

**Ward:** West Kensington

**Site Address:**

84D Lillie Road London SW6 1TL



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**Reg. No:**  
2023/02357/FUL

**Case Officer:**  
Hasna Miah

**Date Valid:**  
15.09.2023

**Conservation Area:**

**Committee Date:**  
05.03.2024

**Applicant:**

Erlandsson  
84D Lillie Road London SW6 1TL

**Description:**

Change of use of the ground and basement floor levels from retail (Class E) into a two bedroom self-contained flat (Class C3); alterations to the rear part of basement and ground floor level to include: formation of a double height rear lightwell with perimeter full height windows; installation of a walk on pavement light to front of the property.  
Drg Nos:

**Application Type:**

Full Detailed Planning Application

**Officer Recommendation:**

- 1) That the Committee resolve that the Director of Planning and Property be authorised to refuse permission based on the reasons set out below:

**Reasons for Refusal:**

- 1) The principle of the change of use of the development is unacceptable and is considered to result in a detrimental impact to the vitality and viability of the town centre and the existing commercial parade along Lillie Road. In particular, the loss of the existing retail use and the proposed residential use spanning across the entirety of the ground floor level would not be complementary to the shopping frontage, maintain or increase the vitality and viability of the town centre and would result in an adverse impact on the local area. In this respect, the proposal is contrary to Policy TLC2 of the Local Plan (2018).
- 2) The proposal would include a substandard residential accommodation and generally poor living conditions, which would fail to provide adequate outlook, natural light and ventilation for future occupiers. In particular, at basement level, outlook is heavily reliant on constrained lightwells, whilst at ground floor level, the existing window to the front elevation is located some distance away from the proposed bedroom on this floor and the proposed window to the rear elevation would result in very limited outlook for future occupiers. The self-contained unit would therefore give rise to unacceptably low standards of accommodation for future occupiers to the detriment of their residential amenity and general well-being. The proposal is therefore contrary to Policies HO4 and HO11 of the Local Plan (2018).
- 3) The proposal is unacceptable with regard to visual amenity. In particular, the loss of the existing retail unit would mean that the application site would be the only building within the surroundings that would no longer have an active frontage and therefore, this element of the proposal would break up the existing commercial parade and significantly detract from the visual amenity of the application property and its surroundings. Thus, the proposal would be out of

keeping with the surrounding area and would be contrary to Policies DC1, DC4 and DC5 of the Local Plan (2018).

- 4) In the absence of a signed legal agreement through a Unilateral Undertaking under Section 106, removing residential car parking permit rights, the proposal fails to demonstrate that the scheme would be car-free and would not increase vehicular movements or adversely impact on on-street car parking demands and highway conditions, to the detriment of sustainable transport modes, the free flow of traffic, cyclist, pedestrian and highway safety. This would also increase the risk of poor localised air quality generated by motor vehicle journeys in the area. The proposal is therefore contrary to Policies CC10 and T4 of the Local Plan (2018) and Policies SI 1, T2 and T6 of the London Plan (2021).
- 5) The proposal, by reason of the lack of convenient, safe and accessible cycle parking facilities is contrary to the principle of sustainable transport choices which minimise the impacts of the development in relation to congestion, air pollution and carbon dioxide emissions, and maximise opportunities including for health benefits and providing access to services, facilities and employment. As such, the scheme would not promote sustainable transportation and is thereby contrary to Policy T3 of the Local Plan (2018), Policies T1, T2 and T5 of the London Plan (2021) and Chapter 8 of the London Cycling Design Standards (2016).

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**LOCAL GOVERNMENT ACT 2000  
LIST OF BACKGROUND PAPERS**

**All Background Papers held by Andrew Marshall (Ext: 4841):**

Application form received: 8th September 2023  
Drawing Nos: see above

**Policy documents:** National Planning Policy Framework (NPPF) 2023  
The London Plan 2021  
LBHF - Local Plan 2018  
LBHF – Planning Guidance Supplementary Planning Document  
2018

**Consultation Comments:**

**Comments from:**  
Crime Prevention Design Advisor - Hammersmith  
Thames Water - Development Control

**Dated:**  
05.10.23  
20.09.23

## **Neighbour Comments:**

### **Letters from:**

86 Lillie road London sw6 1tl  
No Address Given  
84D Lillie Road London SW6 1TL  
15 Bendemeer Road London SW15 1JX

### **Dated:**

06.10.23  
11.10.23  
26.09.23  
02.10.23

## **Officer's Report**

### **1.0 SITE DESCRIPTION, RELEVANT HISTORY AND PROPOSALS**

#### **Site description**

- 1.1 This application relates to a four-storey mixed-use terrace property located on the north side of Lillie Road, near the intersection with North End Road. The ground floor of the property was previously occupied by a Post & Packing shop, consisting of a postal logistic centre under Class E use; however, this is now vacant. At first, second and third floor levels, the property comprises residential uses. This application relates to the basement and ground floor levels.
- 1.2 The site has a PTAL rating of 6a, indicating a very good level of public transport accessibility, making the site highly accessible by public transport.
- 1.3 The site is situated within the Environmental Agency's designated Flood Risk Zone 3. The site does not comprise a locally or statutorily listed building and is not situated within a conservation area.

### **2.0 RELEVANT PLANNING HISTORY**

- 2.1 The relevant planning history is set out below:
- 2.2 In 1984, planning permission was granted under Ref. 1984/01232/FUL for the retention of a new shop front, erection of a single storey ground floor rear extension and external ducting in connection with the change of use of the ground floor and rear part of basement to a restaurant.
- 2.3 In 2015, planning permission was granted under Ref. 2015/04869/FUL for the conversion of an existing six bedroom maisonette at first, second and third floor levels into 3no. two bedroom flats; erection of a rear roof extension; erection of a rear extension at second floor level over part of the existing back addition; installation of 3no. rooflights in the front roofslope.
- 2.4 In 2016, pre-application advice was sought under Ref. 2016/05397/PRRM2 for the erection of rear extensions at ground and first floor level; excavation of part of the rear garden to form a lightwell; installation of new rooflights above the roof of the single storey back addition; installation of a new door at ground floor level to the front elevation; conversion of part of the basement and ground floor level into 1 x

one bedroom self-contained flat; conversion of part of the first floor level into 1 x one bedroom self-contained flat, whereby Officers advised the following:

The Council holds serious concerns about the proposal. It is not considered that the site is suitable to provide additional residential units which would provide an acceptable quality of accommodation. The proposal would not be supported at full planning application stage.

- 2.5 In 2017, planning permission was granted under Ref. 2017/02384/FUL for the erection of a rear extension at first floor level, on top of the existing back addition in connection with the conversion of rear part of the first floor level to provide 2 x one bedroom self-contained flat; replacement of 2no windows with new windows at first floor level to the side of rear back addition; installation of 2no rooflights in the side roofslope of the first floor rear back addition; replacement of 1no window with a new window at second floor level and bricking up of the residential entrance door at ground floor level to the rear elevation; alterations to the front elevation at ground floor level to include the installation of a new residential entrance door and timber panelling to part of the front elevation; change of use of part of the ground floor restaurant unit (Class A3) to residential (Class C3).
- 2.6 In 2019, planning permission was sought under Ref. 2019/00744/FUL for the installation of a new shopfront; installation of a new rear window at ground floor level; sub-division of the existing A3 unit into 2 x A3 units. This application was refused due to the following:
- The proposed shopfront design would be unsympathetic to the character and appearance of the subject property and would fail to be consistent with the form and pattern of development along this part of Lille Road and have a significant adverse impact on the appearance of the parade. It is considered that the proposal would fail to preserve or enhance its character and appearance. For these reasons, the proposal fails to comply with Policies 7.4 and 7.6 of the London Plan and Policies D1, DC4 and DC5 of the Local Plan (2018), and Key Principles SD1 and SD2 of the Planning Guidance SPD (2018).
- 2.7 In 2019, planning permission was granted under Ref. 2019/02019/FUL for the installation of a new shopfront; installation of a new rear window at ground floor level; sub-division of the existing A3 unit into 1 x A3 unit to the front and a B1 unit to the rear (Office Use).
- 2.8 In 2022, planning permission was granted under Ref. 2022/01059/FUL for the change of use of the rear part of ground and lower ground floor level from office (Class E) into 1 bedroom self-contained flat (Class C3); alterations to the rear ground floor level to include, installation of 2no. rooflights on top of the flat roofs, replacement of an existing window with a new window involving an increase in height by lowering cill to the rear elevation; alterations to the rear lower ground floor level to include, installation of crittall glazing with openable top section to replace existing glazing, installation of a new door to replace existing to the rear elevation.
- 2.9 In 2023, pre-application advice was sought under Ref. 2023/01410/PRR1 for the change of use of the basement and ground floor level from retail (Class E) into a three bedroom self-contained flat (Class C3); installation of French doors at

ground floor level to the rear elevation; installation of a rooflight above the roof of single storey back addition; installation of a walk on pavement glass to form a front lightwell; formation of a rear lightwell, whereby Officers concluded the following:

Officers consider that the principle of the development is not acceptable. The use of the front and rear part of ground floor as part of the three-bedroom self-contained flat (Class C3) would impact upon the existing Class E usage at ground-floor level, which would harm to the character and vitality/viability of the Town Centre and the existing retail frontage.

In addition, the proposal fails to provide adequate cycle storage and refuse facilities for the proposed 3-bedroom self-contained unit. There are also significant concerns regarding the provision of a suitable residential environment. A Daylight and Sunlight assessment would be necessary in order to fully assess this, however this alone will not be sufficient to demonstrate an acceptable level of amenity for future occupiers with particular concerns regarding the lack of outlook and amenity space. A Flood Risk Assessment would also be necessary given the introduction of more vulnerable development across basement and ground floor level.

2.10 This application seeks to rectify the points raised within the pre-application advice given by the Council under Ref. 2023/01410/PRR1 and will be assessed against the relevant Council Policies.

### **3.0 PROPOSAL**

3.1 The current proposal involves the change of use of the ground floor and basement floor levels from retail (Class E) into a two bedroom self-contained flat (Class C3); alterations to the rear part of basement and ground floor level to include: formation of a double height rear lightwell with perimeter full height windows; installation of a walk on pavement light to front of the property.

### **4.0 PUBLICITY AND CONSULTATIONS**

Initial statutory consultation

4.1 The planning application was initially publicised by site and press notices, together with 55 letters sent to neighbouring properties. 4 letters of support were received and can be summarised as follows:

- Contribution to existing aesthetic of the area
- Low footfall
- Would contribute to reviving the area which currently suffers from vacant premises'
- Would result in additional housing within the borough
- Responsible and professional freeholder

Officer response

4.2 The neighbouring comments received in support of this application are acknowledged, however it should be noted that this application will be assessed against the relevant policies outlined within the National Planning Policy

Framework (2023), the London Plan (2021), the Council's Local Plan (2018) and the relevant guidance outlined within the Council's Supplementary Planning Document (2018).

## **5.0 POLICY FRAMEWORK**

- 5.1 The Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011 are the principal statutory considerations for town planning in England.
- 5.2 Collectively the three Acts create a plan led system which requires local planning authorities to determine planning applications in accordance with an adopted statutory development plan unless there are material considerations which indicate otherwise (section 38(6) of the 2004 Act as amended by the Localism Act).
- 5.3 In this instance the statutory development plan comprises the London Plan (2021) and the Local Plan (2018). A number of strategic and local supplementary planning guidance and other documents are also material to the determination of the application.

### The National Planning Policy Framework

- 5.4 The National Planning Policy Framework (NPPF) came into effect on 27 March 2012 and was most recently revised in 2023 and is a material consideration in planning decisions. The NPPF, as supported by the Planning Practice Guidance (PPG), sets out national planning policies and how these are expected to be applied.
- 5.5 The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

### London Plan

- 5.6 The London Plan was published in March 2021. It sets out the overall strategic plan for London and a fully integrated economic, environmental, transport and social framework for the development of the Capital over the next 20-25 years. It forms part of the development plan for Hammersmith and Fulham.

### Local Plan

- 5.7 The Council adopted the current Local Plan on 28 February 2018. The policies in the Local Plan together with the London Plan make up the statutory development plan for the borough. The Planning Guidance Supplementary Planning Document (SPD) (February 2018) is also a material consideration in determining planning applications. It provides supplementary detail to the policies and is organised around key principles.

## **6.0 PLANNING ASSESSMENT**

6.1 The main planning considerations include:

- the principle of the development in land use terms;
- quality of accommodation;
- design and character;
- existing residential amenities of neighbouring properties;
- transport and highways;
- environmental and highways matters;
- other matters (flood risk, air quality, contamination etc.)

### **LAND USE:**

#### **Loss of existing use**

- 6.2 The application property forms part of the retail frontage along Lillie Road and within Fulham Town Centre. The ground floor of the property was previously occupied by a Post & Packing shop, consisting of a postal logistic centre under Class E use; however, this is now vacant as the owners have gone into bankruptcy. Although the submitted application form alongside this application outlines that the proposal involves the 'Change of use of the front part of ground and lower ground floor level from retail into a two bedroom self-contained flat (Class C3); alterations to the rear ground floor and basement level to include, installation of a double-height rear lightwell with perimeter full height windows', it is assumed that the reference to the front of the ground floor is to differentiate between the previously approved application under Ref. 2022/01059/FUL which involved the change of use of the rear part of the ground floor. When assessing the proposed plans and elevation drawings submitted alongside the proposal, it is noted that the proposal involves the change of use of the entirety of both of the ground and basement floor levels from retail (Class E) into a two bedroom self-contained flat (Class C3) and thus, the proposal will be assessed accordingly.
- 6.3 Policies E1 and E2 of the Local Plan (2018) are relevant to the proposal. Policy E1 specifies that the Council will support the retention, enhancement and intensification of existing employment uses. Policy E2 (Land and premises for employment uses) states that the council will require the retention of land and premises capable of providing continued accommodation for employment or local services. Permission will only be granted for a change where:
1. continued use would adversely impact on residential areas; or
  2. an alternative use would give a demonstrably greater benefit that could not be provided on another site; or
  3. it can be evidenced that the property is no longer required for employment purposes.
- 6.4 A Marketing Report by Ian Scott International has been prepared and submitted alongside the application. The Marketing Report outlines that Ian Scott were instructed to identify and secure a suitable tenant to occupy the premises and the property was launched to market by this firm on April 20th 2022, after a lengthy marketing period with another agent Vause Cribb, which began in August 2019. Ian Scott finally secured a suitable tenant trading under the 'Post and Packing'



franchise with the lease completing on August 8th 2022. The tenant vacated on 2nd March 2023. Ian Scott were then instructed to relaunch the property which was actioned on 13th March 2023, whereby the property was marketed through Costar and Loopnet platforms, PIP and EACH website, as well as advertised via a lettings board.

- 6.5 The statement argues that in the current climate of moderate recession, high inflation and high interest rates, consumer spending has declined, whereby many local tenants have accrued significant rent arrears from the forced closures during the pandemic lockdown periods. The statement further states that even at a reduced below market rent, Ian Scott have little confidence in securing a tenant who would thrive in this location, given that they have had 12 enquiries with 862 views of the property on their website and from the enquiries received, only 3 parties completed inspections.
- 6.6 Although a marketing report has been submitted in this instance, it should be noted that the submission of this document is required under Policy TLC3 of the Local Plan (2018). Given the nature of the proposal and the designation of the application site within Fulham Town Centre, Policy TLC3 cannot be applied in this instance. Instead, Policy TLC2 of the Local Plan is applicable to the proposal. Nevertheless, the marketing report is acknowledged. When assessing the surroundings of the application site, it is noted that the site lies within a particularly busy town centre location, with little to no vacant premises at present. Given the desirable location and the relatively spacious scale of the unit spanning across both ground and basement floor levels (totalling 1,352 sq ft), it is not considered that the unit is completely unmarketable and it is thought that the unit may be able to support a more varied range of employment uses.
- 6.7 Policy TLC2 of the Council's Local Plan (2018) outlines that in designated town centres, changes from the former Class A use (now Class E) at street level would be permitted for alternative uses which can be shown to be complementary to the shopping frontage, maintain or increase the vitality and viability of the town centre and do not have an adverse impact on the local area. In particular, permission for changes of use will be considered on the following basis:
1. No more than 40% of the length of the prime retail frontage as a whole will be permitted to change to non-class A1 uses;
  2. Additional A4 and A5 uses (pubs, bars and takeaways), betting shops, pay day loan shops, amusement centres, mini cab offices and residential uses will not be permitted on the ground floor of the prime retail frontages;
  3. The nature and characteristics of the proposed use are complementary to the shopping frontage;
  4. The proposed use contributes to the function of the centre in terms of the size of the unit, the length of its frontage and the location of the unit within the centre;
  5. Planning conditions will be imposed in any permission for such changes of use to secure provision of a shop style fascia, and window display at street level, and to control the hours of opening of class A3-A5 uses; and
  6. Consent will not be granted for residential use within the ground floor frontage.
- 6.8 The explanatory note beneath this policy states that criteria 3-6 will apply outside of non prime retail frontages, this is the case in this instance. The proposal involves the change of use of the entirety of the basement and ground floor levels

from retail (Class E) into a two bedroom self-contained flat (Class C3) and would therefore result in the complete loss of the existing retail frontage. Given the nature of the change of use element of the proposal, it is assumed that the lower section of the existing retail frontage would need to be obscure glazed to screen the residential use from views from the public realm whilst the upper section would remain as existing to provide windows for the future occupiers however, this is assessed further in the 'Design and character section of this report'.

- 6.9 Point 6 of Policy TLC2 explicitly outlines that residential uses will not be permitted at ground floor level. The proposal would directly contradict this criteria through the change of use of the ground floor level from retail (Class E) into residential use. It is therefore considered that the proposed residential use would not be complementary to the shopping frontage, maintain or increase the vitality and viability of the town centre and would result in an adverse impact on the local area. Additionally, the proposed residential use at ground floor level would result in the reduction of the stock of accommodation for other commercial uses and would break up the existing commercial parade along Lillie Road. Therefore, the change of use of the entirety of the ground floor level and the complete loss of the existing retail frontage would be contrary to the vitality and viability of the town centre and is thus considered to be unacceptable in principle. Given the above, the proposal would also be contrary to criteria 3 and 4 of Policy TLC2.
- 6.10 Overall, it is considered that the principle of the change of use of the entirety of the ground floor level from retail (Class E) into a two bedroom self-contained flat (Class C3) is unacceptable and is considered to result in a detrimental impact to the vitality and viability of the town centre and the existing commercial parade along Lillie Road. Thus, the proposal is contrary to Policy TLC2 of the Local Plan (2018).

## **QUALITY OF ACCOMMODATION**

### **Housing supply and mix**

- 6.11 The National Planning Policy Framework (2023) and the London Plan (2021) advise that local authorities should seek to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The NPPF also outlines at para. 60 that local authorities should seek to significantly boost the supply of housing. This is reflected in Policy HO1 of the Local Plan (2018) which mentions that the Council will work to exceed the London Plan minimum target.
- 6.12 The proposal would involve the creation of a 1 x 2 bedroom self-contained unit, spanning across the entirety of the ground and basement floor levels. This would make a small contribution to housing delivery within the borough however, it is considered that this limited benefit would not outweigh the harm identified regarding the principle of the development in land use terms and the harm to the vitality and viability of the commercial area as set out in the section above.
- 6.13 Local Plan Policy HO4 seeks to ensure that all housing development is provided to a satisfactory quality and has an appropriate mix of types and sizes. This approach is reflected in SPD Housing Standards Key Principles HS1 and HS2 of the Council's Planning Guidance SPD, which set out minimum floor areas and

internal room sizes, as well as Policy HO11 of the Local Plan which states that floor areas and room sizes in new build dwellings, conversions and changes of use, must meet the Nationally Described Space Standards (NDSS) requirements which is replicated in the London Plan where relevant. According to the NDSS and Policy D6, Table 3.1 of The London Plan, a 2-bed, 3 persons unit spanning across two-storeys is required to have a minimum internal floor area of 70sqm.

- 6.14 In this instance, the unit would exceed the minimum floorspace in GIA space standards as prescribed by the NDSS and the London Plan for a 2-bed, 3 persons dwelling. The bedroom at basement floor level would meet the minimum size and width as per London Plan Policy D6 / NDSS, although the bedroom at ground floor level would fall short of the required 11.5sqm by appx. 0.81sqm however, this shortfall is considered to be marginal and as the rest of the unit would meet the required standards, it is not considered that the proposal would warrant a refusal on the basis of this minor shortfall.

### **Ceiling height**

- 6.15 Policy D6 of the London Plan states that the minimum floor to ceiling height for residential units should be 2.5m for at least 75% of the Gross Internal Area. In this instance, the ceiling heights of the proposed unit spanning across basement and ground floor levels would exceed the guidelines outlined in the London Plan.

### **Layout/ orientation**

- 6.16 Outlook and light are important considerations with regard to ensuring the provision of good-quality residential units. Key Principle HS2 of the Planning Guidance SPD concerns aspect, and states that 'North facing (i.e. where the orientation is less than 50 degrees either side of north) should be avoided wherever possible.
- 6.17 A Daylight and Sunlight Assessment has been submitted alongside this application. The report outlines that the proposed habitable rooms meet the BRE guidelines for daylight provision in "hard to light" new dwellings, such as those that form the conversion of an existing building. The report further outlines that the proposed dwelling shall enjoy sunlight in excess of BRE requirements for new dwellings, due to the generous south facing window to the ground floor.
- 6.18 Although the Daylight and Sunlight Assessment concludes that the proposed unit will enjoy good levels of daylight and sunlight, meeting or exceeding relevant numerical BRE guidelines, it is noted that a number of rooms within the unit would not benefit from a window opening. In particular, whilst the proposal involves the formation of a double height rear lightwell with perimeter full height windows and the installation of a walk on pavement light to the front elevation, these constrained lightwells would form the primary source of outlook and light for the kitchen and living areas at basement level. Although an internal vaulted ceiling has been included to attempt to mitigate this, the lighting and, in particular outlook, is still limited. As such it is considered the proposed lightwells would not provide adequate levels of natural light and outlooks to the proposed unit. In addition, the proposed bedroom at ground floor level would rely heavily on the south facing window opening to the front elevation which is likely to have to be partially obscured to protect the privacy of occupiers. There is significant distance

between this opening and the bedroom and therefore, it is not considered that this bedroom would benefit from adequate levels of light and outlook. Whilst it is noted that the room would be served by a small window opening to the rear lightwell area, this lightwell would be significantly enclosed and therefore the light and outlook to this room would remain limited.

6.19 Overall, it is considered that the proposal would largely restrict outlook from all of the habitable rooms within the unit, resulting in an oppressive living environment, particularly given that at basement level, outlook is heavily reliant on constrained lightwells, whilst at ground floor level, the existing window is located some way away from the bedroom on this floor and the proposed window to the rear elevation would provide very limited outlook. Therefore, it is considered that this proposal would result in a constrained unit, whereby future occupiers would not benefit from satisfactory living conditions. This is contrary to relevant policies and guidance which aim at ensuring reasonable housing quality and thus, the proposal would fail to accord with Policies HO4 and HO11 of the Local Plan (2018).

### **External amenity space**

6.20 Policy D6 of the London Plan also states that 5m<sup>2</sup> of private outdoor space should be provided for 1-2 person dwellings and an extra 1m<sup>2</sup> should be provided for each additional occupant. In this instance, the proposal does not include the provision of any private outdoor amenity space, although it is noted that due to site constraints, this is difficult. The proposal would include the creation of 1 x 2 bedroom unit and is therefore not considered to be 'family sized'. It is also noted that the affected property in this case is located in close proximity to Normand Park, an easily accessible public amenity space which is located a 5-min walk away. Lillie Road Recreation Ground is also situated a 16-min walk away from the property. Therefore, given that this unit does not constitute a family-sized dwelling and considering the existing site constraints, the lack of amenity space would not warrant a reason for refusal in this instance.

### **Access**

6.21 The proposal involves the formation of 1 x 2 bedroom unit spanning across ground and first floor levels. The unit would be accessible via the existing main entrance at ground floor level, as well as via internal staircases.

### **Noise**

6.22 Local Plan Policies HO11 and CC11 are aimed at ensuring that residents of future housing are not unduly affected by noise and disturbance from adjoining sites or the wider setting. SPD Noise Key Principle NN3 concerning the sound insulation between dwellings states that "...careful consideration should be given to stacking and layout of rooms in relation to adjoining walls/floors/ceilings."

6.23 The Council's Public Protection and Safety Team have reviewed the proposal and raise no objections subject to conditions relating to transport and/or industrial noise sources, separation of commercial and noise sensitive premises and absolute internal and external noise criteria for noise sensitive premises.

## DESIGN AND CHARACTER

- 6.24 The National Planning Policy Framework (NPPF 2023) recognises that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.25 London Plan Policy D3 (Optimising site capacity through the design-led approach) states that, in terms of quality and character, development proposals should "respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character; and be of high quality, with architecture that pays attention to detail, and gives thorough consideration to the practicality of use, flexibility, safety and building lifespan through appropriate construction methods and the use of attractive, robust materials which weather and mature well".
- 6.26 Policy DC1 of the Local Plan (2018) DC1 states that all development within the borough, should create a high-quality urban environment that respects its townscape context and heritage assets. There should be an approach to accessible and inclusive urban design that demonstrates how good design, quality public realm, landscaping and land use can be integrated to help regenerate places.
- 6.27 Policy DC4 of the Local Plan states that the Council will require a high standard of design in all alterations and extensions to existing buildings. In particular, design in all alterations and extensions should be:
- compatible with the scale and character of existing development, neighbouring properties and their setting;
  - successfully integrated into the architectural design of the existing building; and
  - subservient and should never dominate the parent building in bulk, scale, materials or design.
- 6.28 Policy DC5 of the Local Plan relates to shopfronts and outlines that the council will encourage high quality shopfronts that are designed to respect the age and architectural style of the building concerned, achieving a satisfactory relationship between the ground floor and the rest of the building. The scale of the shopfront should be carefully considered with its proportions, detailing (including vertical and horizontal subdivision) and materials, which have an affinity with the building. Policy DC5 further outlines that where a commercial premises with an original shopfront is converted to another use or a traditional shopfront remains, the council will expect it to be retained and restored.
- 6.29 The proposal would involve the change of use of the entirety of the ground and basement floor levels from retail (Class E) into a two bedroom self-contained flat (Class C3) and would thus result in the loss of the existing retail use. Given the nature of the proposal, it is assumed that the lower section of the existing retail frontage would be obscure glazed to screen the residential use from views from the public realm whilst the upper section would remain as existing in order to

provide window openings for the future occupiers. When assessing the character and appearance of properties along this side and the opposing side of Lillie Road, it is noted that there is an existing commercial parade, with shopfronts of varied scales and appearances. However, despite the variety in appearance, the vast majority of the properties along this side and the opposing side of Lillie Road have retained the existing retail shopfront at ground floor level. The application site would be the only anomaly within the frontage with the likely use of obscure glazing and the lack of an active frontage breaking up the existing commercial parade and significantly detracting from the visual amenity of the application property and its surroundings. Thus, this element of the proposal would be out of keeping with the surrounding area and would be contrary to Policies DC1, DC4 and DC5 of the Local Plan (2018).

- 6.30 To the rear elevation at basement and ground floor levels, it is proposed to install a double height rectangular shaped lightwell with perimeter full height windows and would include an open air courtyard area at basement floor level. The lightwell would measure appx. 1.5m front to back. Given that this lightwell would be confined to the rear elevation and would not be visible from the public realm due to the siting of the adjoining neighbouring properties in this location, it is not considered to detract from the character of the subject property or the application terrace.
- 6.31 It is further proposed to install a lightwell to the front elevation at pavement level. The lightwell would not exceed 800mm when measured front to back, as per the Council's guidelines and would include walk-on lights. Although this element of the proposal would be visible from the streetscene, in this instance, it is noted that there are similar front lightwells within pavements along this side of Lillie Road and thus, it is not considered that this element of the proposal would significantly detract from the visual amenity of the application property, terrace and the streetscene.
- 6.32 Overall, whilst the proposed alterations involving the lightwells are considered to be of an appropriate scale and design, the alterations relating to the loss of the existing retail use and likely alterations to the shopfront would significantly detract from the visual amenity of the application property, terrace, surroundings and the streetscene. Thus, the proposed alterations relating to the retail shopfront would fail to accord with Policies DC1, DC4 and DC5 of the Local Plan (2018).

## **RESIDENTIAL AMENITY**

- 6.33 Local Plan Policy HO11 states that the council will ensure that the design and quality of all new housing, including new build, conversions and change of use, is of a high standard and that developments provide housing that will meet the needs of future occupants and respect the principles of good neighbourliness. In particular proposals should ensure protection of existing residential amenities, including issues such as loss of daylight, sunlight, privacy and outlook.

## **Outlook**

- 6.34 'Planning Guidance' SPD Key Principle HS6 notes that the proximity of a development can have an overbearing and dominating effect detrimental to the amenities of adjoining residential occupiers. Although it is dependent upon the

proximity and scale of the proposed development, a general standard can be adopted by reference to a line produced at an angle of 45 degrees from a point at ground level or at 2m on the rear curtilage. On-site judgement will be a determining factor if any part of the proposed building extends beyond these lines. In this instance, the proposal does not include the erection of any additional built form. To the rear elevation, the proposal solely relates to the demolition and excavation of the area where the rear lightwell would be sited. Therefore, the proposal is not considered to result in any impact on outlook or light to neighbouring properties beyond the rear elevation. Thus, the proposed alterations would accord with Key Principle HS6.

## **Privacy**

6.35 Key Principle HS7 (iii) states that 'Any new windows should be positioned at least 18 metres from existing habitable room windows. This will be measured by an arc of 60 degrees taken from the centre of the proposed new window to ensure there is no loss of privacy'. To the rear elevation, the proposal includes the installation of a lightwell at basement and ground floor levels. The lightwell would include openings both at ground and basement floor levels that would face into a small lightwell area where there are no existing neighbouring window openings. Given the siting of the proposed openings at a low level with limited views it is not considered that the proposed openings would result in an undue loss of privacy to neighbouring properties. Thus, the proposed alterations would accord with Key Principle HS7 (iii).

6.36 In general, the scheme would have no undue impacts on neighbouring amenity given the context and surrounding built form.

## **TRANSPORT AND HIGHWAYS**

### **Car parking provision**

6.37 Policy T1 of the Local Plan (2018) seeks to promote and support initiatives to encourage modal shift away from private vehicles, to consider alternative modes such as cycling and walking, and other sustainable means of transport. Policy T4 of the Local Plan sets out vehicle parking standards and Policy T3 concerning the increase and promotion of opportunities for cycling and walking.

### **Cycle storage**

6.38 The proposed plans submitted alongside this application indicate that 2no cycle parking spaces would be located internally in the hallway at ground floor level. The internal hallway has a width of appx. 1m and thus is inappropriate for the siting of cycle storage given it fall short of the minimum width of 1.2m required to ensure a 'well located' internal residential cycle parking space, as per Chapter 8.5.3 of the London Cycling Design Standards. When combined with the need for access along this hallway this is clearly an unsuitable location for cycle storage. Therefore, the proposed cycle parking spaces are considered to render the internal hallway unusable and would result in inadequate, unsafe and inconvenient cycle parking to the detriment of future occupiers. It is not clear that this storage could be located elsewhere within the unit. Thus, the scheme would not promote

sustainable transportation and is thereby contrary to Policy T3 of the Local Plan (2018) and Policies T1, T2 and T5 of the London Plan (2021).

### **Car parking**

- 6.39 The creation of a new residential unit is required to be car-free in line with Policy T4 of the Local Plan and Policy T6 of the London Plan. Policy T4 also states that "All development with good access to public transport should aim for significantly less than 1 car space per unit". In view of this, the applicants are usually required to enter into a legal agreement through a Unilateral Undertaking Agreement to restrict car parking permits right to disabled parking only for those possessing a blue badge. This is to ensure that the existing high levels of parking stress are not exacerbated by the proposal, to encourage the use of sustainable modes of transport and further reduce vehicle emissions.
- 6.40 Had the proposal been acceptable on all other grounds, the Council would have sought a Unilateral Undertaking Agreement however, as the scheme is being refused planning consent, the Unilateral Undertaking Agreement has not been sought in this instance. Therefore, in the absence of the signed legal agreement, the scheme fails to ensure the proposal is car-free and does not lead to increase demands in on-street car parking, which would in turn have an impact on highways safety and condition, as well as on localised air quality which is currently poor. The proposal is therefore contrary to Policies CC10 and T4 of the Local Plan (2018) and Policies SI 1, T2 and T6 of the London Plan (2021).

### **Refuse storage**

- 6.41 Policy CC7 (On-site waste management) of the Local Plan (2018) states that all developments, including where practicable, conversions and change of use, should aim to minimise waste and should provide convenient facilities with adequate capacity to enable the occupiers to separate, store and recycle their waste both within their own residence and via accessible and inclusive communal storage facilities, and where possible compost green waste on site.
- 6.42 The proposed plans indicate that the refuse storage would be located internally within the kitchen area at basement floor level. Given the existing site constraints, this is considered acceptable in this instance.

## **OTHER MATTERS**

### **Flood risk**

- 6.43 Policy CC3 of the Local Plan requires that new development is required to reduce the use of water and to minimise current and future flood risk. This is supported by Policy CC4 which seeks that developments manage surface water run-off and to promote the use of water efficient fittings and appliances. The application site is partly in the Environment Agency's Flood Zone 3 and partly in Flood Zone 2. The Council's Environmental Policy team have reviewed the Flood Risk Assessment submitted alongside the proposal and raise no objections, subject to a condition to ensure compliance with the submitted Flood Risk Assessment, as well as informatives relating to water efficient fixtures/fittings/appliances and water butts.



Had the proposal been acceptable on all other grounds, the above condition and informatives would have been attached accordingly.

### **Air quality**

6.44 Policy SI 1 of the London Plan states that development proposals should not lead to deterioration of existing poor air quality, create any new areas that exceed air quality limits or create unacceptable risk of high levels of exposure to poor air quality. Policies CC1 and CC10 of the Local Plan (2018) seeks to reduce potential adverse air quality impacts arising from new developments and sets out several requirements. These are supported by Planning Guidance SPD Key Principles AQ1 to AQ5.

6.45 The development site is within the borough wide Air Quality Management Area (AQMA) and an area of existing poor air quality due to the road traffic emissions from Lillie Road (A3218) and North End Road (B317). This location is in the 99th national percentile of the most polluted UK addresses. The development proposal will introduce new residential receptors into an area of existing poor air quality. On this basis, the Council's Environmental Air Quality officer has considered the proposal and has recommended conditions relating to ventilation strategy and Zero Emission Heating Compliance. Had the proposal been acceptable on all other grounds, the relevant conditions to the proposal would have been attached accordingly.

### **Land contamination**

6.46 Potentially contaminative land uses (past or present) are understood to occur at, or near to, this site and/or the applicant is proposing a sensitive use. The Council's Land Contamination Team have requested conditions to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works, however, given the small scale of the alterations proposed under this application, had the proposal been acceptable on all other grounds, an informative would have been more appropriate.

### **Community Infrastructure Levy (CIL)**

6.47 The Mayor of London's Community Infrastructure Levy (CIL) came into force on 1st April 2012. The Community Infrastructure Levy (CIL) enables a charge to be levied on the net increase in gross internal area floorspace arising from development in order to fund infrastructure that is needed to support development in the area. Any new-build development involving a net increase in gross internal area (GIA) floorspace above 100m<sup>2</sup> (or the creation of 1 or more dwellings) for new buildings where people normally go is liable to pay CIL.

6.48 On the 1st September 2015 the Borough's Community Infrastructure Levy (CIL) came into force. This means that CIL liable development proposals will need to pay the borough CIL in addition to the Mayoral CIL which is already in place. The site is within the south charging zone.

6.49 The proposal would result in the formation of an additional unit and would have therefore been liable to both the Mayor CIL and the Borough's CIL.

## Other Matters

### Prior Approval fallback position under Class MA

- 6.50 In addition to an application for planning permission it is also possible to carry out changes of use to a building under permitted development via a prior approval process. In terms of a change of use from Class E (commercial, business and service) to C3 (residential) this prior approval process is set out under Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2015.
- 6.51 Whilst it is acknowledged that this provides a potential fallback position this prior approval process does not allow for external changes to the building. The current proposal is heavily reliant on external changes in order to provide lightwells and windows. As such it would not be possible to carry out the change of use under permitted development via this prior approval route.
- 6.52 In addition to the above, both the transport impacts and the quality of the residential environment form part of the prior approval process. In this instance, as set out in the relevant section of the report, there are significant concerns relating to these matters in the consideration of the current planning application. As such the proposal would also be likely to be unacceptable in relation to matters requiring prior approval.
- 6.53 It is noted that for any Class MA applications submitted on or after the 5<sup>th</sup> of March 2024, the previous limitations relating to floor space and the requirement for the building to be vacant for 3 months will no longer apply. However, in this instance, the application property comprises a small vacant unit and thus, the changes in March would not impact the application property. The issues identified above would still remain following the changes to the regulations.
- 6.54 Overall, the proposal as currently set out would not constitute permitted development and are likely to be unacceptable in relation to matters requiring prior approval. Therefore, a permitted development fallback position does not exist with regards to the current proposal.

## 7.0 CONCLUSION

- 7.1 The principle of the change of use of the entirety of the ground floor and basement floor levels from retail (Class E) into a two bedroom self-contained flat (Class C3) is unacceptable. This element of the proposal would have a detrimental impact upon the existing Class E usage at ground-floor level and would involve the loss of the existing retail use and active frontage, thus, resulting in harm to the character and vitality/viability of the town centre, as well as to the visual amenity of the surroundings. Additionally, given the lack of adequate window openings to habitable rooms within the unit and the heavy reliance on constrained lightwells, the proposal would fail to provide adequate outlook, natural light and ventilation for future occupiers, giving rise to unacceptably low standards of accommodation. Furthermore, in the absence of a signed Unilateral Undertaking Agreement, the scheme fails to ensure the proposal is car-free and does not lead to increase

demands in on-street car parking. The proposal would not have any undue impacts residential amenity impacts on neighbouring property.

## **8.0 RECOMMENDATION**

8.1 Refuse planning permission.