

Committee	PLANNING COMMITTEE C	
Report Title	21 Wisteria Road, London, SE13 5HW	
Ward	Lee Green	
Contributors	Patrycja Ploch	
Class	PART 1	22 JULY 2021

Reg. Nos. DC/21/121004

Application dated 25 March 2021

Applicant Avison Young

Proposal Prior Approval Application for the demolition of existing building and construction of a new purpose-built detached block of flats, comprising five residential units (Use Class C3), together with secured cycle storage, bin storage and landscaping at 21 Wisteria Road SE13, Under Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

Background Papers Submission drawings
Submission technical reports and documents
Internal consultee responses
Statutory consultee responses

Designation 1. Air Quality Management Area
2. PTAL 3/4

Screening N/A

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 have been four (4) individual objections.

2 SITE AND CONTEXT

Site description and current use

2 The application site is located on the eastern side of Wisteria Road to the rear of No 21 Wisteria Road, and it comprises an areas of approximately 0.04 hectares. The site is accessed via an archway underneath No. 21, which has an existing half-width projection at ground floor level to the rear.

3 The site is occupied by two storey industrial building with a hipped roof and a single storey adjoining building. The building is currently vacant and it provides floor area of approximately 320sqm.

4 The application site is outlined in red in the below (see drawing 1).

Drawing 1: Site location plan



Character of area

- 5 The surrounding area is predominantly residential on Wisteria Road and Eastdown Park. The building dates from the late Victorian era, with some post war infill to the north (block of flats). The building generally comprises of a terraced house constructed from brick/pitched slate roofs that vary between two to four storeys in height.
- 6 There is a path running to the rear of the site, separating the gardens of Wisteria Road and Eastdown Park. The access to this part is fully blocked, overgrown and its use is redundant since the 1980s (see drawing 1 above).

Heritage/archaeology

- 7 The site is not located within a Conservation Area, is not subject to an Article 4 direction, nor is it a listed building or in the vicinity of any.

Local environment

- 8 The application site is within Air Quality Area.

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 of 3, which is moderate.

3 RELEVANT PLANNING HISTORY

10 The relevant planning history to the application site is included in table 1 below.

Table 1: Planning history

REFERENCE	DESCRIPTION	DECISION
DC/16/099621	Application for the construction of a part single part double storey extension to the rear elevation together with alterations to the rear roofslope incorporating a Juliet balcony and alterations to the front garden terrace at 21 Wisteria Road SE13.	Granted.
DC/17102059	The construction of a part single part double storey extension to the rear elevation together with alterations to the rear roofslope incorporating a new window opening and rooflight as well as alterations to the front elevation garden terrace, light well and roofslope at 21 Wisteria Road SE13.	Granted.
DC/18/106463	<p>Prior Approval for the change of use of the building to the rear of 21 Wisteria Road, SE13 from light industrial (Use Class B1c) to residential (Class C3) to create three dwellings.</p> <p>This application was refused for the following reasons:</p> <ul style="list-style-type: none"> The application fails to adequately demonstrate that future residential occupiers would be safeguarded from potential contamination risks arising from the former light industrial use, contrary to Condition (b)(ii) of Class PA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and DM Policy 28 Contaminated land of the Development Management Local Plan (November 2014). The application fails to demonstrate that the provision of industrial use is no longer viable at the premises, or that the change of use to residential would not have an adverse impact on the sustainability of the provision of industrial services within this area, 	Refused but Allowed at appeal on 2 May 2019.

	<p>contrary to Condition (b)(iv) of Class PA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), Policy 5 Other employment locations of the Core Strategy (June 2011) and DM Policy 11 Other employment locations of the Development Management Local Plan (November 2014).</p>	
DC/19/114997	<p>The demolition of the existing workshop and warehouse buildings and construction of 4No part single, part two storey residential dwellings with basement (2No x 3b4p dwellings and 2No x 4b7p dwellings) to the rear of 21 Wisteria Road, SE13, together with associated cycle parking, refuse and recycling storage facilities, external amenity space and landscaping.</p> <p>This application was refused for the following reasons:</p> <ol style="list-style-type: none"> 1. The overall density of the proposal, and proposed siting and massing of House 1 would result in unacceptable adverse sense of enclosure impacts upon the occupants of the lower ground flat at 21 Wisteria Road, contrary to Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Policy DM 32 Housing Design, layout and space standards of the Development Management Local Plan (November 2014). 2. The proposal is considered to be an overdevelopment of the site, due to the resulting unacceptable standard of accommodation by reason of all bedrooms of House 1 and House 2 and bedrooms to the rear of House 3 and House 4 being located at the basement level with poor outlook and insufficient levels of daylight and sunlight, contrary to Policy 3.5 Quality and design of housing developments, 7.4 Local character and 7.6 Architecture of the London Plan (March 2016) (as amended), Policy 15 High Quality Design for Lewisham of the Core Strategy (June 2011); Policies DM 30 Urban design and local character; DM Policy 32 Housing design, layout and space standards of the Lewisham 	<p>Refusal and dismissed at appeal on 10 November 2020.</p>

	<p>Development Management Local Plan (November 2014).</p> <p>3. The siting of House 1 by reason of significantly increased building massing along the boundary with property at 19 Wisteria Road would result in an unacceptable impact in terms of sense of enclosure upon the occupants of 19 Wisteria Road contrary to Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Policy DM 32 Housing Design, layout and space standards of the Development Management Local Plan (November 2014).</p> <p>4. The increase in intensity of footfall past living room windows at the ground floor flat of 21 Wisteria Road would result in an unacceptable loss of privacy impact upon the occupants of the lower ground flat at 21 Wisteria Road, contrary to Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Policy DM 32 Housing Design, layout and space standards of the Development Management Local Plan (November 2014).</p>	
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4 CURRENT PRIOR APPROVAL APPLICATION

11 This is an application submitted for Prior Approval to determine whether to grant prior approval. The prior approval application is submitted under Schedule 2, Part 20, Class ZA of the Town And Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

12 The proposed development would demolish the existing vacant industrial building. The demolished building would be replaced by a purpose built detached block of flats comprising five (5) self-contained residential flats (Use Class C3), together with secure cycle storage, bin storage and landscaping.

5 CONSULTATION

5.1 PROCEDURE

13 Consultation was undertaken in accordance with Schedule 2, Part 20, Class A Paragraph B (11) and (12).

14 Paragraph B (15) (a) states that the local planning authority should take into account any representations made to them as a result of any consultation.

15 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 12th April 2021.

5.2 COMMENTS FROM THE PUBLIC

16 Four (4) total valid objections were received from the occupiers from adjoining properties and nearby.

Comments	Comments or where addresses Para where addressed
Overdevelopment	The overall design approach has been drawn from the scale, form and materiality of the existing building to provide a sympathetic and appropriate building which positively responds to the local context. Officers are satisfied that the proposed development would not result in over development on the site
Overlooking and loss of privacy	See para. 67-75
Proposal does not qualify for prior approval application/permitted development as the building has not been vacant for a period of at least 6 months immediately prior to the date of the application for prior approval (as per Class ZA1)	See para. 27

5.3 INTERNAL CONSULTATION

17 Environmental Protection (Contamination): No objection to proposal subject to additional planning condition.

18 Environmental Protection (Air Quality) No objection to the proposal.

19 Highways: No response received on this planning application.

5.4 EXTERNAL CONSULTATION

20 Environment Agency: No objection to the proposal.

6 POLICY CONTEXT

21 The Town and Country Planning (General Permitted Development) (England) Order was introduced on 15th April 2015. It is a statutory instrument, applying in England that grants planning permission for certain types of development (such development is then referred to as permitted development).

22 In August and September 2020, the Government made several changes to the planning system in England. It introduced secondary legislation creating new permitted development rights and making changes to use classes.

23 This application has been submitted under Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). Schedule, 2, Part 20, Class ZA permits the demolition of buildings and construction of new dwellinghouses in their place. It also permits operations reasonably necessary for the demolition and construction, and other works including the removal of

plant and disconnection of services, removal of any means of access to and egress from the old building as well as the installation of new plant, services, access to and egress from the new building, and ancillary facilities to support the new building.

- 24 In assessing whether Prior Approval should be granted, the local planning authority is required to assess the development solely on the basis of the impacts set in Paragraph ZA.2(2) (a) to (m) and Paragraph B (Procedure for applications for prior approval under Part 20), taking into account any representations received and having regards to the National Planning Policy Framework as if the application were a planning application. Considerations under the Framework are limited to those relevant to the subject matter of the Prior Approval (see sections 7.1 to 7.13, below).
- 25 The submitted planning application form together with the associated plans, planning statement and supporting technical documents provide sufficient information to demonstrate that the proposed development and the existing property satisfy the statutory criteria for permitted development subject to Prior Approval of matters set out in Paragraph ZA.2(2) (a) to (m) and Paragraph B (see sections 7.1 to 7.13, below).
- 26 The application is not determined on the basis of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Development Plan is not decisive in this case.
- 27 Concern has been raised that the proposal does not qualify for prior approval application as the building at 21 Wisteria Road, London SE13 5HW has not been vacant for a period of at least 6 months immediately prior to the date of the application for prior approval. The applicant has stated and provided information that confirms that the building was emptied by the vendor prior to sale and it was purchased by the applicant on 1st June 2020 with vacant possession. Officers are satisfied that sufficient information has been submitted to prove that the application qualified for prior approval.

7 PLANNING CONSIDERATIONS

7.1 TRANSPORT AND HIGHWAYS IMPACT OF THE DEVELOPMENT

- 28 NPPF paragraph 102 outlines the need for transport issues to be considered so that opportunities to promote walking, cycling and public transport use are identified and pursued.
- 29 NPPF paragraph 108 reads that in assessing sites that may be allocated for development, in plans, or specific applications for development, it should be ensured that:
- (a) Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - (b) Safe and suitable access to the site can be achieved for all users; and*
 - (c) Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 30 In relation to part (a), the site is located within a residential area that has a Public Travel Accessibility Level (PTAL) rating of 4, representing a ‘Good’ level of accessibility to the public transport network. The proposed development would introduce five (5) new houses. Officers are satisfied that the number of additional people living in the area would not impact on the performance and current level of public transport.
- 31 To promote sustainable modes of transport, the applicant proposes to install 11 cycles parking spaces located behind the locked pedestrian access gates located in the undercroft leading to the site. The cycle parking would use Wheelylift mechanism. This is an

assisted mounting system which allows users to hook the front wheel over the mechanised arm and the system would move the bike into the upright position. A condition requiring more information about the proposed cycle parking and how the system would be maintained is recommended. In addition to this, the applicant has submitted an assessment of the existing pedestrian infrastructure in the local area. The assessment confirmed that local footways are wide and well-lit throughout the local area. Dropped kerbs are present at the north-eastern end of Wisteria Road which enable pedestrians to cross Eastdown Park step-free. Footways on both sides of Eastdown Park connect to the A20 which has several convenient retail and health facilities within 400m of the site (a 5 minute walk). Officers are satisfied that the applicant has taken appropriate opportunities to promote sustainable transport modes for type of development and its location.

- 32 In relation to part (b), the development proposal would provide no off-street car parking. The existing vehicular access to the site on the eastern side of Wisteria Road would not be used by vehicles. The application would be required to remove existing redundant crossover and reinstate the footway and make any amendment to road markings via appropriately worded planning conditions. Officers note that vehicles would not be able to enter the site given the position and size of refuse, recycling and bike storage. The existing access at No 21 Wisteria Road with its gates would be retained as part of the development proposal and the site would be only accessed on foot or cycle via the walkways to the site and under the covered walkway as per existing arrangements. Officers are satisfied that the applicant has ensured that safe and suitable access to the site can be achieved.
- 33 In relation to part (c), the proposed development would have no off-street car parking. The Applicant has provided a parking survey which demonstrates that the new dwellings would not result in a harmful impact on on-street parking capacity as a consequence of overspill parking because there is capacity on local roads. The overall parking street for the area is between 51% to 56%. Officers are therefore satisfied that the proposed development would not create parking stress on local roads.
- 34 The site is located within a residential area and the site would be serviced in a similar way as the existing houses on the road. Storage for refuse bins would be accommodated within the site in an appropriately designed store. A condition requiring more information about the proposed waste and recycling store is recommended. A Construction Management Plan, as required by the Regulations, should be imposed to ensure that construction impacts (including highway impacts) are controlled and appropriately mitigated.

7.1.1 Conclusion

- 35 Officers are satisfied that the applicant has demonstrated that the development would not have any significant impacts on the transport network (in terms of capacity and congestion), or on highway safety.

7.2 CONTAMINATION RISK IN RELATION TO THE NEW BUILDING

- 36 NPPF paragraph 178 states that planning policies and decisions should ensure that:

- (a) *a site is suitable for its proposed use taking account of ground conditions and any risk arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposal for mitigation including land remediation (as well as potential impacts on the natural environment arising from than remediation);*
- (b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*

(c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

37 In relation to part (a), the application site has a number significant potential contamination sources. Use of the site since 1950 was as a precision metal works. Potential contaminants include metal, inorganic and organic compounds, solvents, polycyclic aromatic hydrocarbons and petroleum hydrocarbons. Overall, the assessment identified a low risk to human health, groundwater or environmental from on-site or off-site sources.

38 In relation to part (b) and (c), the Council's Environmental Health Officer reviewed the submitted Phase 1 and Phase 2 (Ground investigation) report. The advice given was that the Phase 2 report did not make it clear whether the proposed private garden areas were specifically tested for contamination. Given the site history, it is expected targeted testing for volatile organic compounds to be undertaken. However, as the report has recognised that remedial measures will be required, on balance, it is considered that its findings are acceptable in principle: the site is, subject to remediation, capable of development for residential use. A condition will be added requesting submission of the detailed remediation strategy before the works comments on site (excluding demolition).

7.2.1 Conclusion

39 The impact would be acceptable, subject to conditions.

7.3 FLOODING RISK IN RELATION TO THE NEW BUILDING

40 NPPF paragraph 163 states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, the application should be supported by a site-specific flood risk assessment.

41 Footnote 50 provides guidance on when a site-specific flood risk assessment (FRA) should be provided. All development in Flood Zone 2 and 3 should be supported by FRA. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environmental Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increase flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

42 The property is within Flood Zone 1 and the site area is 0.04 hectare. Environmental Agency have been consulted and they advised that they have no objection to the application subject to adding conditions relating to contamination that has not been previously identified/found, piling and sustainable drainage system.

7.3.1 Conclusion

43 The impact is acceptable, subject to conditions.

7.4 THE DESIGN OF THE NEW BUILDING

44 NPPF paragraph 127 (f) states that planning decisions should "*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*"

45 Article 3 (9A) of the GPDO states that Schedule 2 (of which Part 20 Class ZA forms a part) does not grant permission for, or authorise any development of, any new dwellinghouse where the gross internal floor area is less than 37 square metres in size;

or that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015.

46 The proposed development will provide five (5) duplex houses. Table 2, below, shows the required and proposed unit sizes.

Table 2: Required Technical housing standards v Proposed Accommodation

Required GIA	Proposed GIA	Required room size	Proposed room size	Required built-in storage	Proposed built-in storage
Duplex 1 (1-bedroom / 2-person)					
58sqm	59.3sqm	11.5sqm	31.5sqm	1.5sqm	1.8sqm
Duplex 2 (1-bedroom / 2-person)					
58sqm	59.5sqm	11.5sqm	14.4sqm	1.5sqm	2.2sqm
Duplex 3 (2-bedroom / 3-person)					
70sqm	70.8sqm	11.5sqm	12.9sqm	2sqm	2.3sqm
		7.5sqm	8.6sqm		
Duplex 4 (1-bedroom / 2-person)					
58sqm	59.1sqm	11.5sqm	12.3sqm	1.5sqm	2.4sqm
Duplex 5 (2-bedroom / 3-person)					
70sqm	71.1sqm	11.5sqm	14.8sqm	2sqm	2.2sqm
		7.5sqm	7.7sqm		

47 As it can be seen from the table above, the proposed development would comply with the minimum requirements set within the Department for Communities and Local Governments, Technical housing standards – nationally described space standards. It is also noted that floor to ceiling height would be 2.5m or over and provide suitable private amenity space for the number of occupiers.

48 Given that the houses would be duplex (arranged over two storeys) officers are satisfied that each house would have sufficient cross-ventilation that would ensure that they can be ventilated and would avoid unacceptable overheating.

49 Issues such as daylight, sunlight and noise are dealt under sections 7.6 and 7.8, while outlook is not a matter that can be considered under Class ZA.

7.4.1 Conclusion

50 Officers are satisfied that the proposed development would create suitable standard of residential accommodation for future occupiers. The proposal would comply with Article 3 (9A) in terms of space standards.

7.5 THE EXTERNAL APPEARANCE OF THE NEW BUILDING

51 NPPF paragraph 124 states the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

52 NPPF paragraph 127 required decision ensure that developments:

(a) will function well and add to the overall quality of the area, not just for the short terms but over the lifetime of the development;

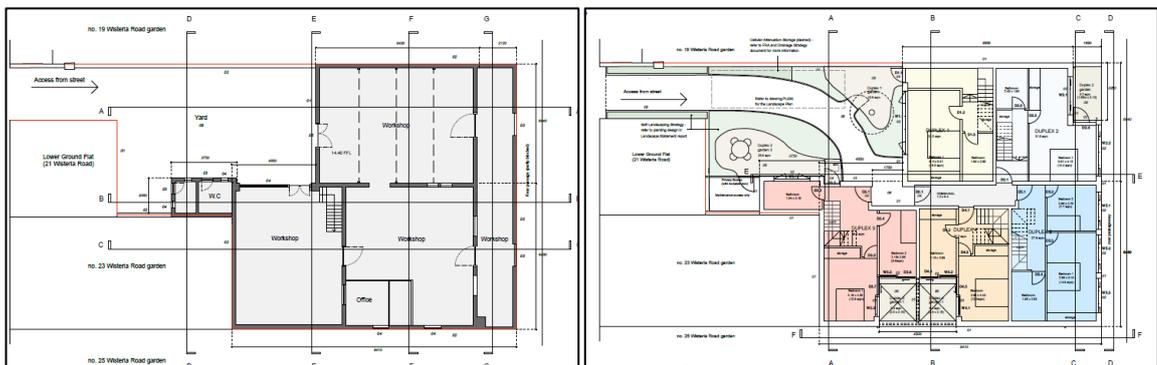
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (c) are sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovative or change (such as increased densities);
- (d) establish or maintain a strong sense of place, using the arrangements of streets spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- (e) optimising the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

53 The proposal would demolish the existing building and construct a new purpose build detached block of flats together with secure cycle storage, bin storage and landscaping.

54 The overall design approach has been drawn from the scale, form and materiality of the existing building to provide a sympathetic and appropriate building which positively responds to the local context.

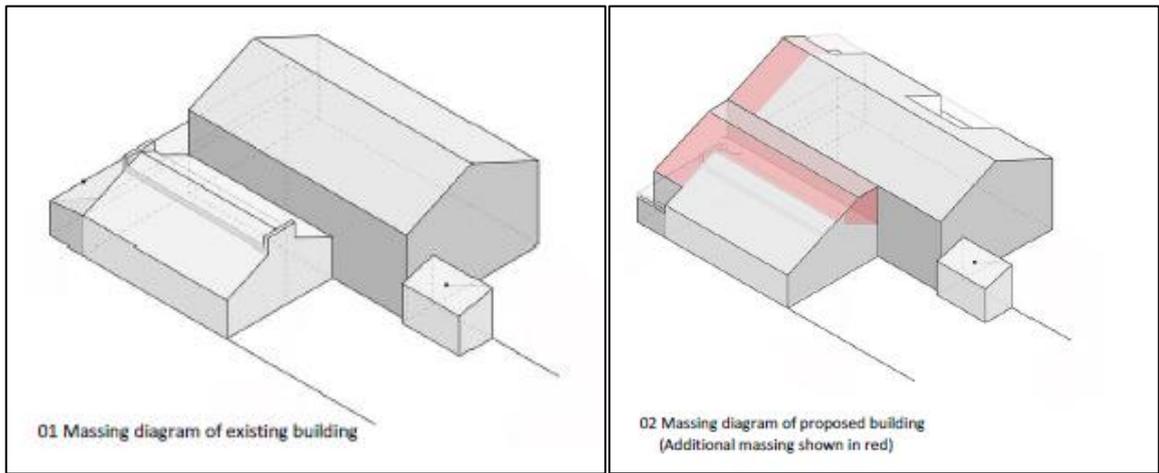
55 The proposed building would be set entirely within the footprint of the existing building. The two drawings below demonstrate this.

Drawing 2 (left) Existing ground floor plan and Drawing 3 (right) Proposed ground floor plan



56 The proposed development is considered to be of an appropriate overall height, scale and massing bearing in mind the immediate context of two to four storeys building fronting Wisteria Road and Eastdown Park. The building mass would largely match the height and form of the existing building on the site, with some minor infilling at roof level to provide a better internal quality of accommodation for future occupiers. Officers consider that the overall massing and height of the development is a suitable response to the surrounding area and would create useful space without dominating its surroundings in visual terms.

Drawing 4 (left) Existing massing/height and Drawing 5 (right) Proposed massing/height



57

The proposed building would be constructed of a simple yet contextual London stock brick finish with slate roof tiles, and with painted timber framed doors, windows and rooflights.

Drawing 6 Proposed view of the development from the site entrance



58

The proposed redevelopment of the site would offer a well-designed and functioning space that would not dominate its backland location. The footprint and scale would

ensure that it remains subservient to its surrounding and would respect the existing townscape setting.

7.5.1 Conclusion

59 The external appearance of the building would enhance the appearance of the local area. It is therefore considered to be of a suitable external appearance and design.

7.6 THE PROVISION OF ADEQUATE NATURAL LIGHT IN ALL HABITABLE ROOMS OF EACH NEW DWELLINGHOUSE IN OR COMPRISING THE NEW BUILDING

60 NPPF paragraph 123 states that when considering application for housing, authorities should take a flexible approach in applying policies and guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a land, provided that the resulting scheme would provide acceptable living standards.

61 NPPF Paragraph 127 (f) states that planning decisions should ensure that a high standard of amenity for existing and future users is achieved.

62 The policy does not provide numerical values for daylight and sunlight. The BRE Guidelines provides a technical reference for the assessment of amenity relating to daylight, sunlight and overshadowing. The guidance within it is not mandatory and the advice within the guide should not be seen as an instrument of planning policy.

63 The application is supported by Daylight and Sunlight to Neighbouring Buildings and Proposed Accommodation report.

64 In considering daylight, the assessment is based on the calculation of the vertical sky component (VSC) to an affected window in both the existing and proposed conditions. The VSC is the amount of light received at the centre of a window. There is a further assessment that assesses the distribution of daylight within a room. This is called average daylight factor (ADF). The submitted report confirmed that all residential habitable rooms at all floors levels would achieve an ADF above the BRE recommended values and it the great majority of locations achieve a significantly higher levels.

65 In considering sunlight, the assessment is based upon a calculation of Annual Probable Sunlight Hours (APSH). This test is done to all windows that face within 90 degrees of due south. The BRE guidelines require that a window should receive a minimum of 25% of the APSH, of which 5% should be received in winter months. Windows with other orientations than 90 degree due south do not need APSH assessment. The submitted report confirmed that the proposal would achieve the BRE recommended values of 25% annual and 5% winter probable sunlight hours.

7.6.1 Conclusion

66 The proposed development would provide adequate natural light to all habitable rooms in the proposed development.

7.7 THE IMPACT OF THE DEVELOPMENT ON THE AMENITY OF THE NEW BUILDING AND OF NEIGHBOURING PREMISES, INCLUDING OVERLOOKING, PRIVACY AND LIGHT

67 NPPF Paragraph 127 (f) states that planning decisions should ensure that a high standard of amenity for existing and future users is achieved.

7.7.1 Overlooking and privacy

68 Although there will be more windows on some elevations, they would retain the existing pattern of overlooking to adjacent buildings and thus have no materially harmful impact. Officers also note that there is an approved prior approval application (planning reference DC/19/114997; appeal reference APP/C5690/W/18/3207161) which would result in the same situation.

69 The proposed development would provide a privacy screen in front of the terrace of Duplexes 3 and 4 as well as a smaller privacy screen around the terrace of Duplex 5. The proposed screen would prevent overlooking and loss of privacy.

7.7.2 Daylight

70 To the north of the application site there are residential gardens. As the massing and height of the building is not significantly changing as a result of the development, Officers are satisfied that impact would not be significant.

71 To the east are Nos 30 and 32 Eastdown Park. The windows in their rear elevation were analysed and the results showed that there would be no change to the existing VSC values. The BRE criteria would be met and no adverse effect would occur.

72 To the south there is land with an extant planning permission for a new block of flats. The analysis was done in accordance with the relevant approved drawings. The results confirmed that 4 out of 8 windows tested would not suffer any variation to the daylight. The remaining windows, whilst affected, would remain above the BRE recommendation and BRE criteria would be met and no adverse effect would occur.

73 To the west are Nos 21 and 23 Wisteria Road. The windows in their rear elevation were analysed and the results showed that there would be no change to the existing VSC values. The BRE criteria would be met and no adverse effect would occur.

7.7.3 Sunlight

74 All neighbour windows that face within 90 degrees of south would retain both annual and winter sunlight availability with proposed values well in excess of the BRE guidelines. The BRE criteria would be met and no adverse effect would occur.

7.7.4 Conclusion

75 The proposed development is considered acceptable in amenity, with no harmfully unacceptable impacts identified.

7.8 IMPACT OF NOISE FROM ANY COMMERCIAL PREMISES ON THE INTENDED OCCUPIERS OF THE NEW DWELLINGHOUSES

76 NPPF Paragraph 180 states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- (a) *Mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impact on health and the quality of life;*
- (b) *Identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for the recreational and amenity value for this reason; and*

- (c) *Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*

77 The surrounding area is primarily residential in character and surrounding the site are mainly residential houses and their gardens. Having said that, to the south-east of the site there is an existing commercial building at 34-40 Eastdown Park. This site has a planning permission redevelopment for a residential-led mixed use development.

7.8.1 Conclusion

78 Officers are satisfied that there will be no noise impact from commercial premises on future occupiers of the proposed development.

7.9 THE IMPACT ON BUSINESS AND NEW RESIDENTS OF THE DEVELOPMENT'S INTRODUCTION OF, OR INCREASE IN, RESIDENTIAL USE IN THE AREA IN WHICH THE DEVELOPMENT IS TO TAKE PLACE

79 As mentioned in paragraph 74, the surrounding area is primarily residential in character and surrounding the site are mainly residential house and their gardens. The only existing commercial building in the vicinity benefits from planning permission for redevelopment to residential flats. Once operational, it is not considered that the proposal would have an unacceptable adverse impact on neighbouring amenity by way of noise and disturbance.

7.9.1 Conclusion

80 Officers are satisfied that the proposal would not have an impact on any other users surrounding the site.

7.10 THE IMPACT OF THE DEVELOPMENT OF HERITAGE AND ARCHAEOLOGY

81 NPPF paragraph 189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

82 The application site is not located or is adjacent to the Conservation Area. The site is also not within area of archaeological priority.

83 The application site does not contain any statutory or locally listed buildings. The nearest statutorily listed buildings (Grade II listed telephone exchange and Grade II listed K6 telephone kiosk outside telephone exchange) are located circa 200m from the site. Neither are visible from the application site nor is the site visible from the listed buildings.

7.10.1 Conclusion

84 The proposed development is considered acceptable in terms of its impact on heritage and archaeology.

7.11 THE METHOD OF DEMOLITION OF THE OLD BUILDING

85 The application is supported by a Demolition Method Statement prepared by PJF Consulting which demonstrated that the existing building can be safely demolished without harming adjacent properties or neighbouring residents.

7.11.1 Conclusion

86 The impact is acceptable, subject to a condition ensuring that the demolition is carried out in accordance with the submitted document.

7.12 THE PLAN FOR LANDSCAPING OF THE DEVELOPMENT, INCLUDING ANY PLANTING AND MAINTENANCE OF SHRUBS AND TREES

87 NPPF paragraph 127, sub-paragraph (b) required that developments “*visually attractive as a result of good architecture, layout and appropriate and effective landscaping*”.

88 Recent site investigations discovered that the original hard landscaping was finished in cobbles, prior to asphaltting the access road and internal road around 1970s. The applicant proposes to install cobbles with reclaimed pebbles and setts. This material would allow natural plant growth alongside path edges and it would respond, and provide a link, to the historic design. An additional benefit of using this hard landscaping design (where appropriate) is that it allows permeability and reduces water run-off.

89 In terms of soft landscaping, all proposed plants would be hardy and low maintenance. Vegetation would be built up between the communal entrance and the south side of the garden to Duplex 1 to create privacy and separation, using dense and evergreen species. The applicant proposes to use ferns and grasses in combination with low-level edging plants and bush plants to create variation and interest. In addition to proposed soft landscaping in a form of plants and shrubs, the applicant proposes to plant one tree.

90 The submitted maintenance strategy, whilst brief, is considered proportionate to the size and type of landscaping that is proposed at the site.

7.12.1 Conclusion

91 A condition will be added to make sure that the applicant carries out maintenance in the way set out in the Landscaping Statement.

7.13 ANY AIR TRAFFIC AND DEFENCE ASSET IMPACT OF THE DEVELOPMENT, AND IMPACT THAT, BECAUSE OF THE SITTING OF THE NEW BUILDING, THE DEVELOPMENT WILL HAVE ON A PROTECTED VISTA IDENTIFIED ON THE DIRECTIONS RELATING TO PROTECTED VISTA DATED 15 MARCH 2012 BY THE SECRETARY OF STATE

92 The proposed will not impact any air traffic or defence asset, nor would it impact a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2021 issued by the Sectary of State.

8 LOCAL FINANCE CONSIDERATION

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

- 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).

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

95 The CIL is therefore a material consideration.

96 With a proposed floorspace 21.18 sqm and based on the plans provided so far and that the building was in lawful use for 6 months within the past 36 months. The estimated CIL is £1,906.20 and MCIL is £1,259.45 bringing the application to the total of £3,165.65.

9 EQUALITIES CONSIDERATIONS

97 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. 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.

98 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.

99 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>

100 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

101 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>

102 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

103 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

104 This report has outlined the consultation that has been undertaken on the Prior Approval application and the opportunities for people to make representations to the Council as Local Planning Authority.

105 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.

106 This application has the legitimate aim of providing three new homes. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

107 This application has been considered in the light of Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development Order 2015 (as amended)).

108 Development is permitted by virtue of Class ZA. Officers have had regard to the relevant material considerations prescribed by the Order and consider these matters to be acceptable.

12 RECOMMENDATION

109 That the Committee resolve to GRANT prior approval subject to the following conditions and informatives.

12.1 CONDITIONS

- 1) **TIME LIMIT**
The development under Class ZA is permitted subject to the condition that it must be completed within a period of 3 years starting with the date prior approval is granted.

Reason: To comply with Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development Order 2015 (as amended)).

2) **APPROVED DRAWINGS**

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

Location plan - 112 PL 001; **Existing plans** - PL002; PL003; PL004; PL005; PL006 Rev A; PL007; PL008; **Proposed plans** - PL010; PL011; PL012; PL013; PL014; PL015; 112-PL030 received on 9 April 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) **MATERIALS**

- (a) The development shall be constructed in those materials as specified in the application documents namely: London stock brick; slate roof tiles; painted timber framed doors, windows and rooflights.
- (b) The scheme shall be carried out in full accordance with those details, as approved. Unless otherwise agreed in writing by the local planning authority.

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 line with the National Planning Policy Framework (NPPF) Paragraph 127.

4) **CONSTRUCTION MANAGEMENT**

No development shall commence on site until a Construction Management and Logistics 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) The location of officer and welfare facilities
- (f) Details of best practical measures to be employed to mitigate noise and vibration arising out of the construction process
- (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).

Reason: To ensure that the development does not contribute to any significant impacts on the transport network (in terms of capacity and

congestion), or on highway safety, in line with the National Planning Policy Framework (NPPF) Paragraph 108.

5) **CYCLE PARKING**

- (a) Prior to first occupation, full details of the proposed cycle parking facilities for 11 bikes including detail for the Wheelylift and its maintenance shall be submitted to and approved in writing by the local planning authority.
- (b) All cycle parking spaces shall be provided in accordance with the details approved under part (a) and made available for use prior to occupation of the development and maintained thereafter.

Reason: To ensure that the development contributes to and provide access to sustainable modes of transport, in line with the National Planning Policy Framework (NPPF) Paragraph 108.

6) **REFUSE AND RECYCLING**

- (a) Prior to first occupation, full details of the proposed and fully the enclosed refuse storage shall be submitted to and approved in writing by the local planning authority. Such details shall include appropriate provision for refuse, recycling and food waste and demonstrates how the store would be ventilated and accessible for all residents.
- (b) The waste and recycling storage shall be provided in accordance with the details approved under part (a) and made available for use prior to occupation of the development and maintained thereafter.

Reason: To ensure that the development is visually attractive as a result of appropriate and effective landscaping, in line with National Planning Policy Framework (NPPF) paragraph 127 (b).

7) **LANDSCAPING**

- (a) The proposed soft and hard landscaping must be in line with drawing number 112-PL030 and Soft Landscaping Scheme plan on page 8 of the Landscaping Statement prepared by FRAME, dated March 2021 received on 9 April 2021.
- (b) The scheme shall be maintained in accordance with the submitted strategy on page 9 of the Landscaping Statement prepared by FRAME, dated March 2021 received on 9 April 2021.

Reason: To ensure that the development is visually attractive as a result of appropriate and effective landscaping, in line with National Planning Policy Framework (NPPF) paragraph 127 (b).

8) **IMPLEMENTATION OF LANDSCAPING SCHEME**

All planting, seeding or turfing comprised in the landscaping scheme hereby approved shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 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: To ensure that the development is visually attractive as a result of appropriate and effective landscaping, in line with National Planning Policy Framework (NPPF) paragraph 127 (b).

9)

LAND CONTAMINATION

- (a) No development shall commence until detail of remediation strategy is submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall identify and evaluate feasible remedial technologies and to validate the successful implementation of a site remediation to ensure the safe and regulatory compliant redevelopment of the site.
- (b) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the London Planning Authority for, a remediation strategy detailing how the unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

The development or phase of development shall not be occupied until a closure report for the development or phase has been submitted to and approved in writing by the Council.

- (c) The development shall not be occupied until a closure report for the development has been submitted to and approved in writing by the local planning authority. The closure report shall include verification details of both the remediation and post-remediation sampling/works, carried out (including waste materials removed from the site); and before placement of any soil/materials is undertaken on site, all imported or reused soil material must conform to current soil quality requirements as agreed by the authority. Inherent to the above, is the provision of any required documentation, certification and monitoring, to facilitate condition requirements.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable level of water pollution from previous unidentified contamination sources at the development site, in line with the National Planning Policy Framework (NPPF) Paragraph 170. There is always the potential for unexpected contamination to be identified during development groundworks. We should be consulted should any contamination be identified that could present an unacceptable risk to controlled waters.

10)

PILING

- (a) No piling or any other foundation design using penetrative methods shall occur until a report demonstrating that there is no resultant unacceptable risk of groundwater has been submitted to and approved in writing by the Local Planning Authority.
- (b) The development shall be carried out in accordance with the details approved in part (a).

Reason: To ensure that the development does not harm groundwater resources, in line with the National Planning Policy Framework

(NPPF) Paragraph 170. The development should be aware of the potential risks associated with the use of piling where contamination is an issue. Piling or other penetrative methods of foundation design on contaminated sites can potentially result in unacceptable risks to underlying groundwater. It is recommended that where soil contamination is present, a risk assessment is carried out in accordance with Environmental Agency guidance "Piling into contaminated sites".

11) **SUSTAINABLE DRAINAGE SYSTEM**

- (a) No drainage system for the infiltration of surface water drainage in the ground is permitted until a report demonstrating that there is no resultant unacceptable risk to controlled waters has been submitted to and approved in writing by the Local Planning Authority.
- (b) The development shall be carried out in accordance with the details approved in part (a).

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable level of water pollution caused by mobilised contaminations, in line with the National Planning Policy Framework (NPPF) Paragraph 170. Infiltration water has the potential to cause remobilisation of contaminants present in shallow soil or made ground which could ultimately cause pollution to groundwater.

12) **PRIVACY SCREEN**

No part of the development hereby approved shall be occupied until the timber privacy screens marked with No 5 as shown on approved plans have first been erected and shall be retained in perpetuity.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto in line with the National Planning Policy Framework (NPPF), paragraph 127 (f).

13) **DEMOLITION**

The demolition of the existing building must take place in accordance with the hereby submitted Method Statement for the Demolition and Site Clearance (prepared by P.J Foley Ltd, dated 22 January 2021, project number PJF/001/FPL)

Reason: To make sure that the demolition does not harm or negatively affect the neighbouring properties.

14) **OBSCURED GLAZED WINDOWS**

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the new windows marked with No 3 on hereby approved plans shall be fitted as obscure glazed and unopening (or fitted with an opening restrictor) to a minimum of 1.6m measured from the bottom of window frame and retained in perpetuity.

Reason: To avoid the direct overlooking of adjoining properties and consequent loss of privacy thereto in line with the National Planning Policy Framework (NPPF), paragraph 127 (f).

- 15) **REMOVAL OF DROPPED KERB**
Prior to first occupation of any of the dwellinghouses hereby approved, the redundant crossover must be removed, any road markings must be reinstatement on the road and the public footway reinstated. The works must be made in accordance with advised provided by Highway Maintenance Group.

Reason: To remove the redundant crossover and to promote sustainable transport in line with the National Planning Policy Framework (NPPF), paragraphs 102 and 108.

12.2 INFORMATIVES

- A) 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>
- B) The developer must notify the LPA of the completion of the development as soon as reasonably practical after completion. Notification must be in writing and should include: (a) the name of the developer; (b) the address or location of the development and (c) the date of completion.
- C) The development must be carried out in accordance with the details approved by the LPA.
- D) 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.