet their needs at a price they can afford. It also requires that Boroughs identify and seek to enable additional development capacity to be brought forward to supplement these targets having regard to the other policies of this Plan and in particular the potential to realise brownfield housing capacity through the spatial structure it provides including intensification and in opportunity and intensification areas.
- 6.3 Spatial Policy 5 Areas of Stability and Managed Change states that approximately 2,590 additional new homes will be delivered 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.
- 6.4 However, the new draft London Plan sets Lewisham's ten-year (2019/20 - 2028/29) housing target at 21,170, or 2,117 as an annualised average. Policy H1 states that boroughs should optimise the potential for housing delivery on all suitable and available brownfield sites through housing intensification on appropriate low-density sites in commercial, leisure and infrastructure uses. 8,290 dwellings, or 829 per year, should be delivered from 'small sites'. Therefore, the provision of additional residential units within the Borough is supported in principle.
- 6.5 It is recognised that emerging Policy H2 'Small sites' of the draft London Plan states that, to deliver the small sites targets in Table 4.2, boroughs should apply a presumption in favour of the redevelopment of non-residential buildings to provide additional housing.
- 6.6 The policy goes on to state that the incremental intensification of existing residential areas can take a number of forms including new build, infill development, conversions, demolition and redevelopment or extension of existing buildings, where this results in net additional housing provision. The emphasis of decision-making should therefore change from preserving what is there at the moment towards encouraging and facilitating the delivery of well-designed additional housing to meet London's needs.
- 6.7 Lewisham Council planning policies support the provision of high quality retail and residential space as well as the provision of housing to meet London Plan targets. Specifically DM Policy 16 'Local shopping parades and corner shops' aims to

protect shops (Use Class A1) in local shopping parades in order to ensure the day to day needs of local residents are met. It is noted that the site is currently used as a hairdresser (Use Class A1) and residential accommodation is located on the upper floor. The applicant proposes to demolish the existing building and replace it with A1 commercial use on the ground floor and three floors of residential accommodation above. Council is supportive of the principle of the redevelopment of the site, as no commercial space would be lost as a result of the redevelopment of the site. It is noted that although the commercial units had an approval as an A2 use, the change of the use to A1 is permitted development.

- 6.8 Therefore, the principle of development is acceptable, subject to the proposed design and impact on the surrounding area, on adjoining residential occupiers, highways and the standard of accommodation, which shall be assessed below.

Design

Loss of the existing building

- 6.9 Whilst Council policies encourage the retention and refurbishment of existing buildings, it is considered that the existing building does not make a positive contribution to the local area and is not of any historic value. As such, Officers have no objection to the demolition of the existing building.

Massing and scale

- 6.10 The proposed height of the building in the context of Lee High Road is considered to be acceptable, given that it is a corner building which would match the height of 181 Lee High Road on the other side of Boone Street. Officers note that it would be higher than any of the other buildings with the same terrace, great weight is being given to the presence of no. 181 that, together with the proposal, would force a gateway to Boone Street. Given this context, the proposal is not deemed to be overdevelopment.
- 6.11 The revised proposals remove the external staircase previously proposed, now setting it down from the host building by 0.5m and incorporating it within the envelope of the building, which would be constructed in Corten steel to all three elevations. Therefore, Officers do not object on the grounds of the staircase's design, mass and materials, subject to the imposition of suitable conditions.
- 6.12 Contextual analysis has been submitted, which explores the neighbouring architectural styles, materials, proportions, building uses, etc. Officers consider that this provides robust justification behind the proposed massing, scale and detailed design of the building, making sufficient reference to the surrounding built form, but incorporating features that define it as being 'of its time'.

Form and detailed design

- 6.13 The building is proposed to be constructed out of Corten steel and the ground floor shopfront in timber and stone with large glazing and pilasters. Officers note that within the Design and Access Statement that high quality precedent studies for schemes which have used materials similar to those proposed have been shown, which has translated to the submitted elevational drawings and visuals.

- 6.14 Sections have been provided of the joins between the cladding with the shopfront and the windows, and which show the latter to be adequately setback (70cm) from the outer edge of the cladding frames. A physical sample of the Corten steel to be viewed on site is recommended to be secured by condition, as can be the stonework. Officers raise no objection to the shopfront, which would be similar in appearance to the one shown in the submitted contextual analysis. Details like the cornice and stallrisers demonstrate that it would be of high quality, and it is considered a merit of the scheme to which sufficient weight is given.
- 6.15 The kitchenette is proposed in the basement would be mechanically ventilated via an extract grill location to the side elevation at ground floor level, which is considered acceptable.

Impact on the amenity of neighbouring occupiers from the C3 use

- 6.16 The application site is bordered by 177 Lee High Road to the west and Lownes Courtyard (1-13) to the north, and therefore the main impact would be on those properties. The courtyard for the latter is semi-private space and predominantly used for car parking.

Daylight and sunlight

- 6.17 The scheme would not result in an unacceptable loss of daylight or sunlight to either internal or external neighbouring residential space. Further analysis is set out below in this section.
- 6.18 Officers note that a daylight and sunlight study, including overshadowing, has been submitted by the applicant. In terms of daylight, here are two tests to measure diffuse daylight, Vertical Sky Component (VSC) and Daylight Distribution. Daylight might be adversely affected if after a development VSC is both less than 27% and less than 0.8 times its former value, and 'no sky line' (NSC) is less than 0.8 times its former value.
- 6.19 The most impact in terms of VSC would be on 181 Lee High Road. Most of the windows affected would pertain to the commercial unit on the ground floor and therefore this impact is not relevant. However, it would reduce daylight from 34.2% to 26.1% (0.76 times its former value) to Window 44 serving a kitchen and from 33.6% to 25% (0.74 times its former value) to Window 55 serving a bedroom.
- 6.20 In light of the 'flexibility' that the explanatory notes provide commentary on and the fine margins of the loss, this is not considered to be unacceptable such that it would warrant a reason for refusal. The most impact in terms of NSC is also on no. 181, but again the windows most affected pertain to the commercial unit.
- 6.21 In terms of sunlight, it is measured as follows: (i) Annual Probable Sunlight Hours (APSH); and (ii) Area of Permanent Shadow (APS). Its availability may be adversely affected if the centre of the window: receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours between 21 September and 21 March, and receives less than 0.8 times its former sunlight hours during either period, and has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

- 6.22 Apart from non-domestic windows, Windows 44 and 55 at 181 Lee High Road would receive less than 0.71 and 0.7 times its former sunlight hours between 21 September and 21 March respectively and would also have a reduction in sunlight received over the whole year of 4% and 3% respectively. Again, Officers do not consider that this would warrant a reason for refusal given the 'flexibility' that the explanatory notes allow.

Privacy

- 6.23 The rear elevation increases the potential for overlooking into the first floor bedrooms of 12 and 13 Lownes Courtyard. It is noted that there are six panes of glazing serving the internal staircase, and although views could be had from them, given the transient nature of the spaces, it is unlikely that any impact on privacy would be significant. In any case, the glazing is shown as being obscured, which shall be retained in perpetuity by condition.

Other amenity matters

- 6.24 Construction working hours, noise and dust pollution can all have an effect on living conditions for the duration of construction. Since a degree of disturbance is inevitable, such impacts are usually not considered to be material planning considerations. Further, a range of other legislation provides environmental protection, principally the Control of Pollution Act. It is established planning practice to avoid duplicating the control given by other legislation. In certain circumstances, particularly large or complex works may require specific control by planning, however this is not such a case.

Standard of accommodation for proposed occupiers

- 6.25 London Policy 3.5 Quality and design of housing developments of the London Plan states that housing developments should be of the highest quality internally, externally and in relation to their context. It also states that the minimum internal floorspace required for residential units on the basis of the level of occupancy that could be reasonably expected within each unit.
- 6.26 DM Policy 32 states that all new residential development should be attractive and neighbourly, provide a satisfactory level of privacy, outlook and natural lighting both for its future residents and its neighbours as well as meet the functional requirements of future residents.
- 6.27 The minimum GIA for a 1b2p dwelling over a single storey is 50m² inclusive of 1.5m² storage. The proposed unit would comply with the relevant standards given that additional storage can be accommodated elsewhere in the flat. In terms of internal floor to ceiling heights, they are at least 2.4m in line with the Technical Housing Standards.
- 6.28 The layout of the units is acceptable and all rooms would receive adequate natural light, ventilation and outlook. Lee High Road is a busy road and as such the applicant has indicated in their Design Statement that only the windows fronting onto Boone Street frontage would be opening. This is acceptable as the living / kitchen / dining rooms are served by three windows.

- 6.29 According to Standard 26 of the London Plan Housing SPG (March 2016), the external amenity space should be a minimum of 5m² for 1-2 person dwellings. However, none is being provided. Given that the application site lies only a 3-minute walk from Manor House Gardens, which is considered to be good quality public open space, this is deemed acceptable.
- 6.30 Any noise transfer from the proposed A1 use on the ground floor is to be dealt with by soundproofing / insulation, details of which are recommended to be conditioned.
- 6.31 As such, the proposal is considered to provide an acceptable standard of accommodation for future occupiers.

Highways and traffic

- 6.32 London Plan Policy 6.9 Cycling states that developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards set out in Table 6.3 and the guidance set out in the London Cycle Design Standards (or subsequent revisions).
- 6.33 Core Strategy Policy 14 Sustainable movement and transport states that car free status for new development can only be assured where on-street parking is managed so as to prevent parking demand being displaced from the development onto the street, and cycle parking will be required for new development.

Car parking and construction traffic

- 6.34 Whilst the PTAL rating of 2 for the site is low, Officers have no objection to the development being car-free as it is on a junction (Lee High Road and Boone Street) and there is no off-street car parking available. A condition is recommended be added preventing future occupiers from obtaining a permit within the Blackheath Controlled Parking Zone so as to not add to parking stress.
- 6.35 Rev A of the Construction Method Statement (CMS) is considered to be acceptable since additional plans have been submitted to show where the construction vehicle would park and unload. This would take up half of an existing a 1 hour parking bay, half of which would be suspended for the duration of the construction works (approximately nine months).

Cycle parking

- 6.36 The applicant has provided three Sheffield stands for six bikes within a lockable area on the ground floor, which would be shared between the dwellings and the retail unit. This is considered to comply with London Plan Policy 6.9 and would be secured in perpetuity by condition.

Refuse and recycling

- 6.37 Residential Development Standards SPD seeks to ensure that all new developments have adequate facilities for refuse and recycling. The refuse and recycling arrangements are considered to be acceptable and would be secured in

perpetuity by condition. It will be the occupiers' responsibility to ensure that the bins would not be left out on the highway after collection.

- 6.38 The location for deliveries and servicing for the new commercial unit would be serviced from the existing loading bay Lee High Road, which allows parking for up to 30 minutes between 10am and 4pm.
- 6.39 Officers raise no objection on highways or traffic grounds subject to conditions.

Prevention of crime and disorder

- 6.40 Section 17 of the Crime and Disorder Act 1998 provides that it shall be the duty of the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent:
- a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local community);
 - b) the misuse of drugs, alcohol and other substances in its area; and
 - c) re-offending in its area.
- 6.41 No issues of crime or anti-social behaviour were raised as a consequence of the public consultation undertaken in respect of this application. The new residential unit would increase active surveillance of Lee High Road and Boone Street, and this is considered a planning merit. It is not considered that the re-provision of a retail unit would add to crime or general anti-social behaviour in the immediate vicinity.

7.0 HUMAN RIGHTS ACT

- 7.1 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;
 - Right to peace enjoyment of possessions, under Article 1 of Protocol 1; and
 - Right to a fair trial, under Article 6.
- 7.2 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.
- 7.3 On balance, it is considered that the interference with the owners' human rights are proportionate. As such, the application is not considered to raise any Human Rights Act implications.

8.0 EQUALITIES CONSIDERATIONS

- 8.1 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.

- 8.2 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.
- 8.3 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.
- 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.

9.0 LOCAL FINANCE CONSIDERATIONS

- 9.1 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 would or could be, provided to a relevant authority by a Minister of the Crown; or
(b) sums that a relevant authority has received, or would or could receive, in payment of Community Infrastructure Levy (CIL).
- 9.2 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 9.3 CIL is therefore a material consideration. CIL is payable on this application and the applicant has completed the relevant form.
- 9.4 The above development is liable for both the Mayor's CIL and the Council's CIL. The completed CIL form was submitted with the application documents. An informative would be added to the decision notice advising the applicant to notify the Council when works commence.

10.0 CONCLUSION

- 10.1 The Local Planning Authority has considered the particular circumstances of the application against relevant planning policy set out in the Development Management Local Plan (2014), the Core Strategy (2011), London Plan (March 2016) and the revised National Planning Policy Framework (2018).
- 10.2 In summary, it is considered that the proposal is acceptable in terms of the principle of development, design, impact on the Conservation Area, standard of accommodation, impact on neighbouring properties, highways and crime.
- 10.3 The planning merits of this application include providing better quality retail space to help the vitality and viability of the high street, improving the streetscene with high quality architecture and increasing housing supply, which are considered to outweigh any impact on neighbouring amenity. As such, Officers recommend that planning permission be granted subject to the imposition of suitable planning conditions.

11.0 RECOMMENDATION

Authorise the Head of Planning to **GRANT PLANNING PERMISSION** subject to conditions, including those set out below and with such amendments as are considered appropriate to ensure the acceptable implementation of the development.

1) STANDARD 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) SECURING DEVELOPMENT 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:

- 1446-X-100; 1446-X-101; 1446-X-102; 1446-X-200; 1446-X-201; 1446-X-202; 1446-X-203; 1446-30-200 Rev. A; 1446-30-202 Rev. A; OS Map
- Sections for NES Secret Fix System - PPSF02; Construction Method Statement Rev A Received 4th February 2019
- 1446-30-002; 1446-30-003 Rev. C; 1446-30-100 Rev. B; 1446-30-101 Rev. D; 1446-30-102 Rev. B; 1446-30-103 Rev. B; 1446-30-104 Rev. B; 1446-30-105 Rev. B; 1446-30-106; 1446-30-107; 1446-30-201 Rev. C; 1446-30-203; 1446-30-300 Rev. B; 1446-30-400 Received 15th February 2019

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) CONTROL OF DUST

No development shall commence on site until a scheme to minimise the threat of dust pollution during the demolition of existing buildings and construction works has been submitted to and approved in writing by the Local Planning Authority.

Reason: In order that the Local Planning Authority may be satisfied that the demolition and construction process is carried out in a manner which will minimise possible noise, disturbance and pollution to neighbouring properties and to comply with Policies 5.3 Sustainable design and construction and 7.14 Improving air quality of the London Plan (March 2016).

4) CONTROL OF NOISE

(a) The development shall be designed to incorporate soundproofing / insulation against airborne noise to meet $D'nT,w + Ctr$ dB of not less than 55 for walls and/or ceilings where residential meets non-domestic use and a specification shall be submitted to and approved in writing by the Local Planning Authority.

(b) The development shall only be occupied once the soundproofing / insulation works as agreed under part (a) have been implemented in accordance with the approved details.

(c) The soundproofing shall be retained permanently in accordance with the approved details.

Reason: In the interests of residential amenity and to comply with DM Policies 16 Local shopping parades and corner shops, 26 Noise and vibration, 31 Alterations and extensions to existing buildings including residential extensions and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

5) CONTROL OF MATERIALS

No development shall commence on site until a physical samples of the Corten cladding, brickwork and windows to be used on the building and all external materials and finishes for the shopfront have been viewed on site 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 Policies 7.4 Local character and 7.6 Architecture of the London Plan (March 2016), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

6) SECURING FIT-OUT OF COMMERCIAL UNIT

(a) Prior to completion of the above ground works, plans (1:50 scale) with details showing the physical fit out, including but not limited to floor finish, ceilings and ventilation for the commercial space hereby approved shall be submitted to and approved in writing by the Local Planning Authority.

(b) The development shall be constructed in full accordance with the approved details before first occupation.

Reason: To ensure that the internal fit-out of the unit is sufficient to ensure that it is an attractive and commercially viable option and to demonstrate the developer's commitment to delivering the commercial unit as part of this development in accordance with Policy 6 Retail hierarchy and location of retail development of the Core Strategy (June 2011) and DM Policy 16 Local shopping parades and corner shops of the Development Management Local Plan (November 2014).

7) SECURING PROVISION OF REFUSE AND RECYCLING

The refuse and recycling facilities as shown on drawing no. 1446-30-003 Rev. C shall be provided and made available for use prior to occupation of the new units, and maintained thereafter.

Reason: In order that the Local Planning Authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with Policy 13 Addressing Lewisham waste management requirements of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

8) SECURING PROVISION OF CYCLE PARKING

The cycle parking facilities as shown on drawing no. 1446-30-003 Rev. C shall be provided and made available for use prior to occupation of the new units, and maintained thereafter.

Reason: In order to ensure adequate provision for cycle parking and to comply with Policy 6.9 Cycling of the London Plan (March 2016) and Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

9) SECURING DESIGN DETAIL

All window and door openings shall be constructed with minimum 70mm deep external reveals.

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 Policies 30 & 36 the Development Management Local Plan (November 2014).

10) CONTROL OF EXTERNAL APPEARANCE

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no plumbing or pipes shall be fixed on the external faces of the building.

Reason: In order that the Local Planning Authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

11) PREVENTION OF OVERLOOKING

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the new windows to be installed in the rear elevation of the staircase hereby approved shall be fitted as obscure glazed and fixed shut and retained in perpetuity.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto and to comply with DM Policies 31 Alterations and extensions to existing buildings including residential extensions and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

12) PREVENTION OF OVERLOOKING

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 roof of the building 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 Policies 31

Alterations and extensions to existing buildings including residential extensions and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

13) CONTROL OF OPENING HOURS

The opening and operating hours for the retail unit shall be between 08:00 to 20:00 Monday to Saturday and 10:00 to 18:00 on Sundays and Bank Holidays. Servicing shall not occur outside of the approved opening hours.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with DM Policies 16 Local shopping parades and corner shops, 26 Noise and vibration and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

14) CONTROL OF EXTENT OF USE

No process shall be carried out nor machinery installed which could cause detriment to the amenity of residential occupiers in terms of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

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

15) SECURING ACCESSIBILITY

The shopfront hereby permitted shall have a level or ramped access (maximum gradient: 1 in 12) and the entrance door shall be a minimum 900mm clear opening width and such features shall be retained permanently.

Reason: In order to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policies 19 Shopfronts, signs and hoardings and 30 Urban design and local character of the Development Management Local Plan (November 2014).

16) NO PARKING PERMITS

Before the development hereby permitted is occupied, arrangement shall be agreed in writing with the Local Planning Authority and be put in place to ensure that, with the exception of disabled persons, no resident of any of the dwellings in the development shall obtain a resident's parking permit within the Blackheath Controlled Parking Zone (CPZ) that is in force on between 09:00 and 19:00 on Mondays to Saturdays.

Reason: In order to ensure that the proposal does not add to existing parking stress within the Blackheath CPZ in compliance with Policy 6.13 Parking of the London Plan (March 2016), Policy 14 Sustainable movement and transport of the Core Strategy (June 2011) and DM Policy 29 Car parking of the Development Management Local Plan (November 2014).

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, positive discussions took place which resulted in further information being submitted.

The applicant is advised that any works associated with the implementation of this permission (including the demolition of any existing buildings or structures) will constitute commencement of development. Furthermore, all pre-commencement conditions attached to this permission must be discharged, by way of a written approval in the form of an application to the Local Planning Authority, before any such works of demolition take place.

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>

You are advised that all construction work should be undertaken in accordance with the "London Borough of Lewisham Code of Practice for Control of Pollution and Noise from Demolition and Construction Sites" available on the Lewisham webpage.

In preparing the scheme of dust minimisation, reference shall be made to the London Council's Best Practice Guide: The Control of Dust and Emissions from Construction and Demolition. All mitigation measures listed in the Guide appropriate to the size, scale and nature of the development will need to be included in the dust minimisation scheme.

The applicant is advised that the implementation of the proposal will require approval by the Council of a Street naming & Numbering application. Application forms are available on the Council's webpage.

The weighted standardised level difference (D'nT,W + Ctr) is quoted according to the relevant part of the BS EN ISO 717 series. To guarantee achieving this level of sound insulation, the applicant is advised to employ a reputable noise consultant details of which can be found on the Association of Noise Consultants website.