

Committee	PLANNING COMMITTEE C	
Report Title	Unit 4a, Ashby Mews, London, SE4 1TF	
Ward	Brockley	
Contributors	Patrycja Ploch	
Class	PART 1	21 May 2021

<u>Reg. Nos.</u>	DC/20/119758
<u>Application dated</u>	23.12.2020 [as revised on 23.02.2021 and 29.03.2021]
<u>Applicant</u>	Russian for fish on behalf of Applicant
<u>Proposal</u>	Demolition of the existing garage building at Unit 4a, Ashby Mews (land at the rear of 93 Upper Brockley Road) and redevelopment of the site including excavation works to provide two-storey live/work unit (Sui Generis Use) together with all necessary associated works. [Revised description]
<u>Background Papers</u>	(1) This is Background Papers List (2) Case File DE/98/A1/TP (3) Local Development Framework Documents (4) The London Plan
<u>Designation</u>	Brockley Conservation Area Article 4 Direction

1 SUMMARY

- 1 This report sets out the officer's recommendation concerning the above proposal. The report has been brought before members for a decision as there are 5 or more valid planning objections.

2 SITE AND CONTEXT

2.1 Site description and current use

- 2 The application site is located on the west side of Ashby Mews, close to Ashby Road, and to the rear of 93 Upper Brockley Road. The site currently comprises a garage building.
- 3 The application site is outlined in red in the Photograph 1 below.

Photograph 1: Aerial photograph of site



2.2 Character of area

- 4 The surrounding area is predominantly residential. Manor Avenue and Upper Brockley Road are comprised of large four storey town houses in short terraces. The gardens of these properties back on to Ashby Mews.
- 5 Ashby Mews is a privately owned and un-adopted service road with a largely hogging surface providing pedestrian and vehicular access between Ashby Road and Geoffrey Road. The northern end of the mews, where the application site lies, is developed as a small cluster of small scale light industrial units, galleries, workshops and live/work units.

2.3 Heritage/archaeology

- 6 The application site is located within the Brockley Conservation Area and, it is subject to an Article 4 direction, which removed permitted development rights for development falling within Classes A, C, D, F of Part 1 of Schedule 2, Classes A and C of Part 2 to Schedule 2 and Class B of Schedule 2 to the Order.

2.4 Surrounding area

- 7 The application site is located 0.2miles (that is 4 minute walk) from Brockley Station and number of services and facilities provided in the area surrounding the station (Brockley Cross). The site is also 0.8 miles (17 minutes' walk) from the centre of New Cross, and 1.2miles (that's 25 minutes' walk) from centre of Lewisham and Ladywell.

2.5 Local environment

- 8 The application site is located within Air Quality Management Area.

2.6 Transport

9 The Public Transport Accessibility Level (PTAL) of a site is a measure of its relative accessibility to public transport taking into account factors such as distance, type and frequency of service. PTAL is categorised into eight categories, 1a to 6b, where 6b represents an excellent level of accessibility and 1a a very poor level of accessibility. The application site has a PTAL rating of 4.

3 RELEVANT PLANNING HISTORY

3.1 PLANNING HISTORY

10 There is no planning history for the application site.

3.2 PRE-APPLICATION HISTORY

11 Pre-application advice was provided in advance of the submission of this application. The applicant was advised that to make the proposal acceptable the footprint and scale of the building needs to be reduced. There were also concerns with internal layout and whether the unit has been designed to successfully perform both functions it is designed for.

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSALS

12 This is a full planning application for demolition of the existing garage building at Unit 4, Ashby Mews and redevelopment of the site including excavation works to provide two-storey live/work unit (Sui Generis Use) together with all necessary associated works.

13 The application site covers 113sqm, the proposed building would cover 75sqm of this space leaving the rear garden space measuring 38sqm. The building would measure 10.3m in depth, 7.3m in width, 3.7m to the eaves and it would have a maximum of 5.9m in height. It would be constructed in concrete cladding with metal framed doors.

4.2 REVISIONS

14 Revisions have been made to the application and additional / amended information submitted as set out below.

4.2.1 Address and description of development

15 After the planning application was received, consultation was initially carried out under an incorrect address, Unit 4, Ashby Mews. Consultation feedback highlighted the error (the address is actually 4a) and Local Residents were re-consulted for a period of 21 days with the corrected address.

16 Officers also note that to make it easier to identify the site the description of the development has been changed to include *"land at the rear of 93 Upper Brockley Road"*.

4.2.2 Plans

17 Revised drawings were received on 23 February 2021 and they included the following changes:

- Reduction in the size of the windows in the rear elevation
- Relocation of rooflight above the living room
- Installation of internal and concealed roller shutter to the front elevation (shown in Section AA)

18 Further revisions were received on 29 March 2021 to address discussion from the local meeting and they included:

- Confirmation on plan that proposed solar panels will be anti-glare
- Confirmation on plan that proposed rooflights would have pre-applied solar film and would have integrated blinds
- Confirmation that the upper studio window serving the living area and bedroom window would be fitted with obscure glass

4.2.3 Documents

19 In addition to the revised plans, the applicant has also prepared information about drainage at the site and how it will be dealt with.

5 CONSULTATION

5.1 PRE-APPLICATION ENGAGEMENT

20 The applicant has not carried out pre-application consultation with the local residents and groups prior to the submission for this application.

5.2 APPLICATION PUBLICITY

21 Site notices were displayed on 3 February 2021 and a press notice was published on 3 February 2021.

22 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 27 January 2021.

23 30 responses were received, comprising 14 objections and 16 support letters.

5.2.1 Comments in objection

Table 1: Comments received in objection

Comment	Para where addressed
Loss of daylight and sunlight	See para 106
Overlooking of gardens of Upper Brockley Road	See para 104
Overlooking to bedrooms of properties facing Upper Brockley Road	See para 101-103

Increased noise and disturbance arising from the proposed uses	See para 110
Noise from construction	See para 111
Concern over the proposed use of the building as a live/work unit	See para 47
The available garden space should be retained and not overdeveloped	See para 70
Car parking	See para 90
Drainage	See para 75

5.2.2 Comments in support

Table 1: Comments received in support

Comment
Excellent proposal to redevelop this derelict site into a live/work unit
High quality design
Positive contribution to the neighbourhood and growing reputation of Ashby Mews as a hub for the creative industries within Brockley

5.2.3 Local Meeting

- 24 Given the degree of responses following the statutory consultation on the application, a local meeting took place in accordance with the Council's adopted Statement of Community Involvement. Due to the current circumstances of the Covid-19 pandemic, the local meeting was organised as a virtual session.
- 25 All those who submitted representation on the application during the statutory consultation period were sent invitations to attend the local meeting. The invitation included instructions on how the meeting can be attended.
- 26 The local meeting took place on Wednesday, 24 March 2021 between the hours 19:00pm and 20:00pm. In total 10 people attended the meeting, this included six (6) local residents, two (2) ward Councillors, one (1) Lewisham Planning Officer, and one (1) applicant representative. The notes from the local meeting are uploaded to the application file and agenda for the meeting.

5.3 INTERNAL CONSULTATION

- 27 The following internal consultees were notified on 26 January 2021:
- 28 Conservation: raised no objections. See para 79-81 for further details.
- 29 Highway: no comments received.
- 30 Environmental Protection: Officers considered that they have no comments to make on this application.

5.4 EXTERNAL CONSULTATION

31 The following External Consultees were notified on 26 January 2021.

32 The Brockley Society: Following the review of this application the following comments were made:

- **Site Address and Location** - whereas the application address is stated as 'Unit 4 Ashby Mews' it is noted that in reality the site is more correctly defined as 'land at the rear of 93 Upper Brockley Road' and is not to be confused with Unit 4 in the Mews opposite. The attached Land Registry Title record (TGL 281618) makes this clear. Accordingly, it is suggested to avoid confusion that a formal correction be made to the application and support documents.
- **Use Class of the Site** - as raised on p9 of the D&A Statement as it appears that the site utilises what was formerly part rear garden lands and is said to be formerly in use as garage/storage/workshop space with a B1 Light Industrial Use. Then incontrovertible evidence is needed to prove suitability for the proposed new use.
- **Drainage** - a drainage run is indicated on Drawing 159 011. However, there is no other provision shown by way of roof gutters, front mews surface gutters re storm water management. As the area is known for storm water drainage handling deficiencies reassurance is needed on capacity at times of surcharge in view of the extent of excavated below ground accommodation proposed (see the attached LBL Storm Water Map - JPG 3993).
- **Overlooking/Light Pollution** - whilst a distance of 22.6m is shown on Drawing 159 012 to the rear elevation of 93 Upper Brockley Road as this is uncomfortably close to the acceptable minimal limit of 21m prescribed in DM Policy 32 (para 2.250) it is strongly recommended by way of 'being a good neighbour' that the overlarge windows proposed for the rear elevation (Drawing 159 015) be revised by omitting the glass balustrade balcony (to the Living Room and integrating slatted louvres as per the parallel application by Russian For Fish for 151 Upper Brockley Road (DC/20/119716 - see D&A p24). These suggestions would also significantly reduce light pollution and heat loss

REVISED COMMENTS WERE RECEIVED FOLLOWING SUBMISSION OF REVISED DRAWINGS BY THE APPLICANT ON 26 FEBRUARY 2021 STATING:

- **Site Address and Location** - the revised headline description now published is clear
- **Overlooking/Light Pollution** - the amended rear elevation with reduced glazing is now acceptable and in noting the revised position of the solar panels we trust that they will be of an anti-glare quality. Assurance though that the rooflights will be installed with blinds is still needed.
- **Drainage** - we note the measures to be taken as now clarified. However, in requiring that these must be adequate bearing in mind the increase in demand caused by recent development approvals at this end of the mews, we consider it essential that capacity be verified with Thames Water.
- **Summary** - with reassurance still needed on these last points it would also be appreciated if you could advise further on the Use Class issue we raised in our e-mail of 17 February 2021 or alternatively if you propose to cover via conditions when formulating your final decision.

33 Ward Councillors: no response received.

6 POLICY CONTEXT

6.1 LEGISLATION

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

35 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

6.2 MATERIAL CONSIDERATIONS

36 A 'material consideration' is a consideration relating to the use or development of land which is reasonably considered relevant to the proposed development, when taking the decision in the public interest. This may include, where relevant, 'human factors' such as personal hardship or circumstances of occupiers, social policy objectives, or the value of particular kinds of business to the community. There must be a sufficient connection to the development in question. Whether a consideration must or may be considered material in a particular case is a question of law that may be determined by the courts. Decision-makers are always required to have regard to applicable planning policies of the Secretary of State and of the Council itself.

6.3 NATIONAL POLICY & GUIDANCE

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

6.4 DEVELOPMENT PLAN

37 The Development Plan comprises:

- London Plan (March 2021) (LP)
- Core Strategy (June 2011) (CS)
- Development Management Local Plan (November 2014) (DMLP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

6.5 SUPPLEMENTARY PLANNING GUIDANCE

38 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)
- Brockley Conservation Area Supplementary Planning Document (December 2005)

7 PLANNING CONSIDERATIONS

39 The main issues are:

- Principle of proposed development
- Employment
- Housing
- Urban Design
- Heritage assets
- Trees
- Transport
- Impact on Adjoining Properties

7.1 PRINCIPLE OF PROPOSED DEVELOPMENT

Policy

- 40 The National Planning Policy Framework (NPPF) at Paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.
- 41 LP Policy D3 mentions that all development must make the best use of land by following a design-led approach that optimises the capacity of sites. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site.
- 42 DMLP Policy 33 defines a variety of sites in residential areas. The policy states that depending on the character of the area and the urban design function a space fulfils in the streetscape, some sites will not be considered suitable for development and planning permission will not be granted. This policy goes on to identify variety of sites within residential areas that may come forward for development. The main types of sites are as follows: a. infill sites, b. backland sites which are defined as 'landlocked', c. back gardens and private amenity areas and d. amenity areas.

Discussion

- 43 There are no planning designations attached to the site that protect the existing building and the current use of the site. As such, there is no in principal objection to demolition of the existing building and re-development of the site to provide live/work unit.
- 44 To accommodate proposed development, it is necessary to develop part of the existing rear garden which is considered not Previously Developed Land (PDL). With regards to back garden above policy (DMLP Policy 33) mentions that development of back gardens for separate dwellings in perimeter from residential typologies identified in the Lewisham Character Study will not be granted planning permission. Private back gardens in all urban typologies should be retained in development proposals involving new separate dwellings'. The policy is clear that development in rear gardens for a separate dwelling in perimeter would not be accepted. However, as the proposed development is for change of use and extension to the existing building in this case officers consider that there is no policy conflict.
- 45 Whilst the proposed development would increase the build footprint at the site from approximately 38sqm to approximately 75sqm (that equated to 33% increase). There is no objection to this increase in site coverage, the proposed building would largely comply with the morphology of the area and it would retain sufficient separation distances to properties on Upper Brockley Road and those on opposite side of Ashby Mews. The site would also retain acceptable and proportionate rear garden.

46 In addition, it is noted that the application site is in a sustainable location close to local services and facilities. The application site is located 0.2miles (that is 4 minute walk) from Brockley Station and a number of services and facilities provided in the area surrounding the station (Brockley Cross). The site is also 0.8 miles (that's 17 minutes' walk) from the centre of New Cross, and 1.2miles (25 minutes' walk) from the centre of Lewisham and Ladywell.

47 The proposed use of the building would combine living and working space in a single unit (Use Class Sui Generis). The building has been designed for the residential and working areas to occupy specific floors. The use of the building, especially the work part of the development, would be safeguarded by a planning condition that would prevent the loss of this space to residential use in the future. A further condition will be added requiring that building is occupied by the person using the both work and live part of the unit. This is to ensure viability of the unit and to present any conflicts of interest.

Principle of development conclusions

48 The principle of re-development the site to provide a live/work is therefore supported.

7.2 EMPLOYMENT

Policy

49 Para 80 of the NPPF states "Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"

Discussion

50 The lower ground floor of the proposed building would have Gross Internal Area (GIA) of 61sqm and it has been designed as a studio space (this calculation excludes the refuse and cycle storage space). The facilities included on this level include studio space, meeting room, storage area as well as separate welfare facilities such as WC with shower and tea point. The studio space would have floor to ceiling height of 2.5m.

51 The access to the studio space would be from the main lobby that is level with Ashby Mews. The space has been designed to be well-lit with natural daylight by including large sliding doors to the rear of the property, tall windows to the front and small double height atrium.

Employment conclusion

52 Having carefully reviewed the design of the proposed building, officers are satisfied that the studio space has been designed to offer flexible work environment.

7.3 HOUSING

7.3.1 Internal space standards

Policy

53 At a national level the Government introduced Nationally Described Space Standards (NDSS) in March 2015. (The development plan at regional and local level also include expectation for the standard of newly created homes. These expectations are in line with the requirements of the NDSS.

54 LP Policy D6, Part A, requires housing development to be of the highest quality design and provide adequate-sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. Part F of the same policy, requires housing development to meet minimum standards for internal gross internal floor area, bedrooms, built-in storage and minimum floor to ceiling heights. DMLP 32 supports this policy.

Discussion

55 The proposed development would result in construction of a new building that would create 1-bedroom/2-person live/work unit. Officers note that only the upper ground floor was counted towards the GIA. The table below shows the minimum internal space standards that new dwellings should meet and the proposed internal measures.

Table 3: Internal space standards – proposed v target

No of bedrooms	No. of persons	1 storey dwelling (target)	1 storey dwelling (proposed)	Built-in storage (target)	Built-in storage (proposed)
1b	2p	50sqm	54sqm	1.5sqm	0sqm

56 The proposal generally complies with the requirement of the policies mentioned above, with the exception of provision of built in storage. As this property is slightly oversized and it would provide wardrobe space measuring 1.5sqm as well as other storage space on the lower ground floor there would be ample space within the property to offset the lack of compliance of purposely built-in storage space on the upper ground floor level.

7.3.2 External space standards

Policy

57 LP Policy D3, Part F, Point 9, states where there are no higher local standards in the borough Development Plan Documents, a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwelling. The space must achieve a minimum depth and width of 1.5m.

Discussion

58 The proposal would provide approximately 38sqm of private outdoor space. The rear garden space would of sufficient size to provide flexibility in how it is used and to provide areas that would benefit from natural light.

7.3.3 Outlook & Privacy

Policy

59 LP Policy D3, Part D, Point 7, states that new housing should deliver appropriate outlook, privacy and amenity.

Discussion

60 Generally acceptable standards state that where two habitable rooms face each other such that direct overlooking is physically possible the windows should be 21m apart. When windows face blank walls there should be a distance of minimum 13m between them to avoid overbearing impact.

61 The rear elevation of the proposed building would be 22.6m away from the rear elevation of properties on Upper Brockley Road. This distance is considered acceptable to avoid any direct overlooking to the properties.

7.3.4 Overheating

Policy

62 LP Policy D6, Part C, mentions that housing development should maximise the provision of dual aspect dwellings. Dual aspect dwellings with opening windows on at least two sides have many benefits including better daylight, a greater chance of direct sunlight for longer periods, natural cross-ventilation, and a greater capacity to address overheating, pollution mitigation, a choice of view, access to a quiet side of the building and greater flexibility in the use of the room.

Discussion

63 The proposed building would be dual aspect with openable windows being fitted in front and rear elevations at various levels. In addition, the building would benefit from rooflights which could open and provide an additional method of ventilation and avoidance of overheating of the building.

7.3.5 Daylight and Sunlight

Policy

64 LP Policy D6, Part D, mentions that housing development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context.

Discussion

65 Given the size of the proposed development, the validation checklist did not require a submission of daylight and sunlight assessment. As the proposal would have windows in the front and rear elevation as well as rooflight and skylight, officers are satisfied that the property would achieve acceptable levels of light internally.

7.3.6 Noise & Disturbance

Policy

66 LP Policy D14 requires residential development to manage noise.

Discussion

67 The application site is located in predominately residential area. It is acknowledgement that the site is surrounded by other live/work units on Ashby Mews. However, as the activities that can occur in those properties are acceptable within a residential area it is not considered that the future occupiers would be exposed to noise that would be unsuitable.

7.3.7 Conclusion

68 Having carefully reviewed the design of the proposed building, officers are satisfied that it would provide a good standard of accommodation and would comply with the provisions of the development plan in this regard.

7.4 URBAN DESIGN

General Policy

69 The NPPF at para 124 states the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

Discussion

7.4.1 Footprint and site coverage

70 In accordance with the submitted plans, the application site has an area of 113sqm. The footprint of the proposed building would be approximately 75sqm, leaving a garden that would be approximately 38sqm. The site coverage and layout would be comparable with the other neighbouring properties. Furthermore, it is considered that the site is capable of accommodating this increase and the proposed development would not result in overdevelopment of the site.

7.4.2 Form and Scale

71 The proposed development would raise the height of the building by approximately 3.1m to the apex (the highest point of the building), 1.6m at the boundary with garage located at the rear of No 91 Upper Brockley Road (measured from the eaves of this building), and 1.2m at the boundary with the garage to No 95 Upper Brockley Road.

72 The proposed height and mass of the building is considered appropriate. The highest parts of the building are orientated to the north of the side. This is where there is a significant increase in height on Ashby Mews. The southern part would be lower and it would respect the adjacent building, structure and boundary wall heights.

7.4.3 Design and appearance

73 The northern end of Ashby Mews consists of a small cluster of small scale light industrial units, galleries, workshops and live/work units. The southern end consists of garages and some workshops. The design of the proposed buildings picks up on the character of the area. It will reflect the light industrial nature of the mews and responds to the emerging character of the area.

74 The proposed materials for the building are black timber cladding and aluminium window frames. Concerns have been raised by the Brockley Society with regards to the colour of the proposed cladding. The Planning and Conservation Officers have carefully considered this and concluded that the resultant building would have a clear building envelope with texture and tonality. The proposed colour for the cladding would support the existing colour palette in the wider area and it will not detract from it. Overall, the design would be of high quality and in keeping with emerging character of a variety of distinct units.

7.4.4 Other

75 Concerns of local residents are noted in relation to pressures on local drainage infrastructure, any additional increase in drainage flow arising from the proposed development will be minimal and unlikely to have any significant impact in this regard.

7.4.5 Conclusion

76 The layout and footprint of the building would be consistent with neighbouring properties. The proposed development is considered to be of a high quality and would have potential to provide an exemplary quality accommodation. Accordingly the proposed development is considered to be of acceptable design.

7.5 HERITAGE ASSETS

Policy

77 The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes the duty on local planning authorities to have special regard to the desirability of preserving or enhancing the character or appearance on conservation areas. This is also reflect in the NPPF (February 2019) and supporting NPPG (2014), and requires all development to conserve or enhance heritage assets and their setting and avoid causing harm. Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

78 The development plan policies that support those aims are HC1, CS Policy 16 and DMLP Policy DM36.

Discussion

79 The scale of the proposed development would be such that it is necessary to consider its impact on the Brockley Conservation Area. It is noted that there are no listed buildings in the close proximity of the application site.

80 The Conservation Officer reviewed the application commenting that the scale and mass of the building would be in keeping with the neighbouring buildings in terms of scale and heights and it would allow views of the properties facing Upper Brockley Road. There were some concerns with the design of the rear elevation and the size of the windows. It was suggested that the solid to void ration was changed to respond to the mews character where industrial buildings/workshops have a much more solid building envelope. In addition, there was a concern that future occupiers might add external shutters to the building at the front. The applicant was advised to consider designing-in an internal shutter for security and protection of the building. The application was revised and the design of the building was amended to be in accordance with comments made. The Conservation Officer reviewed the revised plans and confirmed that the amended plans are acceptable.

Conclusion

81 Officers, having regard to the statutory duties in respect of heritage assets, are satisfied that the proposed development would preserve the character and appearance of the Brockley Conservation Area.

7.6 TREES

Policy

82 Section 197 of the Town and Country Planning Act (TCPA) 1990 gives local planning authorities special duties in respect of trees. This includes a duty, wherever it is appropriate, that in granting planning permission for any future development adequate

provision is made by the imposition of conditions, for the preservation and planting of trees.

- 83 Section 211 of the TCPA 1990 details that trees in a conservation area that are not protected by an Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990.
- 84 LP Policy D8 protects trees of value and replacement should follow the principle of 'right place, right tree'. New development should include additional trees wherever appropriate, particularly large-canopied species.
- 85 CSP 12 (Open Space and Environmental Assets) recognises the importance of trees and details the arboricultural considerations required during the planning process.
- 86 DMLP25 (Landscaping and trees) aims to ensure applicants consider landscaping and trees as an integral part of the application and development process. This is because good landscaping and the provision of trees have extensive benefits to both humans and wildlife.

Discussion

- 87 There are two trees within the application site, these are not proposed to be removed. To ensure that those trees are not damaged during construction which would include excavation works, a tree protection plan is required. This will be secured by a suitably worded planning condition.

7.7 TRANSPORT IMPACT

7.7.1 Car parking

Policy

- 88 PLLP T6 seeks to restrict car parking in line with level of existing and future public transport accessibility and connectivity. Car-free development is expected as a starting point for all development proposals in places that are well connected by public transport.
- 89 CSP 14 supports this stance. The policy states that the Council will take a restrained approach to parking provision in line with car parking standards contained within the London Plan.

Discussion

- 90 The applicant is proposing a car-free scheme. The proposal site is in a reasonably accessible location with PTAL score of 4. As such, a car-free development is encouraged and supported subject to an agreement to restrict the purchase of permits by future residents of the proposed live work unit. This would be secured by a planning condition.

7.7.2 Cycle parking

Policy

- 91 PLLP T5 states that development proposals should help remove barriers to cycling and create healthy environments in which people choose to cycle. This will be achieved through supporting the delivery of a London-wide network of cycle routes; and securing the provision of an appropriate level of cycle parking which should be fit of purpose, secure and well-located. Cycle parking is expected to be designed and laid out in

accordance with the guidance contained in the London Cycling Design Standards. Development proposals should demonstrate how cycle parking facilities would cater for large cycles including adapted cycle for disabled people.

Discussion

- 92 The PLLP requires a provision of 1.5 long stay cycle parking spaces. The proposed cycle parking would be located internally and close to the entrance to the building. The cycle parking would have an area of 1.8sqm (measuring 0.9m in width and 2m in length). The proposed cycle parking space could fit two (2) bicycles if they are parked front to back. The proposed development would comply with the London Plan requirement for cycle parking.

7.7.3 Servicing and refuse

Policy

- 93 CSP 13, Part 4, requires that recycling facilities are well-designed and incorporated in the new development.
- 94 DMLP 29 requires new development to have no negative impact upon the safety and suitability of access and servicing.

Discussion

- 95 The waste and recycling store would be at the front of the building and it would have sliding doors. The refuse store would be concealed behind the main elevation treatment. The height of the store allows for access and storage of taller wheeled bins. The proposed bin store incorporates 1.7sqm external storage to the unit.
- 96 Current arrangements for the collection of the refuse and recycling bins are that the bins are brought to Ashby Road.

7.7.4 Transport impact conclusion

- 97 The proposed development would not result in harm to the local highway network or pedestrian or highway safety subject to the imposition of conditions

7.8 LIVING CONDITIONS OF NEIGHBOURS

7.8.1 Overbearing, Enclosure and Outlook

Policy

- 98 Overbearing impact arising from the scale and position of blocks is subject to local context. Outlook is quoted as a distance between habitable rooms and boundaries.

Discussion

- 99 At present, the application site comprises single storey commercial buildings. The height of the building would increase by approximately 3.1m to the apex (the highest point of the building), 1.6m at the boundary with garage located at the rear of No 91 Upper Brockley Road (measured from the eaves of this building), and 1.2m at the boundary with the garage to No 95 Upper Brockley Road. The increase of the height of the building together with the separation distance to the neighbouring properties on Upper Brockley Road of 22.6m would mean that the proposal would not significantly impact on outlook from those properties. This distance and the mass of the building would also

mean that the proposed development would not be overbearing and result in increased sense of enclosure.

7.8.2 Privacy

Policy

100 LP Policy D3, Part D, Point 7, states that new housing should deliver appropriate outlook, privacy and amenity.

Discussion

101 Concerns have been raised by neighbouring residents that the proposed development would result in an unacceptable loss of privacy to neighbouring dwellings and their gardens.

102 With regards to the properties on the Upper Brockley Road, the separation distance between their rear elevations and the proposed development would be 22.6m. As such, officers are satisfied that there would be no unacceptable loss of privacy to these dwellings.

103 The applicant was aware of the comments made during the consultation period and local meeting, and they have decided to make all windows in the rear elevation to be fitted with obscure glass. The submitted plans have been amended to reflect this change.

104 As with the impact on the garden. It is noted that the view of those garden would be limited given the changes that were secured during the determination of the application including the applicant agreeing to have all windows obscure glazed.

7.8.3 Daylight and Sunlight

Policy

105 LP Policy D6, Part D, mentions that housing development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context.

Discussion

106 The properties on Upper Brockley Road would be located 22.6m away from the rear elevation of the proposed building. As such, officers are satisfied that the proposed development would not result in loss of daylight and sunlight.

107 The proposed development would not extend past the rear elevation of the adjacent live/work unit to the north.

108 With regards to the units on the opposite site of the Ashby Mews, given the modern increase in the height of the building the proposal is not considered to result in significant change to the level of daylight and sunlight. Noise and disturbance

Policy

109 LP Policy D14 requires residential development to manage noise.

Discussion

110 The surrounding area is predominantly residential, and the proposed development would provide mixed-use development. Once operational the building is not considered to have

an unacceptable adverse impact on neighbouring amenity by way of noise and disturbance. Both uses are considered compatible with the surrounding area. The type of commercial use that could happen within the building is considered to be appropriate for any residential area.

- 111 Concerns have been received from neighbouring residents regarding demolition and construction impacts, including noise and disturbance, impact on air quality and construction traffic. Any noise or dust associated with construction would be controlled by the relevant environmental health and building control statutory protections. To ensure that construction is undertaken in a manner that does not affect the wider highway and utilises best practice a condition requiring the submission to the LPA for approval of a construction logistics and management plan should be imposed were the application to be approved.

7.8.4 Impact on neighbours conclusion

- 112 The proposed extension would not have a negative impact on the amenities of neighbouring residential properties, subject to the imposition of appropriate planning conditions. Therefore, Officers consider the proposed development is acceptable in regards to the impacts upon neighbouring residential amenity.

8 LOCAL FINANCE CONSIDERATIONS

- 113 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

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

- 115 The CIL is therefore a material consideration.

- 116 The proposed development would provide 117sqm of GIA. £1,753.89 of Lewisham CIL and £1,020 MCIL is estimated to be payable on this application, subject to any valid applications for relief or exemption, and the applicant has completed the relevant form. This would be confirmed at a later date in a Liability Notice.

9 EQUALITIES CONSIDERATIONS

- 117 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.

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

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

119 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.

120 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>

121 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

122 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>

123 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.

10 HUMAN RIGHTS IMPLICATIONS

124 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including

- Article 8: Respect for your private and family life, home and correspondence

- Article 9: Freedom of thought, belief and religion
- Protocol 1, Article 1: Right to peaceful enjoyment of your property
- Protocol 1, Article 2: Right to education

125 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.

126 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

127 This application has the legitimate aim of providing a new building with employment and residential uses. The rights potentially engaged by this application, including respect for your private and family life, home and correspondence are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

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

129 The proposal would be subordinate and proportionate to the size and scale of the surrounding area. The proposed building would be of high quality design and would cause no harm to the host building and wider Brockley Conservation Area.

130 Consideration has been given to the objections made to the proposed development, as set out in this report. It is considered that none of the material objections outweighs the reasons for approving the reserved matters.

131 In line with the requirements of the NPPF, the council has applied the presumption in favour of sustainable development. The proposed development would accord with sustainable principles and would make efficient use of the land to deliver a high quality development that is in accordance with the council's aspirations for the area. It is therefore recommended that planning permission is granted

12 RECOMMENDATION

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

12.1 CONDITIONS

1) FULL PLANNING PERMISSION TIME LIMIT

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

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

2) **APPROVED PLANS**

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

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) **CYCLE PARKING**

All cycle parking spaces shall be provided as shown on the approved plans and made available for use prior to occupation of the development and maintained thereafter.

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

4) **REFUSE STORAGE**

Refuse and recycling facilities for each residential and commercial unit hereby approved shall be submitted to and approved in writing by the local planning authority prior to occupation of the development and the works shall be carried out in accordance with the approved details prior to occupation of the development and shall thereafter be permanently retained and maintained.

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

5) **PARKING PERMIT**

Occupiers of the residential development hereby approved shall not be entitled to a Residents Parking Permit or Visitors Parking Permit to allow the parking of a motor car within the Controlled Parking Zone (CPZ) operating in the locality within which the development is situated unless the occupier is entitled to be a holder of a Disabled Persons Badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970.

For the lifetime of the development written notification of this restriction shall be included in any licence transfer lease or tenancy agreement in respect of the residential development.

Prior to any occupation of the residential development hereby approved, written notification shall be submitted to the Local Highways Authority confirming the completion of the development and that the above restriction will be imposed on all future occupiers of the residential development.

Reason: To ensure that the development does not result in an increased demand for parking that cannot be safely met within the locality of the site and to comply with Policy T6 'Car parking' of the London Plan (March 2021).

6) **RETENTION OF LIVE/WORK UNIT**

- (a) The live/work unit hereby approved shall be occupied as a single integrated unit and laid out as shown on drawing nos. 155 012 Rev P06; 155 013 Rev P06; 155 017 Rev P06 and 155 018 Rev P06.
- (b) The commercial floorspace of the live/work unit shall be finished ready for occupation before the residential floorspace is occupied and the residential use shall not precede commencement of the commercial use.
- (c) The residential floorspace of the live/work unit shall not be occupied other than by a person solely or mainly employed, or last employed in the business occupying the commercial floorspace of that unit, a widow or widower of such a person, or any resident dependents.
- (d) The commercial floorspace of the live/work unit shall not be used for any purpose other than for purposes within Class E (c) and (g) in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modifications.

Reason: In order to enable the local planning authority to control any future change of use or subdivision of the property in the interests of protecting the commercial floorspace at ground floor level in accordance with Core Strategy Policy 5: Other employment locations and to ensure an acceptable standard of amenity is provided in the upper floor residential unit in accordance with Core Strategy Policy 1: Housing provision, mix and affordability and with DM Policy 30 Urban design and character of the Development Management Local Plan (November 2014).

7) **USE OF AMENITY SPACE**

The private amenity space hereby approval shall only be used for residential use. There should be no 'work' activity or storage.

Reason: To ensure that the development does not result in an unacceptable noise and disturbance neighbouring properties as well as unsightly and harm visual amenity in this predominantly residential environment.

8) **CONSTRUCTION LOGISTICS AND MANAGEMENT PLAN**

No development shall commence on site until a Construction Logistics and Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall demonstrate the following:-

- (a) Rationalise travel and traffic routes to and from the site.
- (b) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction vehicle activity.
- (c) Measures to deal with safe pedestrian movement.

- (d) Dust mitigation measures.
- (e) Details of best practical measures to be employed to mitigate noise and vibration arising out of the construction process
- (f) Details of construction traffic movements including cumulative impacts which shall demonstrate the following:-
 - (i) Rationalise travel and traffic routes to and from the site.
 - (ii) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction related activity.
 - (iii) Measures to deal with safe pedestrian movement.
- (g) Security Management (to minimise risks to unauthorised personnel).
- (h) Details of the training of site operatives to follow the Construction Management Plan requirements and any Environmental Management Plan requirements (delete reference to Environmental Management Plan requirements if not relevant).

The measures specified in the approved details shall be implemented prior to commencement of development and shall be adhered to during the period of construction.

Reason: In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011), and Policy T7 Deliveries, servicing and construction of the London Plan (March 2021).

9) **TREE PROTECTION**

No development shall commence on site until a Tree Protection Plan (TPP) has been submitted to and approved by the Council. The TPP should follow the recommendations set out in BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations). The TPP should clearly indicate on a dimensioned plan superimposed on the building layout plan and in a written schedule details of the location and form of protective barriers to form a construction exclusion zone, the extent and type of ground protection measures, and any additional measures needed to protect vulnerable sections of trees and their root protection areas where construction activity cannot be fully or permanently excluded.

Reason: To safeguard the health and safety of trees during building operations and the visual amenities of the area generally and to comply with Policy 12 Open space and environmental assets of the Core Strategy (June 2011), and DM Policy 25 Landscaping and trees and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

12.2 **INFORMATIVES**

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive and proactive discussions took place with the applicant prior to the application being submitted through a pre-application discussion. As the proposal

was in accordance with these discussions and was in accordance with the Development Plan, no contact was made with the applicant prior to determination.

- 2) 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. Further, 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 Planning Authority, before any such works of demolition take place.

- 3) 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>