



Planning Committee C

Report title:

Lewisham Way Youth and Community Centre, 138 Lewisham Way, SE14 6PD.

Date: 24 February 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Brockley

Contributors: Jesenka Ozdalga

Outline and recommendations

This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to the submission of five objections from neighbouring properties and one objection from a conservation area society.

Application details

Application reference number(s): DC/21/122742

Application Date: 20 July 2021

Applicant: Mr Wallace – Bell Cornwell LLP on behalf of House of Noise

Proposal: Retrospective planning application for the change of use of Lewisham Way Youth And Community Centre, 138 Lewisham Way SE14 (Use Class F2(b) into a recording studio (Use Class E) with ancillary office space and shared community workspace (Use Class E), together with the alterations to the existing shop front, the construction of a wooden pergola, landscaping works, installation of replacement windows, the creation of cycle parking, waste and recycling facilities and the creation of a 'community garden.

Background Papers:

1. Submission drawings and documents
2. Internal consultee responses
3. Internal documents regarding disposal of community centre

Designation: PTAL 6a
Air Quality
Brockley Article 4 Direction

Screening: n/a

1 SITE AND CONTEXT

Site description and current use

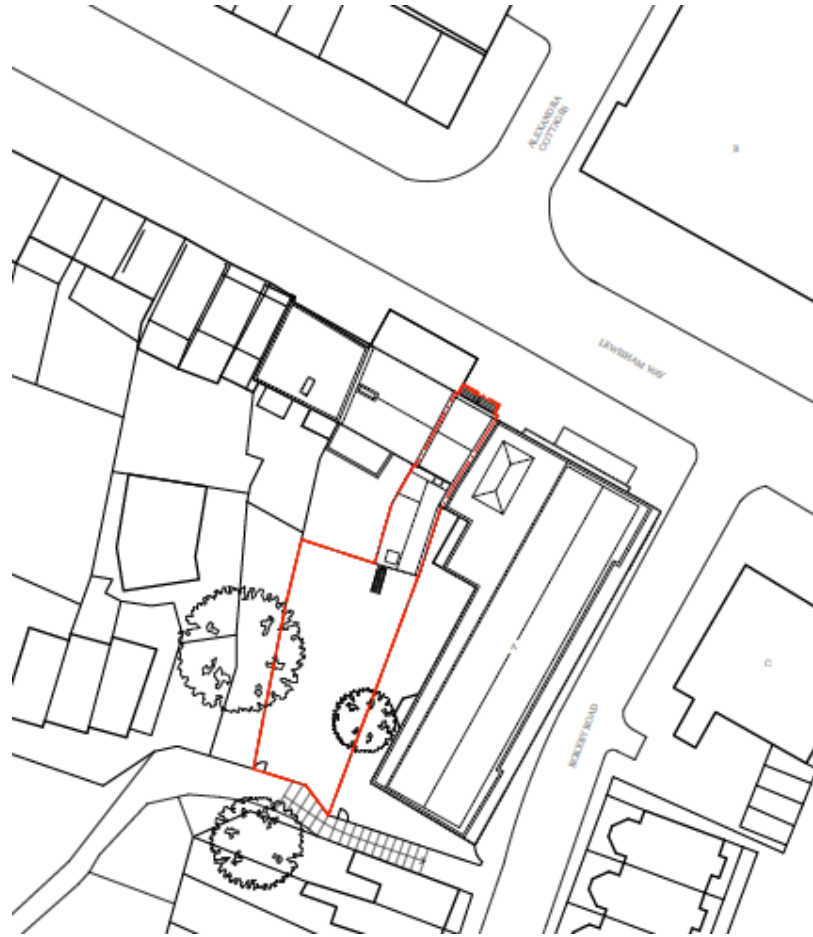
- 1 Due to the Covid-19 pandemic, Officers have been unable to undertake a site visit to the property and as such, an assessment has been made using Google Maps and submitted photos.
- 2 The application site lies on the southern side of Lewisham Way, close to the junction with Rokeby Road. The application site consists of a two storey with room in roof space mid-terrace building. The building was in use as a council-run community centre until 2015 when it was recommended for full-commercial lease.

Figure 1: Site location plan

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Character of area

- 3 The character of local area is largely of two and three storey terraced houses with exception of large contemporary storage facility opposite the site and Grade II listed Art House immediately adjacent to the site.

Heritage/archaeology

- 4 The site is located immediately to the boundary with the Brockley Conservation Area but the site itself is not subject to the Article 4 Direction. The application building is not listed, however it is adjacent to the Grade II listed Deptford Public Library (Art House).

Surrounding area

- 5 The surrounding area is characterised by a broad mix of uses, which includes residential and predominantly commercial uses on the ground floor. Other uses include The Lewisham Art House which provides 40 artist studios with associated public gallery and workshop programmes and the large Big Yellow Self Storage facility located opposite (Use Class B8).

Local environment

- 6 The site is not within flood risk zone and is in area of identified poor air quality.

Transport

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7 The application site has a PTAL rating of 6a, based on a scale of 0-6b with 6b having the highest degree of accessibility to public transport.

2 RELEVANT PLANNING HISTORY

8 **DC/21/120491** - Retrospective application for the change of use of the Lewisham Way Youth & Community Centre, 138 Lewisham Way SE14 from F2(b) community centre to E(g)(i) and (g)(ii) office and shared workspace. **Refused by reasons of:**

- *The information provided with the application fails to adequately demonstrate that there is no demand for social infrastructure facilities in the local area and that the change of use to offices is appropriate. As such, the proposal is considered to be contrary to paragraph 91 of the National Planning Policy Framework (February 2019); Policy S1 'Developing London's social infrastructure' of the London Plan (March 2021); and Policy 19 'Provision and maintenance of community facilities' of the Lewisham Core Strategy (June 2011).*
- *The proposed development by reason of not providing one (1) long-stay and one (1) short-stay cycle parking spaces that are accessible, secure, weatherproof and fit for purpose would fail to contribute to the Council's objectives of encouraging sustainable transport and fails to comply with Policy T5 'Cycling' of the London Plan (March 2021); and Policy 14 'Sustainable movement and transport' of the Lewisham Core Strategy (June 2011).*
- *The proposed development fails to provide adequate waste and recycling facilities for the proposed use contrary to Policy 14 'Sustainable movement and transport' of the Lewisham Core Strategy (June 2011).*

9 **DC/20/117174** - Prior Approval application for change of use from retail (Use Class A1) to a restaurant (Use Class A3) at 138 Lewisham Way, SE14, pursuant to Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). **Refused by reason of:**

- *The applicant has failed to provide evidence to prove the building has been in lawful use for a use falling within Use Class A1 (retail) of the Town and Country Planning (Use Classes) Order 1987 (as amended). It is believed that the building was and is in lawful use as community centre (Use Class D1). The proposed development would therefore not comply with Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).*

3 RELEVANT ENFORCEMENT HISTORY

10 **ENF/20/00218** - Unauthorised change of use of basement to recording studio, Installation of covered stage area and covered area in rear garden, installation of new

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windows. Complaint received; site inspection undertaken. Negotiation letter issued on 20 January 2021.

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSALS

11 Retrospective planning application for the change of use of Lewisham Way Youth And Community Centre, 138 Lewisham Way SE14 (Use Class F2(b)) into a recording studio (Use Class E) with ancillary office space and shared community workspace (Use Class E), together with the alterations to the existing shop front, the construction of a wooden pergola, landscaping works, installation of replacement of windows, the creation of cycle parking, waste and recycling facilities and the creation of a 'community garden.

4.2 COMPARISON WITH PREVIOUS SCHEME

12 The previous scheme was refused because it was unable to demonstrate lack of demand for community facilities in the area and whether change of use to offices was appropriate. Other reasons for refusal were with regards to absence of proposed suitable bin and bike storage.

13 The current proposal in paragraphs 4.15 and 4.16 of the submitted Planning Statement lists available alternative community facilities in the area. In addition, a support letter was received from council's Director of Culture, Libraries and Learning and estates manager stating that this site was no longer delivering community benefits for the council to keep investing in and outlining the commercial marketing process that took place for this site.

14 In terms of bin and bike storage, the current proposal demonstrates availability of access to the rear garden space and indicates locations for bin and bike storage.

5 CONSULTATION

5.1 PRE-APPLICATION ENGAGEMENT

15 No pre-application advice was sought for this application.

5.2 APPLICATION PUBLICITY

16 Site notices were displayed on 17 August 2021 and a press notice was published on 4 August 2021.

17 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 16 August 2021.

18 Six responses were received including The Brockley Society, comprising 6 objections. One of the responses was signed on behalf of occupants of three flats.

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- 19 The Brockley Society: raised objections and concerns to the loss of community use, lack of evidence of local demand for shared office workspace, no proposed business plan or feasibility study, no demonstrated engagement with Art House, removal of front signage, alterations without planning permission and unclear use of pergola, bin and cycle storage.
- 20 A link for an Online [petition](#) was received with 322 signatures (at the time the report was prepared)

5.2.1 Comments in objection

Comment	Para where addressed
Loss of community facility	Paras 48 - 53
Whether proposed use class E is accurate with regards to potential music events to be held on the premises	Para 54
Impact on neighbouring amenity from intensification of use of rear garden area and proposed opening hours	Paras 101 and 102
Overlooking on neighbouring amenity from shared workspaces	Para 97
Increased noise and disturbance from potential use of garden for live performances	Para 103
Access and management of bike and bin storage	Paras 83 and 87

- 21 A number of other comments were also raised as follows: Use of alcohol on premises, use of rear garden door that leads to Luxmore Street, unauthorised works on the premises and impact on existing right of way of neighbouring 134 Lewisham Way.
- 22 Use of alcohol on premises would not be material planning consideration and would fall under scope of licensing.
- 23 Unauthorised works to the building and garden in terms of installation of windows, shopfront and pergola would be assessed within this application.
- 24 Right of way is not a material planning consideration but a civil matter dealt with by separate legislation.

5.3 INTERNAL CONSULTATION

- 25 The following internal consultees were notified on 2 August 2021.
- 26 Conservation officer: initially raised concerns. Following revisions, the conservation officer overall considered proposal to the front elevation acceptable, however raised concerns over proposed pergola to the rear. Further revisions were made to proposed roofing over only half area of the pergola to provide shelter for bike storage. Officers consider these amendments sufficient to address conservation officer's concerns.

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- 27 Environmental Protection officer: initially raised concerns over absence of noise impact assessment. Following submission of noise assessment report comments were provided considering the acceptability of design measures however raising concerns over proximity of nearest residential receptor, lack of limitation on noise levels within the studio and proposed opening hours. These issues are addressed in the sections below.
- 28 Highways: did not provide comments.
- 29 Director of Culture, Libraries and Learning: provided support to the provision of recording studio in this location.
- 30 Council's Estates Manager: provided letter outlining marketing evidence for this site.

5.4 EXTERNAL CONSULTATION

- 31 The following External Consultees were notified on 2 August 2021.
- 32 Transport for London: raised no objections subject to conditions. See Section 7.3 of this report for further details.
- 33 The Brockley Society: raised objection to the change of use from Class F2(b) to Class E, loss of community centre, removal of the fascia and demolition of back hall without permission. Further comments were provided at the later stage stating that proposal lacks business plan, feasibility study and reference to adjacent Art House, together with building of pergola to the rear without planning permission. Further concerns were raised over potential use of rear garden for performances.

6 POLICY CONTEXT

6.1 LEGISLATION

- 34 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).
- 35 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

6.2 MATERIAL CONSIDERATIONS

- 36 A material consideration is 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.
- 37 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.
- 38 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

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planning judgement to attribute their own weight, subject to aforementioned directions and the test of reasonableness.

6.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

6.4 DEVELOPMENT PLAN

39 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

40 Lewisham SPG/SPD:

- Shopfront Design Guide Supplementary Planning Document (March 2006)
- Brockley Conservation Area Supplementary Planning Document (December 2005)

7 PLANNING CONSIDERATIONS

41 The main issues are:

- Principle of Development
- Urban Design
- Impact on Adjoining Properties
- Highways and Servicing

7.1 PRINCIPLE OF DEVELOPMENT

General policy

42 The National Planning Policy Framework (NPPF) at paragraphs 81 and 83 states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt and should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries.

43 The London Plan (LP) in Policy S1 Developing London's Infrastructure, paragraph F states that development proposals that would result in a loss of social infrastructure in

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an area of defined need as identified in the borough's social infrastructure needs assessment required under Part A should only be permitted where:

1) there are realistic proposals for re-provision that continue to serve the needs of the neighbourhood and wider community, or;

2) the loss is part of a wider public service transformation plan which requires investment in modern, fit for purpose infrastructure and facilities to meet future population needs or to sustain and improve services.

44 LP Policy E8 Sector growth opportunities and clusters under states that employment opportunities for Londoners across a diverse range of sectors should be promoted and supported along with support for the development of business growth and sector-specific opportunities ensuring the availability of suitable workspaces including among others: flexible workspace such as co-working space and serviced offices and laboratory space for theatre, television and film studio capacity.

45 DM Policy 41 Innovative community facility provision states that The Council will encourage, where appropriate, the use of innovative solutions to the provision of community meeting space including schools to make usable community, sports and leisure space accessible to local people outside of teaching hours and temporary use of vacant or unused inside and outside space for community uses, where it is able to provide a safe and appropriate environment, there is no detriment to local amenity and it is in accordance with the rest of the Local Plan.

46 Core Strategy Policy 19 Provision and maintenance of community and recreational facilities states that the Council will work with its partners and apply London Plan policies to ensure a range of health, education, policing, community, leisure, arts, cultural, entertainment, sports and recreational facilities and services are provided, protected and enhanced across the borough.

Discussion

47 The proposal is for the retrospective change of use from a community centre (Use Class F2) to a recording studio (at the lower ground floor) with ancillary offices (Use Class E - at first and second floor) and shared workspace (Use Class E – at ground floor). There are no physical changes to the building apart from the minor works to the external envelope of the building including shop front area.

48 Policy S1 above outlines that loss of social infrastructure for community use would be permitted if the loss is part of wider public service transformation plan.

49 Mayor and Cabinet, on 15 July 2015 was presented with Voluntary Sector Accommodation Implementation Plan report and agreed on the approach and implementation plan for community centres. In Appendix D of this report, Lewisham Youth Community Centre was categorized as "Sole occupancy of a building at full market rate". An alternative was considered for the existing organisation to deliver its services from one of the other community premises in the area.

50 Safer Stronger Communities Select Committee held on Wednesday 8th March 2017 was presented with the report Voluntary Sector Accommodation Plan – update on Implementation where on page 19 it states that Lewisham Way Youth and Community Centre had a lease in place and was removed from community assets list.

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- 51 A Letter submitted by Council's Director of Culture, Libraries and Learning states that this site was not delivering the community benefits required to enable council to continue to invest in them. The building was in a poor state of repair and as an old residential property wasn't particularly well suited as a community centre. A review of community spaces owned by the council in 2015 did not include 138 Lewisham Way as a space to be retained for community use. The Moonshot Centre in Angus Street, close by and the New Cross Learning Library both provide community activities. With its proximity to Goldsmiths University and Lewisham College, both offering production courses and with the Art House visual arts studios next door, this was deemed a good location for a recording studio. Creative and Cultural Industries are considered a growth area for our local economy.
- 52 Furthermore, the Council's Estates Manager provided a letter outlining the marketing process that followed the review of the Council's community assets in 2015 which did not indicate that 138 Lewisham Way would be retained as a community asset. It is stated that the community group that had been in occupation had accumulated rent arrears, the property had fallen in disrepair, and it was vacated in April 2017. Unfortunately the property was squatted shortly after it became vacant, which caused further damage to the building and additional expense in regaining possession. The council then had to have 24 hour security for a while before property guardians moved in in late 2017. The property was marketed by the council's commercial lettings agents Hindwoods from late 2017 onwards. Initially, there was no interest in the building due to the significant inward investment needed to bring it back into a usable condition. The only viable interest came from the applicant, who were willing to provide the capital investment needed, and it was felt that the proposed use offered a good fit with Goldsmiths and Lewisham College nearby and Art House next door.
- 53 As outlined above, the application site was part of the wider public service transformation plan and with the availability of other centres for community use in the vicinity, officers consider that the proposal complies with Policy S1 of The London Plan.
- 54 Concerns were raised whether Class E was the appropriate use class for recording studio. Recording studios were within former use class B1 (c) which was revoked in 2020 and now falls under use class E(g) Uses which can be carried out in a residential area without detriment to its amenity. Therefore, officers are satisfied that the proposed use as shared office space and recording studio falls under class E as described.

7.1.1 Principle of development conclusions

- 55 In line with recently adopted London Plan policies and demonstrated availability of alternative community uses in the vicinity of the application site, together with letters of support by council representatives and council's reports relevant to this site, it was considered that loss of community use in this location is appropriately justified. Therefore, the principle of change of use from community centre to recording studio and offices with shared working space (class E) is considered acceptable.

7.2 URBAN DESIGN

General Policy

- 56 The NPPF at para 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

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7.2.1 Appearance and character

- 57 The proposal includes minor changes to the external envelope of the existing building as follows:
- 58 Proposed works to the front elevation include repairs of wall, masonry wall, flashing & plasterwork, installation of replacement dormer window, new wall mounted alarm, removal of projecting signage and alarm, replacement shopfront and signage. Proposed changes to the rear elevation include only installation of a replacement dormer window. The proposed changes are generally of similar nature to the existing arrangements and materials of the elevations. As such, on balance, they are considered acceptable and to preserve the setting of the listed building. However condition would be added to the decision notice to secure further details to the shopfront alterations.
- 59 The application seeks retrospective planning permission for the installation of a wooden pergola to the further end of a rear garden. Half of the roof, further from the boundary wall with adjacent Art House would be covered with polycarbonate roof sheet to provide enclosure for bike storage.
- 60 Officers are satisfied that proposed alterations to elevations and installation of pergola to the rear garden are of minor nature and subject to condition to secure further details of shopfront are considered acceptable.

7.2.2 Impact on Heritage Assets

Policy

- 61 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.
- 62 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 63 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 64 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.
- 65 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.
- 66 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.

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67 DMP 37 sets out a framework for the protection of the borough's non-designated heritage assets.

68 Further guidance is given in Shopfront Design Guide, a supplementary planning document.

Discussion

69 The proposal was revised to address concerns raised by conservation officers and secure further detailing of shopfront. Officers consider that the current proposal would not cause harm to adjacent conservation area and listed building due to the limited scale of the works and therefore no weighing exercise according to paragraphs 199 and 202 of the NPPF was deemed necessary.

Summary

70 Officers, having regard to the statutory duties in respect of listed buildings and conservation areas in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would preserve the character and appearance of the adjacent conservation area and setting of the Listed Building.

7.2.3 Urban design conclusion

71 As external changes to the building are of minor nature and/or contained to the rear, no harm is considered to be generated upon the streetscape, wider neighbourhood character nor the Brockley Conservation Area or the nearby listed building.

7.3 TRANSPORT IMPACT

General policy

72 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of paragraph 104. 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. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and a choice of transport modes.

73 Para 111 states "Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

74 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.

75 The Core Strategy, at Objective 9 and CS Policy 14, reflects the national and regional priorities.

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7.3.1 Access

Policy

- 76 The NPPF paragraph 110, Part F, states that developments should ensure that safe and suitable access to the site can be achieved for all users.

Discussion

- 77 The application site has access from main road – Lewisham Way and access to the rear garden via Luxmore Street and Rokeby Road. This is the existing arrangement and is considered acceptable for the proposed change of use.

7.3.2 Local Transport Network

Policy

- 78 The NPPF at paragraph 104 states that significant impacts on the transport network (in terms of capacity and congestion) should be mitigated to an acceptable degree.

Discussion

- 79 The application site has a PTAL of 6a, which is an excellent level of public transport accessibility. Officers are satisfied that the minor scale of development would prevent the need for any mitigation in terms of increased transport capacity and that any impacts to the local transport network could be accommodated within the existing transport services and infrastructure.

7.3.3 Servicing and refuse

Policy

- 80 LPP T7 states that development proposals should facilitate sustainable freight movement by rail, waterways and road.
- 81 CSP13 sets out the Council's waste management strategy for new development and states that major developments should be designed to incorporate the existing and future long-term needs of waste management and disposal.
- 82 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

- 83 The proposed bin storage is indicated on submitted garden plan. The proposed location is to the rear of the site. Officers note that bin storage was not addressed nor included in previously refused application. Available access to the rear is from Luxmore Street or via Rokeby Road. Whilst location for the bin storage would be generally acceptable, further details would be secured by condition to demonstrate design and type of bin storage together with management plan.

7.3.4 Transport modes

Walking and cycling

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Policy

- 84 Developments are required to provide cycle parking in accordance with the requirements of Policy T5 and Table 10.2 of the London Plan.

85	Unit type	Long stay	Short stay
	Offices	1 space per 150 sqm (GEA)	first 5,000 sqm: 1 space per 500 sqm; thereafter: 1 space per 5,000 sqm (GEA)

Discussion

- 86 The proposal would provide approximately 119sqm of floorspace. As such, the proposal is required to provide one (1) long-stay and one (1) short-stay cycle parking to comply with London Plan requirements.
- 87 Officers note that cycle storage was not addressed nor included in previously refused application. The proposed cycle parking spaces in excess of required number would be located within the rear garden and under the proposed pergola. Access would be provided via Luxmore Street to the rear. This is considered acceptable, however further details on design and type of cycle storage would be secured by condition.

Private cars

Policy

- 88 LP Policy T6 supported by CSP 14 and DMP 29 require developments to take a restrained approach to parking provision to ensure a balance is struck to prevent excessive car parking provision that can undermine cycling, walking and public transport use.
- 89 LP Policy T6.1 and Table 10.3 states that maximum residential parking for sites in PTAL 5 and above should be car free.

Discussion

- 90 The proposal does not feature any existing car park spaces and is proposed as car free development. This is considered acceptable. Officers note the trip generation for the former community centre use would be broadly commensurate with the proposed uses, and that the scheme is retrospective with limited transportation impacts.

7.3.5 Transport impact conclusion

- 91 The proposed development is considered to have an acceptable impact on the surrounding highway and transport network subject to the imposition of the conditions recommended above.

7.4 LIVING CONDITIONS OF NEIGHBOURS

General Policy

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- 92 NPPF para 130 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.
- 93 PPG states LPAs should consider noise when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment.
- 94 London Plan Policy 13 Agent of Change requires new noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses to put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses.
- 95 Noise can constitute a statutory nuisance and is subject to the provisions of the Environmental Protection Act 1990 and other relevant law. This includes noise affecting balconies and gardens.
- 96 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.

Discussion

- 97 The proposed minor alterations to the external envelope of the building are not considered to result in change to the privacy, outlook and light of adjoining amenities. The proposed wooden pergola to the rear garden is of modest scale and sufficient distance from adjoining gardens for any adverse impact to occur in terms of overbearing and overshadowing, overlooking, loss of daylight/sunlight or privacy.
- 98 Officers note that in previously refused application for the same proposal (DC/21/120491), impact on living conditions of neighbours was deemed acceptable and did not form a reason for refusal.
- 99 The proposal includes provision of recording studio at the lower ground floor level of the building. Noise Impact Assessment Report prepared by Clement Acoustics, dated 26 November 2021 was submitted. Environmental protection officer provided comment on this report stating that overall proposed design mitigation measures are acceptable (triple glazing and sound proofing) however raised concerns over proximity of nearest residential receiver, lack of specification and restriction on maximum noise levels and proposed opening hours.
- 100 The applicant has submitted revised Noise Impact Assessment Report dated 15 December 2021 which, under paragraph 7.5 includes further noise management measures. Officers attended the site and confirmed that the recording studio was in situ. It was further concluded that the recording studio is located within the part of the rear outrigger and for that reason officers conclude that potential impact from vibration throughout the main building would be limited and acceptable. Furthermore, officers observed that each entry point to the recording studio features double doors, called "sound locks" to prevent penetration of any noise from the outside during recording process. Notwithstanding sound proofing installed on site, additional mitigation measures and noise management plan are proposed under section 7.5 of revised noise impact assessment report. Officers consider it appropriate to impose conditions

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restricting operating hours of the premises and installation of noise limiter to ensure there is no breach in maximum acceptable noise levels within the studio.

101 In addition to the above, an increase in noise over the existing levels of background activity given the town centre location, traffic on Lewisham Way and over any noise that might have been generated from previous community use is judged appropriate for the context of the site.

102 In terms of future use of the rear garden and its potential impact on amenity of neighbouring amenities, officers consider that given the previous community use of the application site, overall modest scale of the building and rear garden, and with condition restricting operating hours of the rear garden between 7am and 9pm, are considered sufficient to ensure there is no adverse impact in terms of noise and disturbance on neighbouring amenity.

103 Concerns were raised over potential use of the premises and rear garden for live performances. Officers consider that the proposed use of premises and rear garden would not significantly differ from the previous scope of use as community centre. The applicant has confirmed that there is no intention on holding live performances within premises and rear garden and together with the proposed condition restricting opening hours of the rear garden, this is not considered to result in an unacceptable impact on neighbouring amenity. However, officers consider it appropriate to add condition restricting any live performances within the rear garden.

7.4.1 Impact on neighbours conclusion

104 The proposal is considered acceptable in terms of impact on neighbouring amenities subject to conditions restricting opening hours and securing appropriate maximum noise levels within the studio.

7.5 NATURAL ENVIRONMENT

7.5.1 Green spaces and trees

Policy

105 NPPF para 170 expects development to contribute to and enhance the natural and local environment.

106 LP Policies G5 and G7, CS Policy 12, and DMLP Policy 25 seeks to protect natural environment and improved it where possible.

Discussion

107 It is noted that existing rear garden does not feature any mature trees or significant planting. Furthermore, the application does not include any development in the rear garden that may adversely affect trees on surrounding sites.

108 However, as the garden is proposed for use ancillary to the shared workspace and offices, officers consider it appropriate to include condition on soft landscaping to secure improvement and further planting of the existing soft landscaping of this garden.

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7.5.2 Natural Environment conclusion

109 The proposal is acceptable in terms of Natural Environment, subject to condition.

8 LOCAL FINANCE CONSIDERATIONS

110 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).

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

112 The CIL is therefore a material consideration.

113 Change of use without creating additional floor space is not deemed CIL liable.

9 EQUALITIES CONSIDERATIONS

114 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.

115 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.

116 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.

117 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

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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>

- 118 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
- 119 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>
- 120 An equalities analysis assessment was presented to Mayor and Cabinet in July 2015 which assessed the impact on individual protected characteristics of the implementation of the new policy approach to using Council assets to support the voluntary and community sectors. This focused on the two main areas of concern – the impact on older and younger people and those from the BAME community. However, the decision was made that the subject centre be released under lease and the subject centre lost its community use. Any potential impact on equality has also been mitigated by availability of alternative community use provision nearby,

10 HUMAN RIGHTS IMPLICATIONS

- 121 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:
- Article 8: Respect for your private and family life, home and correspondence
 - Article 9: Freedom of thought, belief and religion
 - Protocol 1, Article 1: Right to peaceful enjoyment of your property
 - Protocol 1, Article 2: Right to education
- 122 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.

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123 Members need to satisfy themselves that any 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.

124 This application has the legitimate aim of providing a new use with employment uses. The rights potentially engaged by this application, including Articles 1 and 8 are not considered to be unlawfully interfered with by this proposal.

11 CONCLUSION

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

126 It has been demonstrated that loss of community use in this location is part of wider public service transformation plan and that there is availability of similar community uses in the vicinity. Officers consider that proposed Class E uses are suitable for this location, and the proposal would not result in harm to the host building, adjacent conservation area or setting of a listed building.

127 The proposal would not result in an unacceptable impact on neighbours in terms of overlooking, loss of daylight/sunlight, noise or disturbance. It was also considered that the proposal would not negatively impact on the local transport network or parking.

128 In light of the above, it is recommended that this planning permission is approved subject to conditions and informative.

12 RECOMMENDATION

129 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informative:

12.1 CONDITIONS

1) FULL PLANNING PERMISSION TIME LIMIT

The proposed remaining works and discharge of the conditions for the completion of development to which this permission relates must be completed not later than the expiration of six (6) months beginning with the date on which the permission is granted.

Reason: As required to resolve planning breach.

2) APPROVED PLANS

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

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EX/LEW/LGF; EX/LEW/UGF; EX/LEW/1F; EX/LEW/2F; GA/LEW/02; GA/LEW/1F; GA/LEW/EEA; GA/LEW/EEB; GA/LEW/FEA; GA/LEW/FEB; GA/LEW/UGF; LP/LEW/01; PBUC/LEW/01; SP/LEW/01 received on 20 July 2021.

Proposed Front Elevation received on 26 October 2021.
Pergola Cross Section A-A; Pergola Cross Section A-A received on 7 December 2021.

Proposed lower ground floor plan received on 24 January 2022.

AP/LEW/GN received on 31 January 2022.

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) SHOPFRONT DETAILS

- (a) **Prior to installation**, plans and sectional details at a scale of 1:10 or 1:20 showing the proposed shop fronts **shall be** submitted to and approved in writing by the local planning authority. Such information should demonstrate the location of the fascia sign, any shutter/grill box, the window system, the stall riser (if included), canopies, awnings and the entrance.
- (b) The development shall be constructed in full accordance with the approved details.

Reason: In order that the local planning authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 19 Shopfronts, signs and hoardings.

4) CYCLE PARKING

- (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 spaces 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 and Table 10.2 of the London Plan (March 2021) and Policy 14: Sustainable movement and transport of the Core Strategy (2011).

5) REFUSE AND RECYCLING STORAGE

- (a) **The premises shall not be occupied** until full details of proposals for the storage of refuse and recycling facilities for the use hereby approved, have been submitted to and approved in writing by the local planning authority.

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- (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).

6) SOFT LANDSCAPING

- (a) A scheme of soft landscaping (including details of any trees or hedges 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 any works within the rear garden.
- (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).

7) OPENING HOURS OF THE PREMISES

The premises relating to work space and offices shall only be operational between the hours of **7am to 11pm on all days (including Sundays and Bank Holidays)**.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 170 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014).

8) OPENING HOURS OF THE REAR GARDEN

The rear garden shall only be in use between the hours of **7am to 9pm on all days (including Sundays and Bank Holidays)**.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 170 of the National Planning

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Policy Framework and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014).

9) OPENING HOURS OF THE RECORDING STUDIO

The premises relating to recording studio at the lower ground floor level shall only be operational between the hours of **7am to 6 pm on Mondays-Saturdays and not at all on Sundays and Bank Holidays.**

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 170 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014).

10) NOISE MANAGEMENT

Noise levels within the recording space shall not exceed 92 dB(A) at any time. Prior to occupation of the premises, noise limiter shall be installed within the instrument playback room in line with noise assessment recommendation, with limiter calibration to be undertaken prior to any operation on the site.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 170 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration of the Development Management Local Plan (November 2014)

11) RESTRICT USE CLASS

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), the premises shall be used as recording studio and shared office/work space and for no other purpose (including any other purpose in Class E) of the Schedule to the Town and Country Planning (Use Classes) Order 2020, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

Reason: In order to safeguard the amenities of adjoining occupants and to comply with Paragraph 170 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration 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,

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

13 BACKGROUND PAPERS

- 130 Conservation officer comments
- 131 Letter from Director of culture, libraries and learning
- 132 Letter from Estates Manager
- 133 Mayor and Cabinet, Voluntary Sector Accommodation Implementation Plan, date 15 July 2015 with APPENDIX D - Sole occupancy of a building at full market rate
- 134 Safer Stronger Communities Select Committee, Voluntary Sector Accommodation Plan – update on implementation March 2017, date 8 March 2017.

14 REPORT AUTHOR AND CONTACT

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