

Committee	PLANNING COMMITTEE A	
Report Title	Land to the rear of 159-161 Brookbank Road, SE13 7DA	
Ward	Ladywell	
Contributors	Jesenka Ozdalga	
Class	PART 1	June 2021

<u>Reg. Nos.</u>	DC/20/119285
<u>Application dated</u>	20 November 2020
<u>Applicant</u>	Robinson Escott Planning LLP (on behalf of Applicant)
<u>Proposal</u>	Construction of part single/part 2 storey block incorporating roof space to provide 2 x 2 bedroom self-contained flats at the rear of 159-161 Brookbank Road SE13.
<u>Background Papers</u>	Tree Officer comments
<u>Designation</u>	PTAL 3; Air Quality
<u>Screening</u>	N/A

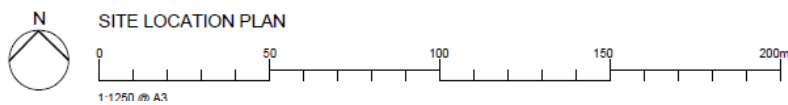
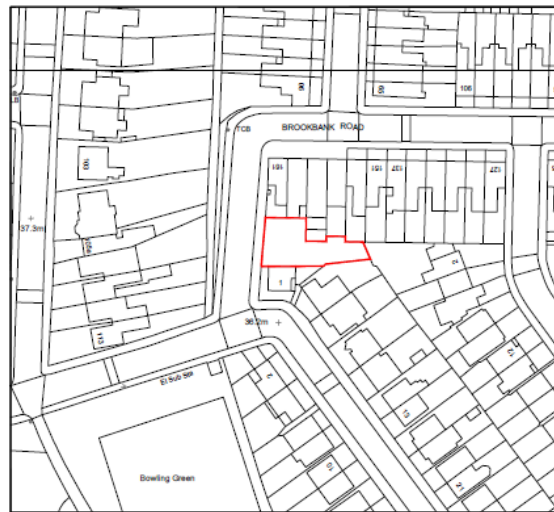
1 SUMMARY

- 1 This report sets out Officer's recommendation for the above proposal. The case has been brought before Members for a decision as the recommendation is to approve and there are four valid planning objections.

2 SITE AND CONTEXT

Site description and current use

- 2 The proposal relates to a parcel of land on the eastern side of Brookbank Road with an approximate area of 0.03 hectares. The application site is situated at the corner of Brookbank Road and Cliffview Road.



3

Figure 1: Site location plan

Heritage/archaeology

4 The site is situated opposite, but not in, the Brockley Conservation Area (rear of the boundary of the CA). It does not contain a listed building, nor are there any in the vicinity.

Surrounding area

5 The site adjoins the residential property at No.1 Cliffview Road and Nos. 153-161 Brookbank Road, which are comprised of commercial uses at ground floor with residential accommodation on the upper floors.

6 There is a bus stop immediately outside of the site. The site has a partially demolished boundary wall to the front as well as a dropped kerb. The current condition of the site is poor and it appears to have lacked maintenance in recent years.

Transport

7 The application site has a PTAL of 3, however it is located on a bus route—there are two bus stops directly outside the property—and in proximity of local centres, which makes this a sustainable location in terms of transport links and local amenities. It should be noted that the nearby PTAL scores are highly varied, with scores of 2, 4 and 5 within 50m of the site. The application site is in the Ladywell West CPZ.

3 RELEVANT PLANNING HISTORY

8 **DC/19/114069** - Construction of part single/part 2 storey block incorporating roof space to provide (2 x 1 & 1 x 3) self-contained flats at the rear of 159-161 Brookbank Road SE13. **Refused** (and Appealed and dismissed in October 2020) by reason of:

- The proposed development due to the site layout and relationship with the public realm; and the elevational treatment and rear dormer, would result in a development with a low quality visual appearance and design.

- The proposed one-bedroom units would provide substandard accommodation by reason of poor level of outlook and privacy for future occupiers; and the three-bedroom unit would provide substandard accommodation by way of not complying with the minimum space standards and due to the third bedroom not being functional and fit for purpose due to its size, floor to ceiling height and being served by a single rooflight.
- The proposed development by reason of it siting and height, is considered to be an overbearing and unneighbourly addition, resulting in harm to the residential amenities of Nos. 161 and 163 Brookbank Road

PRE/19/112093 – Pre-application advice was sought and given for construction of part single/part two storey dwelling to accommodate 2x1 bedroom, 2x2 bedroom flats. At this stage it was concluded that the principle of additional units at the site is considered acceptable and the Council encourage the development of previously developed land to provide housing in suitable locations. Single family dwelling is possible at the site, and given the Council’s shortage of family housing and the residential setting, this would be looked upon favourably. The Council would welcome a scheme that reflects a similar scale and massing of 1 Cliffview Road, and would consider that two residential units are possible on a plot of this size.

- 9 **DC/01/049845** – The construction of a two-storey, four bedroom detached house on the site of 163 Brookbank Road, SE13, together with associated landscaping and the provision of a car parking space. **Granted.**

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSAL

- 10 The proposal seeks permission for a construction of a new building to provide two self-contained residential units.

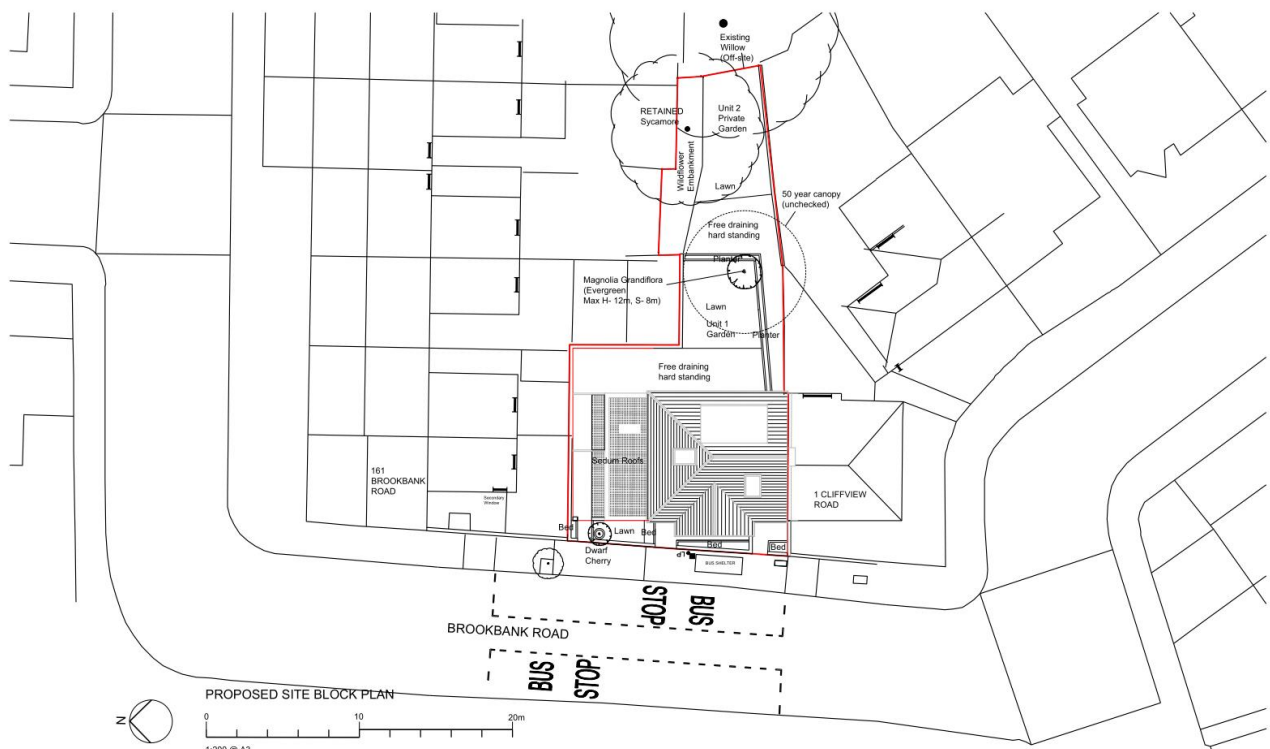


Figure 2: proposed block plan

11 The proposed materials are London Stock brick, artificial slate roof and composite (timber/aluminium) windows and doors.

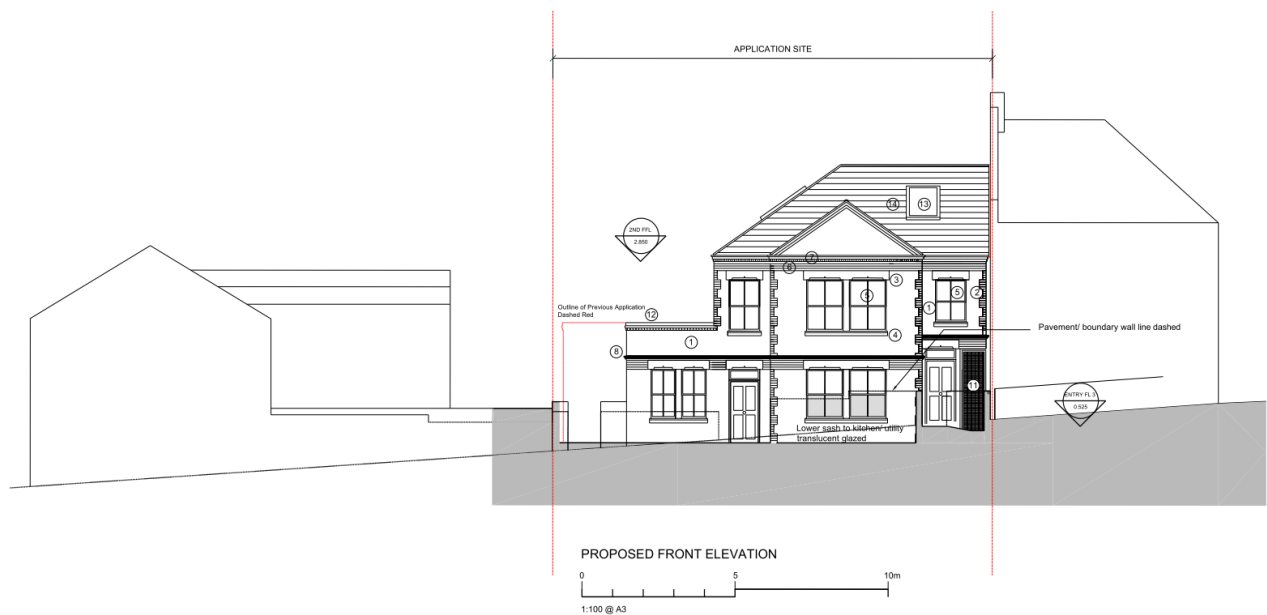


Figure 3: proposed front elevation

12 During the application period, the proposal was amended in response to Officer advice, to include additional window and front door detailing at the front elevation, extended front boundary wall and landscape improvements to the front and rear gardens

13 **COMPARISON WITH REFUSED SCHEME**

14 The current proposal differs from the previously refused scheme to:

- reduce scale of development;
- provide two instead of three units;
- further sets back from the rear boundary of 159 and 161 Brookbank Road; and
- includes redesign of layouts, elevations and soft landscaping improvements.

5 **CONSULTATION**

5.1 **APPLICATION PUBLICITY**

15 Site notice was displayed on 15 December 2020, evidence of display and signed certificate were provided.

16 Consultation letters were initially sent to local residents on 10 December 2020 and consultation email was sent to relevant ward councillors on the same date.

17 Four responses from local residents were received objecting the proposal.

18 No letters of support were received.

5.1.1 Comments in objection

Comment	Para where addressed
<i>Urban design</i>	
The proposed design is considered not to be in keeping with the surrounding area.	[paras 71, 72 and 73]
Loss of existing trees	[paras 121, 122 and 123]
<i>Impact on living conditions of neighbours</i>	
Noise and disturbance from construction works.	[para 111]
Loss of privacy and overlooking.	[para 101]
<i>Other matters</i>	
Adjoining to the existing detached property making it semi-detached property.	Insofar as this is a material consideration, it is one of urban design and therefore considered at para 77.

5.2 INTERNAL CONSULTATION

- 19 The following internal consultees were notified on 10 December 2020.
- 20 Highways officers: no comments received; however, comments were available as part of previously refused scheme generally requesting further details. See section 7.4 Transport.
- 21 Tree officer: no objection subject to conditions.

5.3 EXTERNAL CONSULTATION

- 22 Transport for London: No objection, but comment was provided raising slight concerns over safety of future occupiers of proposed units but no impact to the transport network.

6 POLICY CONTEXT

6.1 LEGISLATION

- 23 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).

6.2 MATERIAL CONSIDERATIONS

- 24 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.
- 25 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

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

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

27 The Development Plan comprises:

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

6.5 SUPPLEMENTARY PLANNING GUIDANCE

28 Lewisham SPG/SPD:

- None relevant.

7 PLANNING CONSIDERATIONS

29 The main issues are:

- Principle of Development
- Housing
- Urban Design
- Transport
- Impact on living conditions of neighbours
- Impact on existing trees

7.1 PRINCIPLE OF DEVELOPMENT

General policy

30 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.

31 The London Plan (LP) sets out a sequential spatial approach to making the best use of land set out in LPP GG2 (Parts A to C) that should be followed.

32 Policy

33 The London Plan at LPP H1 and table 4.1 identifies a total ten year housing target for net housing completions (2019/20 – 2028/29) of 16,670 for Lewisham, equating to an annual target of 1,667. To help achieve this target, a strategic priority of the LPP is to increase the rate of housing delivery from small sites. LPP H2 and table 4.2 sets a ten year minimum target of 3,790 homes on small sites for Lewisham. H2 states Boroughs should pro-actively support well-designed new homes on small sites (below 0.25ha). In doing so, Boroughs should recognise that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites.

34 Lewisham Core Strategy Spatial Policy 1 ‘Lewisham Spatial Strategy’ that links to Core Strategy Objective 2 ‘Housing Provision and Distribution’ supports the delivery of new housing to meet local need. Housing is therefore a priority use for the borough.

35 The proposal is considered to be infill development of a side garden as identified in DM Policy 33. DM Policy 33(A), paragraph 5 details that development will not be permitted on infill sites unless it:

- make a high quality positive contribution to an area
- provide a site specific creative response to the character and issues of the street frontage typology identified in Table 2.1 Urban typologies in Lewisham and to the special distinctiveness of any relevant conservation area
- result in no significant overshadowing or overlooking, and no loss of security or amenity to adjacent houses and gardens
- provide appropriate amenity space in line with DM Policy 32 (Housing design, layout and space standards)
- retain appropriate garden space for adjacent dwellings
- repair the street frontage and provide additional natural surveillance
- provide adequate privacy for the new development and
- respect the character, proportions and spacing of existing houses.

Discussion

36 The site is less than 0.25ha and lies within the established urban area and in proximity to the local centres with good public transport accessibility. It therefore meets the criteria in LPP H1 and H2 for optimising the potential for housing delivery. The proposal will optimise the potential of the site to accommodate development of two additional homes within a sustainable and accessible location.

7.1.1 Principle of development conclusions

37 Officers consider that this development would make efficient use the land, in accordance with the LP, and provide additional residential accommodation in a sustainable location which would make a modest contribution to Lewisham’s housing targets. Therefore, the principle of the development is acceptable.

7.2 HOUSING

38 This section covers: (i) the contribution to housing supply, including density; (ii) the dwelling size mix; and (iii) the standard of accommodation

7.2.1 Contribution to housing supply

Policy

39 National and regional policy promotes the most efficient use of land.

40 The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. The NPPF sets out the need to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

41 The NPPF encourages the efficient use of land subject to several criteria set out in para 122. Para 123 applies where there is an existing or anticipated shortage of land for meeting identified housing needs and strongly encourages the optimal use of the potential of each site.

Discussion

42 The proposal seeks to deliver two, two bedroom flats in a sustainable location. The proposed mix of units is as following:

Type of units provided	Number of units provided	Proposed GIA	Proposed amenity space area
Ground Floor Flat - Unit 1 (2b3p)	1	78.2m ²	64.2m ²
First Floor Flat - Unit 2 (2b4p)	1	95m ²	86.2m ²

Table 1: unit mix

Summary

43 The proposal would use the land efficiently and optimise density, making a modest contribution to Lewisham's housing targets. This is a planning merit to which moderate weight is given.

7.2.2 Residential Quality

General Policy

44 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. This is reflected in relevant policies of the London Plan (LPP 3.5 and PLPP D6), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA).

45 The main components of residential quality in this case are: (i) space standards; (ii) outlook and privacy; (iii) overheating; (iv) daylight and sunlight and (v) external space standards.

Internal space standards

46 LPP D6 seeks to achieve housing development with the highest quality internally and externally in relation to their context. Minimum space standards are set out in table 3.1 of LPP D6.

Discussion

- 47 An assessment of the proposal against required space standards is considered below. Numbers are taken from the submitted drawings and largely comply with officer's measurement.

Unit Type	Room	Size	Required	Compliance
Unit 1 (2b3p)	Unit Size	Approx. 78m²	61m ²	Y
	Floor-Ceiling Height	2.5m	2.5m for at least 75%	Y
	Bedroom 1	12.9m ²	11.5m ²	Y
	Bedroom 2	9.5m ²	7.5m ²	Y
Unit 2 (2b4p)	Unit Size	Approx. 95m²	79m ²	Y
	Floor-Ceiling Height	2.5m	2.5m for at least 75%	Y
	Bedroom 1	16.0m ²	11.5m ²	Y
	Bedroom 2	13.5m ²	7.5m ²	Y

Table 2: comparison to LPP D6 space standards

Outlook and privacy

- 48 All units would have dual aspect, are of appropriate layout with good levels of outlook and privacy.

Overheating

Policy

- 49 LPP D6 and SI4 state that proposals should reduce potential overheating beyond Part L 2013 of the Building Regulations reduce and reliance on air conditioning systems and demonstrate this in accordance with the Mayor's cooling hierarchy.

- 50 DMP 22 reflects regional policy.

Discussion

- 51 Officers note that the new flats would have dual aspect. The ratio of solid/glazed areas of the proposed dwelling is considered acceptable and not to result in unacceptable risk of overheating in the new units.

Summary

- 52 It is considered that the proposal would meet this objective.

Daylight and sunlight

Policy

- 53 LPP D6(D) states the design of development should provide sufficient daylight and sunlight to new housing that is appropriate for its context.
- 54 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its future residents.
- 55 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards. This is not formal planning guidance and should be applied flexibly according to context. The BRE standards set out below are not a mandatory planning threshold.
- 56 In new dwellings, the BRE minimum recommended average daylight factor (ADF) is 1 % for bedrooms, 1.5% for living rooms and 2 % for kitchens.

Discussion

- 57 The proposed units are located at the ground and first/second floor and both of them have dual aspect. Proposed windows are of good size and as such, the proposed units are considered to receive sufficient levels of daylight and sunlight.

Summary

- 58 It is considered that the proposal would meet this objective.

Noise, Vibration & Disturbance

Policy

- 59 Part E of the Building Regulations controls noise transmission between the same uses and is usually outside the scope of Planning.
- 60 Planning controls the effect of noise from external sources on residential uses and noise transmission between different uses. The relevant standard is BS: 8233:2014.
- 61 This states the internal noise levels within living rooms must not exceed 35dB(A) during the daytime (0700-2300) and 30 dB(A) in bedrooms during the night –time (2300-0700).

Discussion

- 62 The proposed units are located adjacent to the road and bus stop and as such, some external noise may arise from the road. Given the quiet nature of the road, this is not expected to impact the living conditions of future occupants. The proposed amenity space is located to the back of the proposed building and as such would allow the enjoyment of the outside areas. No specific noise mitigation measures are required.

- 63 **Summary**

- 64 It is considered that the proposal would meet this objective

External space standards

Policy

- 65 LPP D6(F)(9) states that a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant.

Discussion

- 66 It is noted that both flats would have access to private amenity space in form of subdivided rear garden of approx. 64.2m² for Unit 1 and 86.2m² for Unit 2 which is considered acceptable.

Housing conclusion

- 67 Officers are satisfied that the proposed two flats would provide good quality accommodation for future occupants. The new homes would make a modest contribution to housing supply, a planning merit to which moderate weight is given.

7.3 URBAN DESIGN

General Policy

- 68 Urban design is a key consideration in the planning process. Part 10 of the NPPF makes it clear that national government places great importance on the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 69 LPP D3 and Core Strategy Policy CS 15 reinforce the principles of the NPPF setting out a clear rationale for high quality urban design.
- 70 CSP 15 states that the Council will apply national and regional policy and guidance to ensure highest quality design and the protection or enhancement of the historic and natural environment, which is sustainable, accessible to all, optimises the potential of sites and is sensitive to the local context and responds to local character.
- 71 DMP 30 states that the Council will require all development proposals to attain a high standard of design, including alterations and extensions to existing buildings. An adequate response to how the scheme relates to the existing street including its building frontages will be required including: The quality and durability of building materials and their sensitive use in relation to the context of the development. Materials used should be high quality and either match or complement existing development, and the reasons for the choice should be clearly justified in relation to the existing built context. DMP 33 seek to protect and enhance the Borough's character and street frontages through appropriate and high-quality design.

Discussion

- 72 It is noted that the current proposal is of a reduced scale compared to previously refused scheme. As this part of the road slopes down towards Brookbank Road, the proposed development maintains an appropriate hierarchical relationship with stepped design and massing of two storey element next to 1 Cliffview Road followed by a single storey element towards the rear gardens of 159 and 161 Brookbank Road. Furthermore, the site's slope is reflected in front elevation detailing such as lower roof profile than 1 Cliffview Road and stepped front boundary wall. The proposal would include an extension to the rear roofslope, which is considered of an acceptable scale.
- 73 The proposal largely follows the building lines of adjoining 1 Cliffview Road to the front and rear, with a bay window protruding to the front. This is considered to be acceptable. The design and detailing of the proposed front elevation also appropriately respond to the local design context. The proposal would feature soft landscaping to the front in forms of planting beds with shrubs and a small lawn.
- 74 In terms of detailing and materials, the proposal intends to complement the materials found in the surrounding area with London Stock brick with red rubber brick and stucco cornice detailing and slate roof combined with composite (timber/aluminium) windows

and doors. A condition is recommended to secure further details of materials prior to the commencement of above ground works.

- 75 Objections have been raised about the fact this building would attach to 1 Cliffview Road. There is no in-principle objection to this from a design perspective. There are many examples of semi-detached houses and short runs of terraces in the local area and this change is acceptable.

Urban design conclusion

- 76 Officers conclude that the proposal responds sensitively to its context and the character of the surrounding area. Given the unkempt and dilapidated nature of the existing site, Officers conclude this scheme would enhance the character and appearance of the local area.

7.4 TRANSPORT

General policy

- 77 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 102. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places.

- 78 Regionally, the Mayor's Transport Strategy ('the MTS', GLA, March 2018) sets out the vision for London to become a city where walking, cycling and green public transport become the most appealing and practical choices. The MTS recognises links between car dependency and public health concerns.

- 79 LPP T4 requires transport assessments to be submitted with development proposals when required in accordance with national or local guidance, to ensure any impacts are fully assessed. No transport assessment is required for this application due to the scale of the proposed development.

- 80 The Core Strategy, at Objective 9 and CSP14, reflects the national and regional priorities.

Discussion

7.4.1 Local Transport Network

- 81 The site is located close to Lewisham and Ladywell local centers and their shops, services, facilities and stations. The site also lies within PTAL 3, however it is located along the 484 bus route. Therefore, this location is considered of good accessibility overall.

7.4.2 Car Parking

Policy

- 82 LPP T6 states that car-free developments should be the starting point for all development proposals in places that are well-connected to public transport.

Discussion

The application site is within Ladywell West CPZ. There is no reference to car parking in the submitted Design and Access statement, however it appears that it was included in

the previously refused application and the development is proposed without off street parking. Officers note that, even though the application site is within PTAL 3, it is on the bus route and in close proximity to local town centres. Furthermore, due to the number of and size of units proposed, Officers consider that the proposal would not result in an unacceptable increase on parking stress in this CPZ.

Summary

- 83 Officers are satisfied the proposal would not result in unacceptable overspill parking in the local area and consider no other mitigation measures are required.

7.4.3 Cycle storage

Policy

- 84 LPP T5 cycling and Table 10.2 of the London Plan (March 2021) maintains that development should provide secure, integrated and accessible cycle parking facilities. Covered, secure and fully enclosed cycle parking spaces are required.

Discussion

- 85 Indicative details were provided in terms of location of proposed cycle storage to the side of the new building. Whilst this appear to be an acceptable location for storage, further details on proposed design, materials and location of cycle storage would be required and secured by condition.

Summary

- 86 Officers consider the arrangements for cycle parking to be acceptable in principle. Should Members be minded to grant planning permission, a condition is recommended to secure further details of the structures and their construction prior to the occupation of the dwellings hereby proposed.

7.4.4 Servicing and refuse storage

Policy

- 87 LPP D6(E) states housing should be designed with adequate and easily accessible storage space that supports the separate collection of dry recyclables and food waste as well as residual waste.

- 88 Core Strategy Policy 13 Addressing Lewisham's waste management requirements states that the Council will support the objectives of sustainable waste management and promote the waste hierarchy of prevention, reuse, compost, recycle, energy recovery and disposal through a partnership approach.

- 89 Storage facilities for waste and recycling containers should meet at least BS5906:2005 Code of Practice for waste management in Buildings in accordance with London Plan Housing Supplementary Planning Guidance (2016) standard 23.

Discussion

- 90 Indicative details were provided in terms of location of proposed bin storage to the side of the new building. Whilst this appear to be an acceptable location for storage, further details on proposed design, materials and location of bin storage would be required and secured by condition.

Summary

91 Officers are satisfied the proposal would adequately provide for refuse and recycling, subject to further details to be secured by condition.

7.4.5 Access

Policy

92 The NPPF requires safe and suitable access for all users.

Discussion

93 In order to ensure that unsafe parking does not take place outside the site, including blocking the bus stop, waiting and loading restrictions would be required during the construction of the proposed development.

Summary

94 Officers acknowledge that mitigation measures are required in order to make this aspect of the proposal acceptable in planning terms; therefore, submission of a detailed Construction Logistics and Construction Management Plan prior to commencement of works would be secured through condition.

7.4.6 Transport impact conclusion

95 In line with above, Officers are satisfied that the proposal would have an acceptable impact on transport in terms of car park free approach, encouraging sustainable modes of movement and accommodating the sites servicing needs, subject to conditions.

7.5 LIVING CONDITIONS OF NEIGHBOURS

General Policy

96 Relevant regional and local policies are LPP D3, D6 and D14 and DM Policy 31.

97 The main considerations in terms of amenity in this case are: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas. Noise would be limited to that generated by domestic properties.

7.5.1 Enclosure and Outlook

Policy

98 Overbearing impact arising from the scale and position of block is subject to local context. Outlook is quoted as a distance between habitable rooms and boundaries. The relevant guidance is the Mayor's Housing SPG.

Discussion

99 The proposal would be situated on the shared boundary with No. 1 Cliffview Road. No.1 Cliffview Road is a dwellinghouse and it is noted on Google Earth that No. 1 does not benefit from any rear extensions. The proposed development would not extend beyond the rear wall of No.1. Therefore, the proposed massing and scale is not considered to have an unacceptable impact upon the amenities of No.1 Cliffview Road.

100 Compared to the refused scheme, the massing of the proposal on the boundary with Nos 161 and 163 is significantly reduced. The single storey element would be situated 2.3m from the shared boundaries with Nos. 161 and 163 Brookbank Road and approx.

5.7m from the first floor rear wall of their outrigger, and 11.6m from the main rear wall. Nos. 161 and 163 are properties with a commercial use at ground floor level with residential accommodation above and both properties benefit from single storey rear extensions. It should also be noted that Brookbank Road sits at a lower level than the application site. Given the set back from the shared boundary and its proposed scale, the proposal is considered to have an acceptable impact on amenities of Nos. 161 and 163 Brookbank Road in terms of overbearing, overshadowing, loss of outlook.

Summary

- 101 The proposal would meet the objective in terms of enclosure and outlook. This is a planning merit to which great weight is given as it would not result in material harm to the living conditions of neighbours in terms of overbearing, enclosure and loss of outlook.

7.5.0 Privacy

Policy

- 102 Privacy standards are distances between directly facing existing and new habitable windows and from shared boundaries where overlooking of amenity space might arise.

Discussion

- 103 Objectors have raised concerns over loss of privacy. Windows of the new dwelling and those of the immediate neighbouring properties do not directly face each other. No side windows are proposed to the new dwelling. Concerns were raised by local residents on potential adverse impact in terms of loss of privacy on the rear gardens of properties at Tyrwhitt Road. It is noted that these rear gardens of Tyrwhitt Road sit across Brookbank Road and as such are considered of sufficient distance from new dwelling for any adverse overlooking or loss of privacy to occur.
- 104 While new windows would be introduced at first and second floor level, these would not lead to unacceptable loss of privacy in the context of the urban location.

Summary

- 105 The proposal would not result in unacceptable harm in terms of overlooking and loss of privacy.

7.5.1 Daylight and Sunlight

General policy

- 106 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards however this is not formal planning guidance and should be applied flexibly according to context.
- 107 LPP D6(D) states the design of development should provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context.
- 108 The GLA goes on to state that 'An appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines should be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time.' (GLA, 2017, Housing SPG, para 1.3.45).

Discussion

- 109 No Daylight/Sunlight assessment was provided with this application.
- 110 Officers consider that, given the distances between surrounding properties, orientation, siting, height, scale and set back from the existing buildings' elevations, the massing of the proposed new building would not result in an unacceptable loss of daylight and sunlight on neighbouring amenities.

Summary

- 111 Therefore, the proposed new dwelling would not result in an unacceptable impact in terms of overshadowing, loss of daylight and sunlight to the neighbouring amenity and no mitigation measures are required.

7.5.2 Noise and disturbance

Policy

- 112 NPPG states LPAs should consider noise when new developments may create additional noise. Local planning authorities' decision taking should take account of the acoustic environment and in doing so consider:
- whether or not a significant adverse effect is occurring or likely to occur;
 - whether or not an adverse effect is occurring or likely to occur; and
 - whether or not a good standard of amenity can be achieved
- LPP D14 states that development should reduce, manage and mitigate noise to improve health and quality of life by avoiding significant adverse noise impacts on health and quality.
- 113 Planning controls the effect of noise from external sources on residential uses and noise transmission between different uses. The relevant standard is BS: 8233:2014. This states the internal noise levels within living rooms must not exceed 35dB(A) during the daytime (0700-2300) and 30 dB(A) in bedrooms during the night –time (2300-0700)
- 114 Construction and demolition activity can result in disturbance from among things noise, vibration, dust and odour. This can harm living conditions for the duration of construction. Since some disturbance is inevitable, such impacts are usually not considered to be material planning considerations. In certain circumstances, particularly large or complex works may require specific control by planning. 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. Further guidance is given in the Mayor of London's The Control of Dust and Emissions during Construction and Demolition SPG (2014).

Discussion

- 115 In terms of noise increase, Officers consider that creation of a new building with two residential units would be complementary to the existing residential use in the surrounding area. As such, no unacceptable increase in noise and disturbance is foreseen from the use of the land for residential purposes.
- 116 The scheme involves the new building being attached to the flank wall of No 1 Cliffview Road. Structural borne noise and vibration is a material consideration. The proposed ground floor would have an alleyway alongside the flank wall of No. 1 Cliffview Road, while at first floor there would be a staircase and a small room that, given its size, is likely a storage area or small study. Above that would be another storage area and a staircase. It is therefore unlikely that any harmful degree of structural borne noise would arise. Nevertheless, it is recommended that a condition be imposed requiring a scheme

of insulation to be approved before any above ground works commence, so BS: 8233:2014 is met in respect of structural borne noise transmission to No. 1 Cliffview Road..

Summary

- 117 Should Members be minded to grant planning permission, a construction informative is recommended, drawing the applicant's attention to Lewisham Good Practice Guide: Control of Pollution and Noise.

7.5.3 Impact on neighbours conclusion

- 118 The proposal is considered to have an acceptable impact in terms of living conditions of neighbours in terms of overbearing, overshadowing, loss of daylight/sunlight, privacy and outlook and noise and disturbance.

7.6 IMPACT ON EXISTING TREES

Policy

- 119 S.197 of the Town and Country Planning Act gives LPAs specific duties in respect of trees.
- 120 NPPF para 170 expects development to contribute to and enhance the natural and local environment. [Para 175 states development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.]
- 121 LPP G7 expects development proposals to ensure that, wherever possible, existing trees of value are retained. Where it is necessary to remove trees, adequate replacement is expected based on the existing value of the benefits of the trees removed, determined by, for example, i-tree or CAVAT or other appropriate valuation system.
- 122 CSP 12 seeks to protect trees and prevent the loss of trees of amenity value, with replacements where loss does occur.
- 123 DMP 25 sets out the required information to support development affecting trees and states that development schemes should not result in an unacceptable loss of trees, especially those that make a significant contribution to the character or appearance of an area, unless they are considered dangerous to the public by an approved Arboricultural Survey. Where trees are removed as part of new development, replacement planting will normally be required. New or replacement species should be selected to avoid the risk of decline or death arising from increases in non-native pests and diseases.

Discussion

- 124 The application site features existing trees along the front boundary and to the rear. Officers note that the existing trees were not indicated on the initially submitted drawings and also were not identified or assessed in course of the previously refused application or appeal decision.
- 125 The Council's Tree Officer has reviewed the application. They made recommendations and comments including:
- Improvements to soft landscaping to the front and the rear of the new dwelling.
 - Retention and protection of existing trees to the rear.

- The development could be further set back from the boundary to allow for more substantial front garden.
- The sycamores are self-set trees and are unsustainable in their position close to the frontage boundary wall
- The character of the front gardens in the surrounding area generally consists of low walls and hedges.

126 In response, additional information was submitted to demonstrate that two mature trees to the rear of the site would be retained, along with an indicative soft landscaping scheme. Due to the loss of the front trees to allow for the proposed development, one large canopy tree is proposed to be planted to the rear garden. Landscaping improvements are also proposed to the front garden to include re-planting of a small tree, suitable for this more constrained site. As the proposal follows building line of the adjoining property to the front and rear, Officers consider any further set back to have unacceptable design implications on the overall development. A condition is recommended to secure further details on acceptable species for the proposed planting and their long-term maintenance.

Summary

127 Officers consider that, in accordance with s197 of the Act, the proposal would make appropriate provision for the reservation and planting of trees and further provide additional soft landscaping to the front and rear of the new development, subject to conditions for hard and soft landscaping (including replacement trees) and tree protection plan.

8 LOCAL FINANCE CONSIDERATIONS

128 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).

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

130 The CIL is therefore a material consideration. Officers will update Members on the estimated CIL amounts at the meeting.

9 EQUALITIES CONSIDERATIONS

131 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.

132 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.

133 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.

134 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>

135 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

136 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>

137 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

138 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
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

139 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.

140 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights Off 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.

141 This application has the legitimate aim of providing a new residential units. The rights potentially engaged by this application, are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

142 This application has been considered in the light of policies set out in the development plan and other material considerations, including relevant policies of the New London Plan.

143 In reaching this recommendation, Officers have given significant weight to the combined merits of efficient use of land to provide additional residential units, offering a good residential quality, in a sustainable location and the enhancement to the area the scheme would bring. No unacceptable harm would arise to the living conditions of neighbours, while appropriate mitigation can be provided for the loss of trees on the site. Therefore, Officers recommend that planning permission should be granted subject to the imposition of suitable planning conditions.

12 RECOMMENDATION

144 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) DEVELOP IN ACCORDANCE WITH APPROVED PLANS

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

PL16; PL03 rev C; PL07 rev D; PL02 rev E; PL08 rev B; PL09 rev B; PL06 rev C received on 3 March 2021.

EX01; EX02; EX06; EX08; EX10; EX14; PL11 rev C; PL04 rev B; PL05 rev B; PL12 rev A; PL13 rev B; PL15 rev B received on 23 November 2020.

PL01 rev B received on 26 March 2021.

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) MATERIAL AND DESIGN QUALITY

No development above ground shall commence on site until a detailed schedule and specification/samples/technical brochures of all external materials and finishes to be used on new building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

4) USE OF FLAT ROOFS

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 to the side of the new building shall be accessed for maintenance purpose only and as set out in the application and no development or the formation of any door providing access to these parts of the roof shall be carried out, nor shall the roof area be used as a balcony, roof garden or similar amenity area.

Reason: In order to prevent any unacceptable loss of privacy to adjoining properties and the area generally and to comply with Policy 15 High Quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

5) CONSTRUCTION LOGISTICS PLAN

(a) No development shall commence on site until a Construction Logistics Management Plan has been submitted to and approved in writing by the local planning authority. The plan 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 vehicle activity.
- (iii) Measures to deal with safe pedestrian movement.
- (iv) Measures to avoid conflict with the bus stops at this location and to ensure the safe operation of the bus network

(b) 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).

6) CONSTRUCTION MANAGEMENT PLAN

(a) No development whatsoever shall commence on site until such time as a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall cover:-

- (i) Dust mitigation measures
- (ii) Details of best practical measures to be employed to mitigate noise and vibration arising out of construction process
- (iii) Security Management (to minimise risks to unauthorised personnel)
- (iv) Location of storage of materials and any associated plant and workers accommodation on site.

(b) 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 that the local planning authority may be satisfied that the construction process is carried out in a manner which will minimise possible noise, disturbance and pollution to neighbouring properties and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011), and Policy 5.3 Sustainable design and construction, Policy 6.3 Assessing effects of development on transport capacity and Policy 7.14 Improving air quality of the London Plan (2015).

7) CYCLE PARKING AND STORAGE

(a) **Prior to first occupation**, full details of the cycle parking facilities shall be submitted to and approved in writing by the local planning authority.

(b) All cycle parking facilities approved in (a) shall be provided 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 T5 cycling, Table 10.2 of the London Plan (March 2021) and Policy 14: Sustainable movement and transport of the Core Strategy (2011).

8) REFUSE AND RECYCLING STORAGE

(a) **Prior to first occupation**, full details of design and materials for the storage of refuse and recycling facilities for residential dwellings hereby approved, have been submitted to and approved in writing by the local planning authority.

(b) The facilities as approved under part (a) shall be provided in full 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).

9) HARD LANDSCAPING

- (a) Prior to **above ground works** drawings showing hard landscaping of any part of the site not occupied by buildings (including details of the permeability of hard surfaces) shall be submitted and approved in writing by the local planning authority.
- (b) All hard landscaping works which form part of the approved scheme under part (a) shall be completed prior to occupation of the development.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies SI12 Flood risk management and SI13 Sustainable Drainage in the London Plan (2021), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

10) SOFT LANDSCAPING

- (a) A scheme of soft landscaping (including details of the trees to be retained and proposed plant numbers, species, location and size of trees and tree pits) and details of the management and maintenance of the landscaping for a period of five years shall be submitted to and approved in writing by the local planning authority prior to construction of the above ground works.
- (b) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Core Strategy Policy 12 Open space and environmental assets, Policy 15 High quality design for Lewisham 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).

11) REMOVAL OF PD RIGHTS (HMO)

The residential units hereby approved shall at no time be converted from C3 residential to a C4 small HMO, notwithstanding the provisions of Schedule 2 Part 3 Class L of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) without express planning permission having first been granted by the Local Planning Authority.

Reason: To ensure that an adequate standard of accommodation is maintained in all of the residential units.

12) RETENTION OF AMENITY SPACE

The whole of the amenity space as shown on drawing no. **PL01 rev B** hereby approved shall be retained permanently for the benefit of the occupiers of the residential units hereby permitted.

Reason: In order that the local planning authority may be satisfied as to the amenity space provision in the scheme and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 32 Housing Design, layout and space standards of the Development Management Local Plan (November 2014).

13) BOUNDARY TREATMENT

(a) Details of the proposed boundary treatments including any gates, walls or fences shall be submitted to and approved in writing by the local planning authority prior to construction of any above ground works.

(b) The approved boundary treatments shall be implemented prior to occupation of the buildings and retained in perpetuity.

Reason: To ensure that the boundary treatment is of adequate design in the interests of visual and residential amenity and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

14) EXTERNAL LIGHTNING

(a) Prior to occupation of the development a scheme for any external lighting that is to be installed at the site, including measures to prevent light spillage shall be submitted to and approved in writing by the local planning authority.

(b) Any such external lighting as approved under part (a) shall be installed in accordance with the approved drawings and such directional hoods shall be retained permanently.

(c) The applicant should demonstrate that the proposed lighting is the minimum needed for security and working purposes and that the proposals minimise pollution from glare and spillage.

Reason: In order that the local planning authority may be satisfied that the lighting is installed and maintained in a manner which will minimise possible light pollution to the night sky and neighbouring properties and to comply with DM Policy 27 Lighting of the Development Management Local Plan (November 2014).

15) WINDOWS AND DOORS DETAILS

No development shall commence on site until details and detailed schedule and drawings/specification/samples/technical brochures of windows and doors to be used on new dwelling to demonstrate their design compliance and noise resistance pursuant to paragraph (a) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the design and noise resistance is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard in detailing and safeguard amenity of future

occupiers in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011), DM Policy 26 Noise and Vibration and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

16) SOUND INSULATION

(a) Prior to commencement of any ground works, details of scheme of insulation to provide sound insulation against structural borne noise and vibration transmission to No. 1 Cliffview Road in compliance with BS: 8233:2014, shall be submitted and approved in writing by the LPA.

(b) The development shall not be occupied until the sound insulation scheme approved pursuant to paragraph (a) has been implemented in its entirety. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details.

Reason: To safeguard the amenities of the occupiers of the neighbouring dwellings and to comply with DM Policy 26 Noise and vibration, DM Policy 32 Housing design, layout and space standards and DM Policy 33 Development on infill sites, backland sites, back gardens and amenity areas 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 discussions took place, which resulted in further information being submitted.
- 2) 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 web page.
- 3) You are 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.
- 4) The applicant attention is drawn to the requirements of Part E of Building Regulations in terms of vertical noise transmission between residential units.
- 5) The applicant be 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 web site.

- 6) 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>