



Planning Committee B

Dirty South, 162 Lee High Road, London, SE13 5PR

Date: 12 April 2022

Key decision: No.

Class: Part 1

Ward affected: Lee Green

Contributors: Alfie Williams

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 four objections from local residents and an objection from the Lee Neighbourhood Forum.

Application details

Application reference number(s): DC/21/123592

Application Date: 21/09/2021

Applicant: The Wellington Pub Company

Proposal: The alteration and conversion of the first and second floors of Dirty South, 162 Lee High Road SE12 into 4 two bedroom self-contained flats, together with the replacement of the existing windows and installation new windows in the south facing elevation and the provision of bin and cycle storage.

Background Papers: (1) Submission Drawings
(2) Submission technical reports and supporting documents
(3) Internal consultee responses
(4) External consultee responses

Designation: Air Quality Management Area
Flood Risk Zone 3
PTAL 4

1 INTRODUCTION

- 1 This report sets out Officers recommendation in regard to the proposed conversion of the upper floors of the public house to provide four residential units.
- 2 The report has been brought before members, as the application was deferred at the previous meeting of Planning Committee B held on 1 February 2022. The original committee report is attached at Appendix A. It was resolved that the decision be deferred due to concerns with the impact of proposed Condition 15 on the operations of the public house. Condition 15 would have prevented live acoustic and amplified music within the public house. Members also requested clarification of the position of the existing first floor side elevation windows at Waterside Court to the proposed first floor windows in the southern south elevation of the application site.
- 3 In response the applicant has submitted a Technical Note prepared by KP Acoustics dated 18 March 2022. The report provides clarification on the proposed sound attenuation measures and restrictions necessary to protect the amenity of the proposed residential units. Additionally, site photographs have been provided showing the external staircase at the application site and the position of the side elevation windows at Waterside Court.
- 4 Paragraphs 2 and 3 of the previous committee report (included as Appendix 1) refer to the pubs inclusion on the list of the Council's Assets of Community Value (ACV) and the owner's subsequent appeal against this decision. A decision on this appeal was issued after the previous committee meeting on 7 March 2022. The appeal was dismissed by the Council and the public house remains on the Council's ACV list. The impact of the

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ACV status on the proposed development is assessed at paras 42 and 43 of the previous committee report (see Appendix 1).

2 POLICY CONTEXT

2.1 LEGISLATION

5 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).

2.2 MATERIAL CONSIDERATIONS

6 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.

7 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.

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

2.3 NATIONAL POLICY & GUIDANCE

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

2.4 DEVELOPMENT PLAN

9 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)

2.5 SUPPLEMENTARY PLANNING GUIDANCE

10 Lewisham SPD:

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- Alterations and Extensions (April 2019)
- Small Sites (October 2021)

11 London Plan SPG:

- Housing (March 2016)

3 PLANNING CONSIDERATIONS

12 The main issues are:

- Principle of Development - impact to the operations of the public house
- Impact on Adjoining Properties – privacy impact

3.1 PRINCIPLE OF DEVELOPMENT

General policy

13 The National Planning Policy Framework (NPPF) at paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

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

Policy

15 LPP H1 seeks to optimise the potential of housing delivery, especially on sites with good public transport access level (PTALs) of 3-6 and close to town centres. The target set for Lewisham in the LP is 16,670 homes between 2019-29, or 1,667 as an annualised average. LPP H2 also recognised and supports the contribution of new homes on small sites below 0.25 hectares.

16 LPP D13 Agent of Change seeks to ensure new noise-sensitive development takes responsibility for mitigating the impact from existing noise and other nuisance generating activities to ensure they remain viable.

17 LPP HC6 Supporting the night-time economy recognises the night-time economy as being increasingly important to London's economy and emphasises the importance of promoting London as a 24-hour city.

18 LPP HC7 seeks to protect public houses where, amongst other things, they have heritage, economic, social or cultural value to local communities. Development proposals that would compromise the operation or viability of the public house should be resisted. To overcome this, developers must put in place measures that would mitigate the impacts of noise and other nuisance for new residents.

19 Planning controls the effect of noise from external sources on residential uses and noise transmission between different uses. The relevant standard is BS: 8233:2014. This states the internal noise levels within living rooms must not exceed 35dB(A) during the daytime (0700-2300) and 30 dB(A) in bedrooms during the night-time (2300-0700). With

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respect to external areas, BS 8233:2014 recommends that external noise level does not exceed 50dB LAeq,T with an upper guideline of value of 55dB LAeq,T

20 DMP 20 aims to prevent the loss of public houses and imposes criteria for assessing development proposals that would see the change of use of a public house.

21 DMP 26 attempts to reduce excessive noise or vibration that can be detrimental to human health and well-being

Discussion

22 At the committee meeting members expressed concern with the proposed conditions relating to the restriction of live music and the operations of the public house. In particular, Condition 15 was assessed to be unreasonably onerous due to the prevention of all live music. Condition 15 read as follows:

No live amplified music, live acoustic music (defined as acoustic instruments and singing), public address system or any other amplified sound shall take place at the site, and average noise levels (LAeq) from the proposed development should be at least 5dB below background levels (LA90) at the location of nearby sensitive receptors.

Reason: *To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 174 of the National Planning Policy Framework, Policy D13 Agent of change of the London Plan (March 2021) and DM Policies 26 Noise and Vibration and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).*

23 During the meeting Officers clarified that the PA system should not have been included within the condition as the Sound Limiter secured by Condition 5 would limit the sound system to an acceptable level. Condition 5 read as follows:

a) The residential accommodation shall not be occupied until details have been submitted to and approved in writing by the local planning authority demonstrating that soundproofing of a specification for sound insulation against airborne noise and structural vibration to meet 30dB LAeq (night) and 45dB LAm_{ax} (measured with F time weighting) for bedrooms and 35dB LAeq (day) for other habitable rooms, would be installed where walls and/or ceilings for the residential accommodation parties non domestic use.

(b) The residential accommodation shall not be occupied until the sound insulation scheme approved pursuant to paragraph (b) has been implemented in its entirety, including details of the noise limiter to comply with Section 6.2 of the Noise Impact Assessment (KP Acoustics, August 2021), and a report detailing the results of post-completion sound testing to demonstrate compliance with the part (a) scheme have been submitted to and approved in writing by the local planning authority. The report and installation of the noise limiter shall be undertaken by qualified independent acoustician. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details.

Reason: *To safeguard the amenities of the occupiers of the proposed dwellings and to comply with DM Policy 26 Noise and vibration and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).*

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- 24 Members also sought clarity on the proposed sound limiter and what type of activities this would permit mentioning televised sport, a PA system for quizzes and background music.
- 25 The Technical Note (KP Acoustics, March 2022) submitted subsequent to the committee meeting directly addresses these questions. On live music the Technical Note is clear that the noise attenuation proposed within the Noise Impact Assessment (KP Acoustics, August 2021) would not be sufficient to allow amplified music. However, some live acoustic music could be permitted prior to 23.00, which is the time more stringent night-time (23.00-7.00) noise standards are applied. The acoustic music could include hand held percussion and signing but would not allow drums or brass instruments. The wording of Condition 15 has been updated accordingly.
- 26 The Technical Note also considers other types of typical pub activities and models a worst-case scenario of high level patron conversation together with background music. The report concludes that the floor upgrade and sound insulation recommended by the Noise Impact Assessment (KP Acoustics, August 2021) would prove effective against worst-case levels of typical noise. Therefore, typical activities such as televised sport and a PA system for quizzes and other events would be permitted. The Technical Note also concludes that the sound limiter would not be required on the basis that live amplified music would be prevented.
- 27 The Technical Note demonstrates that the public house could operate as lock-up pub operation with a typical range of activities including limited live acoustic music. The public house would not be able to function as a live-music venue without causing unacceptable disturbance to the proposed residential accommodation. Therefore, all live amplified music and a range of acoustic instruments would be prevented by condition. Officers are satisfied that the public house would remain viable and that these restrictions would not be onerous or unreasonable. This is in part because the location is not within a town centre designated for night-time economic activities but also that the public house ceased being a live-music orientated operation approximately 10 years ago.
- 28 A recent appeal allowed at the White Hart Public House, 184 New Cross Road (Appeal Ref APP/C5690/W/19/3241119) supports this assessment, (see Appendix 2 for the appeal decision). The White Hart is located within the New Cross District Centre and was operated as a live-music orientated operation with live DJ sets Friday and Saturday nights until 3am and live acoustic music Sunday lunchtime. In April 2018 an application (DC/18/106613) was submitted proposing a similar development to the current proposal for the conversion of the upper floors of the public house to provide four residential units. The development would have necessitated restrictions on live music that would effectively make the live music pub operation unviable. The Council concluded that these measures would amount to an unreasonable restriction on the operations of the public house and would result in wider harm to the viability and vitality of the night-time economy of New Cross. Therefore, the application was refused in August 2019 for the following reason:

The proposed conversion of the upper floors to residential use, by virtue of the restrictions imposed by the building's statutory listing which limit the maximum noise attenuation that can be achieved, would result in unacceptable living conditions for future residents, in terms of noise and vibration, that cannot be mitigated by conditions as any such conditions would amount to unreasonable restrictions on the use of the pub which is of a unique and intrinsic character that caters to a diverse clientele and contributes materially to the economic, social and cultural lives of local residents and the late night economy and culture of New Cross, contrary to the

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NPPF (2019), NPPG, Policies 3.1, 4.6, 4.8 and 7.15 of the London Plan (2016), Policies GG1, HC5, HC6, HC7, D1, D12 and D13 of the draft London Plan (2019), Objective 5 and Policy 19 of the Core Strategy (2011), Policies 20, 26 and 43 of the Development Management Local Plan (2014) and the provisions of the Culture & the Night-Time Economy SPG (2017).

- 29 An appeal against this decision was considered at a public inquiry convened in October 2020 and the appeal was allowed in November 2020. In allowing the appeal the Inspector reached the following conclusion at para 46:

“The pub could continue to open beyond 11pm and potentially until 3am based on the premises licence. There are no draft conditions that seek to control or alter the opening hours. It could continue to play music to a certain level and time, serve food and drink, and host a range of events for the local community. The safe and inclusive space that it provides could continue. The ACV status (if granted) would be sustained. The unique and intrinsic character of the pub would be altered by the reduction in live music, but it would not be lost. Therefore, the restrictions imposed by the proposed development, including those imposed via planning conditions, would not be unreasonable or place an undue burden on the pub operation.”

- 30 Condition 10 of the appeal decision is similar to the revised wording of Condition 15 and was not considered to amount to an unreasonable restriction on a live-music orientated public house within a district town centre. Accordingly, Officers have reached the same conclusion in this case.

3.1.1 Principle of development conclusions

- 31 The Technical Note demonstrates that the public house could operate as a typical lock-up pub operation commensurate with the previous pub operation. Therefore, Officers are satisfied that the public house could continue to operate viably and make a full contribution to the vitality of the surrounding area and its night-time economy as required by the London Plan. This is subject to conditions securing full details of the noise attenuation prior to the occupation of the residential accommodation as well as post installation testing. In addition, a condition is recommended preventing live amplified music and restricting certain types of acoustic music.

- 32 The provision of four residential units is a planning merit of the scheme and is afforded weight within the overall planning balance. This weight is limited by the modest scale of development.

3.2 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 33 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. At para 180 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.

- 34 This is reflected in relevant policies of the London Plan (LPP D3), the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (London Plan Housing SPG 2017).

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3.2.1 Privacy

Policy

35 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy for its neighbours. Additionally, the justification for DMP 32 at paragraph 2.250 advises that there should be a minimum separation of 21m between directly facing habitable room windows on the upper floors of main rear elevations. The new Small Sites SPD revises this figure to 16m and is therefore considered more relevant.

Discussion

36 At the committee meeting members expressed concern with the introduction of new windows in the first floor of the southern side elevation due to the modest distance to first floor windows at Waterside Court. Officers considered this relationship to be acceptable on balance due to the weight afforded to removing the external staircase and raised platform directly adjacent to the windows. The staircase and gap between the buildings are shown in Figure 1 below.

Figure 1. Photograph of the gap between the Dirty South and Waterside Court



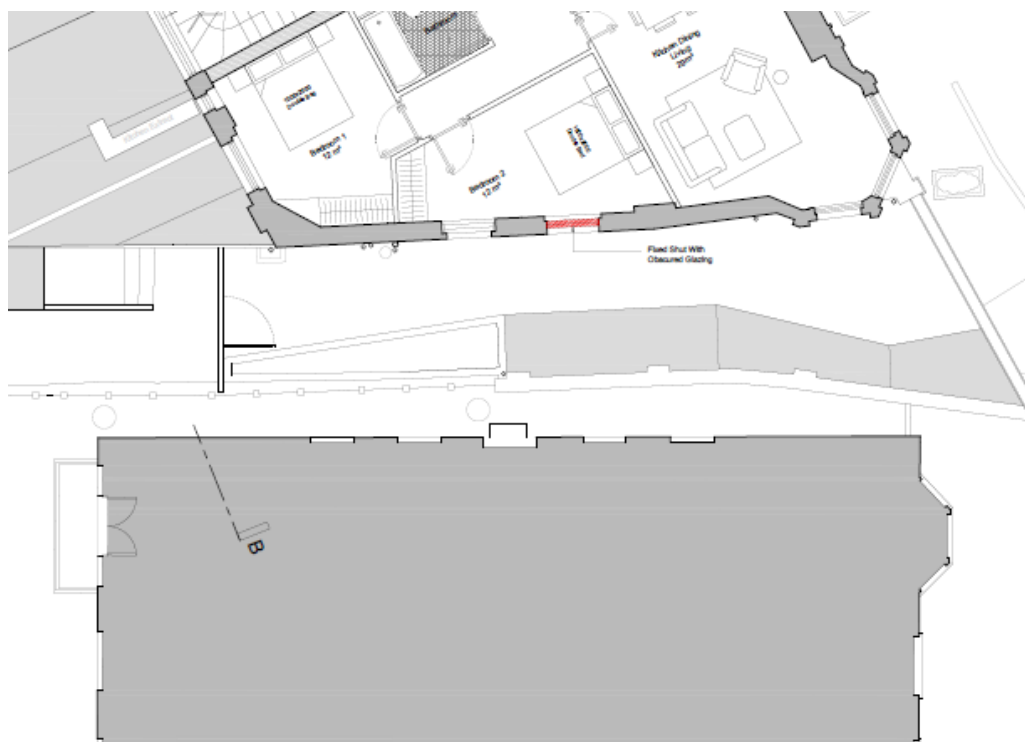
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- 37 Officers consider that intensive use of the staircase would result in greater harm to the privacy of the side elevation window in Waterside Court, than the proposed windows, although it is recognised that the staircase has not been in frequent use, as the upper floors are currently vacant. However, the HMO could be brought back into use at any time independent of this application and therefore the removal of the staircase should carry weight.
- 38 The proposed development would insert two windows in the side elevation to provide outlook and light for the Bedroom 2 of Flat 2, shown in Figure 2 below. The proposal as submitted proposes to obscure glaze and fix shut the easternmost (right) window in order to provide a balance between providing an acceptable standard of accommodation for Flat 2 while protecting the privacy of the adjacent flat at Waterside Court.

Figure 2. Floor plan as initially proposed showing the position of southern elevation windows



- 39 Following the Committee meeting the applicant submitted photographic evidence demonstrating that the westernmost (left) window directly faces the large window in the centre of five windows, see Figure 3 below. The window serves a communal corridor that separates the flats. Either side of the central window are two small high level windows. The windows adjacent to the central window appear to serve kitchens. The windows at either end appear to be secondary windows for living rooms that have primary windows in the front and rear elevations respectively. This was corroborated by Officers on site.

Figure 3. Photographs of the windows in the side elevation at Waterside Court taken from the raised platform on the side elevation of the application site.

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40 The clear glazed window therefore faces the central corridor window, which is the least sensitive in privacy terms. Officers acknowledge that this arrangement would permit a degree of overlooking to windows serving habitable rooms. However, this overlooking would be partial given the diminutive size of the windows. Therefore, as a matter of planning judgement the proposed window arrangement is considered to achieve the optimal solution to protecting privacy at waterside court while providing an adequate standard of accommodation for Flat 2. In coming to this conclusion Officers have given weight to the removal of the external staircase and raised platform. Obscure glazing and fixing shut both windows would not be an acceptable solution as Bedroom 2 would receive substandard living conditions.

3.2.2 Impact on neighbours conclusion

41 The amendment agreed to the glazing and opening of the proposed side elevation would ensure that any adverse impacts to the surrounding residential properties would be limited and weighed against the planning merits of the scheme would not warrant the refusal of the application.

4 LOCAL FINANCE CONSIDERATIONS

42 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).

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

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44 The CIL is therefore a material consideration.

45 £0 Lewisham CIL and £0 MCIL is estimated to be payable on this application, subject to any valid applications for relief or exemption, and the applicant has completed the relevant form. This would be confirmed at a later date in a Liability Notice.

5 EQUALITIES CONSIDERATIONS

46 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.

47 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.

48 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.

49 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>

50 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

51 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

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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>

52 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.

6 HUMAN RIGHTS IMPLICATIONS

53 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

54 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.

55 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.

56 This application has the legitimate aim of providing new residential accommodation. 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.

7 CONCLUSION

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

58 The Technical Note (KP Acoustics, March 2022) confirms that the public house can operate as a typical lock-up public house operation with a limited live acoustic music offer. Therefore, the restrictions required to protect the amenity of the proposed residential accommodation are not considered unreasonable or harmful to the long-term viability of the public house. The development would therefore be compliant with the agent of change principle and policies D13, HC6 and HC7 of the London Plan.

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- 59 Following the submission of photographs and a site visit, Officers are satisfied that the proposed arrangement, design and glazing of the first floor windows in the southern elevation would limit the harm to the privacy of the neighbouring properties at Waterside Court. When weighed against the planning merits of the scheme, which includes the provision of four residential units, the modest level of harm is not considered to warrant the refusal of the application.
- 60 Therefore, subject to the imposition of conditions and planning obligations, the development is judged acceptable and would accord with the Development Plan.

8 RECOMMENDATION

- 61 That the Committee resolve to **GRANT** planning permission subject to a S106 Legal Agreement and to the following conditions and informatives:

8.1 CONDITIONS

1. Full Planning Permission Time Limit

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

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

2. Approved Plans

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

0128 - KLA - 00 - GF - DR - 18 001 Rev P01; 0128 - KLA - 00 - GF - DR - 18 002 Rev P01; 0128 - KLA - 00 - B1 - DR - 19 001 Rev P01; 0128 - KLA - 00 - GF - DR - 19 002 Rev P01; 0128 - KLA - 00 - 01 - DR - 19 003 Rev P01; 0128 - KLA - 00 - 02 - DR - 19 004 Rev P01; 0128 - KLA - 00 - RF - DR - 19 005 Rev P01; 0128 - KLA - 00 - XX - DR - 29 001 Rev P01; 0128 - KLA - 00 - XX - DR - 29 002 Rev P01; 0128 - KLA - 00 - XX - DR - 29 003 Rev P01; 0128 - KLA - 00 - XX - DR - 29 004 Rev P01; 0128 - KLA - 00 - XX - DR - 33 001 Rev P01; 0128 - KLA - 00 - XX - DR - 33 002 Rev P01; 0128 - KLA - 00 - B1 - DR - 10 001 Rev P01; 0128 - KLA - 00 - GF - DR - 10 002 Rev P01; 0128 - KLA - 00 - 01 - DR - 10 003 Rev P01; 0128 - KLA - 00 - RF - DR - 10 005 Rev P01; 0128 - KLA - 00 - XX - DR - 21 001 Rev P01; 0128 - KLA - 00 - XX - DR - 21 004 P01; 0128 - KLA - 00 - XX - DR - 30 001 Rev P01 received 27 September 2021;

0128 - KLA - 00 - 02 - DR - 10 004 Rev P02; 0128 - KLA - 00 - XX - DR - 21 002 Rev P02; 0128 - KLA - 00 - XX - DR - 21 003 Rev P02; 0128 - KLA - 00 - XX - DR - 30 002 Rev P02 received 13 January 2021;

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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. **Construction Logistics Plan**

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

- (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.

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

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

4. **External Sound Insulation**

(a) The residential accommodation shall not be occupied until a scheme of sound insulation against external noise and vibration has been submitted to and approved in writing by local planning authority. The sound insulation shall achieve levels not exceeding 30dB LAeq (night) and 45dB L_{Amax} (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with window shut and other means of ventilation provided.

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

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 174 of the National Planning Policy Framework, Policies D13 Agent of change and D14 Noise of the London Plan of the London Plan (March 2021) and DM Policies 26 Noise and Vibration and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

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5. Internal Soundproofing

- (a) Prior to the first occupation of the residential accommodation hereby permitted, the floor upgrade soundproofing detailed in Noise Impact Assessment ref 21712.NIA.01 Rev A (KP Acoustics, August 2021), shall be implemented in full.
- (b) Following the installation of the floor upgrade soundproofing approved in part (a) and prior to the first occupation of the residential accommodation, a report detailing the results of post-completion sound testing to demonstrate compliance with part (a), shall be submitted to and approved in writing by the local planning authority. The report shall be undertaken by qualified independent acoustician. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details.

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 174 of the National Planning Policy Framework, Policies D13 Agent of change and D14 Noise of the London Plan (March 2021) and DM Policies 26 Noise and Vibration and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

6. Windows

- (a) The residential accommodation shall not be occupied until detailed drawings, including sections at scale 1:5, of the windows have been submitted to and approved in writing by the local planning authority.
- (b) The works shall then be carried in full accordance with the approved details prior to the first occupation of the residential accommodation, and retained thereafter.

Reason: To ensure that the high design quality demonstrated in the plans and submission is delivered so that local planning authority may be satisfied as to the external appearance of the buildings and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

7. Refuse and Recycling Facilities

- (a) Prior to the occupation of the residential accommodation, details of the refuse and recycling facilities shall be submitted to and approved in writing by the local planning authority.
- (b) The facilities as approved under part (a) shall be provided in full prior to occupation of the residential accommodation 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 appearance of the area in general, in compliance with Development Management Local Plan (November 2014) DM Policy 30 Urban

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design and local character and Core Strategy Policy 13 Addressing Lewisham waste management requirements (2011).

8. **Cycle Parking Facilities**

(a) Prior to first occupation of the residential accommodation, full details of the cycle parking facilities providing a minimum of 8 long stay spaces for the development 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 residential accommodation 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).

9. **Mechanical Ventilation Heat Recovery System (MVHR)**

(a) Prior to the occupation of the residential accommodation, a Mechanical Ventilation Heat Recovery (MVHR) system report, to comply with the recommendations of the Air Quality Assessment (Hoare Lea, July 2021) and Noise Impact Assessment (KP Acoustics, August 2021), shall be submitted to and approved in writing by the Council. The report shall include the following information:

- Details and locations of the air intake locations of the mechanical ventilation system, or
- Details of filtration system to remove airborne pollutants. The filtration system shall have a minimum efficiency of 75% in the removal of Nitrogen Oxides/Dioxides, and Particulate Matter (PM2.5, PM10) in accordance with BS EN ISO 10121-1:2014 and BS EN ISO 16890.

Ventilation intakes shall be positioned a suitable distance away from chimney/boiler flues, ventilation extracts, and roads. The maintenance and cleaning of the systems shall be undertaken regularly in accordance with manufacturer specifications, and shall be the responsibility of the primary owner of the property.

(b) The facilities as approved under part (a) shall be provided in full prior to occupation of the residential accommodation and shall thereafter be permanently retained and maintained.

Reason: To safeguard the amenities of the occupiers of the proposed dwellings and to comply with Policy SI1 Improving Air Quality of the London Plan (March 2021) and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

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10. **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 proposed obscure glazed windows in the southern elevation as identified on drawing 0128 - KLA - 00 - XX - DR - 21 002 Rev P02 shall be fitted as obscure glazed to a minimum of Level 3 on the 'Pilkington Scale' and fixed shut and retained in perpetuity.

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

11. No works or deliveries in connection with construction works shall be undertaken other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 174 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

12. Mains water consumption shall be compliant with the Optional Requirement set out in Part G of the Building Regulations of 105 litres or less per head per day.

Reason: In order to minimise the use of mains water and to comply with Policy SI5 Water infrastructure of the London Plan (March 2021)

13. In the event gas boilers are proposed, details of the Ultra-Low NOx Gas fired boilers proposed to be installed shall be submitted to and approved in writing by the local planning authority prior to installation. The Ultra-Low NOx Gas fired boilers to be provided for space heating and hot water shall have dry NOx emissions not exceeding 40 mg/kWh (at 0% O₂). Where any installations do not meet this emissions standard, they should not be operated without the fitting of suitable NOx abatement equipment or technology as determined by a specialist to ensure comparable emissions. Following installation, emissions certificates will need to be provided to the council to verify boiler emissions. The approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained.

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Reason: To manage and prevent further deterioration of existing low quality air across London in accordance with Policy S11 Improving Air Quality of the London Plan (March 2021).

14. **Flood Risk**

The development shall be carried out in accordance with the submitted Flood Risk Assessment (Motion, June 2021) and the following mitigation measure:

- residential accommodation shall be set at the first floor level and above, and no lower than 11.95 metres above Ordnance Datum (mAOD).

This mitigation measure shall be fully implemented prior to the occupation of the residential accommodation and shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the development and future occupants and to comply with Policy 10 Managing and reducing the risk of flooding of the Core Strategy (June 2011).

15. **Live Music**

- (a) No live amplified music shall be played within the ground floor of the building (public house) at any time.
- (b) No live acoustic music (defined as acoustic instruments and singing) shall be played within the ground floor of the building (public house) at all between 23:00 and 12:00 on any day of the week.
- (c) Other than handheld percussion, no drums or brass instruments shall be played at any time within the public house in accordance with the recommendations of Noise Impact Assessment ref 21712.NIA.01 Rev A (KP Acoustics, August 2021).

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 174 of the National Planning Policy Framework, Policies D13 Agent of change and D14 Noise of the London Plan of the London Plan (March 2021) and DM Policies 26 Noise and Vibration and 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

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8.2 INFORMATIVES

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

- 2) 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/my services/planning/apply-for-planning-permission/application-process/Pages/Community-Infrastructure-Levy.aspx>

- 3) 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.

9 BACKGROUND PAPERS

- (1) Submission Drawings
- (2) Submission technical reports and supporting documents
- (3) Internal consultee responses
- (4) External consultee responses

10 REPORT AUTHOR AND CONTACT

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