

FINAL

Statement of Common Ground
between Kitewood Estates Limited and
London Borough of Lewisham

21 – 57 Willow Way, London,
SE26 4QP

Proposed Demolition and
Redevelopment to provide
Employment Floorspace and
Residential Units

LPA Ref: DC/22/129789

PINS Ref: APP/C5690/W/23/3321935

by CarneySweeney & London Borough
of Lewisham

Date: 17th October 2023





Contents

1.0	Introduction.....	1
2.0	Site Description	2
3.0	Planning History.....	4
4.0	Relevant Planning Policies	6
5.0	General Areas of Agreement	8
6.0	Employment Related Matters	10
7.0	Highway Related Matters.....	11
8.0	Heritage Related Matters.....	12
9.0	Urban Design Related Matters	13
10.0	Masterplanning Related Matters.....	14
11.0	Planning related matters.....	15

Appendices

Appendix 1:	Correspondence between the parties with regard to consultee comments and extension of time
-------------	--



1.0 Introduction

- 1.1.1 This Statement of Common Ground is between the appellant, Kitewood Estates Limited, and the local planning authority, the London Borough of Lewisham. It has been prepared as part of the documentation in relation to the planning appeal by Kitewood Estates Limited against the decision of Lewisham Council to refuse an application for planning permission (ref: DC/22/129789: for Demolition of existing buildings and redevelopment of the site comprising a block rising to 5/6 storeys accommodating 1,401sqm of employment floorspace (Use Classes E(g)(i)(ii)(iii)) at ground and mezzanine floors and 60 residential units (Use Class C3) above, with associated landscaping, amenity areas, cycle, car parking and refuse/recycling stores at 21- 57 Willow Way, London, SE26). This site is also known as “Plot A, Willow Way”.
- 1.1.2 This Statement of Common Ground sets out the areas of agreement and disagreement between the Appellant and the London Borough of Lewisham. Specific chapters are included for individual topics.



2.0 Site Description

- 2.1.1 The following description of the Appeal Site is agreed.
- 2.1.2 The Appeal Site is located in Sydenham, within the London Borough of Lewisham.
- 2.1.3 The Site is bounded by Willow Way to the west and William Wood House, a retirement housing complex, to the east. Directly to the north of the Site is Moore House, a residential building, and to the south is Willow Business Park. To the west of Willow Way are commercial premises occupied by a catering and drink supplier, Blue Tiger, and Recsyn House.
- 2.1.4 The Site is 2,239 sqm in size (please note that this is the correct Site area, rather than other incorrect areas which are in some of the previous application documentation) and currently comprises existing commercial buildings accommodating an MOT garage, a catering equipment hire business, a business repairing and supplying water dispensers and coffee machines, ancillary offices relating to these businesses, together with a residential flat. The remainder of the Site is an external yard area comprising hard standing, within which there are sited approximately 14 shipping containers and a small number of other ancillary buildings / structures, and where a small number of car parking spaces are marked out.
- 2.1.5 Access to the Site is via an entrance from the west, off Willow Way.
- 2.1.6 The topography of the Site is relatively flat, however there is a level change in relation to the adjacent land to the east where the ground level sits approximately 3m below the level of the Site's ground level. The Site's eastern boundary marks the line of this change in levels.
- 2.1.7 The Site has a PTAL rating of 4 which is defined as 'good' accessibility.
- 2.1.8 The nearest train stations are Sydenham and Forest Hill, both of which are located approximately a 10 minute walk from the Site. Both of these stations are served by London Overground and Southern trains and provide regular services north into central London and south towards Crystal Palace and Croydon.
- 2.1.9 The nearest bus stops are located on Dartmouth Road, approximately 300ft north of the Site, which provide regular services on routes 122, 176 and 197. There are also two bus stops on the A2216 which are served by routes 122, 176, 197 and 356. All routes provide connections to the wider area.



2.1.10 There are no conservation areas, listed buildings or Tree Preservation Orders within the Site. There is a Locally Listed Building on the corner of Willow Way and Dartmouth Road, which comprises The Bricklayers Arms Public House. The Site adjoins the Sydenham Park Conservation Area. Further comment on heritage assets is provided further on in this Statement.



3.0 Planning History

- 3.1.1 The following planning history is agreed between the parties.
- 3.1.2 Prior to the submission of the planning application, the subject of this Appeal, the site had no particular relevant planning history.
- 3.1.3 The planning application, the subject of this Appeal was registered by the London Borough of Lewisham on 22 December 2022 and given the reference DC/22/129789.
- 3.1.4 Correspondence between the parties with regard to consultee comments and extension of time is at Appendix 1.
- 3.1.5 The planning application was then refused, under delegated powers, on 23 March 2023 for the following reasons:
1. The proposal would result in a loss of industrial capacity on the site which would be a departure from the adopted local plan and no exceptional circumstances are demonstrated to show that this would be compliant with the direction of the draft Local Plan. The proposal would therefore fail to comply with Policy 3 in Lewisham’s Core Strategy (2011), Site Allocation 48 in the Site Allocations Local Plan (2013), Policy D7 in the London Plan (2021) as well as emerging policies (Site Allocation 9: Willow Way, EC2, EC3, EC6) in the Lewisham Local Plan Proposed Submission Document- Regulation 19 Stage (January 2023).
 2. The lack of detail on the proposed uses across the masterplan site results in a failure to demonstrate that the intensified co-location of uses can function at the proposed capacity of the masterplan site. Furthermore, it results in officers being unable to conclude that the proposal would meet the relevant transport, design, public realm or environmental policy (noise, air quality as well as sustainable urban drainage, energy and biodiversity) requirements. The granting of this application in absence of these details would fetter the development opportunity of the adjoining sites and undermine the objectives of the wider site allocation and masterplan area. The proposal would therefore fail to meet policies D3, D13, E6, E7 and SI 11 in the London Plan (2021), Policy E3 in the Lewisham Core Strategy (2011) as well as emerging policies (Site Allocation 9: Willow Way, EC2, EC3, EC6) in the Lewisham Local Plan Proposed Submission Document- Regulation 19 Stage (January 2023).



3. The proposals would result in the closing of existing businesses on site with no justification/relocation package proposals and there is insufficient detail in the submission on whom future occupants might be and how the space, servicing and fit out requirements will attract a range of businesses within the target market. Combined with the lack of detail to show that the site itself can be adequately serviced or that the wider masterplan area won't be impacted by the proposed servicing arrangements, this could impact the quality and uptake of employment spaces and undermine the continued function of the employment location. The proposal is therefore contrary to policies D3, D13, E2, E3, E6, E7, T7 of the London Plan, Policy 14 in the Core Strategy (2011) as well as emerging policies (Site Allocation 9: Willow Way, EC2, EC3, EC6) in the Lewisham Proposed Submission (Regulation 19 Plan).

4. No townscape views have been submitted and the proposal does not demonstrate a context based design that responds to local character, including surrounding heritage assets. Furthermore, the building heights in the masterplan area are excessive and without additional information, officers cannot conclude the proposals would result in high quality design or preserve local heritage assets. The proposal is therefore contrary to policies D3, D6 and HC1 in the London Plan (2021); paragraph 126 in then NPPG and paragraphs 127, 130, 199, 200 and 203 in the NPPF (2021) and; sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5. The proposal fails to provide a housing mix in line with the requirements of the boroughs Strategic Housing Market Assessment and the applicant has provided no design feasibility or viability justification for this. The proposal would therefore be contrary to policies H4 and H6 in the London Plan (2021), Policy 1 in Lewisham's Core Strategy (2011) and Policy 7 in Lewisham's Development Management Local Plan (2014).

6. The submitted noise, flood risk and ecology reports have missing and conflicting information and therefore officers cannot confirm the proposals meet the requirements of the relevant policies. The proposal is therefore contrary to policies G1, G5 and GG6 of the London Plan (2021) as well as paragraphs 8c, 159, 170, 174 and 185 of the NPPF.



4.0 Relevant Planning Policies

4.1.1 It is agreed that the following planning policies of relevance to this appeal are as follows:

4.2 The London Plan, 2021

- D1, D3, D4, D6, D7, D13
- E1, E2, E3, E4, E6, E7
- HC1
- T1, T2, T4, T5, T6, T7
- H1, H4, H5, H6
- G1, G5
- SI 1, SI 4
- GG2, GG4, GG6
- S4

4.3 London Borough of Lewisham Core Strategy, 2011

- Spatial Policy 5, Core Strategy Policies 1, 3, 4 8, 9, 12, 14, 15, 16

4.4 London Borough of Lewisham Site Allocations Local Plan, 2013

- Site Allocation 48 - Willow Way Local Employment Location

4.5 London Borough of Lewisham Development Management Local Plan, 2014

- Policies 3, 7, 10, 22, 23, 25, 26, 29, 30, 32, 35, 36, 37

4.6 Emerging Lewisham Local Plan Proposed Submission Document: regulation 19 Stage, January 2023

- West Area Site Allocation 9: Willow Way Locally Significant Industrial Site (LSIS)



- EC2, EC3, EC4, EC6, HE1, HE2, HE3, DM3, HO1, QD1, QD6

4.6.1 Also of relevance to the consideration of this Appeal is the National Planning Policy Framework, 2023 (NPPF).

4.6.2 The London Borough of Lewisham's Reason for Refusal 2 refers to London Plan Policy SI 11. Policy SI 11 relates to Hydraulic fracturing (Fracking). This was a typographical error and is the incorrect policy reference.



5.0 General Areas of Agreement

- 5.1.1 This section sets out the general areas where the London Borough of Lewisham and the Appellant are in agreement. Specific topics are then dealt with in separate chapters.
- 5.1.2 **The Weight of the Emerging Lewisham Local Plan**, Regulation 19 Draft, 2023: Regulation 19 consultation on the emerging Lewisham Local Plan (“eLLP”) took place between 1 March 2023 and 25 April 2023. The Council plan to submit the eLLP for examination in October 2023. What weight, if any, should be afforded to the eLLP in the determination of this appeal falls to be determined in accordance with paragraph 48 of the NPPF.
- 5.1.3 **The Appeal Proposals include 50% affordable housing with a tenure split in accordance with Policy H6 of the London Plan 2021.**
- 5.1.4 **The following reports submitted with the Appellant’s Statement of Case have been reviewed by the London Borough of Lewisham and resolve previous issues between the parties on these matters, subject to planning conditions:**
- Ecological Addendum, Bat Survey and Biodiversity Net Gain Assessment (Appendix 2 of the Appellant’s Statement of Case)
 - Relocation Summary (Appendix 10 of the Appellant’s Statement of Case)
 - Noise Addendum (Appendix 15 of the Appellant’s Statement of Case)
 - Surface Water and Drainage Technical Note (Appendix 16 of the Appellant’s Statement of Case)
 - Sustainability Addendum (Appendix 19 of the Appellant’s Statement of Case)
- 5.1.5 As a result of the above, **Reason for Refusal 6 falls away completely together with the relevant part of Reason for Refusal 3 (relocation package). Reason for Refusal 6 is no longer pursued by the Council having now been addressed by the Appellant, and that part of Reason for Refusal 3 which relates to there being no relocation package proposals is also no longer being pursued by the Council for the same reason.**
- 5.1.6 **The Appeal Proposals are Air Quality Neutral and the Site does not lie within an Air Quality Management Area.**
- 5.1.7 **The biodiversity net gain of the Appeal Proposals is over 80%.**



5.1.8 The proposed energy solution meets planning policy requirements.



6.0 Employment Related Matters

6.1.1 The parties **agree** on the following matters:

6.1.2 The demand for employment uses in this location (which are in accordance with the land use policies for this location) is generally from the following types of occupiers:

- Food creation (not for consumption on these premises)
- Building services
- Maker craftsmen eg knitters
- Office services
- E deliveries
- Maintenance
- Artists
- Hi tech
- Storage and distribution
- Training
- Co working office

6.1.3 Employers are increasingly concerned in relation to the security of their units and that residents can bring some security comfort, rather than there being no surveillance out of hours.

6.1.4 Hours of operation, servicing movements and the associated noise from deliveries are important considerations for schemes where employment and residential uses are proposed to be co-located.

6.1.5 There is **disagreement** between the parties on the following matters:

6.1.6 The acceptability of the proposed mezzanine floorspace in relation to determining industrial capacity and the loss or gain of it.

6.1.7 The acceptability of the design of the proposed commercial units

6.1.8 The acceptability of the proposed fit out to shell and core.

6.1.9 The need for external yard space or external back of house as part of the Proposals.



7.0 Highway Related Matters

7.1.1 The following matters are agreed between the parties:

- An adequate car parking stress survey has been undertaken.
- An appropriate level of disabled parking is provided for the residential and commercial elements of the scheme.
- An acceptable level of cycle parking is provided for the residential and commercial elements of the scheme.
- The payment of a requirement of a financial contribution £15,000 towards a CPZ consultation / implementation studies / projects and/or to improve / manage parking, traffic or active travel in the vicinity of the site.

7.1.2 The following are areas of disagreement between the parties:

- That there is a negative impact on the surrounding highway network.
- Whether there is sufficient provision for servicing and delivery vehicles.
- That an insufficient footway width has been provided along the frontage of the application site.
- That a Traffic Regulation Order (TRO) is required on the western side of Willow Way to introduce double yellow lines for the frontage of the site.
- That a Section 278 Agreement needs to be entered into to deliver the road markings associated with the TROs, including the proposed loading bay and the introduction of double yellow lines on the eastern side.
- The financial contribution relating to a Healthy Streets contribution associated with the current application site in the context of the wider allocated site.
- The trigger date for the payment of a requirement of a financial contribution £15,000 towards a CPZ consultation / implementation studies / projects and/or to improve / manage parking, traffic or active travel in the vicinity of the site.

7.1.3 In addition, the Council state that the refuse strategy does not demonstrate that all of the residential units would be within a 30m drag distance from the bin collection storage areas. They add that that this matter could be addressed by condition. A proposed condition is included in the schedule of conditions to this Inquiry.



8.0 Heritage Related Matters

8.1.1 It is **agreed** between the parties that:

- The Townscape and Visual Impact Assessment (Appendix 17 of the Appellant’s Statement of Case) resolves that part of Reason for Refusal 4 which states ‘No townscape views have been submitted’.
- The heritage assets against which the Appeal Proposals should be assessed are set out in the Appellant’s Heritage Statement (PCA Heritage 2022, Site A, Willow Way, Sydenham: Heritage Statement, Core Document CD 1.12), as submitted with the planning application, with the addition of Sydenham Hill / Kirkdale Conservation Area and Kirkdale Area of Special Local Character (ASLC), the latter having been identified as a non-designated heritage asset by the Council.
- Kirkdale Area of Special Local Character has not yet formed part of any consultation; it is due to be consulted on in due course. There is therefore no adopted Statement of Significance currently available relating to the Area of Special Local Character.

8.1.2 Areas of **disagreement** between the parties are:

- Whether the Appellant thoroughly and adequately understands the heritage significance of designated and non-designated heritage assets near the Appeal Site, and the contribution that their settings make to their significance.
- Whether the Appeal Proposals cause a degree of harm to the significance of the following heritage assets:
 - i. Sydenham Park Conservation Area*
 - ii. Sydenham Hill / Kirkdale Conservation Area*
 - iii. High Street Buildings, 134-146 Kirkdale (a Grade II listed building)*
 - iv. 124-128, Kirkdale SE26 (a Grade II listed building)*
 - v. Kirkdale ASLC (a non-designated heritage asset)*
 - vi. The Bricklayers Arms (a locally listed building).*



9.0 Urban Design Related Matters

9.1.1 The smallest studio (Flat Type 28) is 37 sqm and situated on the fourth floor to the south. It is **agreed** that provided it has a shower instead of a bath it is compliant with the minimum internal space standards for new dwellings as set out in London Plan Policy D6 and this can be subject to a planning condition.

9.1.2 The following are areas of **disagreement**:

- Whether the contextual analysis supplied is adequate
- The extent to which the proposed development would unduly impact on the character and appearance of the surrounding context.
- The acceptability of the height and massing of the proposal, and whether this would have an unacceptable impact on the surrounding area, including an unacceptable relationship with William Wood Care Home.
- The extent to which the public realm apportioned to Site A can be considered high-quality.
- The acceptability of the proposed built form and the architectural identity in relation to the proposed site use.
- Whether the design of the residential units can be considered high-quality in relation to the internal arrangements of the shared circulation spaces and quantum of single aspect units.
- Whether the proposal is acceptable in terms of the emerging masterplan area and the wider site allocation from a design-led perspective



10.0 Masterplanning Related Matters

10.1.1 The following are areas of disagreement between the parties:

- Whether the Proposal would fetter or compromise the development of the remainder of the Willow Way LEL / LSIS having regard to the objectives of the wider site allocation and masterplan area.



11.0 Planning related matters

11.1.1 The proposed housing mix is agreed as acceptable except for the number of 3 beds in the affordable tenure, which is an area of disagreement, as set out below.

11.1.2 The following are areas of disagreement between the parties:

- The acceptability of the number of 3 beds in the affordable tenure.
- The acceptability of the impact on Wiliam Wood House in daylight terms.
- The compliance or otherwise with planning policy.
- The weight of various matters in the planning balance assessment.
- Whether there is identified harm and what that harm is.
- Whether the public benefits outweigh any identified harm.

