



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

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DATE: 28 July 2023

PLANS SUB-COMMITTEE NO. 1

Meeting to be held on Thursday 3 August 2023

SUPPLEMENTARY AGENDA

Please see the attached report marked "to follow" on the agenda.

7 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

8	PART 2:(22/03120/ELUD) - 96 IMPERIAL WAY, CHISLEHURST, KENT, BR7 6JR	Information relating to any individual.
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URGENT ITEM

THE CHAIRMAN TO MOVE THAT THE ATTACHED REPORTS, NOT INCLUDED IN THE PUBLISHED AGENDA, BE CONSIDERED AS A MATTER OF URGENCY ON THE FOLLOWING GROUNDS:

In order for the applicant to meet their 15th August contractual deadline.

S9 (20/04148/FULL1) - POTTERS FARM, TURPINGTON LANE, BROMLEY, BR2 8JN – Bromley Common and Holwood Ward.
(Pages 1 – 116)

Copies of the documents referred to above can be obtained from
www.bromley.gov.uk/meetings

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Agenda Item S9

Committee Date	3 rd August 2023	
Address	Potters Farm Turpington Lane Bromley BR2 8JN	
Application number	20/04148/FULL1	Officer Agnieszka Nowak-John
Ward	Bromley Common and Holwood	
Proposal (Summary)	Demolition of existing buildings and erection of part two/part three storey building comprising 16 affordable housing apartments with 12 parking spaces, refuse and cycle store (AMENDED DESIGN).	
Applicant	Agent	
Clarion Housing Group/Langford Walker Ltd	Mr John Escott Robinson Escott Planning	
Reason for referral to committee	Strategic/Major Development	Councillor call in Yes Cllr Gupta: "Lawful development"
RECOMMENDATION	<u>Permission to be refused</u>	

Summary

KEY DESIGNATIONS
<ul style="list-style-type: none"> • Green Belt

Land use Details		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Storage and distribution centre (Class B1, B2 and B8)	248sqm

Proposed	Residential (C3)	695.8sqm
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Residential Use – See Affordable housing section for full breakdown including habitable rooms					
	Number of bedrooms per unit				
	1	2	3	4 Plus	Total / Payment in lieu
Market	0	0	0	0	0
Affordable (shared ownership) 'either or' Discounted Market Sales	9	7	0	0	16
Affordable (social rent)	0	0	0	0	0
Total	9	7	0	0	16

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	0	10	+2
Disabled car spaces	0	2	+2
Cycle	0	32 (long stay) 2 (short stay/visitor)	+34

Electric car charging points	12 (100%)
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Representation summary	Neighbour letters were sent on 08.01.2021 to 51 neighbouring addresses. A press advert was published in News Shopper on 20.01.2021.
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	A further round of neighbourhood consultation letters were sent on 26.10.2021 (21 day consultation). A press advert was published on 03.11.2021.
Total number of responses	20
Number in support	2
Number of objections	18

Section 106 Heads of Term	Amount	Agreed in Principle
Affordable Housing (16 units)	NA	Yes
Carbon off-set payment-in-lieu	£24,835	Yes
Early and late stage review mechanism	NA	Yes
Reimbursement of the Council's legal costs	TBC	Yes
Monitoring fees	£500 per head of term	Yes
Total	TBC	NO

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposed scheme, in its entirety, cannot be considered under the relevant NPPF exception (paragraph 149(g)) covering the partial infill or complete redevelopment of previously developed land and must therefore, be considered as 'inappropriate development'.
- Due to its context, scale and layout the proposal would lead to 'substantial harm' to the openness of the Green Belt as is referred to in paragraph 149(g) of the Framework.
- The proposal would lead to a permanent, urbanising effect thereby undermining the purpose of the Green Belt to prevent urban sprawl by keeping land permanently open.
- Very special circumstances have not been demonstrated which would clearly outweigh the harm to the Green Belt and any other harm.
- Although the level of affordable housing provision (100%) exceeds the policy compliant threshold, the requirement for a policy compliant tenure split has not been addressed.
- The proposed layout would offer an acceptable quality of residential standards and amenity.
- Adequate sustainability measures would be incorporated achieving the required carbon reduction.
- The proposed development is not considered to be significantly harmful to the amenities of neighbouring residential properties nor would it result in an unacceptable impact on surrounding highway network and environmental matters such as air quality, contamination, noise, light

pollution, drainage, would be subject to appropriate conditions if the application was deemed acceptable overall.

1. LOCATION

- 1.1 The application site is rectangular in shape and has an area of 0.24ha. It occupies a corner position fronting the eastern side of Bromley Common, adjacent to its junction with Turpington Lane.
- 1.2 The site comprises two single storey barn-type structures located at the south-east corner of the site with a combined floor area of approximately 248sqm and an area of hardstanding/yard to the front and side of these buildings. The site was last used as a storage and distribution centre in connection with a turf and topsoil business.



Fig. 1. View of the site from Bromley Common.

- 1.3 Access to the site is via its northern boundary fronting Turpington Lane. The site is bounded by the A21, and by Turpington Lane and Magpie Hall Lane to the north and south respectively.
- 1.4 The application site falls within the Green Belt and the Bromley Common Renewal Area.
- 1.5 To the south the site adjoins the Bromley West Kent Sea Cadets site, which comprises a number of buildings, a parade ground and a car park. The land to the south-east of Magpie Hall Lane comprises of an open expanse of Green Belt land used as the playing fields of Bishop Justus School and Princes Plain Primary School, whilst the land more immediately to the south comprises of an area of fallow land, and beyond that allotment gardens and Holy Trinity Church.
- 1.6 The land to the west comprises a part of the Bromley Common, and falls within the designated Bromley, Hayes and Keston Common Conservation Area.

- 1.7 To the east of the site lies a group of mainly three-storey flats constructed around the mid-Twentieth Century, which occupy an area between an access road to the east of the appeal site and Link Way a further 160m to the east.
- 1.8 To the north of the site is a residential development forming part of the wider scheme on the former Blue Circle Sports Ground site, which features predominately flatted forms of development, here extending generally to three storeys in height. The flatted developments and terraced dwellings of Turpington Lane continue to the north-east.
- 1.9 There are a pair of bus stops nearby on Bromley Common and a northbound stop adjacent on Turpington Lane. Together they serve five bus routes. There are no rail stations within an acceptable walking distance. The site has a Public Transport Access Level (PTAL) of 3 and partially 2 (on a scale of 0-6b where 6b is the highest). The cycle network in this location is poor with only an advisory on carriageway cycle lane running along Bromley Common. This connects with Bromley town centre.
- 1.10 The site is in Flood Zone 1 indicating at a low risk of flooding.
- 1.11 The site benefits from planning consent for demolition of the existing buildings and redevelopment of the site to provide 6 bungalows.

2. PROPOSAL

- 2.1 The originally submitted scheme has been revised by the submission dated 31st August 2021 and publicly re-consulted.
- 2.2 It is proposed to demolish the existing buildings and redevelop the site to provide 16 residential units. The proposed dwelling mix would be 9 x 1 bed and 7 x 2 bed flats (including two wheelchair accessible units).
- 2.3 The scheme proposes 100% affordable housing with the proposed tenure being “either or”:
 - 16 “any tenure” affordable units in association with our development partner Clarion or
 - 16 discount market sale (DMS) housing units based on the Pocket living model.
- 2.4 The proposal would comprise an ‘L’ shaped block which addresses both the Bromley Common and Turpington Lane frontages. The main entrance to the development would now be from Turpington Lane (Fig.2).
- 2.5 The ‘L’ shaped layout would create a semi-private area of amenity space that would be largely enclosed by the existing building. In addition to the shared amenity space, all of the units now have private amenity space either in the form of ground floor patios or balconies. Dedicated child play space would be provided within the shared amenity space.

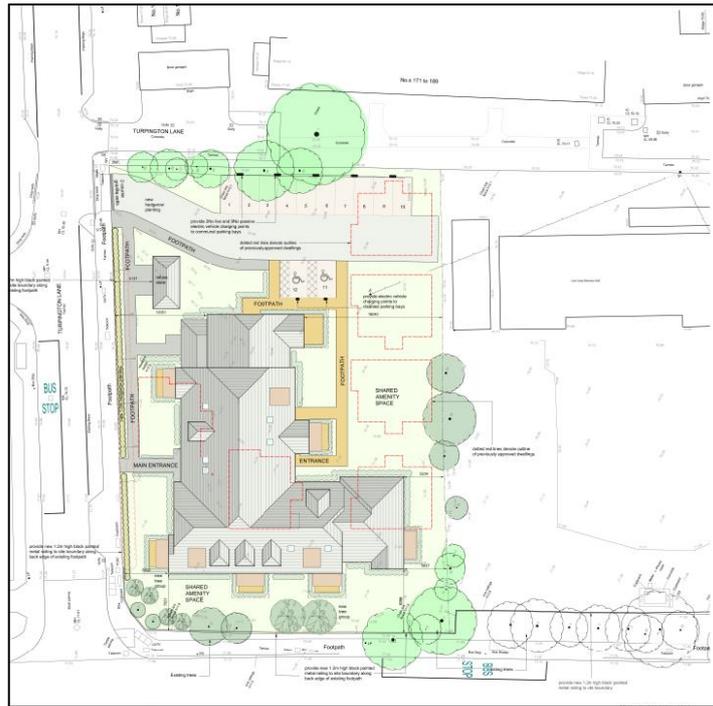


Fig.2. Proposed site layout.

- 2.6 A total of 12 parking spaces are proposed along the north western boundary, all with active electric vehicle charging points. Two of these spaces would be disabled spaces. A detached refuse store is proposed adjacent to the access driveway from Turpington Lane.
- 2.7 An internal cycle store would be provided internally within the building indicating a capacity for 32 cycle parking spaces. Additionally, 2 no Sheffield cycle hoops adjacent to main entrance for use by visitors would be provided.



Fig.3. Proposed street scene – Bromley Common (top) and Turpington Lane (bottom).

3. RELEVANT PLANNING HISTORY

- 3.1 85/00814: Planning permission refused on 1 July 1985 for the erection of a fence and storage barn.
- 3.2 85/02494: Planning permission granted on 21 November 1985 for a replacement boundary fence.
- 3.3 86/01152: Planning permission granted on 21 July 1986 for a single storey storage building.
- 3.4 86/02349: Landscaping details pursuant to the permission granted under ref. 86/01152 approved.
- 3.5 88/01279: Planning permission refused on 25 July 1988 for the removal of conditions 97 (No storage of agricultural produce or pallets or machinery shall take place outside of the walls of the building hereby permitted) and 98 (The existing buildings on the site shown to be demolished on drawing no. MP/3C/34/A shall be demolished and the site cleared of their materials and other building materials to the satisfaction of the Director of Technical Services within one month of the first use of the building hereby permitted) of permission ref. 86/01152 and 86/02349 on the following ground: "Open storage on the site would be detrimental to the visual amenities of the Green Belt and adjoining residential properties."
- 3.6 88/03991: Certificate of Lawfulness for an existing use refused on 19 June 1990 for a retail farm shop for the sale of agricultural/horticultural farm produce, potatoes, turf, top soil, fertilisers, hay and straw. A subsequent appeal was withdrawn. The ground of refusal was: "Insufficient evidence has been submitted to prove to the Council's satisfaction that retail use of the farm shop was not ancillary to the agricultural use of nearby land before the end of 1963".
- 3.7 92/00345: Planning permission refused on 24 August 1992 for use of land at Potters Farm for the purpose of handling and distribution of potatoes and turf and the parking of 6 heavy goods vehicles and 2 trailers and the use of the buildings for storage on the grounds that:
1. The use proposed is an inappropriate use within the Green Belt wherein there is a presumption against development not associated with the essential needs of agriculture, horticulture, forestry or predominately open air recreation and there are no very special circumstances which might justify the grant of planning permission as an exception to Policy R.2 of the Bromley Borough Plan or Policy G.2 of the Draft Unitary Development Plan.
 2. The parking of heavy goods vehicles and trailers and the open storage of top soil, turf, and pallets on this site is visually intrusive and detrimental to the open undeveloped character of the Green Belt in this location.
 3. The use is detrimental to the residential amenities of adjoining properties in Turpington Lane by reason of noise, dust and general disturbance caused by

the 6 movement of lorries and vehicles associated with the operation of the activity and the deposit of large quantities of materials in the open on this site.

3.7.1 The above application was subsequently dismissed at appeal.

3.8 92/00346: Certificate of Lawfulness for an existing use refused on 24 August 1992 for the use of land at Potters Farm for the purpose of handling and distribution of potatoes and turf and the parking of 6 heavy goods vehicles and 2 trailers and the use of the buildings for storage on the following ground:

Insufficient evidence has been submitted to prove to the Council's satisfaction that the uses described were operating from the land in 1968 and have continued without interruption since that time.

3.9 On 19 October 1993, three simultaneous planning appeals were dismissed by the Secretary of State (APP/D/93/G5180/1; APP/C/92/G5180/623815; APP/A/93/G5180/219927). These related to the Certificate of Lawfulness refused under ref. 92/00346 and enforcement action taken in 1992 against the change of use of land from agricultural use with ancillary farm shop to use for the following purposes: (1) distribution centre for turf, topsoil, fertilizer, hay & straw & potatoes, (2) use of buildings for storage of turf, topsoil, potatoes. The requirements of the Notice included the following: (i) cessation of the use of the land for the parking of heavy goods vehicles, tractors and trailers; (ii) cessation of the use of the land for the maintenance and servicing of heavy goods vehicles, tractors and trailers; (iii) cessation the use of the potato bagging machine; (iv) removal of hard standing (other than the accessway); (v) restore the surface of the site (other than the accessway); (vi) cessation of use of the site as a distribution centre; (vii) remove all pallets from the site.

3.10 95/01496: Planning application (retrospective) refused on 21 August 1995 for the retention of the exiting hard surface on the following ground: "The retention of the hardstanding would be inappropriate within the Green Belt, would be detrimental to the visual amenities of the area and would be contrary to Policies G.2 and EMP9 of the Unitary Development Plan."

3.11 The above application was allowed on appeal on 16 December 1996. In allowing the appeal, the Planning Inspector recognised the need for large vehicles to manoeuvre safely within the site space and prevent loading and unloading taking place on the highway, which would pose a road safety hazard. Whilst the Inspector acknowledged that the use of the area outside the storage building permitted in 1986 was controlled, the use of the building itself was unrestricted. In light of these conclusions, the Inspector concluded that very special circumstances existed to permit the additional area of hardstanding, and therefore justify such development in the Green Belt.

3.12 Application ref: 07/00607: Planning permission refused on 13 April 2007 for the installation of a 20m replica telegraph pole with shrouded antennas and 4 equipment cabinets on the grounds that:

1. The proposed phone mast and equipment cabinet would be obtrusive and highly prominent features in the street scene and would by virtue of its size and location within the Green Belt have a detrimental impact on the visual amenity of the area contrary to Policies G1, BE1 and BE22 of the Unitary Development Plan.
2. The proposal by virtue of its siting and appearance would contribute to an undue proliferation of street furniture in the area and would have a deleterious impact on the visual appearance and residential amenities of the locality thereby contrary to Policies BE1 and BE22 of the Unitary Development Plan.
3. The proposal would be harmful to the amenities of the area in general and constitutes inappropriate development in the Green Belt contrary to Policies G1 and BE22 of the Unitary Development Plan.

3.13 15/00802/FULL1 - Demolition of existing buildings at Potters Farm and Sea Cadets Magpie Hall Lane and erection of 2 part two storey, part 3 storey buildings to provide new sea cadet premises and parade ground together with 39 apartments; provision of 41 car parking spaces (including 7 for sea cadets), refuse and cycle stores and associated landscaping and tree planting. Application refused on 22nd June 2015 for the following reasons:

- 1 The proposal is considered to constitute inappropriate development which would have a substantially detrimental impact upon the openness of the Green Belt and the purposes of including land within it for which no very special circumstances are considered to exist to outweigh the harm to the Green Belt contrary to Policy G1 of the Unitary Development Plan, Policy 7.16 of the London Plan and the National Planning Policy Framework (2012).
- 2 The proposal would, by reason of its scale, mass, height, bulk and detailed design, represent an unacceptable level of development which would be detrimental to the open character and setting of the site within the streetscape and its contribution to the openness and character of the Green Belt. Furthermore, by virtue of the lack of suitable ground floor level entrances and amenity areas the proposal results in a poor level of activity, permeability and legibility to the serious detriment of securing high quality design and public realm. Consequently, the proposal fails to comply with the aims and objectives of the National Planning Policy Framework (2012) and Policies BE1, G1 and H7 of the Unitary Development Plan, Policies 7.1, 7.4, 7.5, 7.6 and 7.16 of the London Plan, The Mayors Housing SPG and SPG1 Good Design Principles and SPG2 Residential Design Guidance.
- 3 The proposal, by virtue of the access arrangements, failure of all units to meet London Plan minimum sizes and lack of sufficient private and communal amenity space fails to demonstrate that a high-quality living environment with satisfactory standards of amenity will be provided for future residents. Furthermore, it has not been demonstrated that the development is capable of providing 10% wheelchair provision across all tenures, with suitable access and internal layout. The proposal is

therefore contrary to Policies H7 and BE1 of the Unitary Development Plan, Policies 3.5, 7.1, 7.2, 7.4 and 7.6 of the London Plan, The Mayors Housing SPG, SPG2 Residential Design Guidance and the National Planning Policy Framework (2012).

- 4 The energy statement as submitted is based on incorrect policy and as such falls short of the required savings contrary to Policies 5.2, 5.3, 5.5, 5.6 and 5.7 of the London Plan.
- 5 The proposal would, in the absence of any evidence to demonstrate the unsuitability and non-viability of the site for Class B1, B2 or B8 uses, lead to the loss of an existing viable small business use contrary to Policy EMP5 of the Unitary Development Plan.

3.14 Subsequent planning appeal ref. APP/G5180/W/15/3129314 (Appendix 1) was dismissed on 13th April 2016. The Inspector identified that the proposed scheme would constitute inappropriate development in the Green Belt for the purposes of the Framework and would harm openness. In addition, the Inspector considered that the development would fail to provide acceptable living conditions for future occupants' and harm the availability of local employment sites. The Inspector concluded that no very special circumstances have been demonstrated to justify the development.

3.15 15/05147/FULL1 - Demolition of existing buildings and removal of existing yard area and other structures. Construction of 2 two bedroom and 5 three bedroom two storey terraced houses with 14 car parking spaces. Retention of existing open areas, new landscaping and tree planting. Application refused on 10th February 2016 for the following reasons:

3.16 Subsequent planning appeal ref. APP/G5180/W/16/3145669 (Appendix 2) was dismissed on 26th October 2016. In determining the appeal, the Planning Inspector concluded:

"I have found that the proposal would constitute inappropriate development that would conflict with national and local policy to protect the Green Belt, and this is a matter to which the Framework requires me to attach substantial weight. I have also found that the proposal would be harmful to the openness of the Green Belt. As openness is one of the most important attributes of the Green Belt, this constitutes substantial additional harm that further weighs against the proposals. In addition, I am unconvinced that that the proposal would not lead to the loss of an existing viable small business site and this is also a matter of moderate weight against the proposed development.

"I have though found, on balance, that the proposed development would result in a modest benefit to the character and appearance of the area and this is a matter of moderate weight in its favour. As explained, within the context of the Green Belt, the modest contribution the development would make to housing supply attracts only limited weight in favour of the proposal.

“In the final balance therefore, the considerations advanced in support of the proposals cannot be seen as sufficient to clearly outweigh the harm to the Green Belt that would arise as a result of the development. The very special circumstances necessary to justify the proposal do not therefore exist.”

3.17 16/03939/FULL1 - Demolition of existing buildings and removal of existing yard area and other structures. Construction of 2 two bedroom and 4 three bedroom two storey terraced houses with 12 car parking spaces. Landscaping, cycle store and refuse collection point. Application refused on 1st December 2016.

1 The proposal is considered to constitute inappropriate development which would have a substantially detrimental impact upon the openness of the Green Belt and the purposes of including land within it for which no very special circumstances are considered to exist to outweigh the harm to the Green Belt contrary to Policy G1 of the Unitary Development Plan, Draft Policy 49 of the Proposed Submission Draft Local Plan, Policy 7.16 of the London Plan and the National Planning Policy Framework.

2 The proposal would, by reason of its scale, mass, height, bulk represent an unacceptable level of development which would erode the wider openness of the Green Belt detrimental to the open character and setting of the site within the locality and its contribution to the character, openness and permanence of the Green Belt and safeguarding of the countryside from encroachment and unrestricted sprawl of large built-up areas contrary to Policy G1 of the Unitary Development Plan, Draft Policy 49 of the Proposed Submission Draft Local Plan, Policy 7.16 of the London Plan and the National Planning Policy Framework.

3 The proposal would, in the absence of adequate and robust evidence to demonstrate the unsuitability and non-viability of the site for Class B1, B2 or B8 uses, lead to the loss of an existing viable small business use of the site contrary to Policy EMP5 of the Unitary Development Plan, Draft Policy 83 of the Proposed Submission Draft Local Plan and Policy 4.4 of the London Plan and the National Planning Policy Framework.

3.18 Subsequent appeal ref. APP/G5180/W/16/3165767 (Appendix 3) was dismissed on 24th July 2018. The Inspector concluded that the proposal would be inappropriate development in the Green Belt as defined by the Framework stating “The proposal would erode the openness of the Green Belt. As outlined above I give only limited weight to each material consideration cited to support the proposal and conclude that taken together they do not outweigh the harm that the scheme would cause. Consequently, I conclude that the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. For the reasons given above and having regard to all other matters raised I conclude that the scheme is not sustainable development for which the Framework indicates that there should be a presumption in favour and therefore the appeal should be dismissed”.

- 3.19 18/04265/FULL1 - Demolition of existing buildings and removal of existing yard area. Erection of 3 detached bungalows with car parking, landscaping and tree planting and provision of boundary fencing/railings. Application permitted on 18th February 2019.
- 3.20 16/05502/B8RES - Change of use of barn (B8 storage) to dwellinghouses (Class C3) to form 2 one bed units and 1 two bed unit (56 day application for prior approval for prior approval in respect of transport, highways, contamination, floor risk and noise under Class P, Schedule 2, Part 3 of the GPDO 2015). Prior approval granted on 18th January 2017.
- 3.21 17/01827/PLUD - Single storey detached warehouse building (Lawful Development Certificate for a proposed development under Class H, Part 7 of the General Permitted Development Order, 2015) - Proposed commercial use. Certificate issued on 11th July 2017.
- 3.22 18/04265/FULL1 - Demolition of existing buildings and removal of existing yard area. Erection of 3 detached bungalows with car parking, landscaping and tree planting and provision of boundary fencing/railings – Application permitted on 18th February 2019.
- 3.23 19/01505/FULL1 - Erection of two detached bungalows for social housing with car parking and landscaping. Application refused on 2nd July 2019 for the following reasons:
- 1 The proposal is considered to constitute inappropriate development which would cause substantial harm and have a detrimental impact on the openness of the Green Belt and the purposes of including land within it for which no very special circumstances are considered to exist to outweigh the harm to the Green Belt contrary to Policy 49 of the Bromley Local Plan, Policy 7.16 of the London Plan and the provisions of the National Planning Policy Framework.
 - 2 No information has been provided to identify an affordable housing provider to operate the development for affordable housing in order for the LPA to ensure that the housing units will contribute to meeting an identified affordable housing need contrary to Policy 2 of the Bromley Local Plan and the National Planning Policy Framework.
- 3.24 Subsequent planning appeal ref. APP/G5180/W/19/3234830 (Appendix 4) was allowed on 18 March 2020. The Inspector concluded that the erection of two single storey bungalows (in addition to the previously granted three single storey bungalows) due to their limited scale and the proposed layout which included an open area of landscaped amenity space adjacent to the most prominent northern and western boundaries of the site, the site would continue to make a positive contribution to the transition between the built-up area and the wider Green Belt, albeit that this contribution would be diminished compared to the existing and permitted site layouts. The bungalows would generally be viewed against the backdrop of either the existing buildings or the approved housing development, and despite the reduction in openness and the suburban

character of the bungalows, in his view the proposal would not appear as significant unrestricted urban sprawl or encroachment into the countryside.

- 3.25 20/01561/FULL1 - Erection of a detached two bedroom bungalow for affordable housing with car parking and landscaping - application permitted on 25.09.2020.

4. CONSULATION SUMMARY

a) Statutory

- 4.1 **Greater London Authority (GLA) – Whilst the proposal is supported in principle, the application does not yet comply with the London Plan but the possible remedies, as set out in the GLAs full report, could address these deficiencies (a copy of the GLAs full report is attached at Appendix 5).**

Land use principles: Having met the exception at part two of Paragraph 149(g) of the NPPF, the proposed development is not considered inappropriate and therefore accords with London Plan Policy G2.

Affordable housing: The application is proposing 100% affordable housing and would qualify for the Fast Track Route provided that the final affordable tenure mix is considered acceptable by the Mayor and the Council.

Sustainable development and Environmental issues: Further information on renewable energy, energy costs, cooling and overheating, energy flexibility and heating infrastructure is required and a WLC assessment and circular economy statement must be submitted.

Urban design: Broadly supported; however, further information on residential quality, play space and fire safety is required.

Transport: A Healthy Streets assessment and ATZ must be provided and necessary improvements agreed; significant improvement to cycle parking design is needed and a reduction in car parking is sought; a link to the cycle lane and bus stops on Bromley Common is required; and, various transport-related plans, disabled persons' parking and EVCP secured by condition.

- 4.2 **TFL – Further information required (Comments received as part of the GLA Stage 1 response referred to above).**

Healthy Streets: All developments should support the Mayor's Healthy Streets approach by delivering improvements to support the ten Healthy Street indicators in line with Policy T2 of the London Plan. A Healthy Streets Assessment and Active Travel Zone should therefore be provided prior to the Mayor making his final decision on this application.

Walking and cycling: In line with the Mayor's Healthy Streets approach, modes of sustainable and active travel should be prioritised over vehicles. A pedestrian only access to the development from Turpington Lane is proposed;

however, its width should be increased to a minimum of two metres in line with TfL's Streetscape guidance. Notwithstanding, the applicant is encouraged to provide an additional access route for pedestrians and cyclists that links directly to Bromley Common. This would create a direct route to the Bromley Common cycle lane and bus stops. The installation of a raised table across the vehicular access to prioritise pedestrian movement is also recommended.

Vehicular access: In line with Vision Zero objectives, the Council is strongly encouraged to secure the removal of the on-street parking space nearest to the proposed vehicular access which would otherwise create a blind spot, especially given the nearby bus stop.

Parking: The proposed 32 long-stay cycle parking spaces are the minimum required by London Plan Policy T5. It is, however, unclear how this number could fit within the small store identified. Further detail should therefore be provided to demonstrate compliance with the London Cycling Design Standards (LCDS) as is required by Policy T5. In addition, at least two suitably designed and located short-stay cycle spaces are required.

A total of 12 car parking spaces, including two for disabled persons, is proposed. This is the maximum amount prescribed by London Plan Policy T6.1. However, a parking ratio of 0.75 is likely to result in the level of vehicular trips exceeding the Mayor's strategic mode shift target which for outer London Boroughs is for 75 percent of trips to be made via active and sustainable transport by 2041. As such a reduction in parking is sought.

In terms of electric vehicle charging points (EVCP), from the outset both of the disabled persons' spaces and 20 percent of general car parking spaces would be equipped with charging points. Whilst this meets the minimum requirements of Policy T6, it is recommended that all the parking spaces have active charging from the outset.

The disabled persons' parking and EVCP should be secured by condition along with a parking design and management plan. The Council should determine whether a permit-free agreement and on-street parking controls would be appropriate given the high car ownership in the area.

Trip generation: Although there are shortfalls within the submitted trip generation assessment, the development should not have a significant impact on the surrounding highway and public transport network.

Transport-related plans: A full delivery and servicing plan and a construction logistics plan should be secured by condition in line with London Plan Policy T7. These should be prepared in line with TfL guidance and provide detail on how the impact on the surrounding transport network will be minimised and adherence to the Mayor's Vision Zero approach. A travel plan should also be secured. It should contain targets that are at least in line with the Mayor's strategic mode shift target for outer London and in particular promote active travel.

4.3 Thames Water – no objection subject to conditions and informative.

b) Local groups – no representations

c) Adjoining Occupiers

Objections

- **Principle (addressed in section 6.1)**
 - Protection of the Green Belt and needs of the local community should be given priority over developer's greed
 - Unsuitable area for such development
 - Abuse and exploitation of the greenbelt
 - The amenity land of this property will be lost when the A21 is widened and converted to a dual carriageway.

- **Design (addressed in section 6.3)**
 - Overdevelopment of the site.
 - Hideous development.

- **Amenity (addressed in section 6.4)**
 - The drawings show that the existing 6ft fence to the front of the property would be replaced with a 1.2m high fence. This is not acceptable in terms of safety/security and safeguarding of both the cadets and the property. The cadets age from 12 years old and therefore their security and safety whilst on site is imperative.

- **Highways (addressed in sections 6.5)**
 - Increase in car parking stress on Turppington Lane and Brosse Way due to insufficient and inadequate off street car parking spaces provision.
 - Increase in traffic along Bromley Common and the impact it would have on safety of the children attending local schools.
 - The buses are to capacity and the A21 now has more frequent and longer traffic jams. Rat runs will require 20 mph speed limits and only those fit enough and brave enough to ride bicycles will be able to make any progress.
 - The plan proposes a turning circle/ garage area, in the event of an accident where a car was to lose control, the vehicle could cross boundary's and destroy the porta cabin on the adjoining site.

- **Environmental (addressed in sections 6.8 and 6.9)**
 - The impact of the additional traffic on pollution
 - The sewage system in the locality cannot cope with the existing properties let alone 16 more toilets and baths dumping waste into it
 - Noise and pollution from construction
 - Lack of information on waste water management. The current system will not be able to cope with the extra waste water and this could have serious implications for the Bromley Sea Cadet Unit.

- **Miscellaneous (addressed below)**
 - No permission has been granted to remove and replace the fence between the application sites and the Bromley Sea Cadet site. On the deeds for the Bromley Sea Cadet unit this boundary is the responsibility of any developer of the proposed land.

Officers' response: Party wall agreements and property deeds are civil matters and not material planning considerations.

Support

- The site has been derelict for over 7 years
- The commercial use created a lot of problems for local residents
- The permitted bungalows would be out of character
- The proposed block would fit well with the surroundings
- Improvements to the Turpington Lane through landscaping and planting
- Social housing permitted on Green Belt land
- Will address the housing need
- Current site harms the Green Belt

5. POLICIES AND GUIDANCE

Planning and Compulsory Purchase Act (2004)

- 5.1 Section 38(5) states that if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document [to become part of the development plan].
- 5.2 Section 38(6) requires that the determination of these applications must be made in accordance with the plan unless material considerations indicate otherwise.

National Policy Framework (NPPF) 2021.

- 5.3 In accordance with Paragraph 47 of the Framework, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

National Planning Practice Guidance (NPPG)

- 5.4 Relevant paragraphs are referred to in the main assessment The London Plan (March 2021).

The London Plan (2021)

- 5.5 The relevant policies are:

- GG2 Making the best use of land
- GG3 Creating a healthy city
- GG4 Delivering the homes Londoners need
- GG6 Increasing efficiency and resilience
- SD10 Strategic and local regeneration
- D1 London's form
- D3 Optimising site capacity through the design-led approach
- D4 Delivering good design
- D5 Inclusive design
- D6 Housing quality and standards

D7	Accessible housing
D11	Safety, securing and resilience to emergency
D14	Noise
H1	Increasing housing supply
H4	Delivery affordable housing
H5	Threshold approach to applications
H6	Affordable housing tenure
H7	Monitoring of affordable housing
H10	Housing size mix
S4	Play and informal recreation
HC1	Heritage conservation and growth
G2	London's Green Belt
G5	Urban greening
G6	Biodiversity and access to nature
G7	Trees and woodlands
SI-1	Improving air quality
SI-2	Minimising greenhouse gas emissions
SI-3	Energy infrastructure
SI-8	Waste capacity and net waste self-sufficiency
SI 13	Sustainable drainage
T1	Strategic approach to transport
T2	Healthy streets
T3	Transport capacity, connectivity and safeguarding
T4	Accessing and mitigating transport impacts
T5	Cycling
T6	Car parking
T6.1	Residential parking
T7	Deliveries, servicing and construction
DF1	Delivery of the plan and planning obligations
M1	Monitoring

Mayor Supplementary Guidance

5.6 The relevant SPGS are:

- Providing for Children and Young People's Play and Informal Recreation (2012)
- Shaping Neighbourhoods: Character and Context (2014)
- Accessible London: Achieving an Inclusive Environment (2014)
- Control of Dust and Emissions During Construction and Demolition (2014)
- Housing (2016)
- Homes for Londoners - Affordable Housing and Viability (2017)
- Sustainable Transport, Walking and Cycling, Urban Greening Factor LPG
- Air Quality Neutral and Air Quality Positive LPG
- Energy Assessment Guidance (2021)
- Accessible London: Achieving an Inclusive Environment (2014)
- The control of dust and emissions during construction and demolition (2014)

The new London Plan guidance provides further information about how the London Plan should be implemented. This includes the draft Fire Safety LPG and the recently adopted LPGs on Sustainable Transport, Walking and Cycling, Urban Greening Factor, Air Quality Neutral and Air Quality Positive.

Bromley Local Plan (2019)

5.7 Relevant policies are:

- 1 Housing Supply
- 2 Affordable Housing
- 4 Housing Design
- 13 Renewal Areas
- 14 Development Affecting Renewal Areas
- 16 Bromley Common Renewal Area
- 30 Parking
- 31 Relieving Congestion
- 32 Road Safety
- 33 Access to services for all
- 34 Highway Infrastructure Provision
- 37 General Design of Development
- 42 Development Adjacent to a Conservation Area
- 49 Green Belt
- 70 Wildlife Features
- 72 Protected Species
- 73 Development and Trees
- 74 Conservation and Management of Trees and Woodlands
- 75 Hedgerows and Development
- 77 Landscape Quality and Character
- 79 Biodiversity and Access to Nature
- 113 Waste Management in New Development
- 115 Reducing Flood Risk
- 116 Sustainable Urban Drainage Systems
- 117 Water and Wastewater Infrastructure
- 118 Contaminated Land
- 119 Noise Pollution
- 120 Air Quality
- 122 Light Pollution
- 123 Sustainable Design and Construction
- 124 Carbon Reduction, Decentralised Energy Networks and Renewable Energy
- 125 Delivery and Implementation of the Local Plan

Bromley Supplementary Guidance

5.7 Relevant Guidance are:

- Urban Design Guide (2023)
- Planning Obligations (2022)

6. Assessment

6.1 Principle of Development – Unacceptable

6.1.1 The loss of the employment floorspace has been established as acceptable in the previously approved applications on the site.

Green Belt

6.1.2 The application site lies wholly within land that is designated as Green Belt in Bromley Council's Local Plan proposals map (2019). London Plan Policy G2 of the London Plan set out the overarching strategic priority to protect the Green Belt from inappropriate development.

6.1.3 Paragraph 147 of the NPPF states that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. Paragraph 148 of the NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt when making planning decisions and confirms that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

6.1.4 Paragraph 149 of the NPPF confirms that the construction of new buildings should be considered inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- Not have a greater impact on the openness of the Green Belt than the existing development; or
- Not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

6.1.5 Previously developed land is defined as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure, as set out in the NPPF, London Plan and the Mayor's intend to publish London Plan. This excludes:

- land that is or was last occupied by agricultural or forestry buildings;
- land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures;
- land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and
- land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

6.1.6 The definition states that it should not be assumed that the whole of the curtilage of a site should be developed where only part of a site includes permanent structures.

6.1.7 Part of the application site is currently occupied by buildings and hardstanding and therefore meets the definition of previously developed land (PDL) as defined in the NPPF. The information contained in the Planning Statement submitted with the application indicates that the existing buildings on the site account for a combined footprint of 248sqm and the hardstanding totals 778sqm, equating to 1,026sqm of previously developed land (42.7%).

6.1.8 However, officers note that the extent of the PDL as identified on the Existing Site Layout drawing appears to be overestimated and inconsistent with the habitat map presented in the Appendix 1 of the Preliminary Ecological Appraisal (PEA) submitted (Fig. 4). Furthermore, the PEA advises that the survey of the site (undertaken in December 2020) revealed that the hardstanding had established a thin layer of soil in places permitting vegetation to grow. Up-to-date photographs of the application site undertaken during the most recent site visit on 20th July 2023 are shown below (Fig.5).

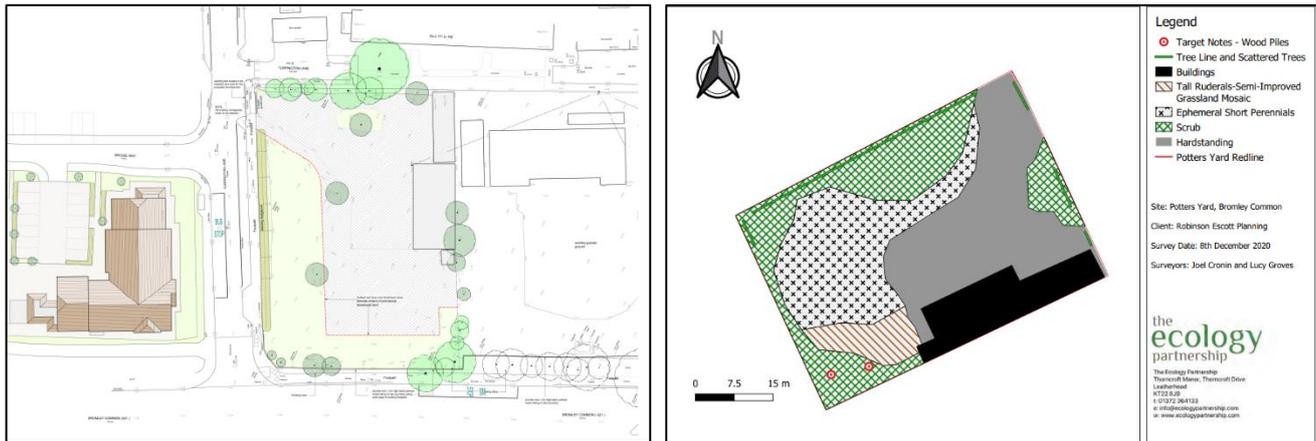


Fig.4. The extent of the PDL outlined and the Habitat Map.



Fig.5. Photographs of the application site.

6.1.9 Whilst the applicant's view is that the entire application site is classified as previously developed land (PDL) as defined in the NPPF, officers view is that less than a half of the application site area can be defined as a previously developed land and further to this, out of that part, some areas of the hardstanding should be considered as a 'land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time', thereby being excluded from the previously developed land in light of the NPPF classification. To this end, officers are of the opinion that the proposed scheme, as a whole, cannot be considered under the relevant NPPF exception covering the partial infill and complete redevelopment of previously developed land (149(g)) and must therefore, be considered as 'inappropriate development'.

6.1.10 In any event, any exception under paragraph 149(g) only applies subject to the proviso that the proposal would not have a greater impact on openness than the existing development (first strand) or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need

within the area of the local planning authority (second strand). These aspects are analysed in the subsequent paragraphs of this report.

Whether the proposed development would have a greater impact on the openness of the Green Belt than the existing development

- 6.1.11 The essential characteristics of Green Belts are their openness and their permanence. The National Planning Practice Guidance (NPPG) states that assessing the impact on openness is effectively a planning judgement based on the circumstances of a particular application. Drawing on case law, the NPPG also confirms that openness is capable of having both spatial and visual aspects and it may be relevant to assess both components, as well as other factors such as duration and remediability of a proposal and the degree of activity generated. Overall, the effect of a development on the openness of the Green Belt is primarily a matter of its nature, scale, bulk and site coverage.
- 6.1.12 The proposal involves the erection of a residential building and associated hardstanding and parking amounting to 1,423sqm. As such, the proposed quantum of developed land would result in a net increase of 397sqm, meaning that the developed area as proposed would represent 59% of the site, as opposed to the existing 43%.
- 6.1.13 Of the 1,423sqm quantum of developed land, the built form footprint (flatted block and refuse store) would account for 720sqm and other elements of the proposal would have an area of 703sqm. In result, the percentage of the developed land that would be covered with a built form would increase from 10% to 30%. To this end, the proposals would result in the increase in both the building footprint, as well as the developed area coverage.
- 6.1.14 The existing level of development within the boundaries of the application site is minimal. In terms of height, the proposed building would be 7.27m taller than building 1 and 6.91m taller than building 2 currently present on site.
- 6.1.15 In volumetric terms, the proposal would introduce around 6,139 cubic meters (nearly 600% increase over existing) of highly visible build form across the part of the site which is currently absent of buildings. The areas of unbuilt space would be located towards the rear of the proposed development and these open aspects would not be readily appreciable from within the streetscene where, despite the proposed landscaped strip along the A21 and Turpington Lane frontages, it would appear as an uninterrupted mass of development (Fig.6).



Fig. 6. CGI of the proposal as seen from the junction of Bromley Common and Turpington Lane.

6.1.16 Openness concerns freedom from built form, i.e., an absence of development. The introduction of a building of the proposed scale into an area of the site which, whilst (partially) previously developed, currently contains no built form above ground level and remains substantially open, would result in a significantly greater physical presence on the site and would have demonstrably greater impact on the openness of the Green Belt. This is expressed in both quantitative terms and contextually.

6.1.17 Notwithstanding the view of officers that parts of the proposed scheme will involve building on land which cannot be considered as previously developed land, in this instance, the proposal would also erode the openness of the Green Belt in both visual and spatial terms. Therefore, the scheme does not meet the first strand of the exception under Paragraph 149(g) of the NPPF.

6.1.18 The second strand of 149(g) refers to development on the previously developed land which would meet an identified affordable housing need within the area of the local planning authority.

Whether the proposed development would cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority

6.1.19 Again, noting that parts of the proposed development would involve building on land which officers do not consider is previously developed, officers accept that there is a shortfall in the provision of affordable housing and consequently it is also accepted that there is a clearly defined borough-wide need for such. The proposal would deliver 16 affordable dwellings, and this would, as required by paragraph 149(g), 'contribute to meeting' an identified affordable housing need within the borough.

6.1.20 As affordable housing is proposed which would meet an identified housing need, the development proposals which are on previously developed parts of the site may be considered 'not inappropriate' as defined by the NPPF. The remaining limb of the NPPF exception at paragraph 149 (g) is therefore relevant, however, this is conditional upon the development not causing substantial harm to the openness of the Green Belt. Whether substantial harm would result is a matter of judgement, based on an assessment of the severity of this change.

6.1.21 The application site is situated in a prominent location and is readily visible from nearby dwellings as well as the busy highway of the A21. The site (highlighted by the green marker in fig.7) sits on the edge of the Green Belt and to the immediate north and east are residential buildings similar in height to the proposal.



Fig. 7. Location of the site in the Green Belt context.

6.1.22 Despite the existing buildings on the site and hard surfacing, it has an open character and contributes to the openness of the Green Belt. It forms a perceptible continuation of the less developed Green Belt which stretches from the south and south-east and west and represents a clearly defined and recognisable boundary to the relatively dense flatted development to the east and north.

6.1.23 The recent appeal decision relating to the application site under planning permission 19/01505/FULL1 (Appendix 4) is a material consideration in judging the extent of harm to openness (as are the other appeal decisions – See Planning History section). The Inspector observed that the site contributes to the important transition between the built-up area extending to the north and east of the site, and the openness of the wider Green Belt, both in terms of the site itself and in combination with the limited scale of built development on the adjacent Sea Cadet site. Beyond, the playing field associated with a school provides green open space on the other side of Magpie Hall Lane.

- 6.1.24 The Inspector noted that the site is of a separate character to the wider Green Belt due to the self-contained and previously developed nature of the compound as well as the visual context established by nearby built development and the demarcation arising from highways, particularly the A21.
- 6.1.25 In this light, he concluded that the appeal scheme for the erection of two single storey bungalows (in addition to the previously granted three single storey bungalows) due to their limited scale and the proposed layout which included an open area of landscaped amenity space adjacent to the most prominent northern and western boundaries of the site, the site would continue to make a positive contribution to the transition between the built-up area and the wider Green Belt, albeit that this contribution would be diminished compared to the existing and permitted site layouts. The bungalows would generally be viewed against the backdrop of either the existing buildings or the approved housing development, and despite the reduction in openness and the suburban character of the bungalows, in his view the proposal would not appear as significant unrestricted urban sprawl or encroachment into the countryside.
- 6.1.26 Officers acknowledge that the application site benefits from extant consents for 6 bungalows and accept this fallback position constitutes a material consideration in assessment of this application. In this instance, the permitted dwellings, due to their limited scale and the proposed layout, were considered to allow the site to continue to make a positive contribution to the transition between the built-up area and the wider Green Belt.
- 6.1.27 To the contrary, the proposed development would involve substantial part two/part three storey building which would occupy part of historically undeveloped area of the site and would sit closer to the A21 than the existing and permitted development (fallback position). Given the visually prominent and significant increase in volumetric presence of the build form on the site, as well as the character of the flatted block, the building would appear as an urban form more akin to the neighbouring residential development as opposed to open Green Belt land. This would be markedly different to the current situation whereby vast majority of the site is not occupied by any buildings. The proposal would be perceived as a continuation of the dense residential development of the Blue Circle scheme (Fig.8).



Fig. 8. CGI of the proposal as seen from the junction of Bromley Common.

6.1.28 The applicants acknowledge in paragraph 7.10 of their Planning Statement that “...the current scheme would undoubtedly result in a development of greater scale and result in a greater degree of visual change than the permitted schemes...”.

6.1.29 Although the urban context surrounding the site is acknowledged, this does not alter the Green Belt designation of the site and the need to maintain the Green Belt’s characteristics of openness and permanence. The site is a contributor to the openness of the Green Belt, both in terms of the site itself and in respect of the transition it provides between the undeveloped Green Belt and the dense built-up area beyond.

6.1.30 With the proposed building, the site would no longer make this positive contribution when compared to the existing condition or the permitted housing/bungalow development (fallback). The proposal would effectively turn the largely open site that limits the extent of the urban area, into an extension of the surrounding built-up area. The erosion of openness and the urban character of the proposed development would demonstrably lead to a permanent, urbanising effect.

6.1.31 For this reason, officers do not agree with the conclusion of the GLA within their Stage 1 Report for this application, that the proposal would not cause substantial harm to the openness of the Green Belt.

6.1.32 As such, due to the scale and layout of the proposal it is considered that the harm in respect of openness would be significant and irreversible. The proposal would therefore result in ‘substantial harm’ to the openness of the Green Belt as is referred to in paragraph 149(g) of the Framework. Although the site is not undeveloped countryside, the proposal would undermine the defined purpose

of the Green Belt to prevent urban sprawl by keeping land permanently open and this would be in conflict with the Green Belt's essential characteristics of openness and permanence. On that basis officers conclude that the proposal would be inappropriate development in the Green Belt under the second strand of Paragraph 149(g) of the Framework.

Whether the proposal would comprise appropriate development in the Green Belt having regard to the provisions of paragraph 149(f)

6.1.33 With regards to paragraph 149(f) of the Framework, this refers to limited affordable housing for local community needs under policies set out in the development plan. The fifth bullet point of Policy 49 of the Local Plan also refers to the construction of limited affordable housing for local community needs in the Green Belt, under policies set out in the Local Plan.

6.1.34 Whilst considering the applicability of this exception under the costs appeal ref. APP/G5180/W/19/3234830 (full decision attached at Appendix 6), it has been established that as the Local Plan does not contain policies which allow for the provision of affordable housing in the Green Belt, such as rural exception sites, the fifth bullet point of Policy 49 has no practical effect in respect of such proposals, which in turn means that the exception at 149(f) cannot be engaged. Whilst that may not have been the intention, when read objectively that is what the Policy leads to.

Very special circumstances

6.1.35 Paragraph 148 of the NPPF advises that substantial weight should be given to any harm to the Green Belt. It adds that very special circumstances (VSC) will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal is clearly outweighed by other considerations.

6.1.36 The following arguments asserting very special circumstances have been set out in the Planning, Design and Access Statement submitted in support of the proposal:

- the supply of housing and its contribution to meeting affordable need (which the applicant considers to have very substantial weight);
- visual enhancement benefits provided by the scheme (which the applicant considers to have substantial weight); and
- the fact that the site is brought into a viable long-term use and termination of the commercial use (which the applicant considers to have moderate weight).

The supply of housing

6.1.37 The current Five Year Housing Land Supply (period of 2021/22 – 2025/26) position was agreed at Development Control Committee on 2nd November 2021. The current position is that the FYHLS (covering the period 2021/22 to 2025/26) is 3,245 units or 3.99 years supply. This is acknowledged as a

significant undersupply. It is noted that the trajectory assumes the new London Plan target of 774 units per annum applies from FY 2020/21.

6.1.38 According to paragraph 11(d) of the NPPF in the absence of a 5 year housing land supply the Council should regard the Development Plan Policies for the supply of housing including Policy 1 Housing Supply of the Bromley Local Plan as being 'out of date'. For decision taking this means where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [7]; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.1.39 With regard to housing supply, paragraph 11(d)(i) needs to be read with the footnote [7] which lists relevant policies in the NPPF including those relating to land designated as Green Belt.

6.1.40 Consequently, notwithstanding the absence of a five year supply of housing and the diminution of weight afforded to Local Plan Policy 1, Paragraph 11(d) limb (i) prioritises the application of "Footnote 7" policies for the protection of the relevant "areas or assets of particular importance", and where the application of those policies produces a clear reason for refusal there is no role for 11(d)(ii). In such circumstance, the presumption in favour of the development that might otherwise exist (tilted balance) is effectively disapplied.

6.1.41 Further to this, the applicant cites the Dylon appeal which gave very substantial weight to housing supply. Officers acknowledge that the Dylon scheme comprised a delivery of 151 units, almost 10 times as many as proposed under this current application. Notably, however, the Dylon site is within Metropolitan Open Land and the tilted balance in paragraph 11(d) was therefore applied. The Dylon scheme also included the provision of a new public park, which was also afforded significant weight by the Inspector. The nature of and the circumstances of this application are therefore considered to be different to the Appeal cases referred to.

6.1.42 With regard to the affordable housing element, a delivery of a policy compliant threshold and tenure would not comprise very special circumstances. In this instance, the level of affordable housing provision (100%) exceeds the policy compliant threshold, however, the priority need for affordable rented accommodation has not been addressed in the proposal, which is intended for either intermediate housing (shared ownership) or discounted market sale (DMS).

6.1.43 The affordable housing need within the borough is greatest for social-rent and affordable rent tenures. In terms of intermediate housing the borough seeks to ensure proposed products meet definitions in the Local Plan and London Plan. DMS housing is an affordable housing product as per the NPPF but would not

be considered to meet the definition of genuinely affordable housing as per London Plan Policies H4 and H6 and the London Housing Strategy. It would therefore only attract limited weight in terms of affordable housing delivery.

6.1.44 In any case, weight can only be given to the guaranteed provision which needs to be secured in the legal agreement. In this instance, the applicant remains non-committal in respect of the tenure proposed meaning that no such agreement can be secured. This is further commented on in the Housing section of this report.

Visual enhancement

6.1.45 Allowing a site to become derelict and unattractive in appearance does not represent justification for a development in a location that would otherwise be unacceptable. Supporting text to Policy G2 of the London Plan acknowledges that despite being open in character, some parts of the Green Belt do not provide significant benefits to Londoners as they have become derelict and unsightly. It goes on to state that 'this is not, however, an acceptable reason to allow development to take place. These derelict sites may be making positive contributions to biodiversity, flood prevention, and climate resilience'. The acceptability of the scheme is defined by the impact on openness. The current condition does not alter the openness of the Green Belt to the extent the proposed building would.

6.1.46 In any case, it is considered that improvements to the landscaping and appearance of the site would be an expectation, rather than a justification, of any major development. This is not considered to represent very special circumstances.

Securing a viable long-term future for the site and cessation of the commercial fallback.

6.1.47 Green Belt is an entirely different context to e.g. a vacant town centre site. Bringing the latter back into use has cumulative benefits for the centre, which is not the case in relation to a designated Green Belt land. Green Belt sites are often unused, which can support the fundamental purpose and characteristic for the designation itself, i.e. to protect openness.

6.1.48 In this instance, the site benefits from the extant planning permission(s) for a residential use, which is assumed to be an intention to cease the commercial use. Given this fallback position, it is not considered that this would amount to a very special circumstance.

Conclusions on Very Special Circumstances and Green Belt Balance

6.1.49 For the reasons set out in the previous sections of this report officers conclude that the proposal would be inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt. Officers consider that the nature of the harm that would arise in this regard would result from the conflict with the Green Belt purpose of preventing urban sprawl by keeping land permanently

open. Consistent with paragraph 148 of the Framework, substantial weight is attached to this harm. In addition, officers concluded that the harm to openness would be caused to a substantial degree in both spatial and visual terms. This further weighs against the proposal.

6.1.50 In terms of the supply of housing, “Footnote 7” of the Framework makes it clear that land designated as Green Belt is one example of a specific policy in the Framework which indicates that development should be restricted. Given the harm to the Green Belt identified in this proposal, the decision taking criteria set out in paragraph 11 are not engaged, regardless of the five year housing land supply position. Further to this, the application does not propose a significant quantum of dwellings. Therefore, bearing in mind the moderate contribution that would be made by the 16 units proposed, the provision of housing would not attract very substantial weight when assessed against the substantial weight given to the harm to the Green Belt by virtue of the inappropriate development and other harm.

6.1.51 The contribution towards meeting affordable housing needs could add more substantial weight in support of the proposal, however, the lack of clarity on what is proposed and what can be secured in the s106 agreement diminishes the weight that could be otherwise attributed, if a high percentage of genuinely affordable housing was secured.

6.1.52 Securing a viable long-term future for the site and cessation of the commercial use cannot attract any weight given the fallback position.

6.1.53 In the final balance, therefore, the considerations advanced in favour of the proposal cannot be seen as sufficient to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness, openness and purposes of the Green Belt, and any other harm. Consequently, when applying the Green Belt balance, officers conclude that the very special circumstances necessary to justify the development have not been demonstrated.

6.2 Housing – Unacceptable

6.2.1 Policy H1 of the London Plan, in seeking to increase the supply of housing in London, sets borough housing targets and allocates to the London Borough of Bromley a target of 7,740 for the period 2019/20 to 2028/29. In order to deliver this target, boroughs are encouraged to optimise the potential for housing delivery on all suitable and available brownfield sites. This approach is consistent with Policy 1 of the Bromley Local Plan, particularly with regard to the types of locations where new housing delivery should be focused.

6.2.2 The application proposes 16 affordable units on a partially previously developed site that falls within Metropolitan Green Belt land. The NPPF makes it clear that development in the Green Belt should be allowed only in exceptional circumstances which have not been demonstrated in this case.

Affordable Housing

- 6.2.3 Policy H4 of the London Plan requires all major developments of 10 or more units, which trigger affordable housing requirements, to provide affordable housing through the threshold approach (Policy H5 Threshold approach to application). Policy H4 seeks to maximise the delivery of affordable housing, with the Mayor setting a strategic target for 50% of all new homes to be affordable. This includes using grant to increase affordable housing delivery beyond the level that would otherwise be provided.
- 6.2.4 Policy H5 of the London Plan identifies a minimum threshold of 35% affordable housing (by habitable room), with a threshold of 50% applied to public sector owned sites and industrial sites where there is a net loss of industrial capacity. This application is subject to the 35% threshold for affordable housing, as the site is in commercial/private ownership.
- 6.2.5 Policy H5 C of the London Plan, further states that in order to follow the Fast Track Route of the threshold approach, meaning site specific viability information does not need to be provided, applications must meet all the following criteria:
- “1) meet or exceed the relevant threshold level of affordable housing on site without public subsidy;
 - 2) be consistent with the relevant tenure split (see Policy H6 Affordable Housing tenure);
 - 3) meet other relevant policy requirements and obligations to the satisfaction of the borough and the Mayor where relevant;
 - 4) demonstrate that they have taken account of the strategic 50 per cent target in Policy H4 and have sought grant to increase the level of affordable housing.”
- 6.2.6 To be considered eligible for the ‘Fast Track Route’, a policy compliant tenure split is required, without public subsidy, alongside an Early Stage Review Mechanism, which would be triggered if an agreed level of progress on implementation is not made within two years of the date of planning permission being granted (or an appropriate alternative period agreed).
- 6.2.7 In terms of tenure split, Policy H6 of the London Plan sets out the Mayor’s preference for at least 30% low cost rent (social rent or London Affordable Rent) and 30% as intermediate housing products, with the remaining 40% to be determined by the Council (and comprising either low cost rented homes or intermediate based on identified need). Policy 2 of the Bromley Local Plan prescribes a tenure mix of 60% social rent/affordable rent and 40% intermediate homes.
- 6.2.8 As set out in London Plan Policy H5D, schemes delivering 75% or more affordable housing may follow the Fast Track Route whatever the tenure mix, if this is acceptable to the borough or the Mayor where relevant.
- 6.2.9 The scheme proposes 100% affordable housing. While the planning statement submitted is silent on tenure, the application form suggests ‘social, affordable or intermediate rent’ units would be provided. Given this lack of clarity, the

applicants were requested to confirm the actual intended tenure to allow for proper determination of the application. In their letter dated 8th June 2022 the applicants advise they propose “either or”:

- 16 “any tenure” affordable units in association with our development partner Clarion or
- 16 discount market sale (DMS) housing units based on the Pocket living model.

6.2.10 As the proposed tenure is not policy compliant, the application cannot benefit from the Fast Track route and must follow the Viability Tested Route. In line with the requirements of London Plan Policy H5, the applicants were requested to submit a Financial Viability Assessment (FVA).

Financial Viability Assessment

6.2.11 The viability report provided prepared by BNP Paribas (BNPP) (August 2022) looks at shared ownership units only and indicates a deficit of c. -£186,000. This level of deficit was considered acceptable to the applicant at that time. BNPP did not test a reduced affordable provision in line with the plan target of 35% and required tenure mix of 60/40 affordable rent/intermediate tenure.

6.2.12 BNPP’s report has been assessed by an independent consultant appointed by the Council (BPS) who concluded that a scheme with 100% shared ownership units would generate a surplus of c. £635,447 which could be used as contribution towards additional affordable housing. Given a lack of agreement between the viability consultants, the final viability position has not been finalised.

6.2.13 In the light of the above, officers advised that further sensitivity testing should be undertaken in order to assess whether there is any capacity for preferable tenure (social rent), in order to demonstrate that priority need for affordable rented accommodation is appropriately addressed. When testing a 60/40 tenure split between affordable rent and shared ownership it is reasonable to test overall provision not exceeding the plan policy requirement of 35% provision. This would be the maximum overall affordable housing provision the Council could seek and therefore the alternative option to the scheme as proposed. The applicants were asked for the confirmation that they agree to cover the cost of the additional viability work; however, they did not agree.

Further sensitivity testing

6.2.14 On officers’ request, BPS have retested the scheme with the provision of affordable housing at a policy compliant threshold level. Their appraisal shows that a 35% provision with a tenure split of 60% London Affordable Rent (LAR) and 40% Shared Ownership (SO), produces a deficit of c. -£70k, which is less than the -£186,000 deficit outlined by BNPP in their original FVA.

6.2.15 Subsequently, BPS have tested the scheme at 35% provision amending the tenure split to 50:50 (3 Shared Ownership units and 3 LAR units). The results of this appraisal indicate a small surplus of c. £46k and this would be the

maximum level of affordable housing and optimum tenure split that could be delivered leaving the scheme technically viable.

6.2.16 Officers appreciate that if this is to be agreed, there could generally be limited Registered Provider interest for a very limited number of affordable rent properties as such on-site provision with this mix and quantum could prove difficult.

6.2.17 Clarion Housing Group are joint applicants and whilst it can be presumed that they would manage the affordable housing proposed, it has not been confirmed that Clarion Housing Group would be willing to take the site forward developed as 16 shared ownership units as this would fall below the normal threshold that they would consider taking-on. However, it was also advised that they have a sizeable amount of housing stock in the immediate area, and this is why a final decision as to tenure was awaited.

6.2.18 Weight can only be given to the guaranteed provision of affordable housing which needs to be secured in the legal agreement. In this instance Clarion have been unable to confirm that they would be willing to take the site forward as 16 shared ownership units, therefore, no such agreement can be secured. To this end, officers asked for the confirmation that only shared ownership model is being pursued. However, despite numerous requests for clarification, the applicant has been unwilling to confirm which of the alternative tenure models intended would be pursued. In the email from Robinson Escott dated 20th July 2023, the applicant states that they agree, in principle, to: “16 units in intermediate housing tenure to include discounted market sales” as a head of term within any S106 legal agreement entered into. This demonstrates reluctance from the applicant to commit to a particular affordable housing tenure.

Discounted market sale (DMS) housing

6.2.19 Notwithstanding the above, it needs to be reiterated that the applicants’ viability report considers shared ownership tenure only. Officers acknowledge that the discounted market sales housing (DMS), albeit classified as Affordable Housing in Annex 2 of the NPPF Glossary, is not considered as genuinely affordable tenure in the London Plan and would be generally unaffordable to most of the highest need customers on Bromley’s housing register. It would therefore only attract limited weight in terms of affordable housing delivery.

6.2.20 In terms of viability, the DMS provision might actually provide greater financial surplus, therefore should be subjected to an alternative financial viability appraisal.

Grant

6.2.21 Policy H5 C of the London Plan requires schemes to demonstrate that they have taken account of the strategic 50 per cent target in Policy H4 and have sought grant to increase the level of affordable housing

6.2.22 Despite the scheme proposing 100% affordable housing, a grant could be utilised to increase amount of priority tenures. Whilst Clarion Housing Group are joint applicants, and it is therefore expected that grant funding could be accessed, as discussed, it has not been confirmed that Clarion Housing Group would be willing to take the site forward. No other evidence of grant funding being sought has been provided in the application and no clarification has been offered in response to officers' queries, thereby making the proposal contrary to the policy requirements.

Fallback position

6.2.23 Officers acknowledge that the extant consents for 6 bungalows (19/01505/FULL1 and 20/01561/FULL1 respectively) include the delivery of 3 affordable units, as secured by unilateral undertakings.

6.2.24 The applicants argue that the fallback position would provide only 3 units in shared ownership tenure as opposed to 16 shared ownership units. This is technically incorrect as whilst the undertakings are clear in respect of the requirement to transfer the units to a registered provider, the usual clauses defining tenure of affordable housing have not been included. Therefore, in practice, there seems to be no legal mechanism that would ensure a delivery of such tenure.

6.2.25 Further to this, this argument would only be relevant if the applicants were committing to the delivery of shared ownership rather than insisting on keeping the discounted market sale housing as an alternative option. Noting the need to address the lack of social rented provision, delivery of shared ownership housing would attract more weight than DMS, as it is more genuinely affordable product that is accessible to a wider range of people as the deposit requirements are significantly less than DMS.

Conclusion

6.2.26 Overall, given the lack of clarity to the affordable housing provision and given the viability aspects of the proposed development remain unresolved, it has not been demonstrated that the proposal maximises affordable housing provision and the application fails to meet requirements of Policy H4, H5 and H6 of the London Plan and Policy 2 of the BLP, and should be refused on this basis.

Housing mix

6.2.27 Policy H10 of the London Plan states that schemes should generally consist of a range of unit sizes and regard should be had to local evidence of need.

6.2.28 Local Plan Policy 1 Supporting Text (paras 2.1.17 and 2.1.18) highlight findings from the 2014 Strategic Housing Market Assessment (SHMA) that the highest level of need across tenures within the Borough up to 2031 is for one bedroom units (53%) followed by 2 bedroom (21%) and 3 bedroom (20%) units. Larger development proposals (i.e. of 5+ units) should provide for a mix of unit sizes and considered on a case by case basis.

6.2.29 The application proposes 9 x 1 bed and 7 x 2 bed units. It is considered that the proposal provides an acceptable range of housing unit sizes and would be compliant with Policy 1 of the Bromley Local Plan in this respect.

Housing Quality and Standards

Internal Amenity

6.2.30 The space standards for residential development are set out in Table 3.1 of the London Plan and the Government published 'Technical housing standards - nationally described space standard'. This is supported by Policy D6 of the London Plan, the Mayor's 'Housing' SPG 2016 and Bromley Local Plan Policies 4 and Policy 37.

6.2.31 The proposed development has been designed to ensure that all units achieve or exceed the London Plan and Mayor's Housing SPG minimum internal space standards and each unit at second floor would have a floor to ceiling height of at least 2.5 metres for at least 75% of the internal area. The revised 2nd floor layout complies with the requirement for 75% of the apartment floor area to be at full height (i.e. 2.5m).

6.2.32 The proposed layout of the building and individual dwellings means that windows serving habitable rooms would generally not be enclosed by adjacent parts of the development. The units are considered to benefit from adequate privacy and daylighting conditions.

6.2.33 A more genuine attempt should have been made to increase the number of dual aspect units; officers also note that 2 of the units would be single aspect north facing (flats 7 and 13). These units would have an internal floor area exceeding the minimal thresholds, therefore, on balance, no objections are raised.

6.2.34 It is noted that the GLA officers consider that ground floor dwellings should have private entrances, accessed directly from the public realm. In this instance ground floor level Flat 1 and Flat 2 would be accessed externally leaving Flat 7 as the only unit accessed internally within the northern wing. Whilst this arrangement is not conducive to social integration and would do little to foster a sense of community for future residents, it is not considered that it could form a sufficient reason for refusal.

Private outdoor space

6.2.35 Policy D6 of the London Plan and Standards 26 and 27 of the Mayor's Housing SPG requires a minimum of 5sq.m private outdoor space to be provided for a 1 to 2 person dwelling and an extra 1sq.m to be provided for each additional occupant, and it must achieve a minimum depth and width of 1.5m.

6.2.36 All of the units would have private amenity space either in the form of ground floor patios or balconies which would all meet the minimum size requirements for private amenity space.

6.2.37 In addition to that, the 'L' shaped layout creates a well screened semi-enclosed communal amenity space which would benefit from a southern aspect and a more private/less public feel.

Children play space

6.2.38 In accordance with Policy S4 of the London Plan, development proposals that include housing should provide play space for children based on the short and long-term needs of the expected child population generated by the scheme.

6.2.39 The Mayoral SPG states that on-site play space should be provided within new development resulting a child yield of greater than ten children. The SPG advises that whilst 5-11 year olds could walk 400 m to access play, provisions for under 5s should be made within 100m of their homes (doorstep play).

6.2.40 Based on the proposed housing mix and tenure, and the site's predominant PTAL level of 3, the estimated child yield of this proposal would be around 3.5 children. This gives rise to a total child play space requirement of approximately 35sqm, of which at least 20sqm should be allocated for a doorstep play for under 5's.

6.2.41 A provision of a shared amenity area with a child play space has been shown on the proposed site layout drawing, demonstrating that the required quantum can be provided on-site. It is also considered that incidental play opportunities could be presented within the remaining shared amenity spaces across the site.

6.2.42 Overall, officers consider that the proposal is able to deliver a play space provision of sufficient capacity to ensure that children living in the development would be adequately catered for. However, details of play equipment and its maintenance would need to be secured through planning condition to ensure it would be genuinely playable and of good quality.

6.3 Urban Design – Acceptable

6.3.1 Policies D1 to D4 of the London Plan place great emphasis on a design-led approach to ensure development makes the best use of land, with consideration given to site context, public transport, walking and cycling accessibility and the capacity of surrounding infrastructure.

Layout

6.3.2 Notwithstanding the harm to the green belt identified, the development proposal for a flatted block is considered acceptable in principle subject to detailed design considerations. The revised scheme would visually continue and terminate the existing ribbon of development fronting Bromley Common, mark the junction, and activate the street frontage of Turpington Lane.

6.3.3 The revised layout responds to the established building line to the north and addresses both Bromley Common and Turpington Lane with a reconfigured L-shape building form. This realignment creates a good quality communal amenity space with southern aspect and a more private feel. Additional changes made which include a reduction in the number of car parking spaces proposed, the introduction of designated pedestrian footpaths, and the creation of defensible space separating ground floor private amenity areas from communal access paths (in the form of hedge planting) are welcomed.

Scale and Massing, Architecture

6.3.4 The proposed part 2 storey/part 3 storey building is considered acceptable given the scale of the immediate surrounding context i.e. 3 storey flatted blocks to the north and east.

6.3.5 The traditional style architecture largely seeks to replicate the local vernacular, notably the neighbouring buildings to the north of the site featuring prominent front facing gables, clipped hip roofs and pitch roof dormers.

6.3.6 The building would not appear out of keeping within this context and is broadly sympathetic to the character and appearance of the surrounding area particularly the ribbon of development fronting Bromley Common.

6.3.7 Whilst the design approach is relatively restrained, the scale of the building would be prominent. As such the quality of materials and architectural detailing would be particularly important, i.e. brick finish, brickwork detailing, timber/aluminium framed windows and would need to be secured by condition, should consent be granted.

Landscape

6.3.8 The retention of the existing trees on site is welcomed. The proposed boundary treatment fronting Bromley Common and Turpington Lane (1.2 metre railings and planted hedgerows) are considered to be acceptable and appropriate in this context.

6.3.9 In the event of granting approval, a revised Landscape Plan should be required to accompany the Planting Plan submitted, and should include details of surface treatments (i.e. permeable paving), seating/furniture, external lighting and play space provision.

6.3.10 Overall, the proposal, with its materiality, height and massing, would respond satisfactorily to the surrounding residential development to the north.

Heritage

6.3.11 Opposite the site is the Bromley Common Conservation Area. Officers are satisfied that the proposal would not adversely affect the setting of the Conservation Area. As such, the proposal satisfies Policy 42 of the Local Plan

which seeks development proposals adjacent to a Conservation Area to preserve or enhance its setting and not detract from view into or out of the area.

Fire Safety

6.3.12 The proposed building would consist of one single staircase core. The core would serve ground plus two storeys with a top floor being less than 11m high, therefore would not be classified as a relevant building (18m or more in height, or 7 or more storeys whichever is reached first) as prescribed by the Health and Safety Executive's (HSE) Planning Gateway One regulations. The building would also fall below the minimum height threshold requiring the provision of two staircases.

6.3.13 The application is accompanied by a Fire Statement (in accordance with Policy D12 of the London Plan) providing details of the proposed emergency access, means of escape and how the building has been designed to comply with fire requirements.

6.3.14 LBB Building Control was consulted and confirmed that the fire statement submitted is acceptable. Compliance to the fire statement will be conditioned however, compliance with the Building Regulations will still be required at the appropriate stage of the development.

Designing out Crime

6.3.15 London Plan Policy D3 states that measures to design out crime should be integral to development proposals and be considered early in the design process. Development should reduce opportunities for anti-social behaviour, criminal activities, and terrorism, and contribute to a sense of safety without being overbearing or intimidating. Developments should ensure good natural surveillance, clear sight lines, appropriate lighting, logical and well-used routes and a lack of potential hiding places. This approach is supported by Local Plan Policy 37(h) (General Design).

6.3.16 Designing out Crime Officer confirmed that Secure by Design (SbD) is achievable on site. As such, a requirement for a Secure by Design accreditation would be included within planning conditions, should the permission be granted.

6.4 Neighbouring Amenity - Acceptable

6.4.1 Local Policy 37 requires all development proposals to respect the amenity of occupiers of neighbouring buildings and those of future occupants, providing healthy environments and ensuring they are not harmed by noise and disturbance, inadequate daylight, sunlight, privacy or by overshadowing.

6.4.2 Given the sitting and scale of the proposed building, it is considered that the proposal would not compromise the amenities currently enjoyed by the surrounding residential properties.

6.4.3 Concerns were received to the 1.2 metres high fence proposed for the southern boundary on the grounds of undermining safety/security and safeguarding of both the cadets and the adjoining Sea Cadets building. In response to this issue, the applicants confirmed that they have no objections to erecting a new fence on this boundary at an appropriate height and they asked for this matter to be dealt with by way of the normal boundary and enclosures condition. In officers view, subject to an appropriate boundary treatment the potential adverse impact on safeguarding would be satisfactorily addressed.

6.5 Transport and Highway Matters - Acceptable

Access

6.5.1 Vehicular access would continue to be taken from Turpington Lane at the northeast boundary of the site. Similarly, no change to the approved pedestrian access arrangement is proposed and as such, pedestrian access would be taken from Turpington Lane. This is not objectionable.

Car Parking

6.5.2 Policy T6 of the London Plan requires developments to provide the appropriate level of car parking provision with Policy T6.1 of the London Plan setting maximum car parking standards. The site has a PTAL rating of 2-3.

6.5.3 The development would be served by 12 car parking spaces, including 2 accessible spaces, at a ratio of 0.7 space per dwelling. All car parking spaces would be provided with active Electric Vehicle Charging Points.

6.5.4 It is noted that TfL raised concerns that a parking ratio of 0.75 is likely to result in the level of vehicular trips exceeding the Mayor's strategic mode shift target which for outer London Boroughs is for 75 percent of trips to be made via active and sustainable transport by 2041. Notwithstanding, the proposed car parking provision does not exceed the maximum parking standard as set out in the London Plan based on the unit size mix proposed and site's PTAL, therefore no objection is raised in this regard.

6.5.5 Allocation of Blue Badge parking should be managed through a Parking Management Plan which would be secured through a planning condition in the event of granting approval.

Trip generation

6.5.6 The proposal would likely generate in the order to 16 two-way person trips during the morning peak hour and 10 two-way person trips during the evening peak hour, meaning that the current scheme could result in 7 additional person trips during the morning peak hour and 4 additional person trips during the evening peak hour when compared with the fallback position (6 dwellings). It is considered that these trips would not result in a material and adverse impact on the surrounding transport network.

6.5.7 On the basis of the above, no further consideration of the effect of the development proposals on the local transport network is considered necessary. A Travel Plan would be imposed on any approval in order to further promote sustainable transport modes amongst residents and visitors to and from the site.

Cycle parking

6.5.8 The development proposals include the provision of 32 long stay cycle parking spaces within a secure, lockable cycle store located at the northeast boundary of the proposed building containing double stack racks. Further 2 short-stay cycle spaces in the form of Sheffield stands are proposed to be located near the main entrance to the building.

6.5.9 This provision represents the minimum required by London Plan; however, it is unclear how this number of cycles would be able to fit given the dimensions of the store proposed. In the event of granting permission, further detail would need to be secured via condition to demonstrate compliance with the London Cycling Design Standards (LCDS) as is required by Policy T5.

Servicing

6.5.10 Servicing and refuse collection would continue to be undertaken on street on Turpington Road, as per approach outlined within the previously consented scheme. A dedicated bin store would be provided for residents and would be located at the northeast boundary of the site to minimise carry distance for both residents and refuse collection operatives.

6.5.11 The Council's Waste Services were consulted and confirmed that in terms of capacity the proposed provision is generally acceptable, however concerns were raised to the location the Refuse Collection Vehicle (RCV) would be stationed for collection, given the proximity to a bus stop and a road junction, and the potential risk of overtaking. The Council's highway division has raised no objection to this element of the proposal. To this end officers, although mindful of such potential risk, do not consider that it can be demonstrated that an unacceptable impact on highway safety would result.

6.5.12 No details setting out measures relating to the demolition and construction process for the site were submitted for consideration, therefore a condition requiring submission of a Construction and Environmental Management Plan prior to commencement of development would need to be secured in any approval.

6.6 Green infrastructure and Natural Environment - Acceptable

Trees and Urban Greening

6.6.1 Policy G5 of the London Plan states that major development proposals should contribute to the greening of London by including urban greening as a fundamental element of site and building design, and by incorporating

measures such as high-quality landscaping (including trees), green roofs, green walls and nature-based sustainable drainage.

- 6.6.2 London Plan Policy G7 (Trees and Woodlands) states that development proposals should ensure that, wherever possible, existing trees of value are retained. The planting of additional trees should generally be included in new developments – particularly large-canopied species which provide a wider range of benefits because of the larger surface area of their canopy.
- 6.6.3 At a local level, Policy 73 (Development and Trees) of the LBB Local Plan states that proposals for new development will be required to take particular account of existing trees on the site and on adjoining land, which in the interest of visual amenity and/or wildlife habitat, are considered desirable to be retained.
- 6.6.4 London Plan Policy G5 emphasises the importance of urban greening in development. Acceptable urban greening features include street trees, green roofs, green walls, rain gardens and hedgerows. Predominantly residential developments should have a score of 0.4.
- 6.6.5 The scattered trees and tree line would be retained. The greening strategy proposed for the development results in an urban greening factor (UGF) score of 0.60, which is supported.

Biodiversity

- 6.6.6 Policy G6 of the London Plan makes clear that development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain, informed by the best available ecological information and addressed from the start of the development process.
- 6.6.7 The Preliminary Ecological Appraisal (PEA) prepared by the Ecology Partnership demonstrates that the site is not designated for its nature or conservation value and does not lie adjacent to any statutory sites. There are no internationally designated sites within 10km of the site. Jubilee Country Park (LNR) is located approximately 1.3km north east of the site. The site is also located approximately 1.2km from Crofton Woods (SSSI) and approximately 1.9km from Keston and Hayes Common (SSSI) and lies within the zones of influence for these sites.
- 6.6.8 There are a number of priority habitats within 2km of the site including deciduous woodland located approximately 85m from the site, traditional orchards approximately 300m from the site, ancient and semi-natural woodland approximately 520m from the site and ancient replanted woodland approximately 780m from the site. The PEA states that the desktop study undertaken revealed that whilst no European Protected Species (EPS) licences were granted within 2km of the site boundary, a small number of bat EPS licences were located just outside the 2km search area.
- 6.6.9 The site consists primarily of hard standing and ephemeral short perennials with areas of scrub, tall ruderals/semi-improved grassland mosaic, scattered

trees and a tree line around the site edges. The habitats on site were considered to have potential for supporting reptiles and nesting birds, some foraging and commuting bats but 'negligible' potential to support roosting bats. The site is not considered to support suitable habitats for GCN, badgers, dormice, otters or water voles.

Reptiles

6.6.10 In terms of reptiles, the PEA advises that small areas of on-site habitat are suitable for reptile species (the scrub and tall ruderals/semi-improved grassland mosaic areas), but these areas are limited in their extents and being largely surrounded by residential development, have limited connectivity to other suitable habitat areas. Consequently, it is considered that a full reptile survey was not required, however, it is recommended that the areas of suitable habitat are subject to sensitive clearance as a precaution should clearance be required.

Birds

6.6.11 Birds are likely to use the trees and scrub on site for breeding. It is recommended that any vegetation clearance is undertaken outside the breeding bird season (March-September inclusive) or immediately after a nesting bird check by a suitably qualified ecologist. If an active nest is identified, works in the vicinity of the nest must cease until the birds have fledged the nest.

Bats

6.6.12 The scattered trees, tree line and scrub areas offer some foraging and commuting opportunities for bats. However, these areas are limited in their extents and are understood to be largely retained within the proposals, therefore no further surveys are recommended in the PEA.

Site Enhancements

6.6.13 Recommendations for enhancements have been made within the PEA, aimed at improving the ecological value of the site and providing a net gain in biodiversity post-development, including:

- installation of bat boxes on retained mature boundary trees or the proposed building (recommended boxes include Schwegler bird nest boxes or other similar woodcrete bird nest boxes),
- use of sensitive lighting,
- precautionary site clearance,
- enhancement planting along the boundaries using native species,
- maintenance of the scattered and tree line as darkened flight paths/sections.

6.6.14 Other potential enhancements included new shrub and herb planting to be incorporated within the newly created garden habitats or communal areas, the use of raised beds and planters and living walls, as well as hedgehog-friendly fencing.

6.6.15 Overall, the PEA concludes that the loss of the small habitat areas for the re-development is not considered to result in any indirect ecological impacts that would be considered significant. Officers consider it prudent, however, that any potential approval should be subject to an up-to-date ecological appraisal setting out detailed biodiversity enhancement measures, given the site appraisal was undertaken in December 2020.

6.7 Environmental Matters

Air Quality

6.7.1 The area falls within Bromley's Air Quality Management Area and an air quality assessment has been requested in order to make sure that the proposal meets Bromley Local Plan Policy 120.

6.7.2 The Air Quality Assessment (AQA) by Lustre Consulting, dated September 2021 provided in response to the officers' request considers the impact of local traffic emissions across the proposed development, using modelled data adjusted for accuracy based on local monitoring data. For all the receptor positions along the development façade levels were shown to be below the annual mean objectives. In relation to the construction, the proposal has been identified as having a low risk from the dust impacts.

6.7.3 The AQA confirms that the site meets the Air Quality Neutral for building emissions, but the proposed development would not be air quality neutral in relation to transport and that mitigation measures should be considered.

6.7.4 The recommended mitigation measures are set out in paragraphs 7.5 and 7.6 of the AQA report, namely, that there should be at least one rapid charge EV point and that there should be provision of a travel plan to encourage sustainable means of transport. Both measures would need to be incorporated in the scheme through the imposition of appropriate conditions should the consent be granted.

Contaminated Land

6.7.5 The Planning, Design and Access Statement submitted in support of the application indicates that the current buildings and yard area have a lawful use for storage purposes and for the use of the hard surfaces by heavy goods vehicles ancillary to this use. Although the storage appears mainly to be for turf and topsoil, there is also the potential for other storage which may have a contaminative nature. It is also a distribution centre and with heavy good vehicles there is the potential for petroleum storage and associated possible leakage on-site. It is therefore recommended that a standard land contamination assessment condition is attached to any approval to prevent harm to human health and pollution of the environment.

Noise and Vibration

- 6.7.6 The dominant noise source associated with the site is a road traffic noise given the closeness of the A21. A Noise Impact Assessment has not been carried out, however the Council Environmental Health confirmed that subject to an appropriate condition being attached to the planning consent, should it be granted, the proposed development can include provisions to adequately protect the proposed residential use from external noise in line with planning policy objectives.
- 6.7.7 Such condition should secure a scheme of mitigation, covering façade, glazing and ventilation specifications, in light of the results of an acoustic assessment of the worst-case day time and night time ambient background noise levels affecting this location in order to achieve suitable internal noise levels in line with guidance in BS8233:2014.

Lighting

- 6.7.8 The lighting should be designed to meet the guidance from the Institute of Lighting Professionals, 'The reduction of obtrusive light' Guidance Note 01/21, with respect to the sites lighting environment and will not exceed 2 lux at any habitable window, meeting the illuminated limits on surrounding premises for E3 Medium Brightness zone respectively.
- 6.7.9 Whilst a Lighting Strategy has not been submitted in support of the proposal, given the characteristics of the scheme, its layout and location, officers accept that the development should comfortably fall within the recommended guidance levels at any habitable window within the development itself and on surrounding premises, thereby no concerns are raised on Pollution Control grounds. As discussed in the ecology section above, a lighting condition would be necessary in the event of granting permission to ensure there would be no impact on bats.

6.8 Drainage and flooding – Acceptable

- 6.8.1 Policy SI13 of the London Plan states that drainage should be designed and implemented in ways that promote multiple benefits including increased water use efficiency, improved water quality, and enhanced biodiversity, urban greening, amenity and recreation.
- 6.8.2 Policy 116 (Sustainable Urban Drainage System) of the LBB Local Plan states that all developments should seek to incorporate Sustainable Urban Drainage Systems or demonstrate alternative sustainable approaches to the management of surface water as far as possible.
- 6.8.3 The site is in Flood Zone 1, less than one hectare in size and at a low risk of flooding. In terms of surface water management, permeable surfacing, with geocellular storage crates, is proposed. This is acceptable in principle and the final surface water management strategy would need to be appropriately secured by condition, should a planning consent be granted.

6.8.4 Surface Water Management Strategy Report carried out by Herrington Consulting Ltd submitted in support of the application advises that consideration had been given to the use of grey water recycling, however, the applicants' resistance to the appearance of the recycled water and the cost of the systems does not currently make them a viable option. They have therefore not been included in the proposals.

6.8.5 The Council's drainage officer and Thames Water raised no objections to the proposal; however, it was requested that in order to maximise SUDS measures on site, a soakage test as well as soakaway design need to be carried out to determine the suitability of the soil for infiltration. These details would be secured through an appropriately worded condition in the event of approval.

6.9 Energy and Sustainability - Acceptable

Minimising Greenhouse Gas Emissions

6.9.1 The London Plan Policy SI2 'Minimising greenhouse gas emissions' states that Major development should be net zero-carbon, reducing greenhouse gas emissions in accordance with the energy hierarchy:

- 1) be lean: use less energy and manage demand during operation
- 2) be clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly
- 3) be green: maximise opportunities for renewable energy by producing, storing and using renewable energy on-site
- 4) be seen: monitor, verify and report on energy performance.

6.9.2 Major development proposals should include a detailed energy strategy to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy.

6.9.3 A minimum on-site reduction of at least 35 per cent beyond Building Regulations is required – Of the 35% residential development should achieve 10 per cent, and non-residential development should achieve 15 per cent through energy efficiency measures.

6.9.4 Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided, in agreement with the borough, either:

- 1) through a cash in lieu contribution to the borough's carbon offset fund, or
- 2) off-site provided that an alternative proposal is identified and delivery is certain.

6.9.5 Development proposals referable to the Mayor should calculate whole life-cycle carbon emissions through a nationally recognised Whole Life Cycle Carbon Assessment and demonstrate actions taken to reduce life cycle carbon emissions.

6.9.6 Policies 123 and 124 of the 2019 Bromley Local Plan are consistent with the strategic aims of the London Plan energy policies.

- 6.9.7 The updated Energy Statement by Bluesky Unlimited (2021) demonstrates that improvements have been made to the energy efficiency of the scheme such that it would meet the London Plan requirement of a total reduction of 45.13% in emissions from energy efficiency, low-carbon and renewable technologies.
- 6.9.8 This would be achieved through the installation of Dimplex Edel air source heat pump hot water cylinders into each of the apartments, alongside an array of 28 x 400W photovoltaic panels (11.2 kW).
- 6.9.9 Notwithstanding the policy compliant carbon saving, to achieve the required net zero carbon a financial payment is required. Based on the use of the SAP 10 emission factors a financial contribution of £24,835 would be required and would need to be secured through S106 legal agreement.

Water efficiency

- 6.9.10 Surface Water Management Strategy Report carried out by Herrington Consulting Ltd submitted in support of the application advises that regarding water efficiency, a maximum indoor water consumption of 105 l/person/day for the residential units would be achieved as required by London Plan Policy S15.

7. Other Issues

Equalities Impact

- 7.1 Section 149 of the Equality Act (2010) which sets a Public Sector Equality Duty (PSED) came into force in April 2011 and requires the Council to consider the equality impacts on all protected groups when exercising its functions.
- 7.2 In the case of planning, equalities considerations are factored into the planning process at various stages. The first stage relates to the adoption of planning policies (national, strategic and local) and any relevant supplementary guidance. A further assessment of equalities impacts on protected groups is necessary for development proposals which may have equality impacts on the protected groups.
- 7.3 With regards to this application, all planning policies in the London Plan and Bromley Local Plan and National Planning Policy Framework (NPPF) which have been referenced where relevant in this report have been considered with regards to equalities impacts through the statutory adoption processes, and in accordance with the Equality Act 2010 and Council's PSED. Therefore, the adopted planning framework which encompasses all planning policies which are relevant in the officers' assessment of the application are considered to acknowledge the various needs of protected equality groups, in accordance with the Equality Act 2010 and the Council's PSED.
- 7.4 It is also necessary to have due regard to the public sector equality duty, which sets out the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations

between people who share a protected characteristic and people who do not share it.

- 7.5 The protected characteristics to which the Public Sector Equality Duty (PSED) applies include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, sexual orientation, religion or belief and sex.
- 7.6 The building has been designed to take account of the specific needs of disabled people. All units have been designed to meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings' and 10% of the dwellings (2) would meet Building Regulation requirement M4(3) 'wheelchair user dwellings', i.e. designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users and those whose mobility may become impaired with age.
- 7.7 The development proposal offers new opportunities to access affordable housing in the renewal area, thereby helping to address the Council's acute affordable housing delivery shortages. However, the level and tenure of affordable housing proposed could be inaccessible to middle and lower household income ranges (particularly with the DMS tenure) and therefore might have a negative impact for people in the categories of age, disability, pregnancy and maternity, race, and sex (women) who are less economically active and who may find the price or the type of affordable units prohibitive. The affordability of the units has not been confirmed or justified via independently examined Viability Appraisal and it cannot be demonstrated that the tenure of affordable housing proposed would contribute towards sustainable mixed and balanced communities.
- 7.8 There are also negative impacts expected in relation to construction, such as increased vehicular movements, noise and air quality would have the potential to affect the following equality groups; age, disability, pregnancy and maternity. These impacts are however considered short term and would depend on the measures that would be set out in the Construction Management Plan and other relevant conditions aimed to minimise disruption and mitigate the impacts.
- 7.9 In conclusion, it is considered that LB Bromley has had due regard to section 149 of the Equality Act 2010 in its consideration of this application and resulting recommendations to the Plan Sub Committee.

Community Infrastructure Levy

- 7.10 Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), the proposal would be liable for the Mayoral CIL (subject to applicable affordable housing relief).
- 7.11 The London Borough of Bromley Community Infrastructure Levy (CIL) proposals were approved for adoption by the Council on 19 April 2021, with a date of effect on all relevant planning permissions determined on and after 15 June 2021. Proposals involving social, or affordable, housing (conditions apply)

can apply for relief from CIL for the social housing part of the development. This is set out in Regulation 49 of the CIL Regulations 2010 (as amended).

S106 Legal Agreement

7.12 The National Planning Policy Framework (NPPF) states that in dealing with planning applications, local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. It further states that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. The NPPF also sets out that planning obligations should only be secured when they meet the following three tests:

- (a) Necessary to make the development acceptable
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

7.13 Policy 125 of the Local Plan and the Council's Planning Obligations SPD state that the Council will, where appropriate, enter into legal agreements with developers, and seek the attainment of planning obligations in accordance with Government Guidance.

7.14 Officers have identified a number of planning obligations which are required to mitigate the impacts of this development, the reasons for which have been set out in this report. The development, as proposed, would necessitate the following obligations:

- Affordable Housing 100% (16 units in intermediate housing tenure)
- Carbon off-set payment-in-lieu £24,835
- Early and late stage review mechanism
- Reimbursement of the Council's legal costs
- Monitoring fees £500 per head of term

7.15 Officers consider that these obligations these obligations meet the statutory tests set out in Government guidance, i.e. they are necessary, directly related to the development and are fairly and reasonably related in scale and kind to the development.

7.16 At the time of writing, the applicant has agreed all but Affordable Housing planning obligation (to include intermediate tenure only). The applicants maintain that the proposed 16 units of affordable housing should include discounted market sales. As such, given the lack of clarity and an agreement to the above heads of terms, a reason for refusal relating to the lack of acceptable planning obligations is recommended.

8. Planning Balance and Conclusion

- 8.1 The site is located within the Green Belt and is considered to be inappropriate development. This is, by definition, harmful to the Green Belt. Officers consider that the nature of the harm that would arise in this regard would result from the conflict with the Green Belt purpose of preventing urban sprawl by keeping land permanently open. Consistent with paragraph 148 of the Framework, substantial weight is attached to this harm. In addition, officers concluded that the harm to openness would be caused to a substantial degree in both spatial and visual terms. This further weighs against the proposal.
- 8.2 The Council does not currently have a 5 year housing land supply. However, the site is included within the protected areas listed in footnote 7 of the NPPF as it is designated as Green Belt. As set out in this report, the application of the Green Belt policies provide a clear reason for refusing the development proposed. Consequently, notwithstanding the absence of a five year supply of housing, the presumption in favour of the development that might otherwise exist (titled balance) is effectively disengaged.
- 8.3 Whilst the development proposal would offer new opportunities to access housing in the renewal area, helping to address the Council's acute housing delivery shortages, the application does not propose a significant quantum of dwellings. Therefore, bearing in mind the moderate contribution that would be made by the 16 units proposed, the provision of housing would not attract very substantial weight when assessed against the substantial weight given to the harm to the Green Belt by virtue of the inappropriate development and other harm.
- 8.4 Although the level of affordable housing provision (100%) exceeds the policy compliant threshold, the requirement for a policy compliant tenure split has not been addressed in the proposal, which is intended for either intermediate housing (shared ownership) or discounted market sale (DMS). As the affordable housing need within the borough is greatest for social-rent and affordable rent tenures, it would therefore only attract limited weight in terms of affordable housing delivery.
- 8.5 In any case, weight can only be given to the guaranteed provision which needs to be secured in the legal agreement. In this instance, the applicant remains non-committal in respect of the tenure proposed meaning that no such agreement can be secured. Therefore, whilst the contribution towards meeting affordable housing need could add more weight in support of the proposal, the lack of clarity on what is proposed and what can be secured in the s106 agreement diminishes the weight that could be otherwise attributed, if a high percentage of genuinely affordable housing was secured.
- 8.6 It is acknowledged that the site benefits from extant permissions for the erection of 6 single storey bungalows, of which 3 are to be affordable. Officers accept that fallback position constitutes a material consideration where there is a genuine prospect that the fallback scheme(s) will come forward, however the weight of the fallback as a material consideration is still a matter for the decision

maker. In this instance, for the reasons given in the report, the fallback position does not weight in favour of the current scheme in respect of the harm to the Green Belt and affordable housing delivery.

- 8.7 Notwithstanding the harm to the Green Belt, the design of the proposal, with its materiality, height and massing, would respond satisfactorily to the surrounding residential development to the north and would represent an efficient use of the land. The proposed layout would afford an acceptable quality of residential standards and amenity.
- 8.8 Adequate sustainability measures would be incorporated achieving the required carbon reduction.
- 8.9 The proposed development is not considered to be significantly harmful to the amenities of neighbouring residential properties nor would it result in an unacceptable impact on surrounding highway network. Environmental matters such as air quality, contamination, noise, light pollution, drainage, would be subject to appropriate conditions if the application was deemed acceptable overall.
- 8.10 In accordance with paragraph 147 of the NPPF, inappropriate development should not be approved except in very special circumstances. The applicant has submitted a case for VSC and it is accepted that the benefits of housing delivery, and to some degree the provision of affordable housing (albeit this matter in itself is non-compliant), would weigh in the balance. However, given the substantial level of harm to the openness of the Green Belt and the harm that would arise in this regard would result from the conflict with the Green Belt purpose of preventing urban sprawl by keeping land permanently open, it is not considered that these benefits outweigh this harm. Therefore, the very special circumstances which have been put forward would not justify the proposed development.
- 8.11 Taking account of the above, the identified harm arising from the proposal would significantly and demonstrably outweigh the benefits of the development. Therefore, as the scheme is not sustainable development for which the Framework indicates that there should be a presumption in favour, the planning permission should be refused.
- 8.12 Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

RECOMMENDATION: PERMISSION BE REFUSED FOR THE FOLLOWING REASONS:

- 1 The proposal would constitute inappropriate development and would cause substantial harm to the openness of the Green Belt and the purposes of including land within it for which no very special circumstances are considered to exist to outweigh the harm to the Green Belt and any other harm, contrary to Policy 49 of the Bromley Local Plan**

(2019), Policy G2 of the London Plan (2021) and Chapter 13 of the National Planning Policy Framework (2021).

- 2 On the basis of insufficient information, being the lack of clarity to the affordable housing provision and given the viability aspects of the proposed development remain unresolved, it has not been demonstrated that the proposal maximises affordable housing provision contrary to the requirements of Policy H4, H5 and H6 of the London Plan and Policy 2 of the Bromley Local Plan.**

- 3 An acceptable planning obligation for provision of the Carbon Offset Contribution, Affordable Housing, early and late stage viability review mechanisms and the payment of monitoring and legal costs has not been entered into. The application is thereby contrary to Policy 125 of the Bromley Local Plan (2019), Policy DF1 of the London Plan (2021), and Bromley Planning Obligation Supplementary Planning Document (June 2022).**

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Appeal Decision

Hearing held on 23 February 2016

Site visit made on 23 February 2016

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 April 2016

Appeal Ref: APP/G5180/W/15/3129314

Potters Yard & Bromley Sea Cadets, Bromley Common, Turpington Lane, Magpie Hall Lane, Bromley, BR2 8JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Langford Walker Ltd & Bromley West Sea Cadets against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/00802/FULL1, dated 19 February 2015, was refused by notice dated 22 June 2015.
 - The development proposed is the demolition of existing buildings and removal of existing yard area and other structures; erection of 2 part two storey, part 3 storey buildings to provide new sea cadet premises and parade ground together with 39 apartments; provision of 41 car parking spaces (including 7 for sea cadets), refuse and cycle stores and associated landscaping and tree planting.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior to the hearing opening, a High Court judgement of 15 February 2016 was brought to my attention given the proximity of the subject site to the appeal site and the parallels in terms of Green Belt considerations. Although the transcript was not available at the time of the hearing, the parties had been present for the oral judgement and were able to give me their views as to the implications for the current appeal. The full transcript was subsequently submitted and the parties were given the opportunity to provide written comments. I have had regard to the judgement in reaching my decision and consider it in more detail below.
3. On 1 October 2015, after the Council had issued its decision, the National Technical Standards were implemented. The standards replace a number of previous individual housing standards and local policies must now be applied only by reference to the nearest comparable national standard. The Council provided additional evidence during the hearing (**Document 3**) having taken account of this matter and I consider this further below.

Main Issues

4. The main issues are:

- (a) whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and whether it would have a greater effect on the openness of the Green Belt;
- (b) the effect on the character and appearance of the area;
- (c) whether acceptable living conditions would be created for future occupants’;
- (d) the effect on employment land availability;
- (e) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development and the effect on openness

5. The site is located entirely within the Green Belt. Policy G1 of the Council’s Unitary Development Plan (2006) (UDP) restricts development in the Green Belt other than for specified purposes, none of which apply to the appeal proposal. This general approach to Green Belt protection is consistent with the National Planning Policy Framework (the Framework) though it was accepted by the Council during the hearing that the exceptions to inappropriate development contained in the Framework offered more flexibility than Policy G1 and this is an important material consideration.
6. Paragraph 79 of the Framework makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics, those being openness and permanence. Paragraph 87 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. New buildings are to be regarded as inappropriate development, subject to a number of express exceptions outlined in paragraph 89.
7. It is agreed between the parties that the entire site, comprising a commercial building, the existing sea cadet’s premises and extensive hard standing, would constitute previously developed land for the purposes of the Framework. Paragraph 89 allows for the redevelopment of such land, whether redundant or in continuing use (excluding temporary buildings). However, this is subject to the caveat that development would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
8. The Council had advanced a case in its written submissions that the proposed residential use should be considered independently of the proposed operational development in terms of its acceptability in the Green Belt. However, it confirmed during the hearing that it would not pursue this argument in light of the above High Court judgement, which found that the intended use was granted by virtue of the planning permission for the buildings being sought in that case.
9. The site comprises two distinct premises, the existing sea cadets building and parade ground on one side and an existing commercial building and hard standing on the other. The buildings on both parts of the site are single

storey, low level buildings and are set back within the site away from Bromley Common with large open spaces in front, albeit that they are largely covered with hard standing. A mixture of palisade and chain link fence surrounds the perimeter of the site along with boundary tree planting and hedgerows.

10. Bromley Common (A21), Turpington Lane and Magpie Hall Lane surround the appeal site on three sides. Established residential development faces the site beyond a footpath and grass verge to the North East and dense residential development exists to the North West, forming a recent residential development known as the Blue Circle scheme. Beyond Bromley Common, a busy road, are largely undeveloped open fields. The playing field associated with a school to the South East provides green open space on the other side of Magpie Hall Lane.
11. Although there has been significant development in the vicinity of the site and within the Green Belt the site is nonetheless a contributor to the openness of the Green Belt, particularly in respect of the transition it provides between the undeveloped Green Belt and the dense urban form beyond. The proposed development would involve substantial two-three storey buildings which the appellant accepts would be significantly larger than those existing on the site in terms of both height and footprint. Furthermore, the building would be located on parts of the site which, whilst developed, are visually open.
12. Although I have had regard to the site context and the dense urban development located close by, this does not alter the Green Belt designation and the need to maintain its essential characteristics. Furthermore, individual appeals are not the place to debate the merits of the Green Belt designation, notwithstanding that the Council may seek to remove developed areas from the Green Belt through the plan making process at some point in the future.
13. Openness is epitomised by the absence of buildings and whilst the existing buildings on the site undoubtedly have an impact in this respect, the proposed increase in volume and spread of mass and bulk across the site into areas currently absent of buildings would result in a greater impact on openness.
14. Whilst the site is not undeveloped countryside and is closely related to built development, the proposal would erode the wider openness of the Green Belt and this would be at odds with the Green Belts essential characteristics, openness and permanence. In addition, the development would conflict with the defined purposes of the Green Belt, specifically to assist in safeguarding the countryside from encroachment and check unrestricted sprawl of large built-up areas. As a consequence, the development does not fall within the exceptions outlined in the Framework and the proposal would be inappropriate development in the Green Belt, which is by definition, harmful. I attach substantial weight to this harm.
15. I have had regard to the recent appeal decision at Bromley Common Liveries¹ which was allowed (and was subject to the above referenced High Court Challenge), including the Inspector's findings that the development was contained within the extent of previously developed land. However, this case also involved a reduction in the footprint and volume of buildings on the site and I do not, therefore, consider it comparable to the current appeal.

¹ APP/G5180/W/15/3005057

Character and appearance

16. The Council raises no objection to the detailed design and appearance of the proposed buildings and I have no reason to reach a different conclusion. However, the buildings would be significantly larger than those existing on site and would become prominent in the public realm. I have already established the effect of this on the openness on the Green Belt but it is also clear that the introduction of the buildings and the erosion of the sites open nature would affect character and appearance, particularly the transition between the open Green Belt and the urban settlement.
17. This in itself would be harmful but it is clear that the buildings have been designed to reflect their context, specifically the residential flats on the opposite side of Turpington Lane, which have recently been constructed. The existing buildings on the site are of no architectural merit and are in a poor condition, as are their grounds. The proposed development would be well related to the existing built form surrounding and would, on balance, improve the appearance of the site.
18. Although the proposed entrances to the buildings would be located to the rear, there would be numerous windows in the street facing elevations to provide passive surveillance and the perception of an active frontage. Furthermore, the layout and vehicular entrance to the site are such that the main entrance would be clearly apparent and I do not share the Council's concern regard legibility of permeability. Although the introduction of front doors might be a benefit to the scheme, I attach little weight to this matter.
19. Overall, I conclude that there would be a slight benefit to the character and appearance of the area and I find no conflict with Policies BE1, G1 or H7 of the UDP, which, amongst other things, seek a high standard of design and layout and set out detailed housing density and design criteria; Policies 7.1, 7.4, 7.5, 7.6 and 7.16 of the London Plan (2015) which seek to create good quality spaces, a sense of place and reinforce local character; or the design objectives contained within the Mayor's Housing SPG (2012), the Council's General Design Principles SPG (SPG1) or the Residential Design Guidance SPG (SPG2). I attach moderate weight to this matter.

Living conditions

20. A range of concerns are raised regarding the proposed residential units which the Council consider, in combination, would result in unsuitable living accommodation for future occupants'. Of primary concern is the failure of flat 'type F' , of which 8 are proposed, to meet the minimum floor area required for a two person flat by both the London Plan and the Nationally Described Space Standards. Although this type of flat would only fall slightly short of the 50sq.m requirement, instead providing 48.1sq.m, this leads to a deficiency in the size of both the bedroom and combined living area.
21. Although it may be the case that these flats would be occupied by individuals rather than two people requiring less space, the rooms are shown to accommodate a double bed and the flats would be available for dual occupation. The London Plan imposes minimum floor space requirements in recognition of development pressures in London and to ensure that aspirations for a good standard of accommodation in the city are maintained. It is suggested that the dimensions are necessary to facilitate a good standard of

accommodation and it is pertinent that the same standard has now been implemented in the Nationally Described Space Standards.

22. In addition to this deficiency, it was also highlighted that the majority of the flats would not benefit from any private amenity space as required by the Mayor's Housing SPG, which seeks at least 5sq.m per dwelling. The appellant did not dispute this matter and accepted that the introduction of balconies would assist in addressing this deficit, though none were proposed. I noted that the adjacent flats, that had been recently constructed, incorporated such features and this may well represent a possibility for the appeal scheme. I was invited to consider a condition in this regard but the balconies would have a material impact on both the appearance of the building and potentially neighbours' living conditions. As such, I consider that this is beyond the scope of a condition. Given the lack of internal space identified in respect of many of the proposed flats, the lack of private amenity space would be likely to further compound this issue.
23. A good amount of communal garden space would be provided within the development and this could be landscaped to provide a good quality space for future occupants', notwithstanding the proximity to refuse stores, car parking and internal pathways. I also noted the presence of public open spaces in the vicinity of the site which could be utilised by future residents. However, this would not compensate or outweigh the otherwise unacceptable living conditions I have identified.
24. I have had regard to concerns regarding the level of wheelchair accessibility and the incorporation of level thresholds but the Council conceded during the hearing that this matter could be dealt with by way of condition and I have no reason to reach a different conclusion.
25. However, it seems to me that unsatisfactory living accommodation would be provided for many future occupants. This would be in conflict with Policies H7 and BE1 of the UDP which seek adequate private and communal amenity space and a good standard of living accommodation; Policies 3.5 and 7.6 of the London Plan which seek minimum internal space standards, the provision of suitable garden areas, and high quality internal and external spaces; and the objectives contained within the Mayor's Housing SPG, SPG1 and SPG2 to create a good standard of accommodation. I attach moderate weight to this matter.

Employment land

26. Policy EMP5 of the UDP states that the redevelopment of business sites or premises outside the Designated Business Areas will only be permitted where the site is no longer suitable for a use within Classes B1, B2 or B8 and full and proper marketing of the site confirms the unsuitability and financial non-viability of the site or premises for those uses. The supporting text explains that this is in recognition of the diminishing number of such uses due to pressure for residential development in the Borough and recognises the benefits to meeting the needs of local business', as well as the sustainability benefits of allowing people to work close to home.
27. Although paragraph 22 of the Framework seeks to avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose, I see no inconsistency between

this policy and the requirements of Policy EMP5, which simply requires that the prospects of being used for a business use are tested.

28. During the hearing, the appellant provided a report from a Commercial Agent (**Document 2**) which provided an appraisal of the market potential for the site. It was also confirmed that the site had been marketed since June 2015 and marketing particulars are included within the report. The comprehensiveness of the marketing exercise is unclear as limited information has been provided in respect of the number of people directly mailed or otherwise approached, or the detail of any queries and feedback given. However, the report nonetheless identifies a great range of queries that were received in respect of potential business and employment uses.
29. Furthermore, a letter was submitted in respect of the original planning application from a local businessman who had apparently been attempting to purchase the site for some time with the intention of creating small workshops and business units. This positive approach was reaffirmed during the hearing. The appellant dismissed all of these queries on the grounds that alterations may have been necessary to the buildings, that planning permission was unlikely to be granted or that the proposed use would not provide a financially viable return. I am unconvinced by this unilateral approach by the appellant given the clear policy support for business uses, the support expressed by the Council during the hearing, and the lack of any financial information to demonstrate non-viability.
30. The report suggests that the marketing exercise has focused on finding an occupier that could utilise the existing buildings on the site and comply with the requirements of the existing planning permission. This will have significantly narrowed the market, yet I have not been provided with any convincing reason why wider B1, B2 or B8 uses should not be marketed, notwithstanding the appellant's own opinion that these are not suitable on the site. Although residential properties are located in close proximity, a business use has successfully operated for a number of years and there is no reason why some form of business use could not remain compatible. Therefore, I cannot conclude that there is no reasonable prospect of a business use on the site or that the site is unsuitable for such a use. As such, the proposed development would be in conflict with Policy EMP5 of the UDP. The unjustified loss of local employment space weighs against the development and I attach this matter moderate weight.

Other considerations

31. Reason 4 of the Council's decision is concerned by the lack of evidence to demonstrate appropriate energy savings but it was agreed during the hearing that this matter could be dealt with by way of a condition if planning permission were to be granted. I have no reason to reach a different conclusion.
32. I have had regard to the appellant's fallback position that the extant business use could be re-established on the site and that this could become harmful to neighbours' living conditions or harm the openness or appearance of the site. However, the buildings are existing and have operated a business use without issue for many years. It was also agreed between the parties that the existing planning permission on the site imposes strict restrictions on vehicle parking, loading and manoeuvring and prevents outside storage.

33. The scope for any intensification or harmful external use under the existing planning permission is, therefore, limited. Although the hours of operation are not controlled by an existing planning permission, environmental legislation is available outside of the planning system to prevent nuisance to neighbours'. In any case, the likelihood of such a fallback position coming forward is limited given the appellant's view regarding the viability of modernising the buildings. No positive intention to pursue this fallback as been expressed by the appellant and I attribute this matter little weight.
34. There is dispute between the parties as to whether the Council can demonstrate a deliverable five year housing land supply in accordance with paragraph 47 of the Framework. However, even if I were to accept the Appellant's view that this requirement was not met, the presumption in favour of sustainable development would not apply. Paragraph 14 and footnote 9 of the Framework make it clear that land designated as Green Belt is one example of a specific policy in the Framework which indicates that development should be restricted. Given the harm to the Green Belt that I have identified in this case, the decision taking criteria set out in paragraph 14 are not engaged, regardless of the five year housing land supply position.
35. Whilst this is so, that is not to say that the absence of a five year housing land supply and the need for local housing are not matters to be weighed in the overall planning balance, particularly in the context of the need to boost significantly the supply of housing. However, Planning Practice Guidance (PPG) is clear that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the very special circumstances necessary to justify inappropriate development in the Green Belt². No detailed evidence has been provided to discount the Council's position set out within its 'Five Year Supply of Deliverable Land for Housing (June 2015) report. However, even if I were to accept the appellant's position this matter would only attract limited weight, bearing in mind the limited contribution that would be made by the 39 units proposed.
36. There is no dispute between the parties that there is a need for the provision of affordable housing in the area. The scheme would make a valuable contribution of 14 units to this need. This weighs in favour of the development and is a matter to which I attach moderate weight.
37. The development would involve replacement of the existing dated sea cadets' premises with a modern facility. Whilst this would be likely to be a benefit as a community facility, I have seen no evidence that the existing building is unsatisfactorily meeting the community need at present or that its replacement is necessary. Therefore, I attach little weight to this matter.
38. Although not a refusal reason, the Council suggests that financial contributions are necessary to mitigate the impact of the development on local education and health infrastructure. The appellant disagrees and no planning obligation has been provided.
39. It is said that the contributions sought have been calculated by reference to standard formula contained in the Council's Planning Obligations SPD (2010). However, no detail has been provided as to how this money would be spent by the Council, nor has any assessment been carried out in respect of capacity at

² Planning Practice guidance Reference ID: 3-034-20141006

local schools and health centres. Therefore, I am unable to conclude that the contributions are necessary as a result of the development and otherwise meet the tests of Regulations 122 and 123 of the Community Infrastructure Levy Regulations (2010). As such, I have not taken them into account in reaching my decision and this is a neutral matter in my considerations.

Conclusion

40. I have identified that the proposed scheme would constitute inappropriate development in the Green Belt for the purposes of the Framework and would harm openness. In addition, the development would fail to provide acceptable living conditions for future occupants' and harm the availability of local employment sites. I have considered the grounds presented in support of the development but together they do not outweigh the harm the scheme would cause. Consequently, the very special circumstances necessary to justify the development have not been demonstrated.
41. In light of the above, I conclude that the appeal should be dismissed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Escott BA Dip TP MRTPI	Agent
Adrian Tutchings FRICS	Chartered Surveyor
Bruce Walker	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

David Bord BA (Hons) PG Dip MRTPI	Principal Planning Officer
Claire Glavin MRTPI	Planning Policy Officer

INTERESTED PERSONS:

Gary Parmar	Interested party
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DOCUMENTS

Document 1	Mayor of London's Draft Interim Housing Supplementary Planning Guidance (May 2015)
Document 2	Letter from Linays Commercial dated 22 December 2015
Document 3	Statement concerning housing and energy policies, Housing Standards Minor Alterations to the London Plan (December 2015) and Housing Standards Policy Transition Statement (May 2015)
Document 4	Agreed Statement of Common Ground
Document 5	Adopted version of Council's General Design Principles SPG and Residential Design Guidance SPG
Document 6	Extracts from Planning Obligations SPD (December 2010) and calculations in relation to healthcare contribution

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Appeal Decision

Hearing held on 10 August 2016

Site visit made on 10 August 2016

by Richard S Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26th October 2016

Appeal Ref: APP/G5180/W/16/3145669

Potters Yard, Turpington Lane/Bromley Common, Bromley BR2 8JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Langford Walker Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/05147/FULL1, dated 25 November 2015, was refused by notice dated 10 February 2016.
 - The development proposed is the demolition of existing buildings and removal of existing yard area and other structures. Erection of seven, two storey 2/3 bedroom terraced houses with 14 car parking spaces. Retention of existing open areas, new landscaping and tree planting.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. Since the date of the Council's decision, the Mayor of London published in March 2016 Minor Alterations to the London Plan (MALP) in respect of Housing Standards and Parking Standards. As planning appeals must be determined on the basis of the development plan that exists at the time of the Inspector's decision, I invited the parties at the hearing to raise any issues arising from the MALP which are relevant to my determination. No such issues were raised and I find no reason to take a contrary position.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy, and whether it would have a greater effect on the openness of the Green Belt and the purpose of including land within it than the existing development;
 - the effect on the character and appearance of the area;
 - whether the proposal would lead to the loss of an existing viable small business site; and

- if the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

4. The appeal site (Potters Yard) is located on the corner of Bromley Common (A21) and Turpington Lane within the Metropolitan Green Belt. It is occupied by two single storey commercial buildings set back within the site with associated hard standing located to the front of the buildings and a parking area on the south western side. The remainder of the site, which is enclosed by chain link fencing and patchy boundary tree planting and hedgerows, largely comprises overgrown grassland and mounds of earth. The site is not currently in operational use. It adjoins the sea cadet site to the south east, beyond which lies school playing fields.
5. Established residential development faces the site beyond a footpath and grass verge to the north east and dense residential development exists to the north west, forming a recent residential development referred to as the Blue Circle scheme. Beyond Bromley Common, a busy road, to the west are largely undeveloped open fields.

Whether inappropriate development and the effect on openness

6. Paragraph 79 of the Framework highlights that the Government attaches great weight to the importance of Green Belts and says that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that "the essential characteristics of Green Belts are their openness and their permanence". Paragraph 87 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 89 of the Framework advises that local planning authorities should regard the construction of new buildings as inappropriate, subject to a number of specified exceptions.
7. Policy G1 of the Council's Unitary Development Plan 2006 (UDP) is consistent with this approach. However the Council accepted at a hearing concerning an appeal¹, which hereafter I shall refer to as the previous appeal, at this and the adjoining Bromley Sea Cadets site on 23 February 2016, that the exceptions to inappropriate development contained within the Framework offered more flexibility than UDP Policy G1. In this respect, none of the exceptions in UDP Policy G1 are applicable to this appeal proposal whereas the final exception listed in paragraph 89 of the Framework relates to limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
8. As it is agreed between the Council and the appellant that the whole of the site comprises previously developed land in accordance with the definition in Annex 2 of the Framework, this inconsistency amounts to an important material consideration when considered in the context of paragraph 215 of the Framework. In the circumstances of this case therefore the more recent

¹ Appeal Ref: APP/G5180/W/15/3129314

- approach set out in paragraph 89 of the Framework garners greater weight in respect of whether the development may be deemed inappropriate or otherwise.
9. The Statement of Common Ground (SoCG) signed by the Council and the appellant confirms that in light of the judgement of the High Court² on 15 February 2016 that the Council regards the appeal proposal as constituting inappropriate development in the Green Belt solely on the basis of its impact on openness. I agree and this main issue therefore turns on whether the appeal proposal would have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
 10. In considering the effect on openness, I have considered the two Court of Appeal Judgements³ and the appeal relating to land at the rear of the former Dylon International Premises⁴, as referred to by the appellant. In this regard, I agree that the concepts of openness and visual impact are distinguishable. As set out in paragraph 7 of the Lee Valley Regional Park Authority judgement, "openness means the state of being free from built development, the absence of buildings – as distinct from the absence of visual impact." Nevertheless, as set out in paragraph 25 of the John Turner Judgement, "The openness of the Green Belt has a spatial aspect as well as a visual aspect, and the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of the location of a new or materially larger building there. But...it does not follow that openness of the Green Belt has no visual dimension."
 11. With regard to the previous appeal, it was the Inspector's view that although there has been significant development in the vicinity of the site and within the Green Belt, the site nonetheless is a contributor to the openness of the Green Belt, particularly in respect of the transition it provides between the undeveloped Green Belt and the dense urban form beyond. I find that these comments are equally applicable in considering the smaller site of the current proposal.
 12. Although the two existing single storey storage buildings on site undoubtedly have an impact on openness, they are relatively low level and their effect outside of the site is relatively limited. The appeal proposal would replace these buildings with seven terrace dwellings, four of which would be two storeys whilst three would incorporate a third storey within the roof space.
 13. The Council's evidence includes a comparison table which shows that the building footprint would be increased from 234m² to 402m², the volume increased from 878m³ to 2,820m³ and the maximum building height increased from 4.5m to 9.4m. These figures, which are not disputed by the appellant, other than by reference to an existing building footprint of 248m² in the supporting Design and Access Statement (DAS), demonstrate that the proposed building would be significantly larger than those presently on the site in terms of height, volume and footprint.

² The London Borough of Bromley v (1) Secretary of State for Communities and Local Government; (2) Rookery Estates Company [2016] EWHC 595 (Admin)

³ Lee Valley Regional Park Authority v Epping Forest District Council [2015] EWHC 1471 (Admin)
John Turner v Secretary of State for Communities and Local Government and East Dorset Council [2016] EWCA Civ 466

⁴ Appeal Ref: APP/G5180/W/16/3144248

14. Therefore, even though I recognise that the appeal proposal is substantially reduced from the previous appeal, it would, nonetheless, result in a significantly greater physical presence on the site. It would obstruct views into and through the site and appear as a dominant feature more akin to the neighbouring residential development.
15. The appellant's DAS seeks to highlight that the existing hard standing and lorry parking area has a footprint of 778m² and that in combination with the footprint of the existing buildings, results in a developed area of 1,026m². Even though the proposed building would not spread development beyond the area that comprises the developed area, it is material that approximately 75% of this area contains no building above ground level and therefore remains substantially open. For the site as a whole, the buildings only occupy an area of approximately 10%.
16. Although having a comparable developed area coverage, and not encroaching into the overgrown areas fronting onto Bromley Common and Turpington Lane, the appeal proposal would increase the volume and spread of mass and bulk into areas currently absent of buildings.
17. I accept that the parking of HGV's on the parking area to the west of the existing buildings would in itself affect openness, however, the scale and permanence would be substantially less in combination with the existing buildings than that currently proposed.
18. The appellant's evidence also draws my attention to three appeal decisions. For the Bromley Common Liveries site⁵ the Inspector notes that the proposal would bring about a reduction in the footprint of the buildings on site of around 41% and a reduction in the volume of buildings of around 17%. For the Priam Lodge site⁶, it was agreed between the parties that the proposal would result in a significant reduction in both the building footprint as well as the developed area, and a very small decrease in the volume of buildings on site. Similarly, for the Westerham Riding School site⁷ the Council has confirmed that again there would be a reduction in the level of built development on the site. Accordingly, these appeal decisions relate to schemes which are not directly comparable to that currently before me where there would be a substantial increase in amount of built development within the site.
19. I therefore conclude that the proposed development would have a significantly greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. As a consequence, the development would not meet the sixth criteria of the exceptions set out in paragraph 89 of the Framework and therefore would amount to inappropriate development, which by definition is harmful to the Green Belt, contrary also to UDP Policy G1, and Policy 7.16 of the London Plan (2016). I attach substantial weight to this harm.
20. Although this site is not undeveloped countryside and is closely related to built development, I find that the proposal would also erode the wider openness of the Green Belt and this would be at odds with the Green Belts essential characteristics of openness and permanence. In addition, the development

⁵ Appeal Ref: APP/G5180/W/15/3005057

⁶ Appeal Ref: APP/P3610/W/14/3000143

⁷ Appeal Ref: APP/G5180/W/15/3137709

would conflict with the defined purposes of the Green Belt as defined in paragraph 80 of the Framework, specifically to assist in safeguarding the countryside from encroachment and check unrestricted sprawl of large built-up areas.

Character and appearance

21. At the hearing the Council raised no particular concern regarding the design of the proposals and taken in isolation I find no reason to reach a different conclusion. However, the appeal site is situated in a prominent corner location and the new dwellings would be significantly more conspicuous within the street scene than the existing level of development. Whilst reduced in scale from the previous appeal proposal, the same conclusions reached by the previous Inspector would be applicable here in that the introduction of the buildings and the erosion of the site's open nature would affect character and appearance, particularly the transition between the open Green Belt and the urban settlement.
22. Although this in itself would be harmful, like the previous appeal scheme, the proposed design would reflect its context, particularly the relatively recent development on the Blue Circle site on the opposite side of Turpington Lane. Moreover, the existing buildings on site are of no architectural merit and are in a poor visual condition, as are their grounds. I therefore reach the same conclusion as the previous Inspector that, on balance, the proposed development would result in a slight benefit to the character and appearance of the area.
23. Accordingly, I do not find conflict with Policies BE1 or H7 of the UDP, which, amongst other things, seek a high standard of design and layout and set out detailed housing density and design criteria, or Policies 7.1, 7.4, 7.5 and 7.16 of the London Plan (March 2016), which seek to create good quality spaces, a sense of place and reinforce local character. I also do not find conflict with UDP Policy G1 insofar as this policy seeks to prevent injury to the visual amenity of the Green Belt by proposals for development within or conspicuous from the Green Belt which might be visually detrimental by reasons of scale, siting, materials or design. It follows therefore that I do not find conflict with paragraphs 56 and 58 of the Framework which require high quality design that responds to the character of the area. Whilst the absence of harm and so conflict with development plan and national policy may be considered neutral in the planning balance, the modest benefits the scheme would bring to the character and appearance of the area may reasonably attract moderate weight in favour of the proposal.
24. As highlighted in the Council's Statement of Case, the appeal site is situated opposite the eastern boundary of the Bromley, Hayes and Keston Common Conservation Area. Although not raised by either party, paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting. However, given the intervening busy A21 and the level of screening alongside the western side of this road, I am satisfied that the proposal would preserve the setting of the Conservation Area.

Business site

25. UDP Policy EMP5 states that the redevelopment of business sites or premises outside the Designated Business Areas will only be permitted where the site is no longer suitable for a use within Classes B1, B2 or B8 and full and proper marketing of the site confirms the unsuitability and financial non-viability of the site or premises for those uses. The policy amplification explains that this is in recognition of the diminishing number of such uses due to pressure for residential development in the Borough and recognises the benefits to meeting the needs of local business's, as well as the sustainability benefits of allowing people to work close to home.
26. Although paragraph 22 of the Framework seeks to avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose, as per the Inspector for the previous appeal, I see no inconsistency between this policy and the requirements of Policy EMP5, which simply requires that the prospects of being used for a business use are tested.
27. In response to deficiencies highlighted by the Inspector for the previous appeal, an updated marketing report and amended property particulars have been submitted in support of this appeal proposal. A specific concern expressed by the Inspector was that the marketing exercise had focused on finding an occupier that could utilise the existing buildings on the site and comply with the requirements of the existing planning permission and that this would have significantly narrowed the market.
28. Whilst I note that the property particulars have been amended following this decision, the "Town Planning" section still highlights that the property was previously used for the storage and distribution of turf and agricultural produce and that it is understood that this remains the lawful use. In my view this still has the effect of narrowing the market and somewhat downplays the fact that the planning history of the site demonstrates that the building is not restricted to a use in connection with agriculture.
29. Although this section now includes reference to the consideration of B1, B2 and B8 uses, I am not convinced that the four months between the time of amending the particulars and the date of the hearing, is sufficient time to properly test the market for such wider uses.
30. I note that the marketing report confirms that the revised details of the property were mailed to parties who the commercial agent considered may be interested, however, it remains unclear, on the basis of the information provided, as to the number of people directly mailed or otherwise approached, and the detail of any queries and feedback given is limited. Nevertheless, both reports identify a range of queries that were received in respect of potential business and employment uses, as well as Class D uses. Moreover, as per the previous appeal proposal, a letter has been submitted from a local businessman who has apparently been attempting to purchase the site for some time for use as small business centre. This interest was again reaffirmed during the hearing.
31. I appreciate that no formal offers may have been made but the report effectively dismisses all such queries primarily because it is perceived that planning permission would not be forthcoming. Although in this respect I

sympathise with the appellant's frustrations that queries remain unanswered by the Council as what uses would be acceptable, the Council reaffirmed at the hearing that it would be happy to consider alternative uses within Use Class B1 and B2. Despite this and the clear policy support, the Council's stance has yet to be formally tested with a planning application for anything other than a residential redevelopment of the site. These factors therefore cast significant doubt on any assumption that planning permission could not be achieved for wider business uses.

32. The report also appears to cast doubt on the ability of the site to be let for Class B8 uses, despite the Statement of Common Ground confirming that the site would appear to have a lawful use for storage purposes and for the use of the hard surfacing by heavy goods vehicles for purposes ancillary to this use.
33. In response to the previous Inspector's concern over the lack of any financial information to demonstrate non-viability, the current appeal proposal is also supported by a financial analysis and appraisal of the property and the works that would be required to refurbish the premises and to create accommodation which is suitable for modern business use. This concludes that the refurbishment costs would almost equate to the consequential capital value and that, in the opinion of the commercial agent, it is highly unlikely that such investment would be made on the basis of the return indicated.
34. Whilst in this regard I accept that significant investment in the buildings would be required, the extent of such enabling works relevant to facilitate an end user is not clear, and little information is provided in terms of the precise nature and necessity of the required works. This therefore limits the weight I am able to afford to the conclusions.
35. A planning history statement has also been provided in response to the Inspector's comments for the previous appeal that he remained unconvinced why wider B1, B2 or B8 uses should not be marketed for the site.
36. The statement makes reference to a linked decision relating to three appeals⁸ to the Secretary of State dated 19 October 1993 including that against the issuing of an Enforcement Notice (EN). For the appeal against the EN I acknowledge that under ground (a) the Secretary of State found the use operating at that time to be inappropriate in the Green Belt and that the use resulted in harm to the living conditions of the occupiers of the nearby flats by reason of dust problems.
37. I also acknowledge that the EN precluded a number of activities at the site, but this does not preclude a number of other activities within Use Classes B1, B2 and B8 which could operate from the site, without undue harm to the living conditions of nearby residents. Consequently, I am not convinced that the EN necessarily translates to a position whereby a wider use of the site has been found to be unacceptable.
38. Moreover, the Council confirmed at the hearing that there had been no further enforcement action concerning this site since 1994. This therefore supports the previous Inspector's position that, although residential properties are located in close proximity to the site, a business use had successfully operated

⁸ Appeal References: APP/D/93/G5180/1; APP/C/92/G5180/623815 and APP/G5180/A/93/219927

- for a number of years and there is no reason why some form of business use could not remain compatible.
39. I appreciate that the planning permission granted on appeal⁹ in December 1996 restricted the use of the area of hard surfacing in front of the buildings solely to loading, unloading and manoeuvring of vehicles. However, I note that the Inspector in response to the Council's suggestion to a limitation of the hours of use of the hard surfacing highlighted that no such restriction applied to the use of the building and that there was no evidence to suggest that the use of the hard surfacing, in connection with the permitted use of the site had resulted in significant difficulty. Accordingly such a wide restriction was considered to be unnecessary and unreasonable.
40. Therefore, whilst I am not precisely aware of what information was provided on the planning history of the site for the previous appeal, having regard to the comments of the Inspector, which align with my findings on the planning history provided to me, I do not agree with the suggestion that this had been misinterpreted.
41. Also on this issue, it is the appellant's position that little weight should be attached to the loss of employment argument if the site can be changed to a residential use under permitted development rights which exist by virtue of Class P (storage or distribution centre to dwellinghouses) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). During the hearing, the appellant also provided plans to demonstrate (**Document 3**) how this could be achieved.
42. Although I have no evidence to demonstrate that the use of the buildings for residential purposes would not amount to permitted development, it was confirmed by the parties that no such application had been made to the Council. Despite the SoCG confirming that the floor area of the existing buildings is less than 500m² and that Class P permits the aforementioned change of use, it stops short of confirming that the permitted development rights could be achieved for the appeal site. Furthermore, at the hearing, the Council's view was that the position was inconclusive.
43. I cannot therefore be certain that the proposal benefits from such permitted development rights or that if prior approval is required, whether it would be forthcoming. Also, on the basis of the evidence before me, I am not convinced that if this appeal were to be dismissed, that there would be a realistic prospect that such permitted development rights would be pursued. These factors therefore reduce the weight I can attach to the argument that the business site could be lost to a residential use under permitted development rights.
44. On balance therefore, I do not consider that the new information adequately addresses the concerns expressed by the Inspector for the previous appeal. Accordingly, I am unconvinced that the proposal would not lead to the loss of an existing viable small business site. As such, the proposed development would be in conflict with Policy EMP5 of the UDP. This unjustified loss of local employment space weighs against the development and I attach moderate weight to this matter.

⁹ Appeal Ref: T/APP/G5180/A/95259687/P5

Other considerations

45. Further to the aforementioned appeal decision relating to the former Dylon International Premises, the Council accepted at the hearing that it cannot presently demonstrate a five-year supply of deliverable housing sites. In such circumstances, paragraph 49 of the Framework is invoked insofar as relevant policies for the supply of housing should not be considered up-to-date. Within this context, the appellant has referred to a recent Court of Appeal judgement¹⁰ which considered that Green Belt policies could be relevant policies for the supply of housing if they affected the supply of the same. This judgement postdates the previous appeal and therefore amounts to a material change in circumstances. However, the judgement explains that it will always be for the decision-maker to judge, in the particular circumstances of the case in hand, how much weight should be given to conflict with policies for the supply of housing that are out-of-date.
46. In the circumstances of this case therefore, Policy G1, as a policy relevant to the supply of housing should, in the context of paragraph 49 of the Framework not be considered up-to-date. This therefore suggests a reduction in the weight to be apportioned to it, and requires that paragraph 14 of the Framework is, at this stage, engaged. However, notwithstanding this point and noting that I have identified a modest divergence of Policy G1 with paragraph 89 above, its overarching purpose remains broadly consistent with that of the Framework in respect of the Green Belt. As such, and in accordance with paragraph 215 of the same, I am therefore still able to afford it a substantial measure of weight. More significantly still however, the second strand of the fourth bullet point of paragraph 14 makes clear that the presumption in favour of sustainable development set out therein should not apply where 'specific policies of the Framework indicate development should be restricted'. Here, footnote 9 appended to this last statement makes specific reference to Green Belt policy in this regard.
47. So, notwithstanding the absence of a five year supply of housing and the diminution of weight afforded to the development plan policy, the last strand of bullet point four of paragraph 14 disapplies the presumption in favour of the development that might otherwise exist.
48. That said, although the contribution to housing supply is relatively modest, the boost to housing supply in a sustainable and accessible location is a matter which weighs in favour of the proposal. However, Planning Practice Guidance¹¹ is clear in that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt. Therefore, in these circumstances, this benefit would attract only limited weight.
49. Lastly here I note the appellant's disappointment in how the application was determined and that the Council's decision was taken without any engagement with the appellant. These though, are not matters for this appeal, which I have

¹⁰ Suffolk Coastal District Council v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East, SCLG [2016] EWCA Civ 168

¹¹ Planning Practice guidance Reference ID: 3-034-20141006

determined afresh and on its planning merits and having regard to all matters raised.

The Green Belt balance

50. I have found that the proposal would constitute inappropriate development that would conflict with national and local policy to protect the Green Belt, and this is a matter to which the Framework requires me to attach substantial weight. I have also found that the proposal would be harmful to the openness of the Green Belt. As openness is one of the most important attributes of the Green Belt, this constitutes substantial additional harm that further weighs against the proposals. In addition, I am unconvinced that the proposal would not lead to the loss of an existing viable small business site and this is also a matter of moderate weight against the proposed development.
51. I have though found, on balance, that the proposed development would result in a modest benefit to the character and appearance of the area and this is a matter of moderate weight in its favour. As explained, within the context of the Green Belt, the modest contribution the development would make to housing supply attracts only limited weight in favour of the proposal.
52. In the final balance therefore, the considerations advanced in support of the proposals cannot be seen as sufficient to clearly outweigh the harm to the Green Belt that would arise as a result of the development. The very special circumstances necessary to justify the proposal do not therefore exist.

Conclusion

53. For these reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr John Escott	Agent (Robert Escott Planning LLP)
Mr Bob McQuillan	Robert Escott Planning LLP
Mr Adrian Tutchings	Linays Commercial Limited
Mr Bruce Walker	Langford Walker

FOR THE LOCAL PLANNING AUTHORITY

Mr David Bord	Principal Planning Officer
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INTERESTED PERSONS:

Mr Gary Parmar	Interested party
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DOCUMENTS SUBMITTED AT THE HEARING

1. Enforcement Notices dated 9 July 1992 and 14 November 1993.
2. Annotated plan relating to planning history.
3. Drawing numbers: TL/479/BP20; TL/479/SP20; TL/479/20 and TL/479/21 relating to permitted development rights conferred by Class P of Part 3 of Schedule 2 of the GPDO.

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Appeal Decision

Inquiry Held on 7 and 8 February 2018 and 4 May 2018

Site visit made on 7 February 2018 and 4 May 2018

by J Dowling BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2018

Appeal Ref: APP/G5180/W/16/3165767

Potter's Yard, Turpington Lane/Bromley Common, Bromley BR2 8JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Langford Walker Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/03939/FULL1, dated 19 August 2016, was refused by notice dated 1 December 2016.
 - The development proposed is demolition of existing buildings and removal of existing yard area. Erection of six terraced houses with 12 car parking spaces. Retention of existing open areas, new landscaping and tree planting.
-

Decision

1. This appeal is dismissed.

Procedural Matters

2. The Inquiry sat for three days. I undertook an unaccompanied site visit on the 7 February 2018 to enable me to familiarise myself with the site and its surroundings and to observe the traffic and pedestrian flows on the surrounding road network during the morning peak. In addition I undertook an accompanied site visit on the 4 May 2018 where in addition to visiting the appeal site at the request of the appellant I also visited the Jackson Nursery site and at the request of two interested parties I viewed the appeal site from their properties.
3. A Statement of Common Ground (SoCG) was submitted at the start of the Inquiry which set out the policy context along with matters of agreement and those in dispute.
4. Due to time constraints it was agreed that both parties could submit their closing statements in writing to an agreed timetable. The Council also agreed to publish the closing statements on their website so that they could be available for inspection by any of the interested parties.
5. A completed Unilateral Undertaking (UU) was submitted by the appellant which would seek to use reasonable endeavours to enable at least 10% of the construction jobs to be secured by residents of the ward or companies based in the ward; for the first three months to reserve units for people living or working in the ward or who has formally lived in the ward or who have family members living in the ward; to carry out and complete the remediation works; to create and plant a communal orchard which would be made available to future residents in perpetuity; to provide up to 12 electric vehicle charging

points and to create a management company for the future management of the proposed communal orchard.

Application for costs

6. At the Inquiry an application for costs was made by Langford Walker Ltd against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Main Issues

7. Based on the original reasons for refusal and the evidence submitted and heard in relation to the appeal I consider that the main issues are:
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the loss of the employment use of the land; and
 - if the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development?

8. Section 9 of the Framework sets out the Governments approach to development in the Green Belt. It is clear that the Green Belt is seen as very important and the protection of the essential characteristics of openness and permanence are a clear priority¹. Furthermore, it advocates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances². Paragraph 89 of the Framework states that Local Planning Authorities should regard the construction of new buildings as inappropriate in the Green Belt but then details six exceptions to this rule. The sixth exception allows:

"limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development."

9. Policy G1 of the London Borough of Bromley Unitary Development Plan (2006) (the UDP) states that within the Green Belt permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm and as such I consider this part of the policy to be consistent with the Framework. However, the policy then goes on to list a number of exceptions for the construction of new dwellings. This list does not reflect the exceptions listed in the Framework and of particular relevance to this appeal would not allow the limited infilling or partial or complete redevelopment of previously developed sites. As a consequence I

¹ Paragraph 79 of the National Planning Policy Framework

² Paragraph 87 of the National Planning Policy Framework

- consider that the exceptions listed in the Framework should be given greater weight than those listed in the policy as to whether the development may be considered inappropriate or otherwise.
10. The Framework³ defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of developed land (although it should not be assumed that the whole curtilage should be developed) and any associated fixed surface infrastructure. As a consequence I consider that a large proportion of the site, including the area where the proposed houses and parking would be sited, is capable of being considered as previously developed land.
 11. However, the exception also requires that any development of previously developed land should not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
 12. The proposal would result in the demolition of the existing buildings and their replacement with a terrace of six houses, creation of car parking area and landscaping.
 13. The appellant makes the point in terms of openness and volume that the site is occupied by a number of existing buildings. Furthermore, they advocate that they can convert the existing buildings to three houses⁴ and under permitted development they could erect other ancillary buildings and areas of hardsurfacing which would, in their opinion, have a far greater impact on the openness of the Green Belt than the appeal proposal.
 14. However the wording of the Framework states that new development should not have a greater impact than **existing**⁵ development. As neither the conversion of the building that was approved under prior approval nor the ancillary buildings or hardsurfaced areas potentially allowed under permitted development have been carried out they do not exist. Therefore for the purposes of considering whether a development would be inappropriate they cannot, in my opinion, at this stage form part of either the volume calculations or the assessment of openness.
 15. Openness in the context of the Green Belt essentially means freedom from development. In considering the effect on openness I have had regard to the numerous Court of Appeal Judgements that the appellant has made reference to. In particular the findings in the John Turner judgement⁶ regarding openness having a visual dimension.
 16. Having visited the site I agree with both of the previous Inspectors⁷ that although the surrounding area has been significantly developed, including on land currently designated as Green Belt the site along with the adjacent Sea Cadet site contributes to the openness of the Green Belt. Furthermore, I concur that it acts as an important transition between the adjoining residential development and the more open expanses of Bromley Common.

³ Annex 2 of the National Planning Policy Framework

⁴ LPA ref: 16/05502

⁵ My emphasis

⁶ John Turner v Secretary of State for Communities and Local Government and East Dorset Council [2016] EWCA Civ 466

⁷ PINS ref: APP/G5180/W/16/3144248 and APP/G5180/W/16/3145669

17. I observed on site that there are currently two single storey buildings located towards the rear of the site adjacent to the boundary with the Sea Cadets site and the pedestrian footpath that links Turpington Lane and Magpie Hall Lane. I acknowledge that they have an effect on openness but consider that given their location, limited height, bulk and mass their effect is very limited. The proposal would result in the demolition of these buildings and the creation of a two storey terrace of six units, which would each have their own separate curtilages. A shared driveway would lead to an area of surface parking and a cycle storage area with the remainder of the site landscaped.
18. The proposal would result in setting the new units further off the boundary than the current buildings in order to be able to provide rear gardens for the new units. Furthermore, the proposed new terrace would have a greater footprint and be higher and bulkier than the buildings it would replace. Whilst I recognise that this proposal is smaller than that contained in the previous appeal⁸ I consider that it would result in the introduction of a significant quantum of development into what is currently a relatively open area. Furthermore, in my opinion the appeal scheme would be more visually prominent than the existing buildings and would be read as part of the neighbouring residential development rather than being reflective of its location within the Green Belt.
19. At the Inquiry the appellant highlighted the fact that large parts of the site are hardsurfaced and have previously been used for the parking of HGV's and lorries. Whilst I accept that the Framework includes associated fixed infrastructure within its definition of previously developed land in my opinion as this area does not contain buildings or structures it retains a sense of openness and does not obstruct views into and through the site. I acknowledge that the parking of vehicles in this area would reduce this sense of openness and restrict views however I agree with the previous Inspector in that even when combined with the existing buildings their scale and permanence would be significantly less than what is proposed.
20. As a result I consider that the proposal would have a greater effect on the openness of the Green Belt and the purposes of including land within it than the existing use and buildings.
21. Paragraph 90 of the Framework provides a list of five other forms of development that are also considered not inappropriate. I have assessed the proposal against this list and consider that it would not fall within any of these categories.
22. I therefore conclude that the proposal would not fall within the exceptions of development in the Green Belt and would adversely affect its openness contrary to the Framework, policy G1 of the UDP and policy 7.16 of the London Plan (2016) which states that the strongest protection should be given to London's Green Belt and that inappropriate development should be refused, except in very special circumstances.
23. As inappropriate development is, by definition, harmful to the Green Belt in accordance with paragraph 88 of the Framework I must give this substantial weight.

⁸ PINS ref: APP/G5180/W/16/3145669

Loss of the employment use

24. Policy EMP5 of the UDP allows the redevelopment of business sites outside of the Designated Business Areas subject to a number of caveats. These include that the size, configuration, access arrangements or other characteristics make it unsuitable for a Class B1, B2 or B8 use and that marketing of the site confirms the unsuitability and financial non-viability of the site for those uses.
25. I note that the appellant considers that EMP5 is time expired given the date of the UDP and the fact that it predates the Framework. However, as this policy does not prevent the redevelopment of business sites it merely requires that their potential future use for business is tested I consider that it accords with the Framework⁹ which seeks to avoid employment sites being protected in the long term where there is no reasonable prospect of a site being used for that purpose.
26. The appeal site is located outside of the Designated Business Area and as such complies with the first requirement of this policy. Furthermore, it was clear from the evidence given at the Inquiry and from what I observed on site that current access arrangements to the site for commercial vehicles are restricted. Consequently, depending on the size of the vehicle, this would potentially require vehicles to route through the residential road network in order to be able to turn into the site. As a result I consider that the current access arrangements make the site unsuitable for Class B1, B2 and B8 uses that would require deliveries and collections from larger vehicles.
27. I am satisfied that the site has been subject to appropriate marketing. Whilst there have been a number of inquiries in the main these appear to be for alternative uses that would require planning permission and which, due to the location of the site in the Green Belt, means that there is an degree of uncertainty as to whether this would be granted. Furthermore, I consider that due to the Rookery Estates restrictive covenant it was clear that even if planning permission for an alternative use such as that suggested by Mr Parmar was to be obtained it is highly unlikely that it would be allowed to be implemented.
28. Finally, having obtained prior approval for the conversion of the existing buildings to three houses it is clear that when considered against the costs involved in bringing the current buildings to a level where they could be let or sold that the residential value of the site is such that the continued commercial use of the site would be unviable. As a result whilst I agree that the proposal would result in the loss of an employment use I am satisfied that the proposal would comply with policy EMP5 and the Framework.

If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

29. In support of the proposal the appellant has cited a number of fallback positions that they consider would have a greater effect on the openness of the Green Belt than the appeal scheme. However, in order to establish the validity

⁹ Paragraph 22 of the National Planning Policy Framework

- of a fallback position it is necessary to first establish that there is a greater than theoretical possibility that the fallback position may take place.
30. The fallback positions advanced by the appellant include the resumption of the existing commercial use; conversion of the existing buildings to residential and the possibility of erecting further outbuildings and hardsurfacing in association with the existing commercial use of the site under Classes H and J of Schedule 2, part H of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
31. As was outlined at the Inquiry the site has not been used for commercial purposes for a significant amount of time. For the reasons outlined above I accept that the continued use of the site on a commercial basis is unviable. The results of the marketing exercise have demonstrated that it would be very difficult to find a tenant and it was clear from the evidence at the Inquiry that the current owner does not wish to restart their previous business. Finally, even if the site were to remain in employment use it is clear from the evidence given by the representative for Rookery Estates that they would invoke the restrictive covenant to prevent the site being used on a commercial basis. As a result whilst I accept that it would be theoretically possible that the use could recommence and additional outbuildings and hardstanding areas could be constructed on the basis of the evidence before me I consider that this is very unlikely. Furthermore, there is no evidence that even if the commercial use of the premises did recommence that any future occupier of the site would exercise their permitted development rights or if they did what form this development would take. As a result I do not consider that there is a greater than theoretical possibility that these scenarios would occur. As a consequence I consider that I can only give this fallback position very limited weight.
32. With regards to the implementation of the prior approval it is clear from the evidence that the residential scheme is viable. Furthermore, the planning history for the site indicates a strong desire by the current owners to develop it for residential purposes. Consequently, I consider that should this appeal be dismissed then it is very likely the appellant would undertake this work. As a result I deem that the fallback position advanced with regards to the conversion of the buildings is realistic. Having established that the fallback position is viable and capable of implementation it is then necessary for me to consider what weight should be attached to it.
33. Unlike the appeal scheme the proposal would convert the existing buildings to one, two bed and two, one bed units. As a result I consider that the levels of activity and domestic clutter associated with the prior approval would be far lower than that which would result from the appeal scheme which is for two, two bed units and four, three bed units. Furthermore, unlike the prior approval scheme, the appeal proposal would result in the reconfiguration of the site with a more urban layout as each of the units would have individual curtilages and the remainder of the site would be formally laid out to parking areas and landscaping. Consequently, I consider that the appeal scheme would have a greater effect on the openness of the Green Belt than that which would result from the prior approval. Therefore whilst significant weight can be afforded to the fact that residential development can be carried out at the site I do not consider that it overcomes the harm to openness that I have identified would result from the appeal scheme.

34. Finally the appellant advocates that, subject to undertaking the works in the correct order, they could erect further outbuildings, extend the hardsurfacing and convert the existing buildings to housing. All of which in their opinion would have a greater impact on the openness of the Green Belt than the appeal scheme. Whilst I accept that this might theoretically be possible on the basis of the evidence before me I consider that this would be very unlikely as it would result in additional build costs and adversely affect the setting and outlook for the buildings to be converted which would, in my opinion, affect the viability of the residential scheme. As a consequence I give this fallback position very limited weight.
35. In coming to these conclusions I have taken into account the various legal judgements on fallback referred to by the appellant.
36. The appellant disputes as to whether the Council can demonstrate that they have five years worth of housing land supply. As a result they advocate that the 'tilted balance' comes into effect with regard to the presumption in favour of sustainable development. However, the second part of bullet point four of paragraph 17 of the Framework states that this presumption in favour of sustainable development should not be applied where specific policies in the Framework indicate that development should be restricted. These restrictions¹⁰ include land designated as Green Belt. As a result whilst I accept that the proposal is capable of being delivered quickly, would boost the supply of housing and would make the efficient use of land in accordance with the Framework, the benefit would be very modest and is in any event significantly outweighed by the harm to the openness of the Green Belt that I have identified above.
37. I agree with the appellant that whilst individual benefits may attract limited weight, when taken together these benefits can attract significant weight. The appellant considers that the scheme would deliver a number of clear benefits including provision of six affordable 'starter' homes; loss of a bad neighbour development; improvements to highway safety through the cessation of the current use; delivery of a well designed scheme that would integrate into its surroundings and would result in landscape improvements that would benefit not only the site but the visual amenity of the wider area; redevelopment of the site would help with the renewal objectives for the area – in particular the creation of a gateway to Bromley; delivery of homes and jobs for local people in one of the more deprived wards; the proposed communal orchard would act as a continuation of the linear park on the adjoining site and provide a recreational benefit to future residents; drainage at the site would be improved including a reduction in surface water run-off ; the proposal would result in the efficient use of previously developed land; a reduction in the quantum of hardsurfacing at the site and the Council would benefit from Community Infrastructure Levy (CIL) payments.
38. Dealing with each of these in turn. Under the terms of the Unilateral Undertaking (UU) no discount is proposed to be applied to the new units nor are they to be formally given to a Registered Social Landlord. As a result the affordability referred to by the appellant appears to be based solely on the size of the proposed units. As the majority of the units proposed are three bed, I consider this to be family accommodation rather than starter homes. As a

¹⁰ Footnote 9 of Paragraph 14 of the National Planning Policy Framework

- consequence I do not consider that affordable starter homes is a benefit that the scheme would deliver.
39. I note the comments regarding the effect of the previous use on the living conditions of the residents of adjoining properties and the issues with highway safety. Furthermore, the appellant has made reference to a number of appeal decisions in the Green Belt where the loss of an unneighbourly use was a material consideration. However, for the reasons outlined above I consider that, given the appellant has prior approval to convert the existing buildings to residential and that Rookery Estates have made it clear that they would prevent the commercial use of the site I consider that it is unlikely that a commercial use would recommence at the site and as a consequence I give the benefit delivered by the cessation of the previous use very limited weight.
40. I accept that the proposal has through the proposed architectural detailing, layout and palette of materials been designed to reflect and respect the character and appearance of the wider area. I also accept that as a consequence of the proposal the site would be tidied up and landscaped. However, for the reasons I have already outlined I consider that the proposal would adversely affect the openness of the Green Belt which I consider outweighs any benefit that would be delivered from these elements of the appeal scheme.
41. All parties accepted that the due to its overgrown nature and the fact that it has been allowed to fall into disrepair that the site detracts from the character and appearance of the area. Consequently I accept that it does not accord with the Council's long term aspirations to create a gateway to the area. However, whilst the appeal scheme would result in the landscaping and tidying up of the site I consider that to a lesser degree the same effects would be delivered through the prior approval and as a result I give this benefit very limited weight.
42. Under the UU the appellant would seek to use reasonable endeavours to enable at least 10% of the construction jobs to be secured by residents of the ward or companies based in the ward. Whilst this is a benefit that would be delivered by the scheme I consider given that the scheme is for six units the number of construction jobs created would be relatively small and therefore I can only give this benefit limited weight.
43. The adjoining linear park, unlike the proposed communal orchard, is publicly accessible. As a consequence whilst I accept that the communal orchard could be perceived visually as continuation of the linear park it would only be for use by future residents of the scheme and is in any case required as mitigation. As a result I consider that this can only be given limited weight.
44. I accept that the proposal would improve the drainage at the site, reduce the quantum of hardstanding and result in the more efficient use of previously developed land in accordance with the guidance contained within the Framework. However, I consider that the harm that would arise to the openness of the Green Belt as a result of the proposal outweigh these benefits.
45. CIL payments are required to mitigate the effect of the proposal on infrastructure provision in the district and are therefore not a benefit of the scheme as a result I can give this benefit no weight

46. Whilst I note the support that the scheme has locally I do not consider that this outweighs the harm that I have identified above.
47. The appellant highlighted that the proposal would accord with a number of policies within the development plan including T18, EMP6 and H1. Furthermore, for the reasons outlined above I consider that the proposal would accord with EMP5. I acknowledge that planning policy and primary legislation both identify the importance of the development plan in making decisions whilst requiring that other material considerations be taken into account. It is well established that compliance with the development plan is not compliance with each and every policy and the decision maker is required to reach a conclusion with regard to the plan when read as a whole. On this basis I conclude that whilst the proposal may accord with other policies within the plan for the reasons outlined it would not comply with the most relevant policies namely G1 of the UDP and 7.6 of the London Plan and therefore I consider that it does not accord with the plan when read as a whole.
48. I accept that the appeal proposal would result in less vehicular activity than the car wash that was proposed on the Sea Cadets site¹¹. However, this scheme was dismissed at appeal and does not lead me to a different conclusion in this case.
49. At the request of the appellant I visited the Jackson Road site and whilst there are some similarities between the two schemes I consider that they are materially different not least because of the large number of glasshouses located on the Jackson Road site; the proximity of a number of listed buildings and the site layout and topography. As a result the Jackson Road decision does not lead me to a different conclusion in this appeal.
50. I accept, given its previous use that the site may be contaminated and that the proposal would secure its remediation. However, whilst this is a benefit of the scheme I do not consider it sufficient to address my concerns regarding the effect on openness.
51. Opposite the site is the Bromley Common Conservation Area. From what I observed on site I agree with the Council and the appellant that the proposal would not adversely affect the setting of the Conservation Area.
52. As a result I do not find the other considerations in this case clearly outweigh the harm I have identified to openness. Looking at the case as whole, I consider that the very special circumstances required to justify the development do not exist. Consequently the proposal would be contrary to policy G1 of the UDP and 7.6 of the London Plan.

Unilateral Undertaking

53. A completed Unilateral Undertaking (UU) was submitted by the appellant which would seek to use reasonable endeavours to enable at least 10% of the construction jobs to be secured by residents of the ward or companies based in the ward; for the first three months to reserve units for people living or working in the ward or who has formally lived in the ward or who have family members living in the ward; to carry out and complete the remediation works; to create and plant a communal orchard which would be made available to future residents in perpetuity; to provide up to 12 electric vehicle charging

¹¹ PINS ref: APP/G5180/W/17/3173651

points and to create a management company for the future management of the communal orchard.

54. The Framework¹² states that planning obligations should only be sought where they meet a number of tests namely that they are necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind. In my opinion the remediation works and provision of vehicle charging points meet these tests.
55. Whilst I agree that landscaping around the site would be necessary to mitigate the effect of the scheme this could also be delivered through the use of a condition. Furthermore, in my opinion the landscaping does not need to take the form of a communal orchard for which there is no policy justification. However, as no landscaping condition has been suggested I am satisfied that the communal orchard and its management meets the Framework test in that it would provide the necessary landscape mitigation for the site.
56. With regards to the proposals to secure employment opportunities locally and give first choice to purchase the new units to local residents or people who have a local connection are commendable, in my opinion they are not necessary to make the development acceptable in planning terms and therefore I consider that they fail to meet the Framework tests.

Conclusion

57. I therefore conclude that the proposal would be inappropriate development in the Green Belt as defined by the Framework. The proposal would erode the openness of the Green Belt. As outlined above I give only limited weight to each material consideration cited to support the proposal and conclude that taken together they do not outweigh the harm that the scheme would cause. Consequently, I conclude that the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. For the reasons given above and having regard to all other matters raised I conclude that the scheme is not sustainable development for which the Framework indicates that there should be a presumption in favour and therefore the appeal should be dismissed.

Jo Dowling

INSPECTOR

¹² Paragraph 204

APPERANCES

FOR THE APPELLANT

Mr Christopher Rees

He called

Mr Ian Dix	Vectos
Mr John Escott	Chartered Town Planner, Robinson Escott Planning LLP
Mr Thomas Hegan BSc (Hons) MRCIS	Partner, Turner Morumm LLP
Mr Robert McQillian	Independent planning consultant
Mr Adrian Tutchings FRICS	Senior Partner, Linays Commercial Limited

FOR THE LOCAL PLANNING AUTHORITY

Mr Ian Rees-Phillips, of Counsel

He called

Mr David Board BA (Hons) PG Dip MRTPI	Principal planner, London Borough of Bromley
Ms Claire Glavin	Planner, London Borough of Bromley

INTERESTED PARTIES

Mr Terry Bagnall	Local resident
Mr Simon Clayton	Local resident
Mr James Hasell	Local resident
Ms Janet Lahouag	Local resident
Mr Traiq Lahouag	Local resident
Mr Garry Parmar	Local resident
Mr Lee Reeves-Perrin	Solicitor for Mrs Potter, current owner of the site
Mr Anthony Sheanon	Local resident
Mr Steve Spear	Representative on behalf of former local resident
Mr Barry Wolfenden	Representative for Rookery Estates

Documents received and accepted into the Inquiry prior to opening

Document 1	Rebuttal Proof of Evidence for Claire Galvin submitted by email 29/01/18
Document 2	Costs application by appellant
Document 3	Extract from SPON's costs and email from Cushman Wakefield dated 18 May 2017 submitted by email 1/02/18
Document 4	Replacement appendices 11 and 12 for Mr Escott's Proof of Evidence submitted by email 1/02/18
Document 4	Signed general Statement of Common Ground dated 2/02/18
Document 5	Signed Housing Statement of Common Ground dated 5/02/18
Document 6	Extract from the Bromley Maps and Conservation area description and accompanying email 5/02/18

Documents submitted during the course of the Inquiry

Document 7	Copy of appeal decision for the Sea Cadets Hall (TS Narvik), Magpie Hall Lane, Bromley BR2 8JE (PINS ref: APP/G5180/W/17/3173651)
Document 8	Copy of appeal decision for Sunridge Park Mansions, Willoughby Lane, Bromley BR1 3FZ (PINS refs: APP/G5180/W/16/315788; APP/G5180/Y/16/3157889; APP/G5180/W/17/3171036; APP/G5180/Y/17/3171038)
Document 9	Extract from SPON'S Architects and Builders Price Book 2017
Document 10	Extract from Council's Environmental Health incident log for the site
Document 11	Opening statement on behalf of the appellant
Document 12	Statement from Mr Terence Bagnall
Document 13	Statement from Mr Simon Clayton
Document 14	Statement from Mr James Hasell
Document 15	Statement of Pamela Anne Potter
Document 16	Copies of the vehicle licences for the appeal site
Document 17	Appendix CG-14 to Claire Glavin's Proof of Evidence
Document 18	Copy of extract of the summary of responses (June 2017) for the Bromley Proposed Submission Draft Local Plan Consultation 2016 with regard to renewal area
Document 19	Extract from the Bromley Biodiversity Plan
Document	Closing statement for the Council
Document	Closing statement for the appellant



Appeal Decision

Hearing Held on 5 February 2020

Site visit made on 5 February 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2020

Appeal Ref: APP/G5180/W/19/3234830

Potters Yard, Turpington Lane, Bromley BR2 8JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Langford Walker against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/01505/FULL1, dated 29 March 2019, was refused by notice dated 2 July 2019.
 - The development proposed is erection of two detached bungalows for affordable housing.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of two detached bungalows for affordable housing at Potters Yard, Turpington Lane, Bromley BR2 8JN in accordance with the terms of the application, Ref DC/19/01505/FULL1, dated 29 March 2019, subject to the conditions in the schedule attached to this decision.

Application for Costs

2. At the Hearing an application for costs was made by Langford Walker against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council's second reason for refusal refers to a lack of information on the provision of affordable housing, particularly in relation to an identified affordable housing provider. However, the appellants have submitted an Undertaking in respect of affordable housing and the Council has confirmed that this addresses its concerns on this matter and that it no longer contests the second reason for refusal. The Undertaking meets the tests set out in paragraph 56 of the National Planning Policy Framework (the Framework) and I have proceeded to determine this appeal giving due consideration to the Undertaking.
4. Subsequent to the Hearing, the Supreme Court has issued a judgment¹ in respect of the consideration of openness of the Green Belt. This states that the

¹R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

matters relevant to openness in any particular case are a matter of planning judgement, not law. However, in any event I would have considered the visual qualities of the appeal proposal in respect of the Green Belt, and whilst I have had regard to the Supreme Court's judgment it has not had a material effect on my consideration of this appeal.

Main Issues

5. The main issues in this appeal are:
- Whether the development would represent inappropriate development in the Green Belt; and
 - If the development is deemed inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether Inappropriate Development

6. The appeal site is part of a compound which was last used as a storage and distribution centre, and which has a long and complex planning history. However, of particular relevance to this appeal is planning permission which has been granted for 3 detached bungalows and associated landscaping. The 3 bungalows would be located in broadly the same position as the existing buildings on the site. The appeal site is located on an area which was identified as landscaping under the previously approved plans.
7. The appeal site is within the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions including those listed in Paragraph 145 of the Framework.
8. The exceptions listed at paragraph 145(g) include the limited infilling or the partial or complete redevelopment of previously developed land (PDL). It is common ground between the parties that the appeal site and the compound in which it sits comprise PDL within the terms of the Framework.
9. The first strand of 145(g) states that development of PDL should not have a greater impact on the openness of the Green Belt than the existing development. The Council sets out that the proposal in combination with the previously approved dwellings would be more harmful to openness than the extant development on the site. This is expressed in both quantitative terms and contextually, including the spread of built development beyond the area of existing buildings. When assessed objectively and in context, I consider that the proposal would have a greater impact on the openness of the Green Belt than the existing development and would therefore not comply with this strand of the exception.
10. The second strand of 145(g) refers to development which would meet an identified affordable housing need within the area of the local planning

authority, and which would not cause substantial harm to the openness of the Green Belt.

11. The Council acknowledges that there is a need for affordable housing in the Borough. In respect of the second strand of paragraph 145(g) the Council's position is that this is based on meeting an identified local need on the basis of supporting evidence. However, the Framework refers to development which would "contribute to meeting an identified affordable housing need within the area of the local planning authority". The evidence before me suggests that the identified need is Borough-wide rather than a specific sub-area and that the development would contribute to meeting that need. It is therefore reasonable that this exception as applied to this appeal should be considered on the basis of need across the whole Borough, rather than at a more local level such as a specific settlement or community.
12. I have previously concluded that the proposal would have a greater impact on openness of the Green Belt compared to the existing development. However, the second strand of 145(g) goes on to refer to development which would not cause **substantial harm** to the openness of the Green Belt (my emphasis).
13. The Council contends that the proposal would represent a significant increase in built development above ground on the site compared to both the existing buildings and the permitted housing development. Whilst that may be so within the confines of the compound, the Framework sets out that the assessment of substantial harm relates to the Green Belt. On that basis, I consider that a wider assessment in respect of the effect of the proposal on the openness of the Green Belt is appropriate.
14. The appeal site is in a prominent location on the edge of a built-up area and is readily visible from nearby dwellings as well as the busy highway of the A21. Despite the existing buildings and hard surfacing on the site, it has a relatively open character and contributes to the openness of the Green Belt. The site contributes to the important transition between the built-up area and the openness of the wider Green Belt, both in terms of the site itself and in combination with the limited scale of built development on the adjacent Sea Cadet site. The proposed bungalows would also be set closer to the A21 than the existing and permitted development on the compound and the main Sea Cadet building. That said, I saw that the appeal site is of a separate character to the wider Green Belt due to the self-contained and previously developed nature of the compound as well as the visual context established by nearby built development and the demarcation arising from highways, particularly the A21.
15. Furthermore, the proposed bungalows would be of a limited scale and the proposal would include an open area of landscaped amenity space adjacent to the most prominent northern and western boundaries of the site. Due to this layout, the site would continue to make a positive contribution to the transition between the built-up area and the wider Green Belt, albeit that this contribution would be diminished compared to the existing and permitted site layouts. The bungalows would generally be viewed against the backdrop of either the existing buildings or the approved housing development, and despite the reduction in openness and the suburban character of the bungalows, in my view the proposal would not appear as significant unrestricted urban sprawl or encroachment into the countryside.

16. Whilst I have had regard to the sensitive location of the site and have concluded that the proposal would lead to harm in respect of openness; due to the context, scale and arrangement of the proposal I consider that the harm in respect of openness would be limited. The proposal would therefore not lead to 'substantial harm' to the openness of the Green Belt as is referred to in paragraph 145(g) of the Framework.
17. On that basis I conclude that the proposal would be not inappropriate development in the Green Belt under the second strand of Paragraph 145(g) of the Framework. The proposal would therefore not conflict with Policy 7.16 of the London Plan 2016 and the Framework in respect of resisting inappropriate development in the Green Belt.
18. With regard to the Council's Local Plan, the proposal would have a greater impact on the openness of the Green Belt than the existing development and would therefore conflict with Policy 49 in respect of development on PDL. However, the consideration of inappropriate development in Policy 49 of the Local Plan 2019 (the Local Plan) is not consistent with the Framework in respect of affordable housing on PDL, and on that basis I give the conflict with Policy 49 limited weight in respect of this proposal. Furthermore, mindful of the evidence in respect of an identified need for this form of affordable housing² in the area, the Undertaking submitted by the appellants and the identified wider need for affordable housing in the Borough as a whole, I give the provision of affordable housing on a site which is PDL substantial weight in favour of the proposal.
19. On the basis of the substantial weight to be given to the provision of affordable housing on PDL and having regard to the development plan and Framework when read as a whole, material considerations indicate that the proposal should be determined otherwise than in accordance with the Local Plan.
20. The appellants also consider that the proposal would meet the exception listed in paragraph 145(f) of the Framework in respect of affordable housing for local community needs. However, given that I have concluded that the proposal is not inappropriate development under paragraph 145(g) I do not need to consider this matter further.

Other Considerations

21. The appellants have emphasised a number of other considerations which they consider weigh in favour of the proposal. However, as I have concluded positively in favour of the appeal with regard to the first main issue, I do not need to assess these other considerations further.

Other Matters

22. Notwithstanding the effect on the openness of the Green Belt, the proposal would be of a scale and design which would not harm the character and appearance of the area. The proposal would also complement the permitted housing development on the site, even allowing for the partial loss of proposed landscaped amenity space. It is common ground between the main parties that they have no objections in relation to loss of employment land, living conditions of nearby residents and highways issues - based on what I have seen and read I have no reason to disagree.

² Including letters from Clarion Housing Group of 4 December 2019 and 28 January 2020

Conditions

23. The Council has suggested a number of planning conditions which I have considered against the advice in the Guidance. As a result, I have amended some of the conditions for clarity.
24. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty.
25. A condition requiring the submission of a surface water drainage scheme is appropriate in the interests of proper and sustainable site drainage. These details should be submitted and approved at the pre-commencement stage so that all appropriate drainage measures can be assessed at an early stage and none ruled out by ground works, building operations or associated infrastructure.
26. A Construction Method Statement addressing (amongst other things) traffic movements, storage and the hours of construction is required prior to the commencement of development in the interests of the living conditions of nearby residents and highway safety. Due to the history of the site, a condition to deal with contamination is required to ensure that risks to residents and property are minimised. The submission of an acoustic assessment and proposed mitigation if appropriate is required in the interests of living conditions of residents. These details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
27. Conditions requiring details of materials as well as landscaping are appropriate in respect of character and appearance. A condition in respect of refuse storage is appropriate in the interests of character and appearance and the living conditions of residents. A condition regarding cycle parking is appropriate in the interests of sustainable transport. A condition requiring the provision and retention of parking and manoeuvring space is required in the interests of highway safety.
28. Exceptionally, due to the sensitive location of the site in a prominent position on the edge of the Green Belt, a condition removing permitted development rights in relation to buildings, means of enclosure and other alterations is required in the interests of character and appearance as well as the openness of the Green Belt.
29. A condition requiring that the dwellings are built in accordance with Building Regulations Part M4(2) would be in the interests of ensuring the dwellings would be both adaptable and accessible, and is appropriate due to the single storey accommodation provided by the dwellings and their use for social housing.

Conclusion

30. I conclude that the proposal would be not inappropriate development in the Green Belt. Whilst the proposal would conflict with Policy 49 of the Local Plan, material considerations indicate that the proposal should be determined otherwise than in accordance with the Local Plan.

31. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be allowed.

David Cross

INSPECTOR

Appearances

FOR THE APPELLANT:

John Escott
Jonathon Clay
Bruce Walker

Robinson Escott LLP
Cornerstone Barristers

FOR THE COUNCIL

David Bord BA(Hons), PG Dip, MRTPI Council of the London Borough of Bromley

Documents Submitted at the Hearing

1. Policy 2 of the London Borough of Bromley Local Plan 2019.
2. Policy G2 of the Draft London Plan 2019 (consolidated changes version).
3. Complete Undertaking Pursuant to Section 106 of the Town and Country Planning Act 1990.
4. London Borough of Bromley Housing Performance Report, 5 November 2019.
5. Appellants' Opening Submissions.
6. Court of Appeal judgment in *Turner v Secretary of State for Communities and Local Government & East Dorset Council* [2016] EWCA Civ 466

Documents Received Following the Hearing

1. Supreme Court judgment in *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant)* [2020] UKSC 3.
2. Council's Response to Application for Award of Costs.
3. Appellants' Reply to Response to Application for Costs by London Borough of Bromley.
4. Appellants' comments on pre-commencement conditions.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TL/479/BP600; TL/479/SP/600; TL/479/SS600; TL/479/601; TL/479/602.
- 3) a) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition) a scheme for the provision of surface water drainage shall be submitted and approved in writing by the local planning authority.
(b) Before the details required to satisfy Part (a) are submitted an assessment shall be carried out of the potential for disposing of surface

water by means of a sustainable drainage system (SuDS) to ground, watercourse or sewer in accordance with drainage hierarchy contained within the London Plan Policy 5.13 and the advice contained within the National SuDS Standards.

(c) Where a sustainable drainage scheme is to be provided, the submitted details shall:

i. provide information about the design storm period and intensity, the method employed to delay (attenuate) and control the rate of surface water discharged from the site as close to greenfield runoff rates (8l/s/ha) as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water.

(d) The drainage scheme approved under Parts a, b and c shall be implemented in full prior to first occupation of the development hereby approved.

- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) Details of construction traffic movements including cumulative impacts which shall demonstrate the following:-
 - (i) Rationalise travel and traffic routes to and from the site as well as within the site.
 - (ii) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction related activity.
 - (iii) Measures to deal with safe pedestrian movement.
 - (iv) Full contact details of the site and project manager responsible for day-to-day management of the works
 - (v) Parking for operatives during construction period
 - (vi) A swept path drawing for any tight manoeuvres on vehicle routes to and from the site including proposed access and egress arrangements at the site boundary
 - (vii) Loading, unloading and storage of plant and materials;
 - ii) wheel washing facilities;
 - iii) measures to control the emission of dust and dirt during construction;
 - iv) delivery, demolition and construction working hours.
 - v) measures to reduce demolition and construction noise.
 - vi) other site specific Highways and Environmental Protection issues as requested on a case by case basis.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in

writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

- 6) An acoustic assessment shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development. The assessment shall determine the worst-case day time and night time ambient and background noise levels affecting this location and predict the internal noise levels in the proposed residential dwellings. A scheme of mitigation as necessary in light of the results of the assessment (covering facade, glazing and ventilation specifications to achieve suitable internal noise levels in line with guidance in BS8233:2014) shall be submitted to the Local Planning Authority for written approval prior to the commencement of the development and once approved shall be installed fully in accordance with the approved scheme and permanently maintained thereafter.
- 7) (i) Prior to commencement of above ground works details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:
 1. A scaled plan showing all existing vegetation to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home grown stock (where possible) and no invasive species
 2. Proposed hardstanding and boundary treatment
 3. A schedule detailing sizes and numbers of all proposed trees/plants
 4. Sufficient specification to endure successful establishment and survival of new planting.
- (ii) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.
- (iii) Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

- 8) Prior to commencement of above ground works, details (including samples) of the materials to be used for the external surfaces of the building which shall include roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods and paving where appropriate shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 9) (a) Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works.
(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- 10) (a) Details of arrangements for bicycle parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works.
(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- 11) Before commencement of the use of the development hereby permitted parking spaces and turning space shall be completed in accordance with the details as set out in this planning permission and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land indicated or in such a position as to preclude vehicular access to the said land.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no buildings, structures, extensions, alterations, walls or fences of any kind shall be erected or made within the curtilages of the dwellings hereby permitted without the prior approval in writing of the Local Planning Authority.
- 13) The development hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(2) 'accessible and adaptable dwellings' and shall be permanently retained thereafter.

End of Schedule

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Potters Farm, Turpington Lane

Local Planning Authority: Bromley

local planning authority reference: 20/04148/FULL1

Strategic planning application stage 1 referral

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.

The proposal

Demolition of existing buildings and erection of a part 2/part 3 storey building comprising 16 affordable housing apartments with 12 parking spaces, refuse and cycle store.

The applicant

The applicant is **Clarion Housing Group** and **Langford Walker Ltd** and the architect is **Nigel Bradbury Designs**.

Strategic issues summary

Land use principles: Having met the exception at part two of Paragraph 149(g) of the NPPF, the proposed development is not considered inappropriate and therefore accords with London Plan Policy G2 (paragraphs 13-22).

Affordable housing: The application is proposing 100% affordable housing and would qualify for the Fast Track Route provided that the final affordable tenure mix is considered acceptable by the Mayor and the Council (paragraphs 24-29).

Sustainable development and Environmental issues: Further information on renewable energy, energy costs, cooling and overheating, energy flexibility and heating infrastructure is required and a WLC assessment and circular economy statement must be submitted (paragraphs 38-44).

Other issues on **Urban design** and **Transport** also require resolution prior to the Mayor's decision making stage.

Recommendation

That Bromley Council be advised that the application does not yet comply with the London Plan for the reasons set out in paragraph 57. Possible remedies set out in this report could address these deficiencies.

Context

1. On 27 October 2021 the Mayor of London received documents from Bromley Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. Under the provisions of The Town & Country Planning (Mayor of London) Order 2008, the Mayor must provide the Council with a statement setting out whether he considers that the application complies with the London Plan, and his reasons for taking that view. The Mayor may also provide other comments. This report sets out information for the Mayor's use in deciding what decision to make.
2. The application is referable under the following Category of the Schedule to the Order 2008:
 - **Category 3D:** *Development (a) on land allocated as Green Belt or Metropolitan Open Land in the development plan, in proposals for such a plan, or in proposals for the alteration or replacement of such a plan; and (b) which would involve the construction of a building with a floorspace of more than 1,000 square metres or a material change in the use of such a building.*
3. Once Bromley Council has resolved to determine the application, it is required to refer it back to the Mayor for his decision as to whether to direct refusal; or, allow the Council to determine it itself. In this case, the Council need not refer the application back to the Mayor if it resolves to refuse permission.
4. The Mayor of London's statement on this case will be made available on the GLA's public register: <https://planning.london.gov.uk/pr/s/>

Site description

5. The 0.24-hectare application site is located within the Green Belt. It is situated on the junction of Turpington Lane and Bromley Common, which forms part of the Transport for London Road Network (TLRN). To the immediate east of the site is an established residential neighbourhood with 2-storey apartment blocks and on its southern boundary is the Bromley Sea Cadet Hall site, which contains a single storey hall and ancillary buildings with a large area of hardstanding used as a parade ground. The application site contains a number of single storey commercial buildings and large areas of hardstanding, which have until recently been used for storage and distribution of turf, topsoil and other materials.
6. There are a pair of bus stops nearby on Bromley Common and a northbound stop adjacent on Turpington Lane. Together they serve five bus routes. There are no rail stations within an acceptable walking distance. Consequently, the site has a Public Transport Access Level (PTAL) of 3 (on a scale of 0-6b where 6b is the highest). The cycle network in this location is poor with only an advisory on carriageway cycle lane running along Bromley Common. This connects with Bromley town centre.

Details of this proposal

7. The application is seeking full planning permission for the demolition of the existing buildings on the Green Belt site and the erection of a part two/part 3 storey building, to provide 16 affordable housing units. Associated car parking spaces totalling 12, as well as cycle parking and a refuse store are also proposed.

Case history

8. On 15 April 2015, a planning application was submitted to the then Mayor for the demolition of existing buildings at Potters Farm and the adjacent Sea Cadets Hall and the erection of two residential blocks of part two, part three storeys, comprising a total of 39 flats, re-provision of Sea Cadets facility, with parking for 41 cars, cycle storage and landscaping. On 20 May 2015 a Stage I report was issued (GLA reference number D&P/3638/01), which advised that the proposal represented inappropriate development on Green Belt land and 'very special circumstances' had not been demonstrated to outweigh the resultant harm. The application was subsequently refused by Bromley Council. Other applications to develop the site were made, however these were not referable to the Mayor. The most recent being for the erection of two detached bungalows for social housing with car parking and landscaping, which was granted permission on appeal on 18 March 2020 (case number APP/G5180/W/19/3234830).

Strategic planning issues and relevant policies and guidance

9. For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan in force for the area comprises the Bromley Local Plan 2019 and The London Plan 2021.
10. The following are also relevant material considerations:
 - The National Planning Policy Framework and National Planning Practice Guidance; and,
 - National Design Code.
11. The relevant issues, corresponding strategic policies and guidance (supplementary planning guidance (SPG) and London Plan guidance (LPG)), are as follows:
 - Good growth *London Plan;*
 - Green Belt *London Plan;*
 - Housing *London Plan; Housing SPG; the Mayor's Housing Strategy; Play and Informal Recreation SPG; Character and Context SPG; Good Quality Homes for All Londoners draft LPG;*

- Affordable housing *London Plan; Housing SPG; Affordable Housing and Viability SPG; the Mayor’s Housing Strategy;*
- Urban design *London Plan; Character and Context SPG; Public London Charter LPG; Housing SPG; Play and Informal Recreation SPG; Good Quality Homes for All Londoners draft LPG;*
- Inclusive access *London Plan; Accessible London: achieving an inclusive environment SPG; Public London Charter LPG;*
- Sustainable development *London Plan; Circular Economy Statements draft LPG; Whole-life Carbon Assessments draft LPG; ‘Be Seen’ Energy Monitoring Guidance LPG; Urban Greening Factor draft LPG; London Environment Strategy;*
- Transport and parking *London Plan; the Mayor’s Transport Strategy; Sustainable Transport, Walking and Cycling draft LPG.*

12. On 24 May 2021 a Written Ministerial Statement (WMS) was published in relation to First Homes. To the extent that it is relevant to this particular application, the WMS has been taken into account by the Mayor as a material consideration when considering this report and the officer’s recommendation. Further information on the WMS and guidance in relation to how the GLA expect local planning authorities to take the WMS into account in decision making can be found [here](#).

Land use principles – Affordable housing on PDL in Green Belt

13. London Plan Policy G2 makes clear that the Green Belt should be protected from inappropriate development and unless very special circumstances exist, development that would harm the Green Belt should be refused. The NPPF at Paragraph 149 states that the construction of new buildings should be regarded as inappropriate, except in specific circumstances.

14. One of the exceptions is set out at Paragraph 149(g) of the NPPF, which relates to:

“limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

15. The NPPF defines previously developed land (PDL) as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed

surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”

16. Part of the application site is currently occupied by buildings and hardstanding and therefore could meet the definition of PDL land as defined in the NPPF. The information contained in the supporting documents submitted with the application indicates that the existing buildings on the site account for a combined footprint of 248 sq.m. and the hardstanding totals 778 sq.m., for a total of 1,026 sq.m. of developed land. The proposal involves the erection of residential buildings (providing 100% affordable housing) and associated hardstanding and parking amounting to 1,354 sq.m. of PDL. Of this total the building footprint accounts for 835 sq.m. and other elements of the proposal 519 sq.m. The proposed quantum of developed land would result in a net increase of 328 sq.m. The developed area would now represent 56% of the site versus the existing 43%. It should, however, be noted that the percentage of the developed land that would now be building footprint increases from 10% to 35%.
17. In terms of height, the proposed building would be taller than the single storey buildings on the site. Given the increase in building footprint and height, with the resulting volumetric changes, the proposal would have a greater impact on the openness of the Green Belt and therefore does not meet the first part of the exception at Paragraph 149(g) of the NPPF.
18. As mentioned at paragraph 13, developments providing affordable housing on PDL that meet an identified need and do not cause substantial harm to the Green Belt are not considered inappropriate. The application proposes 16 new affordable units and the Bromley Local Plan acknowledges that there is a housing need within the borough. This meets part of the test set out at part 2 of Paragraph 149(g). In terms of harm, as concluded above there will be a greater impact on the openness of the Green Belt.
19. Having concluded that there will be a greater impact on the openness of the Green Belt due to the increased amount of developed land and volume of the building, an assessment of the scheme's visual impact is important in determining the severity of this change. The site (highlighted by the green marker in Figure 1) sits on the edge of the Green Belt and to the immediate north and east are residential buildings similar in height to the proposal. Bromley Common (A21) separates the site from the large expanse of Green Belt to the west and PDL, occupied by one storey buildings and hard standing, is to the immediate south.

Figure 1: Site Location



20. Given the site's location, the greatest potential for there to be visual impact on the Green Belt would be from views along Bromley Common/Turpington Lane. In existing south-easterly and easterly views into the Green Belt from Bromley Common and Turpington Lane, there are no expansive views and the residential buildings surrounding the application site dominate these views. This is evident in Figure 2 and Figure 3.

Figure 2: Existing site context (1)



Figure 3: Existing site context (2)



21. In addition, the proposal, with its materiality, height and massing, would easily fit the surrounding residential areas and the Green Belt, causing no adverse visual impact to the latter. GLA officers, therefore, do not consider that the proposal would cause substantial harm to the openness of the Green Belt.

Figure 4: CGI of proposal



22. As the proposal involves the provision of affordable housing on PDL and would not cause substantial harm to the openness of the Green Belt, it is determined that it meets the exception at part two of Paragraph 149(g) of the NPPF and is therefore not inappropriate development in the context of national policy. Given that the proposal is not considered inappropriate development, it also accords with London Plan Policy G2.

Housing

23. Policy H1 of the London Plan, in seeking to increase the supply of housing in London, sets borough housing targets and allocates to the London Borough of Bromley a target of 7,740 for the period 2019/20 to 2028/29. The application is proposing 16, wholly affordable, new housing units comprised of 6 one-bed and 10 two-bed flats. The units would contribute to the above target and their provision is supported.

Affordable housing

24. Policy H4 of the London Plan seeks to maximise the delivery of affordable housing, with the Mayor setting a strategic target of 50%. Policy H5 of the London Plan and the Mayor's Affordable Housing and Viability SPG set out a 'threshold approach', whereby schemes meeting or exceeding a specific percentage of affordable housing by habitable room, without public subsidy, and other criteria such as tenure mix are eligible for the Fast Track Route (FTR). Such applications are not required to submit viability information to the GLA and are also exempted from a late stage review mechanism. On non-industrial privately-owned land, the threshold is 35%.
25. Additionally, as set out in London Plan Policy H5D, schemes delivering 75% or more affordable housing may follow the Fast Track Route whatever the tenure mix, if this is acceptable to the borough or the Mayor where relevant.
26. Appropriate tenure splits should be determined through the Development Plan process or by supplementary planning guidance. In this instance, Policy 2 of the Bromley Local Plan expects at least 35% affordable housing, with a tenure mix of 60% social rent/affordable rent and 40% intermediate homes.
27. The scheme proposes 100% affordable housing. Given this offer, the scheme would qualify for the Fast Track Route provided that the final affordable tenure mix is considered acceptable by the Mayor and the Council. Details of the proposed tenure mix should be provided to the GLA prior to Stage 2 referral. An early stage viability review mechanism will be required to ensure that the scheme is built out once permission is granted.
28. The applicant is reminded that the Mayor's preferred low-cost rent tenures are Social Rent and London Affordable Rent. With regard to intermediate tenure, London Living Rent and Shared Ownership are the Mayor's preferred products. These units should be provided in line with the household income cap and affordability eligibility criteria for intermediate products set out in the London Plan and the Mayor's Affordable Homes Programme Fund. Moreover, paragraph 4.6.9 of the London Plan, paragraph 2.50 of the Mayor's Affordable Housing and Viability SPG and paragraph 3.78 of the London Plan Annual Monitoring Report are clear that shared ownership units should be affordable for households within a range of incomes below the upper limit of £90,000.
29. A draft of the Section 106 agreement must be provided to the GLA for review as soon as one is available to ensure that the early stage review, affordability and eligibility of the affordable units have been secured in compliance with the

Urban design

30. Chapter 3 of the London Plan sets out key urban design principles to guide development in London. Design policies in this chapter seek to ensure that development optimises site capacity; is of an appropriate form and scale; responds to local character; achieves the highest standards of architecture, sustainability and inclusive design; enhances the public realm; provides for green infrastructure; and respects the historic environment.
31. In terms of layout, the building is positioned in the middle of the site with expansive areas of communal realm surrounding the building. Although well-activated at ground floor, this creates little sense of ownership and limited defensible private space. As such, more generous private gardens should be considered.
32. The approach to height and massing is similar to other recent developments in the vicinity and is supported.
33. Regarding residential quality, the applicant should confirm that all units would meet the London Plan and Mayor's Housing SPG internal space standards and that each unit at second floor would have a floor to ceiling height of at least 2.5 metres for at least 75% of the internal area. Each unit would have access to a private garden or balcony; this is welcomed. However, ground floor dwellings should have private entrances, accessed directly from the public realm, wherever possible.
34. The proposed material palette is appropriate given the site's context. Key details should be secured by condition to ensure an exemplary quality of architecture is delivered.

Play space

35. In accordance with Policy S4 of the London Plan, development proposals that include housing should provide play space for children based on the short and long-term needs of the expected child population generated by the scheme. Using the GLA's 2019 child play space calculator, the applicant should demonstrate how the proposal will provide the required quantum of on-site play space.

Fire safety

36. A fire safety statement prepared by suitably qualified personnel at BWC Fire Ltd has been submitted with the application in accordance with Policy D12 of the London Plan. The statement, however, does not address the requirements of the London Plan Policy D12 and D5. The statement should therefore be revised, to demonstrate compliance with the criteria set out at Policy D12B and the provision of fire evacuation lifts as required by Policy D5 and submitted to the GLA prior to the Mayor making his final determination on this application.

Inclusive access

37. Policy D7 of the London Plan requires that at least 10% of new build dwellings meet Building Regulation requirement M4(3) 'wheelchair user dwellings' (designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users); and all other new build dwellings must meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'. The proposal responds positively to Policy D7 of the London Plan and meets Building Regulation requirement M4 (2) 'accessible and adaptable dwellings' and Building Regulation requirement M4 (3) 'wheelchair user dwellings'. This should be secured by the Council.

Sustainable development and Environmental issues

Energy strategy

38. London Plan Policy SI2 requires all major developments to be net zero carbon. Where it is robustly demonstrated that this cannot be achieved onsite, a cash in lieu contribution to the borough's carbon offset fund is one of two options available to make up the shortfall. The applicant has submitted an energy assessment in accordance with London Plan Policy SI2; however, a significant amount of information is missing including a Carbon Emissions Reporting spreadsheet. Further information on renewable energy, energy costs, cooling and overheating, energy flexibility and heating infrastructure. A commitment to designing the development to enable post-construction 'Be seen' energy monitoring is required. Full details of the outstanding issues associated with energy have been provided directly to the applicant and Council.

Whole Life Carbon

39. London Plan Policy SI2 requires development proposals that are referable to the Mayor to calculate and reduce whole life-cycle carbon (WLC) emissions to fully capture the development's carbon footprint. Prior to Stage 2 referral, the applicant should therefore submit a completed WLC assessment template (as an Excel document) and follow the GLA WLC guidance; both of which are available here: <https://www.london.gov.uk/what-we-do/planning/london-plan/london-plan-guidance/whole-life-cycle-carbon-assessments-guidance>. As per the GLA 'Whole Life-cycle Carbon Assessment – draft for consultation – guidance document' this assessment should comply with EN 15978 and cover all building elements.

Circular Economy

40. London Plan Policy SI7 requires development applications that are referable to the Mayor of London to submit a Circular Economy Statement, whilst Policy D3 requires development proposals to integrate circular economy principles as part of the design process. The GLA has released draft guidance for developers on how to prepare Circular Economy Statements and a 'Design for a circular economy' Primer that helps to explain the principles and benefits of circular economy projects. Therefore, the applicant is required to submit a Circular Economy Statement in accordance with the GLA [guidance](#).

Urban greening

41. London Plan Policies G1 and G5 emphasise the importance of urban greening in development. Acceptable urban greening features include street trees, green roofs, green walls, rain gardens and hedgerows. The greening strategy proposed for the development results in an urban greening factor (UGF) score of 0.60. This is supported.

Sustainable drainage and flood risk

42. The site is in Flood Zone 1, less than one hectare in size and at a low risk of flooding. In terms of surface water management, permeable surfacing, with geocellular storage crates, is proposed. This is acceptable. The Council should ensure that a final surface water management strategy is appropriately secured by condition. Regarding water efficiency, a maximum indoor water consumption of 105 l/person/day for the residential units will be achieved as required by Policy SI5. Compliance with Policy SI5 should be secured by the Council.

Biodiversity

43. Policy G6 of the London Plan makes clear that development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain, informed by the best available ecological information and addressed from the start of the development process. The Preliminary Ecological Appraisal makes recommendations for enhancements to the scheme, yet no specific information on provisions has been provided. There remains significant potential for additional street trees and naturally occurring endemic vegetation fronting Turpington Lane. It is recommended that a qualitative tree survey be undertaken of the existing trees, which should include an appropriate retention and protection strategy for on-site trees. The Council should secure an ecological appraisal, which sets out a summary of the methods, results and proposed mitigation and biodiversity enhancement measures.

Digital connectivity

44. In line with London Plan Policy SI6, the development should contribute to London's global competitiveness now and in the future in terms of the availability of sufficient digital infrastructure. As such, a planning condition should be secured requiring the submission of detailed plans demonstrating the provision of sufficient ducting space for full fibre connectivity infrastructure within the development.

Transport

Healthy Streets

45. All developments should support the Mayor's Healthy Streets approach by delivering improvements to support the ten Healthy Street indicators in line with Policy T2 of the London Plan. A Healthy Streets Assessment and Active Travel Zone should therefore be provided prior to the Mayor making his final decision on this application.

Walking and cycling

46. In line with the Mayor's Healthy Streets approach, modes of sustainable and active travel should be prioritised over vehicles. A pedestrian only access to the development from Turpington Lane is proposed; however, its width should be increased to a minimum of two metres in line with TfL's Streetscape guidance. Notwithstanding, the applicant is encouraged to provide an additional access route for pedestrians and cyclists that links directly to Bromley Common. This would create a direct route to the Bromley Common cycle lane and bus stops. The installation of a raised table across the vehicular access to prioritise pedestrian movement is also recommended.

Vehicular access

47. In line with Vision Zero objectives, the Council is strongly encouraged to secure the removal of the on-street parking space nearest to the proposed vehicular access which would otherwise create a blind spot, especially given the nearby bus stop.

Parking

48. The proposed 32 long-stay cycle parking spaces are the minimum required by London Plan Policy T5. It is, however, unclear how this number could fit within the small store identified. Further detail should therefore be provided to demonstrate compliance with the London Cycling Design Standards (LCDS) as is required by Policy T5. In addition, at least two suitably designed and located short-stay cycle spaces are required.
49. A total of 12 car parking spaces, including two for disabled persons, is proposed. This is the maximum amount prescribed by London Plan Policy T6.1. However, a parking ratio of 0.75 is likely to result in the level of vehicular trips exceeding the Mayor's strategic mode shift target which for outer London Boroughs is for 75 percent of trips to be made via active and sustainable transport by 2041. As such a reduction in parking is sought.
50. In terms of electric vehicle charging points (EVCP), from the outset both of the disabled persons' spaces and 20 percent of general car parking spaces would be equipped with charging points. Whilst this meets the minimum requirements of Policy T6, it is recommended that all the parking spaces have active charging from the outset.
51. The disabled persons' parking and EVCP should be secured by condition along with a parking design and management plan. The Council should determine whether a permit-free agreement and on-street parking controls would be appropriate given the high car ownership in the area.

Trip generation

52. Although there are shortfalls within the submitted trip generation assessment, the development should not have a significant impact on the surrounding highway and public transport network.

Transport-related plans

53. A full delivery and servicing plan and a construction logistics plan should be secured by condition in line with London Plan Policy T7. These should be prepared in line with TfL guidance and provide detail on how the impact on the surrounding transport network will be minimised and adherence to the Mayor's Vision Zero approach. A travel plan should also be secured. It should contain targets that are at least in line with the Mayor's strategic mode shift target for outer London and in particular promote active travel.

Local planning authority's position

54. Bromley Council planning officers are currently assessing the application. In due course the Council will formally consider the application at a planning committee meeting.

Legal considerations

55. Under the arrangements set out in Article 4 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor is required to provide the local planning authority with a statement setting out whether he considers that the application complies with the London Plan, and his reasons for taking that view. Unless notified otherwise by the Mayor, the Council must consult the Mayor again under Article 5 of the Order if it subsequently resolves to make a draft decision on the application, in order that the Mayor may decide whether to allow the draft decision to proceed unchanged; or, direct the Council under Article 6 of the Order to refuse the application. In this case, the Council need not refer the application back to the Mayor if it resolves to refuse permission. There is no obligation at this stage for the Mayor to indicate his intentions regarding a possible direction, and no such decision should be inferred from the Mayor's statement and comments.

Financial considerations

56. There are no financial considerations at this stage.

Conclusion

57. London Plan policies on Green Belt, affordable housing, urban design, sustainable development, environmental issues and transport are relevant to this application. Whilst the proposal is supported in principle, the application does not fully comply with these policies, as summarised below:
 - **Land Use Principles:** Having met the exception at part two of Paragraph 149(g) of the NPPF, the proposed development is not considered inappropriate and therefore accords with London Plan Policy G2.
 - **Affordable housing:** The application is proposing 100% affordable housing and would qualify for the Fast Track Route provided that the final affordable tenure mix is considered acceptable by the Mayor and the Council.

- **Urban design:** Broadly supported; however, further information on residential quality, play space and fire safety is required.
- **Sustainable development and Environmental issues:** Further information on renewable energy, energy costs, cooling and overheating, energy flexibility and heating infrastructure is required and a WLC assessment and circular economy statement must be submitted.
- **Transport:** A Healthy Streets assessment and ATZ must be provided and necessary improvements agreed; significant improvement to cycle parking design is needed and a reduction in car parking is sought; a link to the cycle lane and bus stops on Bromley Common is required; and, various transport-related plans, disabled persons' parking and EVCP secured by condition.

For further information, contact GLA Planning Unit (Development Management Team):

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We are committed to being anti-racist, planning for a diverse and inclusive London and engaging all communities in shaping their city.



Costs Decision

Hearing Held on 5 February 2020

Site visit made on 5 February 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2020

Costs application in relation to Appeal Ref: APP/G5180/W/19/3234830 Potters Yard, Turpington Lane, Bromley BR2 8JN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Langford Walker for a full award of costs against the Council of the London Borough of Bromley.
 - The hearing was in connection with an appeal against the refusal of planning permission for erection of two detached bungalows for affordable housing.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The submissions of the parties in respect of costs were submitted in writing over the course of the appeal.
3. The appellants' costs application is based on a number of grounds, namely:
 - That the Council misdirected itself in respect of planning policy, more specifically:
 - Paragraph 145(g) of the National Planning Policy Framework (the Framework).
 - Paragraph 145(f) of the Framework and Policy 49 of the Local Plan.
 - An unreasonable refusal in respect of failure to identify an affordable housing provider.
4. In respect of **Paragraph 145(g)** of the Framework, the second strand of this exception refers to the development of previously developed land for affordable housing which would not cause substantial harm to the openness of the Green Belt. The appellants contend that the Council has failed to address the matter of substantial harm.
5. I have some sympathy with the appellants on this matter in that the Council's written evidence specifically in respect of the second strand of paragraph 145(g) is limited. However, I am mindful that the Council's comments on this matter were made within the context of the limited evidence initially provided by the appellants with regard to delivering affordable housing, which is an

- important factor in triggering the second strand of 145(g). Furthermore, the Council elaborated on the issue of substantial harm at the Hearing raising quantitative considerations in respect of the extent of the development as well as wider visual considerations arising from the context of the site in an important transitional location. Many of these matters were referred to in the Council's evidence, albeit in respect of the consideration of the first strand of paragraph 145(g).
6. I am also mindful of the prominent location of the appeal site at the edge of the Green Belt and its contribution to an important transition between the built up area and the open character of the wider Green Belt, as has been referred to in previous decisions in respect of the site and which was apparent on my site visit. Within that context, as a matter of planning judgement, it is not unreasonable to conclude that the appeal proposal could result in substantial harm to the openness of the Green Belt.
 7. Whilst I have disagreed with the Council in respect of whether the harm would be substantial, I do not consider that the Council's consideration of this matter was so without foundation or substantiation as to represent unreasonable behaviour.
 8. With regards to **paragraph 145(f)** of the Framework, this refers to limited affordable housing for local community needs under policies set out in the development plan. The fifth bullet point of **Policy 49** of the Local Plan also refers to the construction of limited affordable housing for local community needs in the Green Belt, under policies set out in the Local Plan.
 9. However, the Council states that the Local Plan does not contain policies which allow for the provision of affordable housing in the Green Belt, such as rural exception sites. The fifth bullet point of Policy 49 therefore appears to be somewhat of a 'dead end'. Nevertheless, the exception at paragraph 145(f) of the Framework is explicitly based on "policies set out in the development plan" and if the relevant development plan policy is of no practical effect in respect of the appeal proposal then this would mean that the exception at 145(f) is not engaged. Whilst that may not have been the intention, when read objectively that is what the Policy leads to.
 10. The appellants submit that paragraph 145(f) and Policy 49 should be interpreted to apply to locations in the Green Belt which meet the criteria in the policy in respect of the provision of affordable housing on previously developed land to meet a need identified in the plan. However, 145(f) specifically refers to "local community needs". In my view this means a more location specific policy reflecting a localised assessment of housing need, rather than a general policy which applies over the whole of the Green Belt within a local planning authority's area or the Borough as a whole. There was initially some confusion on the Council's behalf at the Hearing on this matter, particularly as to whether 145(f) should be applied on the same basis as 145(g). However the Council's stance on the assessment of local community needs is set out in its statement of case and was eventually clarified at the Hearing.
 11. Reference has been made to Policies 13 and 16 of the Local Plan which relate to the Bromley Common Renewal Area and which could be viewed as locally based policies. However, whilst Policy 13 refers to encouraging a mix of housing tenures this does not explicitly relate to affordable housing and

- therefore does not fall within the remit of 145(f). Policy 16 also makes no reference to affordable housing.
12. Policy 2 of the Local Plan relates to the provision of affordable housing. However, this is a general policy aimed at meeting the needs of the Borough as a whole and does not reflect the 'local community need' emphasis expressed in 145(f).
 13. Drawing the above together, whilst an element of Policy 49 of the Local Plan appears to be of no practical effect, I consider that the Council's consideration of this and the effect of paragraph 145(f) of the Framework was not unreasonable.
 14. With regard to identifying an **affordable housing provider**, the appellants contend that this could have been secured by a condition. However, the Guidance indicates that a negatively worded condition regarding a planning obligation or other agreement is unlikely to be appropriate in the majority of cases. Such a condition may be acceptable in exceptional circumstances, but it has not been demonstrated to me that the circumstances of the appeal proposal are so exceptional as to justify a condition of this nature. Whilst this may only be guidance, the advice is clear and of direct relevance to this proposal.
 15. I am also mindful that the provision of affordable housing is a crucial element of the proposal and is a determinative matter in this appeal. Even allowing for the description of the development, the evidence provided with the planning application indicates only a general intention to provide affordable housing and does not deliver sufficient certainty or transparency on how this would be brought forward. The Council could therefore not rely on this in drafting a condition or deferring its decision so that an undertaking or further evidence could be provided. Furthermore, due to the fundamental importance of the provision of affordable housing to the consideration of the proposal, the onus is on the appellants to provide substantive evidence in support of the planning application.
 16. The appellants refer to planning permissions where a condition has been used to require a scheme for affordable housing. However, I have not been provided with full details of these schemes and so cannot be sure that the circumstances are a direct parallel to the appeal before me, particularly in respect of any exceptional circumstances as indicated in the Guidance and the relative complexity of the development schemes.
 17. Due to the fundamental importance of affordable housing in the consideration of this proposal and the initially limited substantive evidence to support this, I conclude that the Council's approach in respect of its second reason for refusal was appropriate and reasonable.

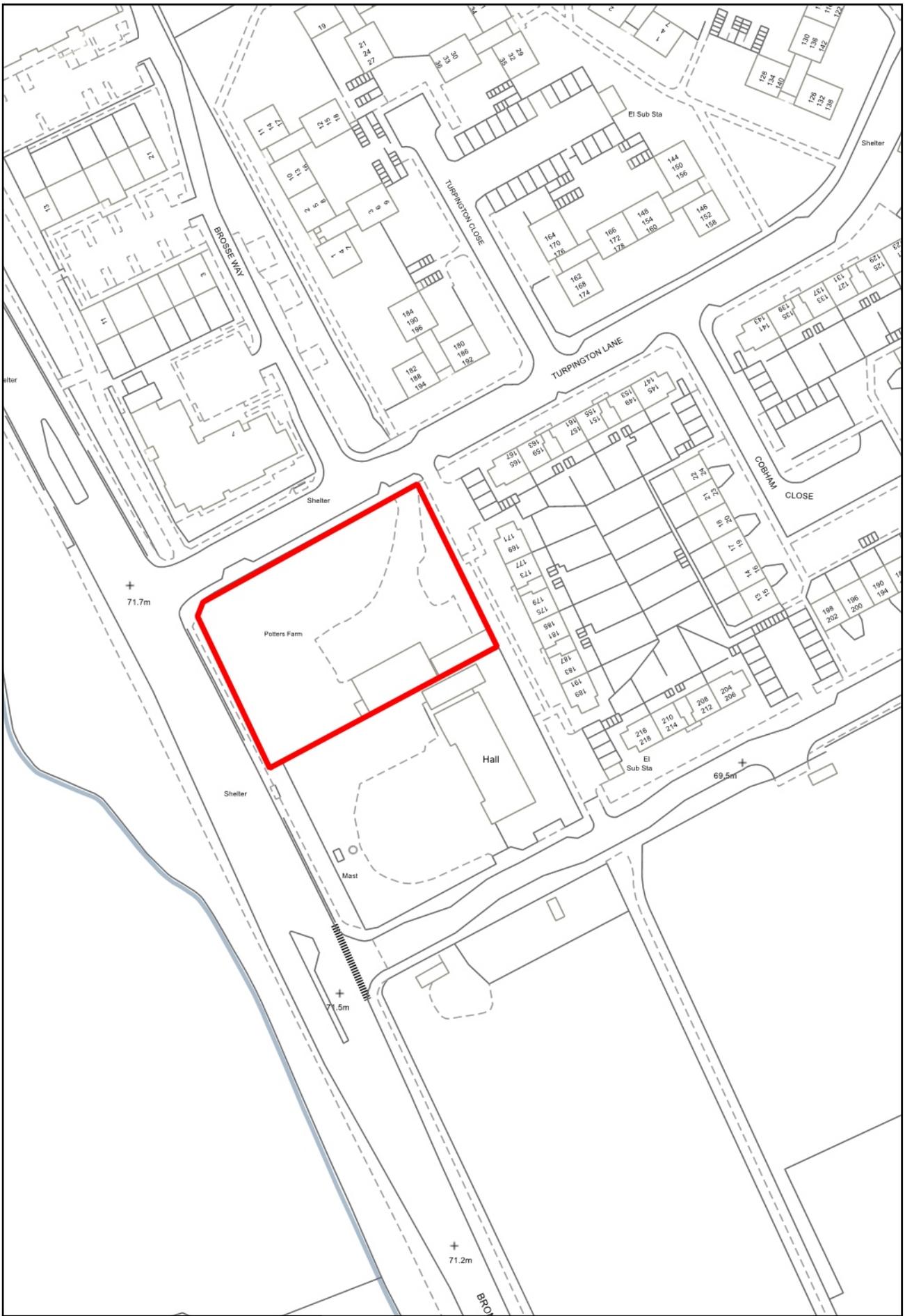
Conclusion

18. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Even within the context as set out by the appellants in their application for costs and the fact that I have allowed the appeal, I consider that the Council reached its decision on a reasonable basis and has provided substantive evidence in support of its position.

19. For these reasons, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR

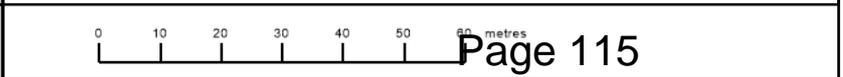


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