



Planning Committee B

Report title:

144 HITHER GREEN LANE, LONDON, SE13 6QA

Date: 12 April 2022

Key decision: No.

Class: Part 1

Ward(s) affected: Lewisham Central

Contributors: Samuel James

Outline and recommendations

The application is reported to Planning Committee as there have been more than three material planning objections, and planning permission is recommended to be approved.

Application details

Application reference number(s): DC/21/123739

Application Date: 04 October 2021

Applicant: Mr Ertosun of Excel Care Holdings

Proposal: The change of use of 144 Hither Green Lane SE13 from C3 (dwellinghouse) to C2 (residential institutions), comprising supported living care rooms for 8 individuals.

Background Papers: (1) Submission Drawings
(2) Submission technical reports and documents

Designation: None

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application site is located on the western side of Hither Green Lane, opposite the junction with Ennersdale Road. The GIA of the property is approximately 157m² and the garden is relatively large, measuring approximately 171m². There is an existing outbuilding in the rear garden.
- 2 The lawful use of the site is as a C3 dwellinghouse, however there are enforcement investigations of the property, for its use as an unauthorised (Sui Generis) HMO. The applicant has stated the existing use is as a HMO for no more than 6 persons, which would be a lawful use (as the change of use from a C3 family dwellinghouse to a C4 (small) HMO is Permitted Development in this part of Lewisham) .

Character of area

- 3 The surrounding area is predominantly residential, with a mixture of semi-detached and terraced properties. To the north and south on hither green lane there are mixed use parades with commercial uses at ground floor level and residential above.

Heritage/archaeology

- 4 The subject property is not located within a conservation area and is not subject to an Article 4 Direction.

Surrounding area

- 5 The surrounding area has a number of shopping facilities in close walking distance. Lewisham Park and Mountsfield Park are both within 10 minutes walk.

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Local environment

- 6 There are no known flooding issues relevant to the case, nor any issues with contaminated land.

Transport

- 7 The site has a PTAL rating of 3, based on a scale of 0-6b with 6b having the highest degree of accessibility to public transport. It is noted that Hither Green rail station is within 10 minutes walking distance.

2 RELEVANT PLANNING HISTORY

- 8 DC/21/119888: The change of use of 144 Hither Green Lane SE13 from C3 (dwellinghouse) to C2 (residential institutions), comprising supported living care rooms for 9 individuals. Refused 9 July 2021 for the following reasons:

- 1. The proposed communal living space in the existing outbuilding would be undersized, inconvenient and impractical for the nine proposed residents and therefore the supported living residential institution (Use Class C2) has not been demonstrated to be acceptable in principle as a result of its poor design, which would not meet the particular needs of future residents, contrary to Paragraph 127 of the National Planning Policy Framework (2019); Policy H12 Supported and specialised accommodation of the London Plan (2021) and Policy 5 Specialist accommodation for older people of the Development Management Local Plan (2014).*
- 2. The proposed use of the outbuilding, as the only communal living area for nine unrelated residents of a supported living institution, would lead to significant harm to the amenity of neighbours, due to unreasonable levels of noise and disturbance for a domestic garden setting, as well as loss of privacy, contrary to Paragraph 127 of the National Planning Policy Framework (2019); Policy D14 Noise of the London Plan (2021); Policy 15 of the Lewisham Core Strategy (2011); and Policy 32 Housing design, layout and space standards of the Development Management Local Plan (2014).*

- 9 DC/17/103522: Lawful Development Certificate (Proposed) for the construction of a detached flat roof garden room/home gym building at 144 Hither Green lane, SE13. Granted 6 November 2017.

- 10 DC/17/103521: Lawful Development Certificate (Proposed) for the construction of a single storey rear roof extension at 144 Hither Green lane, SE13. Granted 6 Nov 2017.

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 11 The application is for the change of use of the property from C3 (dwellinghouse) to C2 (residential institutions). The proposal includes 8 supported living care rooms for 8

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individuals. Communal space would be provided at ground floor level, as well as a staff room.

12 The existing outbuilding is proposed to be used for storage and utilities.

3.2 COMPARISON WITH PREVIOUS SCHEME

13 The key difference between the current proposal, and the proposal that was refused by officers in July 2021 is that the outbuilding is no longer proposed to be used as the only communal living area for residents.

14 In the refused application, there were 9 supported living rooms proposed for the same number of residents, and communal living space, including a kitchen and living area were proposed to be provided in the outbuilding.

15 The current proposal is for 8 supported living rooms, for 8 residents, and would now provide a communal living area at ground floor level within the main property, including a kitchen. A separate staff room would also now be provided.

16 As set out in the following report, officers consider these previous reasons for refusal have been overcome.

4 CONSULTATION

4.1 PRE-APPLICATION ENGAGEMENT

17 None.

4.2 APPLICATION PUBLICITY

18 A site notices was displayed and Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 2nd November 2021 and 26th November 2021.

19 7 number responses received, comprising 6 objections, and 1 comments.

4.2.1 Comments in objection

Comment	Para where addressed
Loss of privacy	119
Noise and disturbance	124
Highway safety concerns for future residents	97
Communal living space still inadequate	60
Loss of family sized housing	43
Continued concern of use of garden outbuilding for residents	126

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Accessibility for future residents, questions whether there would be residents with disabilities, and if the property would be suitable.	74
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20 A number of other comments were also raised as follows:

21 Anti-social behaviour of future residents – This is expected to be suitably managed by the operator, however possible anti-social behaviour of future residents is not material to planning. This would be a civil or legal issue.

22 Allege that the change of use appears to have already occurred – Officers understand the property is currently in use as a small HMO for up to 6 people (Use Class C4) and this use does not require planning permission. Regardless, any existing alleged breach of planning control relevant to this current planning application would not be a material consideration when determining the current application.

4.3 INTERNAL CONSULTATION

23 The following internal consultees were notified on 26 October 2021

24 Social Care and Health: Confirmed there is need for additional supported living bedspaces in the borough as demand outstrips supply.

4.4 EXTERNAL CONSULTATION

25 None required.

5 POLICY CONTEXT

5.1 LEGISLATION

26 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).

5.2 MATERIAL CONSIDERATIONS

27 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.

28 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.

29 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.

5.3 NATIONAL POLICY & GUIDANCE

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

5.4 DEVELOPMENT PLAN

30 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)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

31 Lewisham SPG/SPD:

- Alterations and Extensions Supplementary Planning Document (April 2019)
- Planning Obligations Supplementary Planning Document (February 2015)

32 London Plan SPG/SPD:

- Planning for Equality and Diversity in London (October 2007)
- Accessible London: Achieving an Inclusive Environment (October 2014)
- Social Infrastructure (May 2015)
- Housing (March 2016)
- Energy Assessment Guidance (October 2018)

6 PLANNING CONSIDERATIONS

33 The main issues are:

- Principle of Development
- Residential Quality
- Specialist residential uses
- Urban Design
- Impact on Adjoining Properties
- Transport

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6.1 PRINCIPLE OF DEVELOPMENT

General policy

- 34 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.
- 35 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.
- 36 DMP 2 seeks to prevent the loss of housing stating that Council will only grant planning permission for the loss of housing by demolition, redevelopment or change of use in the following circumstances:
- the proposed redevelopment would result in housing gain which regenerate and replace older housing estates in line with an agreed plan or strategy
 - the land or premises are allocated for another use in an adopted Local Plan
 - **a change of use to a local community service or facility is proposed that meets an identified need**
 - an economic viability study confirms that the dwelling(s) cannot be rehabilitated to a satisfactory standard at reasonable cost
 - evidence shows that environmental problems are such that demolition and redevelopment is the only effective option.
- 37 Policy H12 of the London Plan Supported and specialised accommodation states the delivery, retention and refurbishment of supported and specialised housing, including accommodation (short-term or long-term), which meets an identified need should be supported. The form this takes will vary, and it should be designed to satisfy the requirements of the specific use or group it is intended for, whilst providing options within the accommodation offer for the diversity of London's population, including disabled within a wider inclusive community setting. This includes reablement accommodation (intensive short-term) for people who are ready to be discharged from hospital but who require additional support to be able to return safely to live independently at home, or to move into appropriate long-term accommodation, and accommodation (short-term or long-term) for people with mental health issues who require intensive support.
- 38 CSP 19 states that the Council will apply London Plan policies relating to healthcare, education and community and recreational facilities to ensure the preferred location for new areas will be in areas that are easily accessible and located within close proximity of public transport, other community facilities and services and town and local centres.
- 39 DM Policy 5 Specialist accommodation for older people is relevant, and states The Council will support proposals for specialist accommodation for older people including sheltered housing, care homes and other appropriate models of accommodation for the elderly and those with particular needs (referred to hereafter as extra care accommodation) provided that the development:
- is well designed to meet the particular requirements of residents with social, physical, mental and/or health care needs

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- will be easily accessible to public transport, shops, local services, community facilities and social networks for residents, carers and their visitors.

Discussion

- 40 The proposed development would result in the loss of a single family dwellinghouse (Use Class C3). The loss of housing arising from redevelopment is not consistent with the general principles of the NPPF and development plan. However, DMP 2 sets out circumstances where a loss of housing can be justified. In this case, DMP 2.1(c) is considered relevant and allows a change of use to a local community service where it would meet an identified need.
- 41 The design and access statement states: The care facility will be supported living accommodation with appropriate and tailored support services. All residents will be referred from the local authority social services. The client has a long standing relationship with the local authority providing this much needed care type in a number of facilities around the south of England. The residents will typically have mild learning difficulties such as autism and any other related disabilities of the same manner and magnitude.
- 42 As a supported living healthcare facility, the proposed residential care home (Use Class C2) would meet the definition of a community service as set out in CSP 19. Regarding Policy H12 of the London Plan and DM Policy 5(a), there is demand for additional supported living institutions in the borough, and the provision of 8 additional care bedspaces is therefore a planning merit which is given significant weight by officers.
- 43 Officers are therefore satisfied that the proposed loss of a residential unit has been justified in accordance with the provisions of DMP 2.
- 44 It is also necessary to consider whether the area and property are suitable for the residential care home. LPP H12 is supportive of the delivery of specialised accommodation but is clear that the accommodation should meet the specialised needs of the relevant group. This requirement is supported by DMP 5.
- 45 The Management Plan document states that the average length of stay would be 2 years. It outlines that everyone considered for the scheme will have been accepted by the Lewisham Supported Housing Pathway. It states that residents would all be Lewisham residents and, in many cases, will be in hospital and in need to move to accommodation that offers support as they are considered by professional staff, i.e. doctors, nurses and social workers, currently unable to manage in their own homes. There will be blocking beds needed for acutely ill patients. Some residents will be in other supported accommodation or living in their own homes, but they will have been unable to manage daily living tasks. They would not be accepted unless they had a proven substantial need for support with day-to-day living which would include support with personal care and support with any medical treatment that they are receiving.
- 46 The design and access statement states that staff will be present at various hours. It states the floating support workers will visit the site on an agreed schedule with the ability to carry out additional visits if required. The submitted 'Management Plan' document states there would be 24 hour staffing.
- 47 A communal living area, and staff room would be provided at ground level. The private bedrooms also contain all the facilities required for independent living. Officers are satisfied the proposal would meet the specific needs of the proposed tenants.

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48 DMP 5 also requires that specialist accommodation is located in accessible locations in terms of public transport and proximity to local services and facilities. The site has PTAL of 3, which is a good level of public transport accessibility and is within walking distance to several parade of shops on Hither Green Lane as well as Lewisham Town Centre. Mountsfield Park and Lewisham Park are also within easy walking distance. Therefore, Officers considered that the site is an appropriate location for a residential care home and would satisfy the requirements of LPP H12, CSP 19 and DMP 5.

6.1.1 Principle of development conclusions

49 In summary, although the proposal would result in the loss of a single family dwellinghouse, as there is an identified need for additional supported housing (C2) in the borough and the location is suitable, the principle of development is supported on this occasion.

6.1.2 Residential Quality

General Policy

50 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. This is reflected in relevant policies of the London Plan (LPP D6), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA; Alterations and Extensions SPD 2019, LBL).

51 The main components of residential quality are: (i) space standards; (ii) outlook and privacy; daylight and sunlight (iii) noise and disturbance; (iv) accessibility and inclusivity.

Internal space standards

Policy

52 There are no specific standards in planning policy for specialist accommodation so the general standards set out within LPP D6 and DMP32 are therefore considered relevant.

53 Each care room would be provided for a single occupant, and would include en-suite and kitchenette facilities to enable independent living.

Discussion

54 The table below sets out proposed dwelling sizes.

Table [1]: Internal space standards – proposed v target

Room No.	Unit type (<i>min requirement sq.m</i>)	Room size excluding en-suite (GIA) (sq.m)
1 Ground	Single care room	20.3
2 Ground	Single care room	17.9

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3 First	Single care room	19.5
4 First	Single care room	15.3
5 First	Single care room	20.3
6 Second	Single care room	18.7
7 Second	Single care room	15.2
8 Second	Single care room	17.8
Staff Office Ground	Staff welfare / working room	9.1
Communal Ground	Communal socialising / cooking	19.5

- 55 Each proposed care bedroom is of an appropriate size, exceeding the minimum space standards for a single bedroom by a generous amount. Each room would provide private sleeping, cooking and bathroom facilities. This is considered acceptable for a supported living institution of this kind, and future residents would be provided with a high standard of amenity.
- 56 The previous application was refused on the basis the proposed communal space was insufficient for the number of residents proposed. In that application, the only proposed communal space would be located in the outbuilding, and this was considered inappropriate and to represent a poor design choice as the only communal living space as it was detached from the main house.
- 57 In the current application, the communal living space is proposed to be inside the main house at ground level, and the number of proposed residents has been decreased from 9 to 8.
- 58 Although the proposed communal space would be smaller than before, as it would now be inside the main house, it is now considered appropriate. It is noted that officers previously raised concern that the communal space would not be an adequate size for the 9 proposed residents.
- 59 The currently proposed 19.5m² communal space would provide an average of 2.4m² per resident, the staff room is immediately adjacent, and so staff have not been included when calculating this average.
- 60 There are no planning policies which specify the minimum requirement of communal space per resident. Lewisham's standards for licensable HMOs requires shared kitchens for up to 10 people to be 11m², which the current proposal would exceed significantly. It

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is also noted that each room would be provided with private kitchen facilities, so residents would have choice of where to prepare and eat their meals. The application is not for a HMO, it is for a supported care facility (C2), however the reference to the HMO standards is considered a good point of reference in the absence of specific standards for C2 care facilities to demonstrate the suitability of the provision of communal space.

61 The laundry and storage are proposed to be within the outbuilding, and officers consider this to be an appropriate use of the outbuilding.

62 Officers consider that the previous reason for refusal, relating to the inadequate communal space in the outbuilding has been overcome in the current submission.

Outlook & Privacy, Daylight and Sunlight

Policy

63 London Plan Policy D1(8) requires development to achieve ‘appropriate outlook, privacy and amenity’. Within the same document, policy D4 seeks to maximise the provision of dual-aspect dwellings (i.e. with openable windows on different elevations).

64 The London Housing SPD and the Lewisham Alterations and Extensions SPD promote access to sunlight and natural daylight as important amenity factors, particularly to living spaces. LPP Table 3.2 states that site layout, orientation and design of dwellings should provide privacy and adequate daylight for residents.

65 DMP 32(1)(b) expects new developments to provide a ‘satisfactory level’ of privacy, outlook and natural lighting for its future residents.

Discussion

66 As an existing dwellinghouse the property provides a high standard of accommodation with dual aspect providing a good levels of outlook, light and ventilation. The conversion would not change this as all of the existing windows would be retained and unaltered.

67 Each room would be served by at least one good sized window, and as these are existing windows, they would not be expected to result in privacy issues for future residents.

Noise & Disturbance

Policy

68 DMP26 requires new noise sensitive developments to be located away from existing or planned sources of noise pollution, except if it can be demonstrated through design or mitigation that internal and external noise levels can be satisfactorily controlled and managed by the noise sensitive development and there will be no adverse impact on the continued operation of any existing or proposed business or operation.

69 Discussion

70 As an existing residential property in a residential area, future residents would not be expected to be subjected to any unreasonable levels of noise or disturbance.

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Accessibility and inclusivity

Policy

- 71 CSP 1 requires major schemes to provide 10% of all units and each tenure type to be constructed as accessible. DMP 32 states that the Council will require new build housing to be designed to ensure that internal layout and external design features provides housing that is accessible to all intended users.
- 72 Policy H12 requires specialised accommodation to be designed to satisfy the requirements of the specific use or group it is intended for, whilst providing options within the accommodation offer for the diversity of London's population, including disabled within a wider inclusive community setting.
- 73 LPP D7 applies to new dwellings created to which Part M, Volume 1 of the building regulations apply, and required 10% of all dwellings created to be wheelchair user, or wheelchair accessible and adaptable dwellings. Application of this policy is therefore generally limited to new build dwellings.

Discussion

- 74 The current proposal is for the change of use of an existing dwellinghouse into a C2 residential institution. It is not a major development.
- 75 Part M Volume 2 of the building regulations apply to this development, meaning reasonable provision is required to made to ensure that buildings are accessible and usable and that individuals, regardless of their age, gender or disability are able to, '...gain access to buildings and to gain access within buildings and use their facilities, both as visitors and as people who live and work in them.' This is a building control requirement for the current development.

External space standards

Policy

- 76 LPPD6H requires all new one bedroom dwellings to be provided with at least 5m² private external amenity space, and another 1m² for each additional occupant.

Discussion

- 77 The existing rear garden will be provided for use by residents, and this greatly exceeds the minimum required 13m², and therefore access to external amenity space is considered to be acceptable.

Conclusion of Residential Quality

- 78 A high standard of accommodation would be provided to future residents of the proposed supported living institution (C2).

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6.2 OTHER USES

79 LPP 3.1 seeks to ensure equal life chances for all. As a means of tackling inequality across London, development proposals should protect and enhance facilities and services that meet the needs of particular groups and communities. Loss of these facilities without adequate justification or replacement should be resisted. Boroughs are encouraged to consider the needs of specific groups such as those who experience particular disadvantage and social exclusion.

6.3 SPECIALIST RESIDENTIAL USES

Policy

80 Policy H12 of the London Plan Supported and specialised accommodation states the delivery, retention and refurbishment of supported and specialised housing, including accommodation (short-term or long-term) for people with mental health issues who require intensive support, which meets an identified need should be supported. The form this takes will vary, and it should be designed to satisfy the requirements of the specific use or group it is intended for, whilst providing options within the accommodation offer for the diversity of London's population, including disabled within a wider inclusive community setting.

81 CSP 19 states that the Council will apply London Plan policies relating to healthcare, education and community and recreational facilities to ensure the preferred location for new areas will be in areas that are easily accessible and located within close proximity of public transport, other community facilities and services and town and local centres.

Discussion

82 As discussed in the principle of development section, there is an identified need for additional supported housing bedspaces in the borough, and therefore officers support the proposal for 8 additional C2, supported living bedspaces.

6.4 URBAN DESIGN

General Policy

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

84 LP Policy D4, CS Policy 15, DMLP Policies 30 and 31 as well as the provisions of the Alterations and Extensions reflect this and are relevant.

Discussion

85 No external alterations are proposed to the main building, and the outbuilding is already in existence. It is noted that the proposed outbuilding was built under Class E householder permitted development rights.

86 No objections are raised to the design of the proposed cycle store in the rear garden.

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6.4.1 Accessibility and inclusivity

Policy

- 87 CSP 1 requires major schemes to provide 10% of all units and each tenure type to be constructed as accessible. DMP 32 states that the Council will require new build housing to be designed to ensure that internal layout and external design features provides housing that is accessible to all intended users.
- 88 Policy H12 requires specialised accommodation to be designed to satisfy the requirements of the specific use or group it is intended for, whilst providing options within the accommodation offer for the diversity of London's population, including disabled within a wider inclusive community setting.
- 89 LPP D7 applies to new dwellings created to which Part M, Volume 1 of the building regulations apply, and required 10% of all dwellings created to be wheelchair user, or wheelchair accessible and adaptable dwellings. Application of this policy is therefore generally limited to new build dwellings.

Discussion

- 90 The current proposal is for the change of use of an existing dwellinghouse into a C2 residential institution. It is not a major development and it is not for new build dwellings.
- 91 Part M Volume 2 of the building regulations apply to this development as a change of use to a residential intuition. This means reasonable provision is required to made to ensure that buildings are accessible and usable and that individuals, regardless of their age, gender or disability are able to, '...gain access to buildings and to gain access within buildings and use their facilities, both as visitors and as people who live and work in them.' This is a building control requirement for the current development.

6.4.2 Urban design conclusion

- 92 As no external alterations are proposed to the main building, the urban design considerations are limited, and no objections are raised.

6.5 TRANSPORT IMPACT

General policy

- 93 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 102. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places. 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.
- 94 The Council supports the NPPF's guidance on promoting sustainable transport methods. For this reason, the Council requires residential development to provide cycle parking in accordance with the requirements of Policy T5 and Table 10.2 of the London Plan. LPP

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T6 seeks to ensure a balance is struck to prevent excessive car parking provision that can undermine cycling, walking and public transport use and through the use of well-considered travel, plans aim to reduce reliance on private means of transport. Table 10.3 of the London Plan sets the maximum parking standards for residential development.

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

6.5.1 Access

Policy

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

Discussion

97 The access to the property would not change as a result of the proposal, and as it is an existing residential property officers therefore consider it to be safe and suitable for future residents.

6.5.2 Local Transport Network

Policy

98 Policy T4 of the London Plan states consideration of the cumulative impacts of development on public transport and the road network capacity including walking and cycling, as well as associated effects on public health, should be taken into account and mitigated.

Discussion

99 The proposed change of use would likely result in an intensification of the use of the site in terms of visitors and servicing. However, this is not likely to be significant given the relatively modest size of the property and therefore Officers are satisfied that surrounding transport network could absorb the increased demand taking into account the good public transport accessibility of 3. The development is not likely to result in a significant increase parking stress. Given the proposed use of the property, future residents are unlikely to own cars.

100 Staff and visitors may choose to drive to work, but this would not materially increase parking stress in the surrounding area. Furthermore, it is noted that on-street parking in the immediately surrounding area is restricted by the Rushey Green East, as well as the Hither Green West Controlled Parking Zones, meaning any persons driving to the site would need to pay for parking.

6.5.3 Servicing and refuse

Policy

101 The NPPF states development should allow for the efficient delivery of goods and access by service and emergency vehicles.

102 DM Policy 32 requires new developments to have appropriate regard for servicing of residential units, including refuse.

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- 103 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

- 104 Storage space for 2x 240l recycling bins, and 2x 240l refused bins is proposed to the front of the property. This is an acceptable location, and of sufficient capacity for the proposed number of residents.
- 105 To ensure the bin stores are enclosed and of an acceptable appearance, final details of this are recommended to be secured by condition.

6.5.4 Transport modes

Walking and cycling

Policy

- 106 Policy T5 of the Publication London Plan states development proposals should create a healthy environment in which people choose to cycle, and should provide cycle parking in accordance with the minimum standards set out in table 10.2.
- 107 Development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring area. Development should create places that are safe, secure and attractive, minimising the scope for conflicts between pedestrians, cyclists and vehicles.

Discussion

- 108 The site is in a residential street and is well accessible for pedestrians.
- 109 A bicycle store would be provided in the rear garden for 10 bicycles. This is sufficient for the proposed use, providing one space for each resident, as well as space for staff and a visitor, exceeding the requirements of table 10.2 of the London Plan.

Public transport

Policy

- 110 LPPT4 states development proposals should reflect and be integrated with current and planned transport access, capacity and connectivity. The cumulative impacts of development on public transport and the road network capacity including walking and cycling, as well as associated effects on public health, should be taken into account and mitigated.

Discussion

- 111 It is considered that the scale of development would have a negligible impact on the local public transport network, and that the site is suitably accessible for residential development of this scale.

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6.5.5 Transport impact conclusion

112 The proposed development would have an acceptable impact on the surrounding transport network. The pedestrian access would result in no material safety implications, and the development would have no significant impact on the wider transport network, in line with the relevant local and national policies.

6.6 LIVING CONDITIONS OF NEIGHBOURS

General Policy

113 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. This is reflected in relevant policies of the Publication London Plan PLPPD3, the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (Housing SPD 2017, GLA).

114 The main impacts on amenity arise from: (i) overbearing enclosure/loss of outlook; (ii) loss of privacy; (iii) loss of daylight within properties and loss of sunlight to amenity areas; and (iv) noise and disturbance.

6.6.1 Enclosure and Outlook, Daylight and Sunlight

Policy

115 Policy DM32 expects new residential development to result in no harmful increased sense of enclosure and no significant loss of outlook to neighbouring dwellings.

Discussion

116 No external alterations to the main building are proposed, and therefore would be no impact on neighbours with regard to enclosure, outlook, daylight or sunlight.

6.6.2 Privacy

Policy

117 DMP32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours.

118 Privacy concerns generally arise from new upper floor windows or balconies.

Discussion

119 No new upper floor windows are proposed, and therefore there would not be an impact on neighbouring privacy as a result of the proposal. The change of use from C3 to C2 would not result in any impact on levels of privacy.

120 Officers note that in assessment of the previously refused application, officers raised concern that the use of the outbuilding could raise privacy issues if it were used as the sole communal amenity space for the C2 use. As the main communal amenity space has now been moved into the main house, this concern is considered to be overcome.

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6.6.3 Noise and disturbance

Policy

- 121 Policy D14 of the London Plan (2021) Noise states in order to reduce, manage and mitigate noise to improve health and quality of life, residential proposals should manage noise by avoiding significant adverse noise impacts on health and quality of life, by mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development, and by improving and enhancing the acoustic environment and promoting appropriate soundscapes.
- 122 DM policy 32 requires new residential development to be neighbourly, and development in residential areas should not result in harm to existing residents through unsociable noise and disturbance.

Discussion

- 123 Eight unrelated individuals, who have additional care needs, living together could generate more intensive and differing patterns of residential noise and disturbance than a general C3 dwellinghouse, and this would be noticed by neighbours. If not suitably mitigated and managed, this would be detrimental to neighbouring amenity, and ultimately quality of life.
- 124 The previous application was refused as it was considered the use of the outbuilding as the sole communal living area for residents would lead to significant harm to the amenity of neighbours, due to unreasonable levels of noise and disturbance arising from this.
- 125 The current proposal includes a communal living room inside the main house, meaning that the outbuilding is no longer proposed to be used for this purpose. The outbuilding is still proposed to be used as a storage space and for utilities such as laundry, which officers consider to be an appropriate use of this space.
- 126 In order to control any possible noise and disturbance impacts arising from the use of the outbuilding, officers recommend a condition restricting the use of the outbuilding to just four residents at one time, and restricting the hours of use to between 8am and 10pm.
- 127 Subject to compliance with this condition, officers do not consider the proposed use would result in harmful levels of noise and disturbance to neighbours.

6.6.4 Impact on neighbours conclusion

- 128 The proposed use of the property as a C2 supported living facility would be noticed by neighbours, however would not result in increased levels of noise and disturbance that would result in significant harm to neighbouring amenity.

7 LOCAL FINANCE CONSIDERATIONS

- 129 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

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- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

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

131 The CIL is therefore a material consideration.

132 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.

8 EQUALITIES CONSIDERATIONS

133 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.

134 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.

135 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.

136 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>

137 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

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- 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

138 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>

139 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.

9 HUMAN RIGHTS IMPLICATIONS

140 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

141 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.

142 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.

143 This application has the legitimate aim of providing supported living residential uses. The rights potentially engaged by this application are not considered to be unlawfully interfered with by this proposal.

10 CONCLUSION

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

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- 145 Although the proposal would result in the loss of an existing C3 single family dwelling, as there is an identified need for the proposed use as supported housing facility (C2) in the borough, and the location is suitable, the principle of development is supported.
- 146 The proposed C2 institution would meet the specific and specialised needs of the proposed tenants who require care, but also need to be supported to live independently, and would provide a high standard of accommodation.
- 147 The proposed use would not result in significant harm to the amenity of neighbours, nor the surrounding transport network.
- 148 Given the acceptability of the proposed use and policy compliance, the proposal is considered to be in accordance with the development plan as a whole.
- 149 The revised NPPF is underpinned by a presumption in favour of sustainable development. Officers consider that with the recommended mitigation and planning conditions in place, the scheme is consistent with national policy
- 150 In light of the above, the application is recommended for approval.

11 RECOMMENDATION

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

11.1 CONDITIONS

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

EOS10129-25.PL1 Received 4 January 2022;
EOS10129-21; EOS10129-22; EOS10129-23; EOS10129-24; EOS10129-26;
EOS10129-27; EOS10129-28; Design and Access Statement (Stephen Bradbury Architects, October 2021); Management Plan (Stephen Bradbury Architects, October 2021) Received 6 October 2021

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

3. (a) The C2 use shall not commence until the refuse and recycling facilities shown on Plan No.EOS10129-28 hereby approved have been provided in full.
- (b) The facilities as approved shall be permanently retained and maintained for the lifetime of the development.

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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).

4. (a) Prior to first occupation, the cycle parking facilities as shown on Plan No.EOS10129-28 hereby approved shall be provided in full.
- (b) All cycle parking spaces shall be 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. (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 construction of the above ground works.
- (b) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason: In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Core Strategy Policy 12 Open space and environmental assets, Policy 15 High quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 25 Landscaping and trees and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

6. (a) Details of the proposed boundary treatments including any gates, walls or fences shall be submitted to and approved in writing by the local planning authority prior to commencement of the C2 use hereby approved. The details shall include treatment to the front boundary, to ensure a vehicle could not access the front forecourt to park.
- (b) The approved boundary treatments shall be implemented prior to occupation of the buildings and retained in perpetuity.

Reason: To ensure that the boundary treatment is of adequate design in the interests of visual and residential amenity and to comply with Policy 14 Sustainable movement and transport and Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

7. No extensions or alterations to the building(s) hereby approved, whether or not permitted under Article 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying

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that Order) of that Order, shall be carried out without the prior written permission of the local planning authority.

Reason: In order that, in view of the nature of the development hereby permitted, the local planning authority may have the opportunity of assessing the impact of any further development and to comply with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011).

8. (a) The existing outbuilding must only be used for storage and utilities as specified in the application hereby approved.
- (b) The outbuilding must not be used by more than four persons at any one time.
- (c) The outbuilding shall not be used other than between the hours of 8am and 10pm.

Reason: In the interest of safeguarding neighbouring residential amenity in compliance with DM Policy 26 Noise and vibration, DM Policy 31 Alterations and extensions to existing buildings including residential extensions, DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

11.2 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.

12 BACKGROUND PAPERS

152 (1) *Submission Drawings*

153 (2) *Submission technical reports and documents*

13 REPORT AUTHOR AND CONTACT

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