



THE LONDON BOROUGH  
www.bromley.gov.uk

BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Lisa Thornley  
*lisa.thornley@bromley.gov.uk*

DIRECT LINE: 020 8461 7566

FAX: 020 8290 0608

DATE: 19 February 2013

To: Members of the  
**DEVELOPMENT CONTROL COMMITTEE**

Councillor Peter Dean (Chairman)  
Councillor Alexa Michael (Vice-Chairman)  
Councillors Graham Arthur, Douglas Auld, Eric Bosshard, Katy Boughey, Lydia Buttinger,  
Nicky Dykes, Simon Fawthrop, Peter Fookes, John Ince, Russell Jackson,  
Mrs Anne Manning, Russell Mellor, Tom Papworth, Richard Scoates and Harry Stranger

A meeting of the Development Control Committee will be held at Bromley Civic  
Centre on **THURSDAY 28 FEBRUARY 2013 AT 7.30 PM**

MARK BOWEN  
Director of Resources

Public speaking on planning application reports is a feature at meetings of the Development Control Committee and Plans Sub-Committees. It is also possible for the public to speak on Contravention Reports and Tree Preservation Orders at Plans Sub-Committees. Members of the public wishing to speak will need to have already written to the Council expressing their view on the particular matter and have indicated their wish to do so to Democratic Services **by no later than 10.00 a.m.** on the working day before the date of the meeting.

The inclusion of public contributions, and their conduct, will be at the discretion of the Chairman. Such contributions will normally be limited to two speakers per proposal, one for and one against, each with three minutes to put their point across.

For further details, please telephone **020 8313 4745**.

## A G E N D A

- 1 **APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**
- 2 **DECLARATIONS OF INTEREST**
- 3 **CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 29 JANUARY 2013 (Pages 1 - 8)**
- 4 **QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

In accordance with the Council's Constitution, questions to this Committee must be received in writing 4 working days before the date of the meeting. Therefore please ensure questions are received by the Democratic Services Team by 5 pm on Friday 22 February 2013.

**5 PLANNING REPORTS**

<b>ITEM NO</b>	<b>APPLICATION NUMBER AND ADDRESS OF DEVELOPMENT</b>	<b>PAGE NO.</b>	<b>WARD</b>
5.1	(12/02385/OUT) - 1 Westmoreland Road, Bromley	9 - 28	Bromley Town
5.2	(12/03088/FULL1) - Land at South Side of Ringers Road	29 - 44	Bromley Town

**6 APPEALS BY CAPITAL SHOPPING CENTRES LTD (CSC) AGAINST THE COUNCIL'S DECISION TO REFUSE PLANNING AND LISTED BUILDING CONSENT FOR DEVELOPMENT AT QUEEN'S GARDENS, BROMLEY**  
(Pages 45 - 60)

.....

## **DEVELOPMENT CONTROL COMMITTEE**

Minutes of the meeting held at 7.30 pm on 29 January 2013

### **Present:**

Councillor Peter Dean (Chairman)  
Councillor Alexa Michael (Vice-Chairman)  
Councillors Graham Arthur, Douglas Auld, Nicholas Bennett J.P.,  
Katy Boughy, Lydia Buttinger, Simon Fawthrop, Peter Fookes,  
Will Harmer, John Ince, Russell Jackson, Mrs Anne Manning,  
Russell Mellor, Tom Papworth, Richard Scoates and  
Harry Stranger

### **Also Present:**

Councillors John Canvin and Peter Morgan

### **30 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

Apologies for absence were received from Councillors Eric Bosshard and Nicky Dykes; Councillors Nicholas Bennett J.P. and William Harmer attended as their respective substitutes.

### **31 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **32 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 22 NOVEMBER 2012**

**RESOLVED that the Minutes of the meeting held on 22 November 2012 be confirmed and signed as a true record.**

### **33 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

No questions were received.

### **34 OPTIONS AND PREFERRED STRATEGY CONSULTATION DRAFT LOCAL PLAN**

Consideration was given to the consultative Options and Preferred Strategy document which formed a key stage in the preparation of Bromley's Local Plan. Member comments would be reported to a meeting of the Executive on 6 February 2013 at which time the document would be considered for approval for public consultation.

Members scrutinized the document and conveyed the following comments with suggested amendments (in italics):-

Homes (page 22, first two lines) - Amend to read: '...density of development, *spatial standards*, parking requirements and improving the choice of accommodation available.'

Homes (page 22, second objective) - Include reference to domestic housing extensions as these formed a vital element of planning within the Borough.

Business, employment and the local economy (page 22) - This section should include reference to the use of digital communication and highlight the importance of the digital economy for the future of the Borough.

Built Heritage (page 23) - Reference should be made to the continual monitoring of built heritage.

Transport (page 24) - Include reference to the development of car parks around train stations in the Borough. The Head of Planning Strategy and Projects agreed to report back to Members following discussions on this point with Highways Division and the Environmental Health Officer.

Transport (page 24) - The development of dedicated cycle routes/lanes should be incorporated into the objectives.

Location (page 31, paragraph 4) - Include reference to protect Metropolitan Open Land.

As a general point, it was noted that the document contained the words 'Development Management' throughout. Members requested that these be replaced with the words 'Development Control' as agreed at a meeting of the Local Development Framework Advisory Panel held in December 2012.

Option 6 (page 32, paragraph 2, line 7) - A request to delete reference to 'back gardens' was rejected as this line quoted London Plan Policies. The proposed Bromley approach included the importance of all residential gardens.

Option 9 (page 33) - Amend to read:- 'The design of all new housing developments should be of a high standard and layout and enhance the quality of local places whilst respecting local character, *spatial standards*, context and density.'

Option 17 (page 37, paragraph 3) - There were concerns that the wording for this paragraph, including reference to '10% of 1-9 houses' in numerical terms did not make sense. Officers were requested to re-word the paragraph.

Option 19 (page 38) - delete the words 'a mix of'.

Option 30 (maps) - Members requested that the maps be amended to clarify locations within the Borough and for the descriptions to be revised accordingly.

Option 32(ii), (page 53, second bullet point) - Incorporate reference to the possible impact on Green Belt land.

Supporting Communities (page 57, final line) - amend to read:- '..over 60 years of age recorded in 2011 than in 2001, almost half of the total....'

Option 35 (page 58) - amend to read:- 'To support the quality of life in all Bromley's neighbourhoods through the appropriate provision *and retention* of a range of social infrastructure *such as* health and education provision,.....'

Option 40 (page 63) - It was reported that this option included the protection of school playing fields from being sold off. The Head of Planning Strategy and Projects stated that it possibly included the protection of education sites in instances where a school had closed down however, she would check this point and report back to Members. It was suggested that the words 'ensuring proposals are sympathetic to Green Belt land' be inserted into the Option.

Option 41 (page 63) - Replace the word 'positively' with 'appropriately'.

Option 46 (page 67) - Amend to read:- '.....securing enhancement where appropriate opportunities arise *whilst maintaining the openness of Green Belt land*'. The Acting Chief Planner explained that Green Belt policy applied to proposals anyway so it would not be necessary to reiterate that point.

Option 51 (page 69) - Amend to read:- 'To explore the opportunities for Burial Sites.'

Getting Around (page 71, 3<sup>rd</sup> bullet point of the second paragraph) - Amend to read:- 'High car dependency and high mobility *requirement* amongst much of the population;'

Page 80 - It was suggested that an additional option 57a be inserted relating to congestion problems within the Borough to read something along the lines of:- 'Support additional car parking facilities at transport interchanges ie. train stations'. It was also suggested that parking facilities should accommodate the use of Oyster cards.

The Head of Planning Strategy and Projects commented on the need to be mindful of a possible conflict with the Transport Strategy; she agreed to look into this matter further and report back to Members.

Option 66 (page 84) - There were concerns that the term 'overground' could be confused with the TfL brand 'Overground'. Members therefore requested that the paragraph be amended to read 'Heavy rail link - Improving heavy rail links between Bromley North and Lewisham.'

Open and Natural Space (page 87) - The definition of Green Belt land should be extended to include Metropolitan Open Land and urban open space.

Option 77 (page 90) - Amend to read:- '*...protection of the Areas of Archaeological Importance and Sites of Special Scientific Interest.*'

Option 98 (page 111) - Concerns were raised about managing the contraction of shops in high streets.

Option 100 (page 111) - Councillor Bennett J.P. was mindful that separate access should be provided at all times for residents living in accommodation situated above shops.

Option 108 (page 115) - Amend to read:- '*Proposals for development and alterations to existing building should.....*'

Subject to the comments and suggestions set out above, Members **RESOLVED that Appendix B, as the draft Options and Preferred Strategy, be endorsed and referred to the Executive to agree to public consultation.**

### **35 ITALIAN GARDENS AND GLADES TERRACE APPLICATION FOR REGISTRATION AS TOWN OR VILLAGE GREEN**

Members received an update on the current position with regard to an application submitted by the Bromley Civic Society and Friends of Bromley Town Parks and Gardens, for the site known as the Italian Gardens and Glades Terrace to be registered as a Town or Village Green.

Councillor Harmer supported the recommendation in the report and emphasised the Council's obligation to proceed to a Public Inquiry. The Chairman also agreed with the recommendaton and moved in favour of proceeding to a Public Inquiry.

To the contrary, Councillor Fookes could see no valid reason for registering the land as a Town or Village Green and raised concerns with the costs involved in holding such an Inquiry.

With regard to paragraph 3.7.1 on page 133 of the report, Members were informed that during an appeal, the onus would be on the applicants to demonstrate that the land was used for lawful sports and pastimes.

Councillor Mellor added that the land in question was a vital attribute of the town centre and he therefore supported the recommendation.

The Legal representative confirmed to Members that the use of specific areas of the land for lawful sports and pastimes, would be considered during the Public Inquiry.

**RESOLVED that a Public Inquiry be held to recommend whether or not the site be registered as a Town or Village Green.**

**36 APPEALS BY CAPITAL SHOPPING CENTRES LTD (CSC)  
AGAINST THE COUNCIL'S DECISION TO REFUSE PLANNING  
AND LISTED BUILDING CONSENT FOR DEVELOPMENT AT  
QUEEN'S GARDENS, BROMLEY**

At a DCC meeting held on 28 June 2012, Members refused applications for planning permission and listed building consent for an extension to the Glades Shopping Centre and the relocation of gates to Queen's Gardens.

The applicants had confirmed their intention to appeal against the decision and had requested that the Council withdraw part of its reason for refusal as set out in the report. Members views were requested.

Councillor Harmer disagreed strongly with the content of paragraph 3.4 and drew attention to the omission of pages 2 and 4 of the Appeal Decision. Councillor Harmer had received further documentation not included in the report, which he believed showed that certain aspects concerning the Belgo appeal bore no comparison with the appeal by Capital Shopping Centres. In light of the above, Councillor Harmer moved that the item be deferred in order that further analysis of the new information could be undertaken and for a complete copy of the report to be submitted for consideration by Members at the next meeting of DCC in February 2013.

The Legal Representative confirmed that further information from the Environmental health officer should be sought and due to the receipt of further relevant information, deferral of the item was the best way to proceed.

Members were informed that the chances of an appeal hearing being held before the next DCC meeting were very remote as an appeal took approximately 2-3 months to implement.

The Acting Chief Planner apologised for the submission of an incomplete report.

**RESOLVED that this item be DEFERRED to undertake further analysis of new information received and for a further report to be submitted to the next meeting of the DCC on 28 February 2013.**

**37 AUTHORITY MONITORING REPORT (AMR) 2011/12**

Members considered the full Authority Monitoring Report (AMR) which, as required under the Localism Act 2011 (Section 11), contained information on the plan making process, the progress and effectiveness of the Local Plan and the extent to which the planning policies set out in the Local Plan documents were being achieved.

Members were requested to endorse Appendix 1 as the Council's AMR for 2011/12.

For the purpose of clarity, Members agreed that the recommendation in the report should be amended to read:- 'Appendix 1 (from page 147 onwards), in light of the Council's duty under the Localism Act 2011, be agreed as the Council's AMR for 2011/12.'

Grammatical errors were noted within the report and Councillor Mrs Manning commented that for ease of reference, column headings should be inserted at the top of each table in Annex 1.

Referring to 'Built Environment' (page 162, paragraph 7.4), Councillor Michael said it would be useful to know how many of the 152 applications in respect of Green Belt, Metropolitan Open Land and Urban Open Space had been successful.

With regard to footfall indicators (pages 156 and 157), Members were aware that weather conditions were likely to have an affect on the number of daily visitors to town centres.

**RESOLVED that 'Appendix 1 (from page 147 onwards), in light of the Council's duty under the Localism Act 2011, be agreed as the Council's AMR for 2011/12.**

## **38 PLANNING PERFORMANCE AND PROPOSED DIRECTION OF IMPROVEMENTS**

As requested by Members at the R&R PDS Committee meeting held on 17 January 2013, a report had been submitted to this meeting, drawing Members' attention to a Planning Improvement Plan outlining ways to stimulate economic growth, halt the downward trend in planning application performance, bring about changes in national planning requirements and draw attention to the periodic need to consider service delivery.

The Chairman outlined the report and asked Members to suggest further categories they would like to include in the Improvement Plan.

Councillor Fookes suggested that the Customer Service category should include reference to keeping consultees up-to-date with the progress and decisions made in regard to planning matters. Agreeing with Councillor Fookes, Councillor Harmer suggested that decisions could be processed and sent electronically. He encouraged Members to engage more with residents in matters of planning and enforcement and he was aware that letters sent to residents did not inform them that they could contact their Ward Members. In this regard, Councillor Harmer requested that Members be given access to the Planning Portal as it was frustrating not being able to obtain information concerning controversial applications.

Councillor Papworth was pleased to see the inclusion of a category relating to Planning Enforcement and Untidy Sites Communication, in particular the commitment to agree a package of performance monitoring information on



enforcement/untidy site cases. Councillor Papworth said it was important that the Council use its ability to carry out enforcement action as quickly as possible and rigorous targets should be set in that respect.

Councillor Jackson commented that the category of 'Support Economic Growth' appeared slightly incongruous with the remaining categories on the list and he suggested amending this to read 'Support a Variety of Planning'.

It was suggested that when the report concerning the Improvement of Customer Service was submitted, that all Members of the Council should be invited to the meeting.

Members agreed that Improving Customer Service should be the first priority on the list followed by Improving Planning enforcement and Untidy Sites Communication.

The Acting Chief Planner was congratulated on bringing this report before Members.

This report was also considered by the R&R PDS Committee on 17 January 2013. At that meeting, Members had requested further information on the outcome of enforcement action undertaken both previously and currently.

The Acting Chief Planner reported that not all representations and objections presently appeared on the planning web site but this was something he hoped to rectify in the future.

**RESOLVED that the Outline Planning Improvement Plan be endorsed as a framework for improvement and reports on specific improvements be brought to the Committee as necessary.**

### **39 THE CHENIES ARTICLE 4 DIRECTION**

At a DCC meeting held on 8 September 2011, Members agreed to the making of a non-immediate Article 4 Direction at the Chenies conservation area in Petts Wood, removing the Permitted Development right to install rooflights on the front elevation of dwelling houses or the side elevations where it could be seen from the public highway.

As the recommended 12 month period before the Article 4 Direction came into effect had passed and no objections had been received, Members were requested to confirm that the Article 4 Direction come into effect from 8 February 2013.

Whilst Members were in favour of confirming the Article 4 Direction, it was agreed that formal confirmation be sought from the Portfolio Holder for Renewal and Recreation.

**RESOLVED that the Article 4 Direction at the Chenies conservation area in Petts Wood, to remove the Permitted Development right to install**

**rooflights be endorsed and that the matter be referred to the Portfolio Holder for Renewal and Recreation for formal confirmation of the Direction.**

#### **40 JULIAN ROAD ARTICLE 4 DIRECTION**

On 14 November 2012, an Article 4 Direction was made relating to Land rear of Nos. 1-39 Julian Road and rear of Nos. 8-30 Woodlands Road, Orpington. The Direction required that planning permission must be obtained for the provision within the curtilage of a dwellinghouse of any building or enclosure, or swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such; or the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such.

No objections or other representations were received and Members were requested to confirm that the Article 4 Direction come into effect from 8 February 2013.

Councillor Bennett J.P. asked why Ward Members were not informed that the report was to be considered at this meeting. The Acting Chief Planner agreed to look into this matter and respond to Councillor Bennett.

Whilst Members were in favour of confirming the Article 4 Direction, it was agreed that formal confirmation be sought from the Portfolio Holder for Renewal and Recreation.

**RESOLVED that the Article 4 Direction to remove the Permitted Development right in respect of Class E and Class F development be endorsed and that the matter be referred to the Portfolio Holder for Renewal and Recreation for formal confirmation of the Direction.**

The meeting ended at 9.20 pm

Chairman

# Agenda Item 5.1

**Application No :** 12/02385/OUT

**Ward:**  
**Bromley Town**

**Address :** 1 Westmoreland Road Bromley BR2  
0TB

**OS Grid Ref:** E: 540433 N: 168568

**Applicant :** Telereal Trillium

**Objections : YES**

## **Description of Development:**

Demolition of existing building and erection of a 4 to 11 storey building comprising a 110 bedroom hotel (Class C1, 49 residential units (Class C3) and 592sqm retail use (Class A1-A5) with associated landscaping, servicing, 41 car parking spaces and bicycle parking OUTLINE  
ADDITIONAL PLANS RECEIVED

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
Flood Zone 2  
Flood Zone 3  
London City Airport Safeguarding  
London City Airport Safeguarding Birds  
London Distributor Roads

## **Proposal**

Outline planning permission is sought for the demolition of all the buildings on this site and the erection of a part 4 storey/part 11 storey building with a mix of uses comprising a 110 bedroom hotel, 49 residential flats, a retail unit plus 41 car parking spaces and delivery/servicing courtyard.

The applicant has asked for access only to be determined at this stage with scale, layout, appearance and landscaping reserved for future consideration as 'reserved matters'. To support the application illustrative plans have been submitted giving a maximum and minimum range for the height, length and depth of each part of the building. Should permission be granted for this proposal the applicant will submit detailed drawings for consideration in the future, based within this range of dimensions.

The development comprises:

- An L-shaped building is proposed extending from east to west, which is curved to broadly follow the line of the curve around Masons Hill into Westmoreland Road, which then extends north to south, running broadly

parallel with Sandford Road, ending in the same position as the southern elevation of the existing building.

#### Masons Hill frontage:

- The part of the building fronting Masons Hill will be 4 storeys closest to the access road between the site and former St Marks School, rising to 11 storeys at the apex of the corner with Westmoreland Road. The illustrative plans should a min/max height range from 11.5-14m in height and a min/max depth of 15-17.5m. The maximum extent of the depth of the footprint is defined by the front and rear elevations of former St Marks School and the line of the underground culvert that runs through the site.
- This part of the building will accommodate basement vehicle parking, a retail unit of 592sqm which opens on to Masons Hill together with the hotel entrance. There will be the hotel reception and bedrooms on the upper 3 floors.

#### Westmoreland Road/Sandford Road frontage

- On the northernmost part of the site, the illustrative plans show the proposed building will rise to 11 storeys and will be curved at this point. The max/min height is shown as 28-29.5m at this point. As the building extends southward the height gradually reduces, storey by storey, to 4 storeys (max/min of 11-13.5m). The plans state that no part of the building will project any further to the rear (closest to properties in Pinewood Road) than the existing building. The plans show that the max/min depth of this part of the building is 15-17.5m.
- This part of the building will accommodate basement parking and a service/delivery courtyard and 8 residential units at the lowest level, part retail and hotel bedrooms on the next level, hotel bedrooms on the next 3 levels and 41 residential units on the remaining 6 levels.
- The plans show that the southernmost elevation will be a minimum of 27m to the rear elevation of the closest residential property at No 28 Pinewood Road.
- The illustrative plans show the elevations to incorporate balconies to provide amenity space for the flats and a communal roof garden above the 4 storey element fronting Masons Hill.
- There is additional communal amenity space on the south side of the building.
- The plans also show land to be safeguarded for highway purposes around the junction of Masons Hill and Westmorland Road.
- It should be noted that that the site slopes significantly from north to south.

Numerous documents have been submitted by the applicant supporting the proposal including a Planning Statement, a Design and Access Statement, an Addendum to the Design and Access Statement (addressing the impact of the development on adjacent listed buildings), a Bromley Office Market Report, an Affordable Housing Viability Submission, Flood Risk Assessment, Noise Assessment, Transport Assessment, Interim Travel Plan, Statement of Community Involvement, Energy Statement and a Phase I Environmental Review

## **Location**

The 0.32 ha site occupies a prominent position on the corner of Masons Hill and Westmoreland Road on the southern edge of Bromley Town Centre. The site is currently occupied by the 3/4 storey former DHSS office building which has been vacant for sometime.

- To the south-east of the site lies the Grade II listed former St Marks School (now used by the Bromley Youth Offending Team) and the Bromley Christian Centre (BCC). There is a modern 5 storey office building behind the BCC in Cromwell Avenue.
- To the south and south-west lie detached and semi-detached, mainly 2/3 storey Victorian residential properties, many of which have been converted to flats. The closest roads are Pinewood Road and Sandford Road, with Cromwell Avenue and Hayes Road beyond.
- To the west lies the locally listed St Marks Church with further residential properties beyond.
- To the north, on the corner of Westmoreland Road and High Street, lies the RBS office building.
- To the north-east lies the Metropolitan Police Headquarters with smaller commercial units with offices above, fronting Masons Hill.
- A culverted section of the River Ravensbourne runs directly through the site

## **Comments from Local Residents**

Nearby properties were notified and representations were received which can be summarised as follows:

- Building is far too large and tall and will dominate the skyline, the local and wider area and individual residential properties nearby resulting in overdevelopment of the site – does not comply with Bromley Town Centre Area Action Plan policies
- Design of building does not reflect the local suburban setting on this side of Westmoreland Road
- Design will not improve the visual appearance of the High Street - stepped appearance is out of character
- Poor quality design
- Detrimental cumulative effect of recent proposals, including this on the character of Bromley
- Impact of views of St Marks Church tower
- Overlooking to nearby residents from stepped balconies and windows; also to the outdoor play areas and car park at the Bromley Christian Centre used by various church and pre school groups
- Obstructs views of the Keston Ridge from High Street
- Adversely affects the setting of the statutorily listed former St Marks School building
- Will add to creeping 'Croydonisation' of Bromley – faceless, towering, corporate buildings

- No need/evidence to support another large hotel in Bromley – already 3 hotels in or near the town centre – Bromley is not a tourist destination and a lot of small hotels have closed.
- No need for additional retail floorspace – too many empty units in the town centre
- Residential probably unaffordable to many so used by buy-to-let landlords
- Increased traffic congestion on a junction that is already very busy and congested
- Cumulative impact on parking and congestion from this development and the Westmoreland Road Car Park development already permitted
- Increased safety risk to a nearby pre-school, a school and church
- Lack of proposed car parking will lead to overspill in Sandford Road
- Environmental impact on residents – increased noise from traffic and service deliveries, night light, vermin, air pollution. Impact on drainage, waste disposal, natural light levels. Impact from removal of asbestos in the existing building.
- Understand need for development but this proposal is too large
- Limited employment provided by the hotel and retail
- Lack of community involvement prior to the application contrary to comments in the Statement of Community Involvement.
- Timing of consultation – 3 weeks during August – is not acceptable
- Heavy rain has led to overflowing water from the culvert running under the site on to Masons Hill as times. Essential that the development does not lead to flooding from the culvert
- A joint development with the Bromley Christian Centre (BCC) should be pursued.
- Refuse area for hotel rubbish is close to a remembrance area in the BCC grounds
- BCC is a busy Centre and generates a lot of activity throughout the day/evening time and each day of the week – do not wish to conflict with users of the new development – new building needs adequate soundproofing.
- Difficulty leaving the BCC site following proposed road alignment

The comments above include representations that have been received from the Bromley Civic Society, Shortlands Residents Association, Bromley Friends of the Earth and Bromley Christian Centre.

One letter of support has been received.

Further consultation has been carried out relating to additional information and plans received and comments received will be reported verbally at the meeting.

### **Comments from Consultees**

The Council's Highways Officer advises that the site has the highest PTAL 6a rating (Public Transport Accessibility Level).

A total of 38 car parking spaces is proposed for the 49 residential units and no parking is proposed for the retail or hotel elements of the scheme. Vehicular access will be via Sandford Road utilising the existing access point. Based on the Council's UDP parking policy T3, the BTCAAP Policy BTC25 and the London Plan policy 6.13 this level of parking is sufficient for a site that is highly accessible to public transport.

With regard to vehicle trip generation from the proposed development the Highways Officer advises that, with the level of car parking proposed, there are likely to be fewer vehicle trips to and from this site than at present. Therefore the development is likely to have a slightly positive impact on the road network and public transport. This is confirmed by the GLA in their consultation response.

With regard to the agreed safeguarding line to allow for future highway improvement measures the Highways Officer advises that the site has had due regard to this requirement and the applicant should adhere to drawing No 30271/001AC should permission be granted.

With regard to bicycle storage provision much more detail is required to ensure that there is sufficient space for a minimum of 1 cycle parking space per residential unit and 1 space per 2 employees (retail and hotel use) and 1 space per 10 hotel bedrooms.

For refuse and recycling it will be necessary to ensure that vehicles can enter and leave the site in a forward direction and that entrances can accommodate vehicles. The Highways Officer has advised that the internal turning area is large enough to accommodate refuse and larger vehicles in this respect.

The Council's Drainage Consultant advises that part of the site lies in Flood Zone 2 and 3 and is close to the Ravensbourne River. Therefore the Environment Agency need to be consulted. There are no details relating to foul or surface water discharge at this stage. The applicant is required to use the SUDS hierarchy to reduce the run-off to Greenfield rate. Green roofs, permeable paving and underground tanks are highly recommended.

The Environment Agency raise no objections subject to the imposition of a condition to safeguard the River Ravensbourne culvert and the associated buffer zone.

Thames Water advises that there is insufficient capacity in the existing water supply to meet the additional demand for the proposed development and recommend conditions requiring impact studies to be carried out prior to commencement of development should permission be granted. Other recommended conditions relate to petrol/oil interceptors, fat traps, a non-return valve or other device to prevent back flow of surface water, storm flow attenuation measures, control of impact piling to prevent damage to subsurface water infrastructure and a 5m clearance to a large water main located near the site to allow 24hr maintenance access.

The Metropolitan Police Crime Prevention Design Adviser raises no objections from a Secure by Design point of view. However concerns have been raised regarding the impact of the development on the national digital radio service operated by the police and other emergency services. A condition to secure the provision of mitigation measures to ensure the immediate and long term protection of the airwave is recommended if the Council is minded to grant permission.

The application was referred to the Greater London Authority and a Stage 1 report has been received which can be summarised as follows:

- Principle of development - a hotel led mixed use development complies with the London Plan, subject to the Council confirming that the evidence put forward to justify the loss of office space is sound and properly reflects the Councils understanding of the local market.
- Affordable Housing - the applicant has put forward a viability appraisal which concludes that the proposed development cannot support on site affordable housing or provision for a payment in lieu contribution. The Council is currently having the appraisal independently assessed.
- Density - this is 148 units per hectare and complies with the London Plan.
- Tall buildings - the applicant should submit further information to demonstrate the impact on the listed former St Marks School and the locally listed St Marks Church.
- (It should be noted that the applicant has submitted an addendum to the Design and Access Statement to address this matter)
- Design - Further information should be submitted to ensure that the design quality of the detailed scheme can be assured.

(It should be noted that the applicant has submitted indicative floor plans and cross sections to show room sizes, ceiling heights)

Inclusive design - Lifetime Homes and wheelchair user standards should be met, correctly designed and sufficient number of disabled parking spaces should be provided, lift access for hotel and residential units is required, ramps and segregated pedestrian routes should be provided, wheelchair accessible hotel rooms are required.

(It should be noted that the applicant has provided illustrative drawings to address these points.)

Transport - the applicant should reduce the level of car parking and increase the level of cycle parking and provide electric charging points.

(It should be noted that the original submission showed 41 car parking space. This is has been reduced to 38 spaces which amounts to 0.7 spaces per residential unit.)

Climate Change - the development should be designed to allow future connection to a district heating network, should one become available. The applicant should confirm that it intends to install a site heat network (supplied from a single energy source) and confirm all apartments and non- domestic buildings will be connected to it.



(It should be noted that the applicant has advised that allowance will be made for connection to any future district heating network. A possible connection to the proposed development at Bromley South Central (Site K) has been identified but no commitment to connect to this site has been provided at this stage. Further information has been provided regarding the site heating network, single energy centre and renewable energy).

Should the Council be minded to grant permission for this development the application will be referred back to the GLA for final consideration.

### **Planning Considerations**

The application falls to be determined in accordance with the development plan which, in this case, comprises the Bromley Town Centre Area Action Plan (BTCAAP) and the Unitary Development Plan. Relevant UDP policies are:

- H1 Housing supply
- H2 Affordable housing
- H7 Housing design and density
- T1 Transport demand
- T2 Assessment of transport effects
- T3 Parking
- T5 Access for people with restricted mobility
- T6 Pedestrians
- T7 Cyclists
- T18 Road safety
- BE1 Design of new development
- B2 Mixed use developments
- BE8 Statutory listed buildings
- BE17 and 18 High buildings and the skyline
- BE19 Shopfronts and security shutters
- L10 Tourist related development
- EMP3 Office development
- S6 Retail and leisure development
- IMP1 Planning Obligations
- Affordable Housing SPD (March 2008)

Relevant Bromley Town Centre Area Action Plan policies are:

- BTC1 Mixed use development
- BTC2 Residential development
- BTC3 Promoting housing choice
- BTC4 New retail facilities
- BTC8 Sustainable design and construction
- BTC9 Flood risk
- BTC10 River Ravensbourne
- BTC12 Water and sewerage infrastructure capacity
- BTC13 Combined heat and power
- BTC14 Recycling
- BTC15 Biodiversity

BTC16 Noise  
BTC17 Design Quality  
BTC18 Public Realm  
BTC19 Building Height  
BTC21 Transport schemes  
BTC23 land safeguarded for transport schemes  
BTC25 Parking  
BTC26 Phasing of transport improvements  
BTC31 Developer contributions  
BTC33 Planning applications  
OSL DHSS building and adjoining Bromley Christian Centre

In regional terms the most relevant London Plan policies are:

2.6-2.8 Outer London: Vision and Strategy, Economy and Transport

2.15 Town centres  
3.3 Housing supply  
3.4 Optimising housing choice  
3.5 Quality and design of housing developments  
3.8 Housing choice  
3.9 Mixed and balanced communities  
3.12 Negotiation affordable housing on individual private residential and mixed use schemes  
3.13 Affordable housing targets  
4.2 Offices  
4.7 Retail and town centre development  
5.1-5.7 (excluding 5.4) Climate mitigation and renewable energy policies  
5.11 Green roofs and development site environs  
5.2 Flood risk management  
5.13 Sustainable drainage  
6.2 Providing public transport capacity and safeguarding land for transport  
6.9 Cycling  
6.13 Parking  
7.3 Designing out crime  
7.4 Local character  
7.7 Location and design of tall and large buildings  
7.8 Heritage assets and archaeology  
7.15 Reducing noise and enhancing soundscapes

In national terms the National Planning Policy Framework provides strategic advice and guidance. The most relevant paragraphs include:

19 – Support economic growth  
23 – Ensuring vitality of town centres  
39 - Parking  
50 – Affordable housing  
56 and 57 – High quality design  
96 and 97 – Climate change and renewable energy  
100 – Flood risk  
132 – 135 – assessment of harm to heritage assets

## 203-206 Planning obligations

From a heritage and design point of view it is considered that the indicative form of the building has the potential to create a distinctive landmark feature in this prominent location. The plan suggests the building sits comfortably on the site and provides active and legible frontages. However the overall width of the proposed building will have some impact on long views both to and from the south, especially when seen in conjunction with neighbouring structures. The overall scale of the building will maintain a balanced relationship with the taller components of the RBS building. However the scale and form of the building will have a significant impact on the setting of locally listed St Marks Church and it will be necessary to assess the impact on the church against potential benefits of the proposed development.

With regard to the Grade II listed former St Marks School it is considered that there will be an impact on this building. It is considered that the new modern building and the traditional listed building make a contribution to the textured built environment of the area in principle. However it is suggested that the proposed building could be scaled down to no more than 2 storeys at this point to better respect the scale of the listed building and ensure that the architectural and historic interest remains undiminished.

### **Planning History**

The site has been the subject of the following previous relevant application

Demolition of existing building and erection of building ranging between 3 and 9 storeys to provide 87 bedroom hotel and 87 flats and 1 retail unit with car parking at lower ground floor and formation of vehicular access (ref: 08/04190. This application was withdrawn before it was considered by the Plans Sub Committee.

### **Conclusions**

The main issues to be considered are

- Compliance with Bromley Town Centre Area Action Plan Policy OSL including the acceptability of the loss of the existing office floorspace
- the acceptability of the Financial Viability Assessment in relation to meeting the requirements for planning obligations
- the acceptability of the indicative building in terms of its impact on the amenities of the occupants of neighbouring properties
- the impact of the proposed buildings on the long distance views from the town centre
- car parking
- the impact of the proposed building on the listed former St Marks School and the locally listed St Marks Church

Compliance with Bromley Town Centre Area Action Plan Policy OSL

The 2010 Area Action Plan is site specific to the application site and adjoining land. This policy is in a recent development plan and should attract considerable weight unless material considerations indicate otherwise.

Policy OSL relates to the former DHSS building at the junction of Masons Hill and Westmoreland Road and the Bromley Christian Centre (BCC) on the south side of the DHSS building. The current application seeks to develop the former DHSS building independently to the BCC building and there is provision in Policy OSL for this eventuality. In this respect it is considered that the proposed layout of the application site is unlikely to prejudice the future development of the BCC site and may be considered acceptable.

With regard to the proposed use of the site, Policy OSL promotes a mixed use comprehensive hotel-led development comprising 100 bed hotel, around 500sqm of community use, appropriate replacement of existing office floorspace, faith uses and small retail units, as part of the hotel scheme, to provide vitality at street level. In addition the development will include safeguarding of land for future public transport priority measures in accordance with Policy BTC23. In addition the policy states that taller building may be acceptable on parts of the site subject to an appropriate assessment in accordance with Policy BTC19.

Firstly the current application proposes a 110 bedroom hotel and 49 residential flats, with a retail unit on the ground floor. In principle these elements are acceptable in policy terms. However the scheme does not propose the replacement of any of the existing 4,500 sqm of office floorspace.

A report assessing the viability of developing new office accommodation in Bromley has been submitted by the applicant and concludes that new/refurbished accommodation has risen by approx. 2730 sqm since the first quarter of 2011. The report states that the current demand is approx. 650 sqm and has not risen proportionate to availability. Levels of demand have dropped from 10% to 7% since Q1 last year and the report estimates that there is excess supply of 14.5 years compared to 10 years in Q1 last year. There has also been a reduction in rental value. There is marginal viability to pre-let offices but with limited demand it would prove difficult to find tenants. There is no viable feasibility proven for speculative office development in Bromley now or in the foreseeable future.

In response to this report Members may wish to take the following points into consideration:

- Policy OSL in the BTCAAP seeks to secure the appropriate replacement office floorspace on the site. The site currently provides approx. 4,500 sqm of office space and no replacement office floorspace is proposed.
- The BTCAAP identified 2 sites to provide an uplift of 7,000 sqm of new office floorspace
- The identified opportunity sites in the BTCAAP (Site A at Bromley North and Site C at the Old Town Hall) are no longer available to fulfil this requirement.
- The net result is that there is now an identified need to accommodate 7,000 sqm in the town centre over the plan period. If all of the existing floorspace at the application site is lost this will increase to 11,500 sqm.

- The DTZ Retail and Office Study (2012) confirms that there is a deficit of Grade A quality office space in the town centre, which acts as a disincentive to investment and employment. The report advises that there is more strength for the area around Bromley South than around Bromley North given the frequent and quicker train services to central London. Therefore new office development should be focussed around the core cluster on Elmfield and Road and on sites close to Bromley South Station where demand is likely to be strongest.
- There is insufficient evidence submitted to demonstrate that marketing the site for replacement offices as part of a mixed use scheme has been undertaken.
- There is disagreement between the applicant and Council officers regarding the supply analysis for Grade A offices
- There is also disagreement with the detail of the historic take up/activity that has been suggested by the applicant
- In addition it is considered that the current demand/requirements in the applicants report under estimates current demand for office space

In summary it is considered that the assertion by the applicant that replacement office floorspace should not be provided in this scheme has not been proven at this time.

In view of the comments above it may be considered that the current proposal meets the requirements of BTCAAP Policy OSL in terms of the provision of a hotel, retail and residential units. However in terms of the suitable replacement of office floorspace it is considered that the proposal is contrary to the requirements of this policy. Furthermore the Office Market Report submitted with the application does not present a sufficiently persuasive case that would justify the nil provision of replacement offices.

The acceptability of the Financial Viability Assessment in relation to meeting the requirements for planning obligations

A financial viability assessment (FVA) was submitted by the applicant that concludes that the site is not capable of development that will provide Section 106 contributions that would meet the requirements of UDP Policy IMP1. Therefore no affordable housing, health and education contributions are being offered.

The Council has commissioned an independent assessment of the applicants' FVA and provides the following conclusions:

- The applicants show a negative land value for the site which means that the current scheme would not make an acceptable profit, and therefore, may never be built out in its current form.
- This raises concerns as to why an application has been made of a scheme that is not viable, and which does not explore ways in which the scheme could become viable by amending the configuration of the building within the parameters of the application.
- The principal area of disagreement relates to the value of the hotel and this appears to be the principal cause of the scheme's apparent lack of viability

- The applicant advises that only one low budget operator (the applications advise that Travelodge have expressed an interest in the site) have shown interest in occupying the site. This results in the hotel being worth less than it would cost to build, and makes the scheme as a whole unviable. The view of the independent consultant is that it would be necessary, in order to make the scheme viable, to consider alternative hotel layouts and operators. No evidence has been provided in this respect.
- A mid range quality hotel operator could secure greater yields which would result in a profitable and deliverable scheme which may allow S106 contributions to be secured.
- The application is in outline form and the submitted plans show parameters of development rather than final dimensions. Consequently the design of the hotel could be changed and the type of operator and value of the hotel could change significantly.
- The building is situated in a prominent 'gateway' location in the town centre and, therefore, a high quality building is required. This has resulted in higher build costs than normally associated with a low budget hotel operator. The build costs for the scheme have been reluctantly accepted by the independent assessor as there is very little information provided to accurately cost the various elements.
- Generally the information provided by the applicant is considered to be poor quality and far from robust especially around the build costs and the 'valuation' of the constituent parts of the development (hotel, retail and residential)
- The applicant has recently suggested a reappraisal of the hotel scheme at some point in the future. This means that the financial assessment would be revisited prior to implementation once an occupier for the hotel has been identified, and the build costs refined, to assess the viability of the scheme. Depending on the findings, the proposal may be able to make a S106 contribution.
- It is considered there are significant concerns associated with this approach. It may be acceptable if the assessment of viability was largely robust, well evidenced and well supported and all the assumptions had been agreed other than a handful of minor points. However this is not the case with this scheme. This would make it very difficult to carry out accurate comparisons between the current and future valuations. In addition this practise is discouraged in advice the RICS (Royal Institute of Chartered Surveyors) Guidance Note on Viability

In summary the conclusions of the FVA submitted by the applicant are not acceptable and it is recommended that the application be refused on the lack of S106 contributions to mitigate the impact of the development.

The acceptability of the indicative building on the amenities of the occupants of neighbouring properties

It is accepted that there will be an impact on the amenity of the occupants of the nearest residential properties. The proposed building will be predominantly visible from the rear of properties in Pinewood Road and the front of properties in Sandford Road. It is necessary to consider if this impact is acceptable.

With regard to the siting, bulk and massing of the indicative building, the indicative plans show that the footprint of the building will not be located closer to properties in Pinewood Road and Sandford Road than the existing building. At this immediate point the proposed building is indicated to be 4 storeys in height which is a similar height to the existing former DHSS building. The indicative plans show flats on the ground and 1st floors and hotel bedrooms on the 3rd and 4th floors. The illustrative plans show some windows and balconies to habitable rooms in the elevation facing the properties in Pinewood Road. However it should be noted that this elevation of the existing building has numerous windows on each of the 4 floors. With regard to Sandford Road the closest part of indicative building will be 27m from the nearest property and the new building is in a similar location with a similar height to the existing building at this point.

From the 5th to the 11th floor the floors step back away from the existing residential properties with balconies shown on each floor. Indicative sectional drawings show the closest distances from the balconies on these floors to the rear elevations of Nos. 28, 24 and 18 Pinewood Road are 37m, 41m and 46m respectively.

In the Design and Access Statement the applicant has shown measures to overcome potential direct and oblique overlooking including window screens for the 'courtyard' elevation, setting back balconies to restrict downward angles of view, side screening of balconies to limit oblique overlooking and retention and enhancement of screening on the southern boundary closest to 26 and 28 Pinewood Road.

With regard to the daylight and sunlight the proposed building is due north of the residential properties in Pinewood Road and east of properties in Sandford Road. Preliminary studies show that the residential gardens in Pinewood Road will not be overshadowed by the proposed building until late evening in the summer and the sun will have set before overshadowing occurs during the winter months. In this respect it is not considered that daylight and sunlight presently enjoyed by residential properties will be significantly affected.

In addition it is necessary to consider the impact on the prospect that the residents of these properties currently enjoy. This will be most affected by the proposed development above the 5th floor level. The stepping back of these upper floors, thereby increasing the separation of these floors from the most affected residential properties, goes some way to minimising the visual impact of the proposed building. It is considered that, in principal, there will be a loss of prospect for properties in Sandford and Pinewood Roads but on balance that this is acceptable.

In summary it may be considered that the illustrative plans indicate that a building that corresponds to the indicative parameters could be accommodated on the site without having such a significant adverse impact on the amenities of the residents of nearby residential properties as to warrant refusal of this application.

The impact of the proposed buildings on the long distance views from the town centre, particularly of the Keston Ridge.

The applicant has submitted supporting evidence in the Design and Access Statement and subsequent additional information to demonstrate the impact of the development on the views of the Keston Ridge from various points in the High Street.

Policies in both the UDP (Policies 17 and 18) and the BTCAAP (BTC19) seek to protect remaining views of the Keston Ridge. However Policy OSL does accept that taller buildings may be acceptable on part of the site. To respect this, the highest part of the building is situated to the west of the site. It is necessary to consider whether the level of encroachment on the long distance views is acceptable.

The revised photographic evidence submitted by the applicant shows that, from the lower end of the High Street (approx. outside the Slug and Lettuce), the views of Keston Ridge are completely obscured by the proposed building (at the present time there is a glimpse of the ridge above the existing building at this point). This means that the only views of the ridge that remain at this point are those just to the left of the front part of the Police Station.

Moving up the High Street views of the ridge beyond the application site continue to be obscured by the proposed building until the junction of High Street and Ravensbourne Road. Slightly further north the proposed building becomes obscured by other buildings in the High Street and does not have an impact on long distance views.

In addition the application is in outline form so the submitted plans are indicative. The height of the 4 storey wing shown on the submitted plan is 12.35m with a roof top balustrade above taking the overall height to 13.45m. The maximum height parameter for the building is shown as 14m which would rise to 15m to the top of the balustrade. This could result in a building at least 3.25m higher than the existing building on the site.

It is accepted that a tall building is required to accommodate the quantum of development set out in the BTCAAP Policy OSL. However the combination of the 9 storey element and a 4 storey wing results in the loss of the long distance views for a considerable amount of that part of the High Street where the proposed building would be visible.

In view of the above it is considered that the proposed development in its indicative form would detrimentally compromise protected long distance views of the Keston Ridge along a significant length of the High Street.

#### Car Parking

The proposed car parking for this site is 38 spaces for 49 residential units. This amounts to 0.7 spaces per unit. The site currently has 35 car parking spaces.

Policy OSL of the BTCAAP requires a transport assessment to be submitted to establish parking levels, both residential and commercial. A S106 commitment



should be entered into to restrict residents ability to buy parking permits on nearby streets covered by Controlled Parking Zones.

Policy BTC25 states that parking provision for non-residential development will be provided in the form of publically available paid parking. Parking for residential uses should accord with the UDP and London Plan.

The Council's UDP Policy T3 states that:

'Off street parking for new development to be provided at levels no higher than the parking standards set out in Appendix 2.

Parking provision at higher levels may be acceptable only where it can be demonstrated that parking is required to meet the needs of disabled users or where lesser provision will lead to unsafe highway conditions, and it can be shown that the applicant has taken measures to minimise the need for parking.'

The UDP Appendix 2 car parking standards for open market residential units normally require 1 space per unit for flatted accommodation.

The London Plan Policy 6.13 states that:

'The Mayor wishes to see an appropriate balance struck between promoting new development and preventing excessive car parking provision that can undermine walking, cycling and public transport use.

The maximum standards set out in Table 6.2 in the Parking Addendum should be applied to planning applications.'

In Table 6.2 the parking standards for 1-2 bed units is less than 1 space per unit and for 3 bed units it is 1-1.5 spaces. The Notes to this table state that 'All developments in areas of good public transport accessibility should aim for significantly less than 1 space per unit.'

The GLA, in their formal Stage 1 report, advise that the original provision of 41 spaces (equivalent to 0.84 spaces per unit) could be reduced as the site lies within a high PTAL area (PTAL 6a), is in the town centre and the proposed level of parking is higher than the level shown for a previous application for the site (ref 08/04190 proposed 43 spaces for 87 residential units which equates to 0.49 spaces per unit. This application was recommended for refusal but withdrawn immediately before Committee - there was no recommendation for refusal on parking grounds).

In addition Members should note that the Bromley South Central development (Site K) provides 100 spaces for 200 residential units which equates to 0.5 spaces per unit. This is less than the level of provision for this site.

The number of spaces proposed for this development is 38. The applicants Transport Assessment arrives at this figure by examining person trip generation in

3 similar sized housing developments found in the industry recognised TRICS database. The Council's Highways Officer supports this level of provision as it is in accordance with UDP and London Plan parking policies. The GLA also support this level of parking.

In addition there are four 24hr car parks in the town centre (The Mall, the Civic Centre, The Hill and Westmoreland Road) and 3 further car parks in the town centre. Surrounding roads are protected by controlled parking zones.

In view of the above it is considered that the parking levels provided are in accordance with adopted development plan policies, both general and site specific and there are no other material considerations to outweigh these policies.

The impact of the proposed building on the listed former St Marks School and the locally listed St Marks Church

The applicant has submitted an addendum to the Design and Access Statement to demonstrate how the parameters of the outline application would impact on these buildings.

There will clearly be a significant impact on the setting of St Marks Church as a result of this development. However in the immediate environment the church will be set back from Sandford Road, thereby providing a visual gap between it and the proposed building.

Notwithstanding the recommendation for this proposal, Policy OSL supports the provision of a tall building on this site to accommodate a significant quantum of development. Inevitably there will be a significant impact on the church. In this instance it may be considered that the benefits from the contribution to the local economy would outweigh the impact on the locally listed building, should the scheme be acceptable in other respects.

With regard to the listed former St Marks Church the 4 storey 'wing' is the closest element of the development to this building. The illustrative plans show a building that is taller than the existing building and shows that the proposed building will not be located any closer to St Marks than the existing building. There is a clear gap shown between the existing and proposed building which forms a vehicular access.

It is necessary to consider whether the difference between the impact of the existing and proposed building is sufficient to cause harm to St Marks. It may be considered that the modern indicative appearance of the proposed building in juxtaposition with the Edwardian appearance of the former school building would add to the varied built environment in the area. However it may also be considered that the additional height of the 'wing', over and above the height of the existing building, could be reduced to lessen the impact on the listed building. This would accord with the concerns raised regarding the impact of this element of the development on long distance views for the High Street discussed above.

With regard to the taller element of the proposal this is significantly set back from the listed building. Whilst it would be visible in views of the listed building it may be

considered that the proposed building would not unduly impact on the setting of the listed building.

On balance it is considered that, although the proposal would result in a tall building in relatively close proximity to listed and locally listed buildings, the relationship would not be harmed so significantly as to warrant refusal of the application on these grounds. The detailed design of future elevations is crucial to minimise the impact of the building on the locally and statutory listed building and high quality detailing and materials would be required if this proposal is likely to go ahead in the future.

## Conclusion

This outline proposal is submitted with illustrative plans to allow assessment of the acceptability of a proposal of this magnitude on the both the local and wider context.

A large building will be needed on this site to accommodate the quantum of development envisaged by BTCAAP Policy OSL.

In this instance it may be considered that a building of the illustrative parameters shown on the submitted plans could be accommodated on the site without having a significantly harmful effect on the amenities of the occupants of nearby residential properties and the impact on the setting of the locally listed St Marks Church and the listed former St Marks School.

However there are concerns that the 4 storey 'wing' of the building will have a significantly detrimental effect on long distance views from the High Street towards the south.

In addition it is considered that the proposal does not meet policy requirements in respect of the provision of S106 contributions, in particular affordable housing, and the provision of appropriate replacement office floorspace.

Therefore the application is recommended for refusal on the grounds listed below.

Background papers referred to during the production of this report comprise all correspondence on file ref. 12/02385, excluding exempt information.

as amended by documents received on 31.10.2012 05.11.2012 26.11.2012 06.02.2013

## **RECOMMENDATION: PERMISSION BE REFUSED**

The reasons for refusal are:

- 1 The proposed development is not acceptable, by reason of the absence of a robust and well evidenced Financial Viability Statement, resulting in failure to meet the requirements for the provision of S106 contributions for the purposes of affordable housing, education and health contrary to Policies

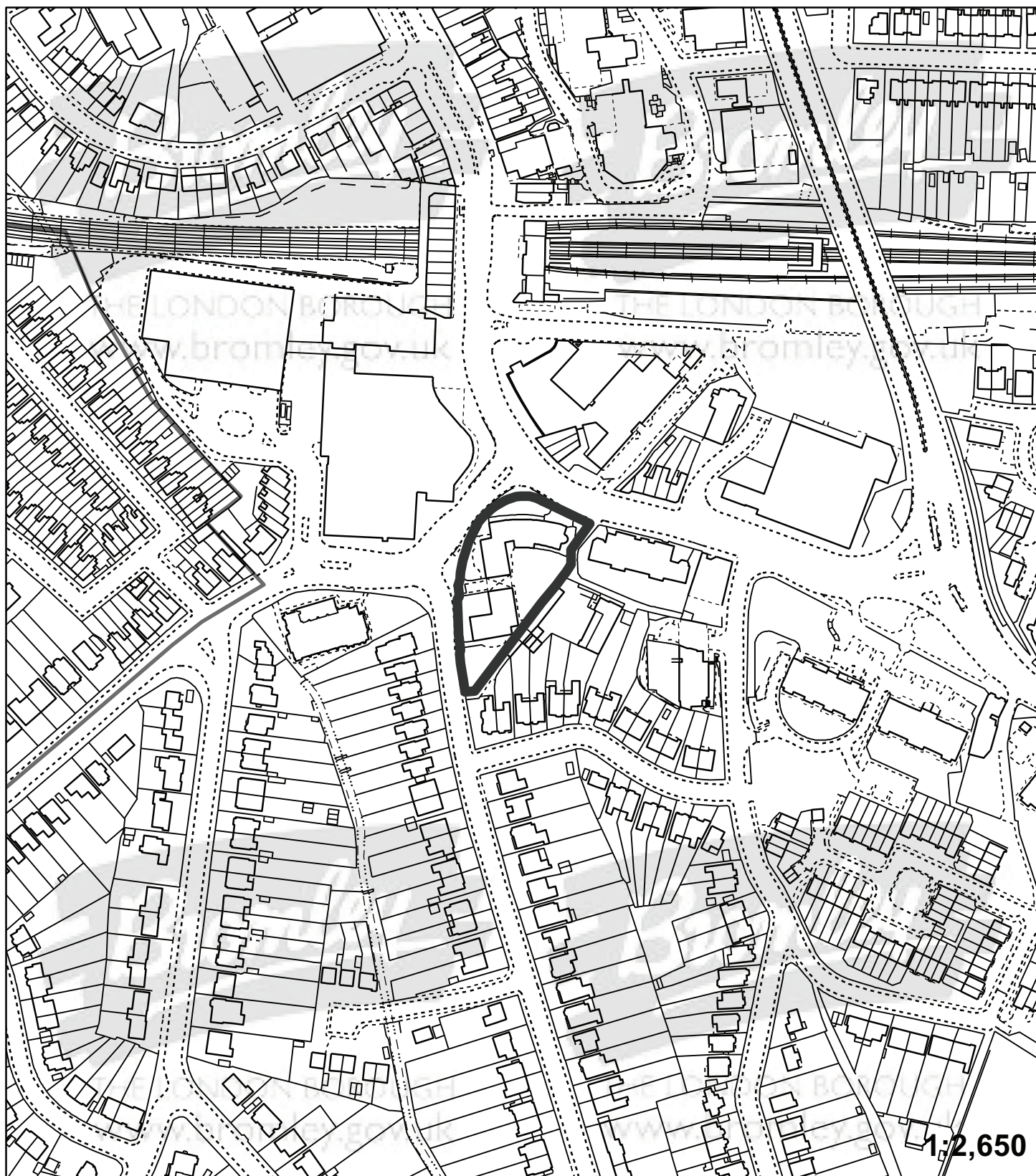
IMP1 and H2 of the Unitary Development Plan and the Supplementary Planning Guidance relating to Planning Obligations and Housing and Policies 8.2 and 3.12 of the London Plan.

- 2 In the absence of a robust and well evidenced appraisal of the office market in Bromley, the proposal is unacceptable, by reason of the lack of suitable replacement office development, contrary to Policies BTC 5 and OSL of the Bromley Town Centre Area Action Plan.
- 3 The indicative proposal, by reason of its scale and height, would detrimentally impact on protected long distance views of the Keston Ridge contrary to Policies BTC 19 and OSL of the Bromley Town Centre Area Action Plan and Policies BE 17 and 18 of the Bromley Unitary Development Plan.

**Application:**12/02385/OUT

**Address:** 1 Westmoreland Road Bromley BR2 0TB

**Proposal:** Demolition of existing building and erection of a 4 to 11 storey building comprising a 110 bedroom hotel (Class C1, 49 residential units (Class C3) and 592sqm retail use (Class A1-A5) with associated landscaping, servicing, 41 car parking spaces and bicycle parking



"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

This page is left intentionally blank

**Application No :** 12/03088/FULL1

**Ward:**  
**Bromley Town**

**Address :** Land At South Side Of Ringers Road  
Bromley

**OS Grid Ref:** E: 540250 N: 168845

**Applicant :** Crest Nicholson Regeneration Ltd

**Objections :** YES

## **Description of Development:**

Erection of 1x11 storey (plus upper basement) and 1x9 storey (plus lower and upper basement) building comprising 148 flats (48x1 bedroom and 100x2 bedroom), 460sqm commercial unit (Class A3/A4), 77 car parking spaces, cycle parking, refuse and recycling stores, ancillary works including plant and equipment on ground floor and roof, together with vehicular access to Ravensbourne Road and Ringers Road and associated landscaping

Key designations:

Areas of Archaeological Significance  
Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
London City Airport Safeguarding Birds

## **Proposal**

Planning permission was granted in January 2008 for the demolition of a covered footbridge over Ringers Road and erection of one 10 storey and one 8 storey blocks comprising 97 one bedroom, 59 two bedroom and 4 three bedroom flats with 83 car parking spaces and motorcycle and bicycle parking and refuse storage (amendments to scheme permitted under ref. 06/01528 for 163 flats). Preliminary works have been carried out to implement the planning permission and it remains extant.

Planning permission is now sought for a revised scheme. The key changes between this proposed scheme and the implemented planning permission are as follows:

- introduction of commercial unit along Ringers Road
- additional storey to both blocks taking Block A from 10 to 11 storeys and Block B from 8 to 9 storeys
- reduction in number of flats from 160 to 148 to increase the number of 2 bedroom units and increase unit sizes to meet GLA Housing Design Guidance
- reduction in number of car parking spaces from 83 to 77
- introduction of public access through the site.

The proposed scheme comprises the following:

- 48 one bedroom and 100 two bedroom flats (including 40 shared ownership affordable units distributed throughout the development)
- 460 m<sup>2</sup> commercial unit (Use Class A3/A4)
- Block A will comprise 97 flats and Block B will comprise 51 flats
- 77 car parking spaces including 1 car club space and 17 disabled spaces
- 163 cycle spaces
- ancillary basement area for bin storage and plant
- landscaped amenity space at podium level including seating areas and a covered barbeque area.
- balconies to all but 6 of the flats.

The application is accompanied by a Planning Statement which covers archaeology, environmental considerations and affordable housing and includes the following points:

- site presents a key opportunity to deliver development in a sustainable location that contributes towards the regeneration of Bromley town centre in accordance with the aspirations of the Bromley Town Centre Area Action Plan (AAP)
- proposals reflect recent changes in planning policy - scheme complies with up to date housing standards including the latest London Housing Design Guide
- Section 106 agreement attached to planning permission 07/03632 has been in place for more than five years - should planning permission be refused then Crest have a fall back opportunity to apply to vary the agreement and seek a reduction in the planning obligations to make the scheme viable
- proposals reflect the overarching aspirations of the AAP and will support the development targets outlined by Policy OSG
- AAP has been prepared on the basis that there is an extant planning permission for development of the site
- scheme facilitates the creation of a pedestrian route running parallel to the High Street, reflecting aspirations of the AAP
- in compliance with the Opportunity Area Design Principles the part of the route which is being facilitated in the application site will have a quiet residential character and be overlooked by residential accommodation - activation of the area will be created by the commercial terrace adjacent to the walkway
- pre-application discussions with Officers raised concerns that the comprehensive redevelopment of Site G envisaged by the AAP may be compromised by the application proposals - this assertion is unfounded and the development would instead assist in encouraging the regeneration of other opportunity sites in Bromley town centre
- AAP clarifies that the use of different architects and design approaches is supported provided integration across the whole of Opportunity Site G can be achieved - application proposals fully incorporate the aspirations of the



AAP including increased permeability to ensure integration with future development proposals

- LBB intends to produce a Masterplan to inform the redevelopment of Opportunity Site G - given the extant scheme it is entirely reasonable that the Masterplan is developed to incorporate proposal
- AAP envisages redevelopment of the site in 11 to 15 years time - proposals are considered entirely compliant with the objectives of the AAP and delaying the redevelopment of the site would be contrary to the NPPF and the presumption in favour of sustainable development
- AAP states that Bromley town centre is an 'excellent location' for new housing supply and there is a need for residential development to support other town centre uses on Site G and to 'contribute to the creation of a more active and vibrant town centre'
- town centre contains a relatively small proportion of the Borough's housing stock (3.35%) and there remains a significant demand for more new housing
- LBB Housing Supply Update (June 2012) confirms the implemented scheme comprises part of the Council's five year housing supply
- AAP proposes 1,820 new residential units in the town centre with 1,180 on Site G – scheme will assist in meeting this objective.
- commercial floorspace will provide an active frontage onto Ringers Road visible from the High Street in accordance with the LBB aspirations to bring people back into to the town centre in the evening and also assist in meeting the development targets of Policy OSG
- scheme will increase residential population within the town centre bringing increased spending power that would be largely retained in the town centre whilst supporting other uses planned on Site G and supporting the night time economy
- direct and indirect employment will be generated by the commercial unit and through increased spending in the town centre and through construction of the development
- Council will receive increased revenue, including additional council tax revenue and New Homes Bonus (at least £900,000 over 6 years)
- new buildings will greatly improve this part of Bromley Town Centre with a modern high quality design that sits comfortably behind the High Street
- scheme will improve the permeability and legibility of the local area and result in an enhanced public realm
- redevelopment of the site will assist in boosting developer confidence to help kick start other town centre regeneration projects
- scheme includes 40 affordable housing units which will be indistinguishable from the private units and will significantly assist Bromley in meeting its affordable housing target
- Government has made clear that the flexible application of affordable housing policy will be necessary to ensure that residential schemes are delivered
- affordable units will meet a need from young professionals wishing to live in a town centre location and to make a first step on to the housing ladder
- Townscape Analysis has been undertaken to ensure there is no adverse impact on the surrounding area from the increase in height in the building from those previously permitted.

The application is accompanied by a Daylight Sunlight Assessment which concludes that the new scheme will not be materially different from the consented scheme and the occupiers of neighbouring dwellings will be unlikely to notice any difference between the two developments. It also concludes that the daylight and sunlight to the new dwellings and the amenity areas will accord with design guidance.

The application is accompanied by a Wind Assessment Update which concludes that the revisions to the previously approved scheme will make a negligible difference in terms of wind.

The application is also accompanied by the following:

- Design and Access Statement including a Lifetime Homes Assessment, Buildings for Life Assessment, Townscape Analysis, landscape and public realm proposals and refuse and recycling details
- Transport Statement
- Energy Statement
- Code for Sustainable Homes & BREEAM Pre-Assessment
- Surface Water Drainage Strategy
- Noise Report Update
- Statement of Community Engagement
- Ventilation and Extraction Statement
- CIL Information Form.

### **Location**

- 0.45ha site is located in the west of Bromley Town Centre within Bromley Town Centre AAP Opportunity Site G
- site was previously occupied by the 'back-store' of the former Army & Navy departmental store – it has now been cleared and is currently empty
- Ringers Road descends from High Street to Ravensbourne Road and provides the main frontage to the site whilst the vehicular access is from Ravensbourne Road
- lower half of Ringers Road and most of Ravensbourne Road are predominantly residential
- site is bound by retail/commercial development fronting Bromley High Street to the east
- there is a NHS renal dialysis unit on the western boundary of the site
- a Quaker church and a row of semi-detached houses are located to west of the site.

### **Comments from Local Residents**

Nearby residents were notified of the application and representations were received, which can be summarised as follows:

- out of character / poor design / excessive bulk
- loss of daylight and sunlight

- loss of privacy / overlooking
- increased noise and disturbance
- building will be closer to Quakers meeting house
- detrimental impact on pedestrian safety, particularly children
- detrimental impact on highway safety / vehicular access is on a blind bend / pre-emptive measures should be taken to address danger of vehicles sliding down access ramp on snow and ice / brick wall should be erected to protect Nutfield Court from out of control vehicles on access ramp
- additional traffic / traffic on Ravensbourne Road and Ethelbert Road has increased in recent years and tailbacks from Westmoreland Road/Masons Hill traffic lights frequently occur / congestion impedes emergency vehicles
- significant existing disruption and disturbance from vehicular activity including buses and delivery lorries
- access is too close to dialysis unit access
- inadequate car parking / loss of car parking spaces / increased demand for on-street car parking / currently inadequate resident's parking
- there are no proposals for treatment of the brick structure supporting the proposed amenity area – this will be an eyesore for Ravensbourne Road residents and an appropriate condition should be attached to any planning permission
- pruning of existing mature should be the subject of a planning condition
- increased pressure on local infrastructure and services
- increased crime and anti-social behaviour
- reduction in social housing
- increased flood risk
- development may result in subsidence in the area
- effect on water pressure
- disruption, noise and pollution from construction works
- detrimental impact on property values
- scheme will benefit town and local businesses
- new, good quality, well located housing stock is needed.

### **Comments from Consultees**

Metropolitan Policy Crime Prevention Design Adviser – no objections subject to a 'Secured by Design' condition

Environmental Health – no objections, subject to conditions

Thames Water - no objections.

Drainage – no objections, subject to conditions

English Heritage (Archaeology) - no objections

Sustainable development and renewable energy – no objections.

The Council's Housing Officer notes that the affordable housing provision comprises 27% of units and approximately 25% of habitable rooms which is below

the 35% policy compliant level. Furthermore, all affordable units are proposed to be intermediate (shared ownership) which is contrary to Policy H2 of the UDP. The applicants submitted a Financial Viability Assessment which has been independently reviewed and the Council has been advised that the applicants proposals are not unreasonable and that they could arguably have offered significantly less affordable housing. The proposals are considered acceptable subject to a review mechanism within a legal agreement to secure an additional payment in lieu of affordable housing should the viability of the scheme improve, and on the basis that the provision of these intermediate units is not contingent on public subsidy. The legal agreement would also need to require the scheme to meet the GLA's London Housing Design Guide standards, including floor-areas per flat and Code for Sustainable Homes Level 4.

The Council's Highways Engineer raises no objections to the proposal, subject to conditions and provision within a legal agreement for the recovery of loss of income from Pay and Display parking bays in Ringers Road and Ravensbourne Road. However, it is noted that the access to the cycle parking in the upper basement is tortuous, being through two 90 degree bends, two sets of doors and into and along a narrow corridor.

The applicant has revised the refuse storage arrangement in response to comments from the Council's Waste Advisers. A verbal update will be provided at the meeting.

The Greater London Authority have provided Stage 1 comments which are summarised as follows:

- site is highly accessible and suitable for a significant proportion of smaller units but the applicant should seek to provide some family sized housing in line with Policy 3.8
- residential density is in line with the London Plan and is acceptable
- inadequate children's play space
- in order for a tall building in this location to be considered acceptable it should be of outstanding design quality in its architecture, layout and residential quality – proposal is uninspiring and unimaginative and fails to enhance the town centre built form – given the prominent location of the building, its visibility from Bromley High Street and the fact that it is in an area identified for comprehensive redevelopment, the applicant should revise the architecture to create a more distinctive and attractive building, with high quality materials and detailing
- architects have illustrated how the proposal might fit in with AAP objectives through creating a new route through the site and a new public space and this is welcomed – however the configuration of built form and public space will make it challenging to provide a good quality frontage onto both Ringers Road and the proposed space as the ground floor of the building faces both sides, making it hard to accommodate plant rooms, refuse storage and other back of house uses without impacting on the quality of the public realm
- concerns are expressed regarding the residential design as follows:
  - there are a number of north facing single aspect units

- ground floor units facing the public realm do not have front entrances
  - scheme provides a good number of vertical circulation cores which are connected, creating long corridors – no more than 8 units should share communal space to create a strong sense of ownership over that space and to reduce potential security issues – applicant should relocate internal core within western block so that it is accessible from Ringers Road
- none of the entrance points provide level access into the building
  - public podium deck does not appear to be particularly welcoming due to the significant level change, steps and lifts up to it
  - applicant should reconsider providing a site heat network rather than individual boilers to the apartments and should provide a commitment to ensuring that development is designed to allow future connection to a district heating network should one become available
  - proposal accords with London Plan transport policy.

The applicants have since submitted revised plans and provided a response as follows:

- landscaping has been revised to meet GLA play space requirements
- appearance of the buildings are the same as previously approved with the exception of an additional storey
- lift core has been relocated within Block B and pedestrian access is provided from Ringers Road
- minor alterations to have been made to external commercial frontage and entrance to Block B to improve urban design quality
- retaining wall on eastern side of development has been reduced in height and replaced with glass and railings to allow views through
- retaining wall onto Ringers Road has been simplified and decluttered and this will increase the visual connectivity with the street
- topography of the site presents a major constraint to the proposed development – development provides pedestrian access via four shallow steps and a gently rising ramp – this raise in level allows passage under the entrance to Block A to the upper car park and to the cycle store and refuse store – should the block be lowered the link to the upper basement would not be possible without the loss of residential accommodation and/or the necessity to situate the commercial units directly onto Ringers Road, which would affect the vitality of this important area of the scheme
- applicant has investigated the lowering of the central podium deck to allow for level access – this would have significant effects on the provision of parking and ancillary accommodation located at upper basement level and would also require a significant amount of ‘cut’ which would need to be disposed off site which is not considered to be sustainable.

Any further comments from the GLA in response to these revisions will be reported verbally at the meeting. Should Members resolve to grant planning permission the decision will be subject to a Stage 2 referral to the GLA.

Any further responses to consultations will also be reported verbally at the meeting.

### **Planning Considerations**

Planning permission was granted in January 2007 for demolition of covered footbridge over Ringers Road and re-development comprising one 10 storey and one 8 storey blocks containing a total of 163 one two and three bedroom flats with 80 car parking spaces secure storage for motorcycles and bicycles associated landscaping and amenity space and alteration to vehicular access to/from Ravensbourne Road (ref. 06/01528).

Planning permission was granted in January 2008 for demolition of covered footbridge over Ringers Road and re-development comprising one 10 storey and one 8 storey blocks comprising 160 one two and three bedroom flats with 83 car parking spaces and motorcycle/ bicycle parking and refuse storage (amendments to scheme permitted under ref. 06/01528 for 163 flats) (ref. 07/03632). This permission has been commenced.

### **Planning Considerations**

The proposal falls to be considered primarily with regard to the following policies:

#### **UDP**

- T1 Transport Demand
- T2 Assessment of Transport Effects
- T3 Parking
- T5 Access for People with Restricted Mobility
- T7 Cyclists
- T18 Road Safety
- H1 Housing Supply
- H2 Affordable Housing
- H7 Housing Density and Design
- BE1 Design of New Development
- BE2 Mixed Use Developments
- BE17 High Buildings
- S9 Food and Drink Premises
- ER9 Ventilation
- IMP1 Planning Obligations

#### **London Plan**

- 2.6 Outer London: Vision and Strategy
- 2.7 Outer London Economy
- 2.8 Outer London: Transport
- 2.15 Town centres
- 3.3 Increasing housing supply
- 3.4 Optimising housing potential
- 3.5 Quality and design of housing developments
- 3.6 Children and young peoples play and informal recreation facilities
- 3.7 Large residential developments
- 3.8 Housing choice

- 3.9 Mixed and balanced communities
- 3.12 Negotiating affordable housing on individual private residential and mixed use schemes
- 3.13 Affordable housing thresholds
- 4.6 Support for and enhancement of arts, culture, sport and entertainment provision
- 5.1 Climate change mitigation
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.5 Decentralised energy networks
- 5.6 Decentralised energy and development proposals
- 5.7 Renewable energy
- 5.9 Overheating and cooling
- 5.10 Urban greening
- 5.11 Green roofs and development site environs
- 5.12 Flood risk management
- 5.13 Sustainable drainage
- 5.15 Water use and supplies
- 6.3 Assessing effects of development on transport capacity
- 6.9 Cycling
- 6.10 Walking
- 6.13 Parking
- 7.1 Building London's neighbourhoods and communities
- 7.2 An inclusive environment
- 7.3 Designing out crime
- 7.4 Local character
- 7.5 Public realm
- 7.6 Architecture
- 7.7 Location and design of tall and large buildings
- 7.8 Heritage assets and archaeology
- 7.14 Improving air quality
- 7.15 Reducing noise and enhancing soundscapes
- 8.2 Planning Obligations.
- 8.3 Community Infrastructure Levy.

The site is part of Opportunity Site G within the Bromley Town Centre Area Action Plan and Policy OSG states that

'The Council will work with land owners and developers to promote the comprehensive mixed use development of land to the west of the High Street...Detailed development will be on the basis of a Master Plan to be prepared and adopted by the Council. The Master Plan will determine the location, mix and amount of development. The targets for development are:

- Approximately 20,000 sq m (gross) additional retail floorspace including a new department store
- Approximately 5,000 sq m (gross) additional food and beverage floorspace
- Around 1180 residential units, including provision of family housing
- Up to 2,000 sq m additional community and health facilities and reprovision of facilities for faith uses

- Around 600 residential car parking spaces
- 600 public car parking spaces.

...The development will be required to incorporate public realm improvements and to be integrated with the proposals for a new town square and enhanced cultural quarter on Site N.

Development will be required to enhance the setting of the Churchill Theatre and Library building as well as the entrance to Church House and Library Gardens and to minimise any impact on the character of the parkland and Conservation Area. In order to achieve the objectives for town centre renewal, it will be necessary to demolish existing properties. Where buildings do not contribute positively to the character or appearance of the Conservation Area, demolition may be acceptable providing they form part of a comprehensive development and are replaced with high quality buildings that enhance the character of the area.

Taller buildings may be acceptable in the locations identified on the key diagram subject to an appropriate assessment in accordance with Policy BTC19.'

The supporting text at Section 5.7 states that:

'This site on the western side of the High Street offers the first real opportunity for a major commercial development to occur in the town centre since the opening of The Glades in 1991. By developing the site comprehensively the Council's aim is to deliver renewal of the lower part of the High Street and to create an attractive extension to the primary shopping frontage. In commercial terms it will provide modern retailing units more suited to the retailing industry and improve customer choice by accommodating the necessary planned growth of the town centre. The Council wish to encourage the provision of a new department store and the comprehensive mixed use retail led development will also include residential, office, faith and health facilities. Development of the western side of the High Street will improve the appearance of the town centre.

Development of Site G is central to achieving the vision for Bromley Town Centre as an attractive, vibrant living town that meets the needs of residents, businesses and visitors. In order to secure a new department store, it is accepted that there is a need for the development to contain other uses that create value, notably residential. The residential uses will facilitate development of the new retail floorspace and contribute to the creation of a more active and vibrant town centre.

Development will be required to create a sensitive active frontage to the High Street and Church House and Library Gardens and linkages/integration with the parkland and the proposals to create a new town square and enhanced cultural quarter around the Churchill Theatre and Library. The site offers the potential for taller buildings subject to environmental and design considerations.



The development will be phased and a variety of high quality architectural design will be required. The Council will encourage the use of different architects for different phases of development. It will, however, be important to ensure that each phase integrates well with not only each other but with the town as a whole in terms of design, character and materials used.

The retail uses at ground level will create activity and interest and by using the upper floors for residential purposes it will help to not only bring people back into the town centre in the evening but also help meet current housing requirements and create a safe and secure environment.

The development will include the appropriate level of affordable housing in accordance with policy and will also be required to minimise impacts on the remaining nearby existing residential properties. Development will step down to the western side of the site to integrate with the existing residential area. A new residential street is proposed along the western boundary of the site and a number of short and long term highway improvements will be required.'

Appendix 5 of the AAP sets out some Key Design Principles for Opportunity Site G including the following:

'Development should provide permeability and create a sensitive but active frontage onto Church House Gardens and present an imaginative high quality design both to the new public space, the gardens and to the High Street. There should be no unsightly 'rear elevation.

Creation of a secondary street parallel to the High Street fronted by cafes, restaurants and bars and that connects directly into the new public space adjacent the Church House Gardens would help connect the town centre to the park and could also help create a leisure focus in this area.'

Policy BTC 30 of the AAP, including Table 6.1, sets out a policy on the Phasing of Development in Site G. It seeks a retail-led, comprehensive, development.

The following Supplementary Planning Documents (SPD) produced by the Council are relevant:

- Affordable Housing SPD
- Planning Obligations SPD.

The following documents produced by the Mayor of London are relevant:

- The Mayor's Economic Development Strategy
- Housing Supplementary Planning Guidance
- Providing for Children and Young People's Play and Informal Recreation Supplementary Planning Guidance (SPG)
- Housing Strategy
- Accessible London: achieving an inclusive environment
- The Mayor's Transport Strategy

- Mayor's Climate Change Mitigation and Energy Strategy
- Sustainable Design and Construction SPG.

The applicant has indicated a willingness to make a financial contribution of £219,040 to be secured through a Section 106 legal agreement as this was the amount secured through the previous planning permission. The monies were previously allocated as follows:

- £50,000 for town centre improvement works
- £50,000 for the implementation of a 20 mile an hour zone on Ravensbourne Road and Ringers Road to address safety concerns resulting from the proposed access road
- £119,040 for local healthcare infrastructure.

The Council has since adopted the Planning Obligations SPD and the following contributions would be sought in order to comply with policy requirements:

- £321,500.58 for local education infrastructure
- £134,056.00 for local healthcare infrastructure.

The applicant has submitted a Financial Viability Assessment which has been independently verified. The applicant has demonstrated that they could not support additional financial contributions alongside the affordable housing provision.

Policy 8.2 of the London Plan states that:

'Development proposals should address strategic as well as local policies in planning obligations.

Affordable housing; supporting the funding of Crossrail where this is appropriate; and other public transport improvements should be given the highest importance.'

In view of the priority attached to affordable housing and given that the applicant has demonstrated that the required contributions are unviable the shortfall in financial contributions can be accepted.

The following could be secured through a Section 106 legal agreement:

- £219,040 financial contribution as detailed above (this sum could be reallocated according to the Council's priorities)
- affordable housing provision
- recovery of loss of income from the removal of pay and display car parking bays.

As part of the application process, it was necessary for the Council to give Screening Opinions as to whether an Environmental Impact Assessment was required. The proposal constitutes Schedule 2 development within the meaning of

the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. After taking into account the selection criteria in Schedule 3 of the Regulations and the terms of the European Directive, it was considered that the proposed developments would not be likely to have significant effects on the environment by virtue of factors such as their nature, size and location. This opinion was expressed taking into account all relevant factors including the information submitted with the applications, advice from technical consultees, the scale/characteristics of the existing and proposed development on the site. The applicants have been advised accordingly.

The proposal equates to a residential density of 329 dwellings per hectare and 884 habitable rooms per hectare.

## **Conclusions**

A significant material consideration in assessing the proposal is the existing, commenced planning permission. The acceptability of an 8 and a 10 storey building similar in design to the current proposal has previously been established. However, since planning permission was granted for the previous scheme the Bromley Town Centre AAP was adopted in October 2010. The site lies within Opportunity Site G and the proposal should be assessed against the current policy framework which includes aspirations and objectives for Site G.

The main issues to be considered in this case are as follows:

- impact of the additional storey of development on each block on the character of the area and the residential amenities of the occupants of nearby residential dwellings
- whether the proposal is in accordance with the aspirations, objectives and policies of the Bromley Town Centre AAP.

Policy OSG states that the Council will prepare a detailed Master Plan which will determine the location, mix and amount of development. The AAP anticipates that development of Site G will be phased but that it will be important to ensure that each phase integrates well with not only each other but with the town as a whole in terms of design, character and materials used. One of the Key Design Principles identified within the AAP is the creation of a secondary street running parallel to the High Street which would form a spine linking the different phases of development within the site. Achieving permeability is also a key principle for site redevelopment so as to deliver new and improved pedestrian connections. Policy OSG requires that a comprehensive approach to development is pursued.

The Council is currently in the process of appointing a development partner for the redevelopment of Opportunity Site G.

Whilst a Master Plan is not yet in place the Key Design Principles of the AAP emphasise the importance of permeability and detail the aspiration for a secondary street running parallel to the High Street. The proposal seeks to address these requirements with the introduction of a pedestrian route through the site. However, this route involves steps and its design and location may not accord with the

Council's aspiration for a street running parallel to the High Street. The proposal is therefore not considered to achieve the level of integration with the remainder of Site G and the town centre envisaged by the AAP in terms of its design and character.

Policy OSG sets development targets for 20,000 sq m (gross) retail and 5,000 sq m (gross) food and beverage floorspace. The applicant has proposed a 460 sq m commercial unit for Class A3/A4 use. However, a large proportion of the footprint will be given over to residential use which will compromise the Council's ability to meet the targets for new retail and food and beverage floorspace on Opportunity Site G.

Policy BTC 30 of the AAP, including Table 6.1, sets out the approach to Phasing. The phasing schedule, under the heading Delivery Strategy, refers to a retail-led comprehensive development of Site G as being key to High Street regeneration. There is a need for site assembly and the Table 6.1 schedule notes that a smaller scale scheme would yield fewer benefits for the Town Centre as a whole. The Proposed development is such a smaller scale scheme in advance of a retail led comprehensive scheme and its phasing is not in accordance with Policy BTC 30.

The revised scheme involves higher buildings than previously approved. The surrounding area includes more modest development including blocks of flats on Ringers Road and two storey houses and blocks of flats on Ravensbourne Road and Ethelbert Road. It should be noted that Ringers Road slopes downwards towards Ravensbourne Road and the blocks will appear particularly dominant and overbearing when viewed from properties situated on a lower ground level, in particular those on Ravensbourne Road. The blocks will also be visible from the High Street forming a significant component of the townscape and the additional height will increase their impact. It is therefore considered that the additional height and bulk of the blocks compared to the previously approved scheme will result in a more prominent development which will appear dominant and overbearing, harmful to the character of the area and residential amenities of the occupants of nearby residential dwellings.

The GLA have raised concerns regarding the elevations of the blocks. However, the design does not differ significantly from the previously approved scheme and there has not been a shift in policy such that the layout and elevational treatment of the blocks could now be considered unacceptable. The GLA have raised other concerns regarding matters including housing, inclusive design and climate change. These matters are not considered to represent grounds for refusal of planning permission and if Members were minded to grant planning permission the decision would be referable to the GLA.

The scheme is considered an improvement over the previously approved development in terms of providing larger flats, a degree of permeability and the introduction of a commercial unit at ground floor level. However, these changes are not considered sufficient to comply with the APP which has been adopted since the previous application was determined and the scheme will also result in harm resulting from the additional height. Whilst taking into account the commenced scheme, the proposal is on balance considered unacceptable.

## **RECOMMENDATION: PERMISSION BE REFUSED**

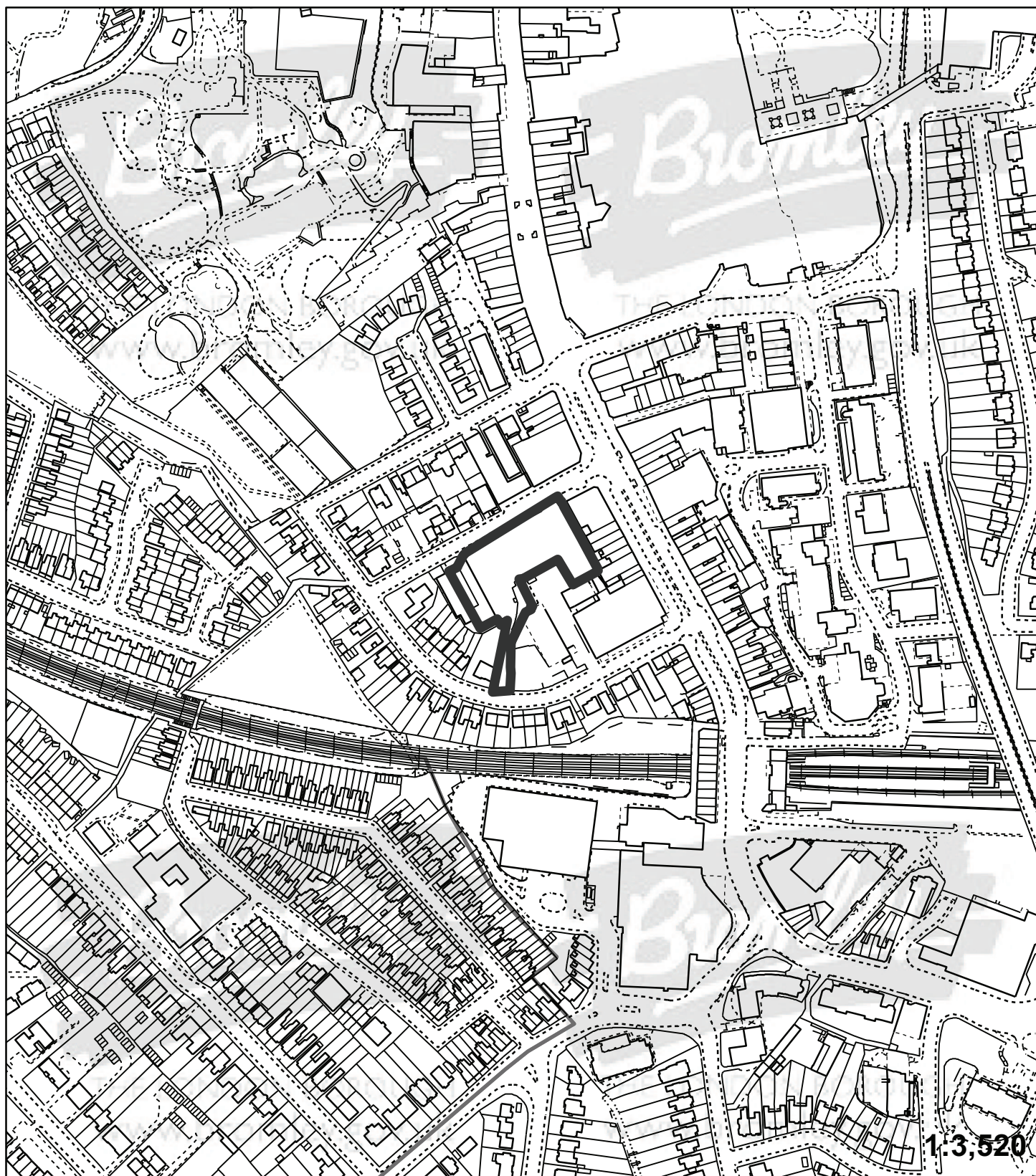
The reasons for refusal are:

- 1 The proposed development would conflict with the Area Action Plan objectives for Opportunity Site G, particularly in terms of the delivery of retail floorspace, permeability, the phasing of comprehensive development and the creation of a secondary street through the site, and is thereby contrary to Policy OSG and Policy BTC 30 of the Bromley Town Centre Area Action Plan.
- 2 The proposed development, by reason of the excessive height and bulk of the blocks, would be unduly harmful to the character and appearance of the area and appear dominant and overbearing when viewed from nearby residential properties contrary to Policy BE1 of the Unitary Development Plan.

**Application:**12/03088/FULL1

**Address:** Land At South Side Of Ringers Road Bromley

**Proposal:** Erection of 1x11 storey (plus upper basement) and 1x9 storey (plus lower and upper basement) building comprising 148 flats (48x1 bedroom and 100x2 bedroom), 460sqm commercial unit (Class A3/A4), 77 car parking spaces, cycle parking, refuse and recycling stores, ancillary



"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

# Agenda Item 6

Report No.  
DRR13/041

London Borough of Bromley

PART ONE - PUBLIC

---

**Decision Maker:**        **DEVELOPMENT CONTROL COMMITTEE**

**Date:**                    **Thursday 28 February 2013**

**Decision Type:**        Non-Urgent                    Non-Executive                    Non-Key

**Title:**                    **APPEALS BY CAPITAL SHOPPING CENTRES LTD (CSC)  
AGAINST THE COUNCIL'S DECISION TO REFUSE PLANNING  
AND LISTED BUILDING CONSENT FOR DEVELOPMENT AT  
QUEEN'S GARDENS, BROMLEY**

**Contact Officer:**        Jim Kehoe, Deputy Chief Planner  
Tel: 020 8313 4794    E-mail: Jim.Kehoe@bromley.gov.uk

**Chief Officer:**         Director of Renewal & Recreation

**Ward:**                    (All Wards)

---

1.    Reason for report

1.1 This report seeks Members views as to whether the ground of refusal relating to the impact on residential amenity should be defended at the forthcoming public inquiry.

---

2.    **RECOMMENDATION(S)**

2.1 Members views are requested

### Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Quality Environment
- 

### Financial

1. Cost of proposal: £ none for the purpose of this report
  2. Ongoing costs: Non-Recurring Cost:
  3. Budget head/performance centre: Central Contingency
  4. Total current budget for this head: £150,000
  5. Source of funding: Existing revenue budget for 2012/13
- 

### Staff

1. Number of staff (current and additional): 53 fte's (excluding Building Control, Land Charges)
  2. If from existing staff resources, number of staff hours: 14
- 

### Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
  2. Call-in: Applicable:
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): several thousand
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: no comments received



### 3. COMMENTARY

- 3.1 Members will recall that a report was submitted to DC Committee on January 29<sup>th</sup> 2013 seeking Members' views on whether the ground of refusal relating to the impact on residential amenity should be defended. The report was deferred to undertake further analysis of new information received and for a complete copy of an appeal to be appended. An updated report is set out below.
- 3.2 Development Control Committee on June 28<sup>th</sup> 2012 refused planning permission for an application for planning permission (12/01340) and consent for an application for listed building consent (12/01340). Both applications related to a proposal to extend The Glades Shopping Centre by adding 5 restaurants and relocation of the listed gates within the Gardens.
- 3.3 The applicants (Capital Shopping Centres – CSC) have appealed against this decision and the appeal will be heard at a public inquiry.
- 3.4 The agents have written to the Council in a letter dated 10<sup>th</sup> December 2012, a copy of which is attached to this report. In short they have asked that the Council withdraw that part of the reason for refusal that states 'and be detrimental to the amenities of residential properties in the vicinity of Queens Gardens by reason of increased evening activity resulting in noise and disturbance.'
- 3.5 In support of their request the appellants make the following points:-
- This reason for refusal did not appear in the first refusal for application 11/03466 which was for a larger scheme than the 2012 application.
  - The Council's Environmental Health Officer did not object advising that the application was in accordance with guidance in the National Planning Policy Framework which states the planning decision should aim to 'avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development' and that the conditions could be used to mitigate other adverse impact.
  - A previous application at the Abbaye restaurant (now Belgo) on the north-west side of the Gardens for an external seating area was refused and then allowed on appeal (06/00916). The Inspector acknowledged that some noise was expected and that this would be acceptable given the public nature of the gardens and the town centre location of the site. Furthermore the Inspector noted that other forms of control are available to manage operational matters.
  - In May 2007 the Council granted full permission for the same development (May 2007).
  - In an email from the current appellants dated January 30<sup>th</sup> 2013 it is pointed out that while the appeal decision has a 6 year time limit, the subsequent approval under ref 06/03751 does not.
  - Policy OSM anticipates restaurant development along the edge of Queens Gardens in an area closer to the residential properties than the appeal scheme.

- The proposed use is for A3 and not for A4 (drinking establishments) or A5 (hot food takeaways) so the primary use is for the sale and consumption of food and drink on the premises.
- The LPA is required to have evidence to substantiate each reason for refusal with reference to the statutory development plan and other material considerations and the introduction of fresh and substantial evidence at appeal can constitute unreasonable behaviour.
- Given the nature of the proposed development, the development plan allocation for restaurant development at Queens Gardens, the proposed conditions and no objection from the Environmental Health Officer, it is the appellants' view that the application on amenity grounds cannot be reasonably upheld and evidenced at appeal. It would be beneficial to focus on the differences between the main parties of the appeal thereby reducing time and costs associated with the appeal.

3.6 Prior to the Committee meeting representations were received from the Bromley Civic Society which raised concerns as follows:

- The case put forward by CSC does not correctly reflect the findings of the 2007 Abbaye decision. The concern related to the contention by CSC that 'The Inspector concluded that the level of disturbance was acceptable due to the town centre location.' The Civic Society consider that the appeal decision reflects that the level of disturbance would not be judged except by use of a trial period at the end of which it could well be decided that the level of disturbance was unacceptable.
- Members would need legal opinion as to whether or not the contested ground for refusal of the CSC scheme can be substantiated.
- Other considerations relate to the relevance of the NPPF para 123 regarding protection of areas of tranquillity and protection from noise that gives rise to adverse impacts on health and quality of life as a result of new development. The Civic Society point out that as the Queens Gardens is a designated heritage asset with protected inherent open space and tranquil gardens the CSC appeal Inspector will address these matters.

3.7 In response to the appellants request Members may wish to take into account the following information when reaching a decision.

- The first application (11/03466) for the 5 restaurants was refused on the following grounds:  
  
'The proposal would be an over-intensive development of the site, detrimental to the character and appearance of the Bromley Town Centre Conservation Area by reason of its size, site coverage, design and the loss of openness and public amenity to Queens Gardens, contrary to policy BE1 of the Unitary Development Plan, policy OSM of the Bromley Town Centre Plan and the Conservation Area Statement.'
- The second, smaller, application (12/01339) for the 5 restaurants was refused on the following grounds:

'The proposal would be an over-intensive development of the site, detrimental to the character and appearance of the Bromley Town Centre Conservation Area by reason of its size, site coverage, design and the loss of openness and public amenity to Queens Gardens, and be detrimental to the amenities of residential properties in the vicinity of Queens Gardens, by reason of increased evening activity resulting in noise and disturbance, contrary to policy BE1 of the Unitary Development Plan, policy OSM of the Bromley Town Centre Plan and the Conservation Area Statement.'

- The appeal is against the second application. A 3 day public inquiry will be held on May 1st, 2nd and 3rd 2013.
- An application (06/00916) for the external seating area at the Abbaye restaurant was approved with a time limit condition (6 years) imposed by the Inspector in March 2007. An application 06/03751 was approved without the 6 year limit by Plans Sub Committee 2 on May 10th 2007 (Copies of Decision Notices are attached).
- The Council's Environmental Health Officer has reiterated his original comments on application 12/01339 stating that:

The nearest residential property is far enough away to provide reasonable attenuation over distance.

There will be some noise from any restaurant but this will be largely contained inside the units and there wouldn't be very noisy outdoor drinking areas of the sort you might get with an A4 use.

There may be some noise from arrivals and departures but the effect is likely to be minimal.

In terms of people in the area, presumably people walking to cars are most likely to go to the Pavilion car park in the other direction from the residential properties. People walking to the town centre locations may pass through the Gardens and past residential properties but it is unlikely that this would have a significant impact.

Given the town centre location the possibility of some additional audible noise from people using the area is not enough to recommend refusal on noise grounds.

- No objections to the development have been received from residents in Lownds Court, the closest residential dwellings to the appeal site.
- Objections have been received by the Council from properties in Queens Road but not on the grounds of the impact on residential amenity.
- The appellant has advised that if the Council do not pursue the element of the reason for refusal relating to the impact on the proposed restaurant development on the amenity of residents, CSC will not pursue a claim for costs in relation to this matter.

- The Council will have to be able to satisfy the Planning Inspector that there is persuasive evidence, not available to the Council when the earlier and larger application was refused, which justifies the addition of the words at issue in the ground of refusal. If the Council cannot substantiate that part of the reason for refusal on amenity grounds and should an Inspector concur with the appellants case an award of costs is likely.

**4. FINANCIAL IMPLICATIONS**

- 4.1 A successful claim for costs against the Council could be expected if the appellants succeed in their appeal against the refusal of permission. It is not possible to put a figure to the level of costs. An amount of £150,000 is held in the central contingency as a provision for any potential costs that may be incurred for any planning appeals.

**5. LEGAL IMPLICATIONS**

Addressed in the report

**6. PERSONNEL IMPLICATIONS**

None for purposes of this report.

<b>Non-Applicable Sections:</b>	Legal Implications, Personnel Implications
Background Documents: (Access via Contact Officer)	Letter from Nathaniel Lichfield and Partners dated 10 December 2012 and email dated January 30 <sup>th</sup> 2013



**Town Planning**

Civic Centre, Stockwell Close, Bromley BR1 3UH

Telephone: 020-8464 3333  
Direct Line:  
Email: [planning@bromley.gov.uk](mailto:planning@bromley.gov.uk)

Fax: 020-8313 0095  
Internet: [www.bromley.gov.uk](http://www.bromley.gov.uk)  
DX5727 Bromley

Tragus Holdings  
C/o Cliff Walsingham And Company  
FAO Natalie Strood  
Bourne House  
Cores End Road  
Bourne End  
Bucks, SL8 5AR

3 /10th May 2007  
Application No : DC/06/03751/FULL1  
Date : 25th May 2007

**TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995**

**NOTIFICATION OF GRANT OF PLANNING PERMISSION**

Take notice that the Council of the London Borough of Bromley, in exercise of its powers as local planning authority under the above Act, has **GRANTED** planning permission for the development, referred to in your application received on 17th October 2006.

at : Queens Gardens Kentish Way Bromley

Proposal: Enclosed and gated timber decked area to side of colonnade for use by customers of Abbaye wine bar/restaurant. Decking to contain tables chairs lighting and umbrellas

Subject to the following conditions **and for the reasons set out below:-**

1 The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.

Reason: Section 91, Town and Country Planning Act 1990.

2 Details of a scheme of lighting (including the appearance, siting and technical details of the orientation and screening of the lights and the means of construction and laying out of the cabling) shall be submitted to and approved in writing by or on behalf of the Local Planning Authority before any work is commenced, and the approved scheme shall be implemented before the development hereby permitted is first occupied. Thereafter the approved scheme shall be permanently maintained in an efficient working manner and no further lighting shall be installed on the site without the prior approval in writing by or on behalf of the Local Planning Authority.

Reason: In order to comply with Policy ER10 of the Unitary Development Plan and in the interest of amenity and public safety.

DC/06/03751/FULL1





## Town Planning

Civic Centre, Stockwell Close, Bromley BR1 3UH

Telephone: 020-8464 3333

Direct Line:

Email: [planning@bromley.gov.uk](mailto:planning@bromley.gov.uk)

Fax: 020-8313 0095

Internet: [www.bromley.gov.uk](http://www.bromley.gov.uk)

DX5727 Bromley

- 3 The premises shall be used as a restaurant and for no other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- Reason: In order to comply with Policy S9 of the Unitary Development Plan and in the interest of the amenities of nearby residential property.
- 4 Customers shall not be admitted to the premises before 10.00 hours Monday to Saturday and before 12.00 hours on Sunday, and all customers shall have left the premises by 22.00 hours Monday to Saturday and by 21.00 hours on Sunday.
- Reason: In order to comply with Policy S9 of the Unitary Development Plan and in the interest of the amenities of nearby residential properties.
- 5 Details of the materials to be used for the decking surface shall be submitted to and approved in writing by or on behalf of the Local Planning Authority before any work is commenced. The works shall be carried out in accordance with the approved details.
- Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area
- 6 Details of the method of construction shall be submitted to and approved in writing by or on behalf of the Local Planning Authority before any work is commenced and its development shall be carried out in accordance with the approved details.
- 6 Reason: To ensure the future wellbeing and health of the nearby cedar tree.
- 7 Details of the design and materials to be used for the railings/balustrade shall be submitted to and approved in writing by or on behalf of the Local Planning Authority before any work is commenced. The works shall be carried out in accordance with the approved details.
- Reason: In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area
- 8 The use hereby granted shall not encroach beyond the area shown on the submitted plans.
- 8 Reason: In order to accord with the terms of the application and to prevent any unauthorised use of this public open space.
- 9 There shall be no outside broadcasting of music or commentary on the premises.
- 9 Reason: In order to protect the amenities of the local residents.
- 10 Summary of reasons for granting planning permission

DC/06/03751/FULL1





## Town Planning

Civic Centre, Stockwell Close, Bromley BR1 3UH

Telephone: 020-8464 3333

Direct Line:

Email: [planning@bromley.gov.uk](mailto:planning@bromley.gov.uk)

Fax: 020-8313 0095

Internet: [www.bromley.gov.uk](http://www.bromley.gov.uk)

DX5727 Bromley


The decision to grant planning permission has been taken in accordance with the adopted London Borough of Bromley Unitary Development Plan including the policies set out below, and taking into account all other relevant material planning considerations:

### Informative

This is a summary of the main reasons for this decision as required by law. The application has been determined in accordance with the development plan insofar as it is relevant and taking into account all other material planning considerations, including all the representations received. For further details, please see the application report (if the case was reported to Committee), the Unitary Development Plan and associated documents or write to Chief Planner quoting the above application number.

- 10 Policies (UDP)
- BE1 Design of new development
  - BE6 Environment improvements
  - BE11 Conservation areas
  - BE14 Trees in conservation areas
  - G8 Urban Open Space
  - NE7 Development and trees
  - S9 Food and drink premises

Signed:

*Smart Macmillan*  


CHIEF PLANNER

On behalf of the London Borough of Bromley Council  
YOUR ATTENTION IS DRAWN TO THE NOTES OVERLEAF

DC/06/03751/FULL1



INVESTOR IN PEOPLE

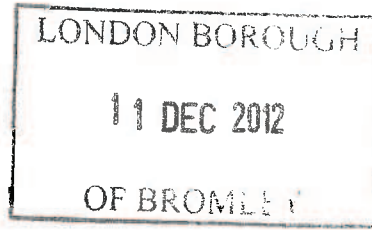
Director of Environmental Services, 40, South Street, London, SE1 1TA

This page is left intentionally blank





Bob McQuillan  
Development Control  
London Borough of Bromley  
Bromley Civic Centre  
Stockwell Close  
Bromley  
BR1 3HU



14 Regent's Wharf  
All Saints Street  
London N1 9RL

020 7837 4477  
london@nlpplanning.com

nlpplanning.com

Date 10 December 2012  
Our ref 10194/03/JF/PS/3325763v1  
Your ref

Dear Mr McQuillan

**Town and Country Planning Act 1990 (As amended) and Planning (Listed Buildings and Conservation Area) Act 1990 – Appeals against the London Borough of Bromley’s decision to refuse planning and listed building consent for development at Queen’s Garden, Bromley (reference DC/2012/01339/FULL1 and 01340/LBC)**

Our client, CSC Bromley Ltd (CSC), has today submitted two appeals against the London Borough of Bromley’s (LBB’s) decision to refuse planning permission and listed building consent for the above development at Queen’s Garden. We write in respect of one matter which we would like to bring to the Council’s attention.

The reason for refusal of planning permission cited on the planning decision notice, dated 2 July 2012 (ref. DC/2012/01339/FULL1), reads as follows:

*The proposal will be an over intensive development of the site, detrimental to the character and appearance of the Bromley Town Centre Conservation Area by reason of its size, site coverage, design, the loss of openness and public amenity to Queens Gardens, **and be detrimental to the amenities of residential properties in the vicinity of Queens Gardens, by reason of increased evening activity resulting in noise and disturbance**, contrary to Policies BE1 and BE11 of the Unitary Development Plan, Policy OSM of the Bromley Town Centre Area Action Plan and the Conservation Area Statement. (NLP emphasis)*

We note that the item in bold did not feature in the Council’s earlier decision to refuse planning permission for a similar development at the same site in February 2011 (reference DC/2011/03466/FULL1), despite the fact that this earlier proposal comprised a larger scale of development in terms of the number of restaurant units and quantum of proposed floorspace.

This particular matter was raised by a small number of local residents in the immediate vicinity of the site and by Members at Committee despite the fact that the Council’s Environmental Health Officer (EHO) did not object to the proposals, subject to conditions, and that there was a recommendation from Planning Officers to grant planning permission. The EHO’s comment on the



application was entirely consistent with guidance contained within the National Planning Policy Framework (NPPF) which states that planning decision should aim to avoid noise from giving rise to "significant adverse impacts" on health and quality of life as a result of new development and that the use of conditions should be used to mitigate other adverse impacts (para. 123).

We are also aware of the applications submitted in 2006 by Tragus Holdings in respect of an external restaurant seating proposal to the north-west corner of Queen's Garden to accommodate approximately 40 people at full capacity. This application was first refused by LBB in June 2006 in part due to the perceived "unacceptable increase in noise and disturbance harmful to the amenities of residents of these properties" (ref. DC/06/00916). This decision was subsequently dismissed in March 2007 following an appeal (ref. APP/G5108/A/06/0231438/NWF). The Inspector acknowledged in his decision that some noise was to be expected and that this would be acceptable given the public nature of the gardens and the town centre location of the site. Furthermore the Inspector noted that other forms of control are available to manage operational matters. The applicant submitted an application to LBB for the same development in October 2006 and given the appeal decision, this was subsequently approved in May 2007 (ref. DC/06/03751/FULL1) at committee.

It is also important to note that in the statutory development plan, a restaurant development along the edge of Queen's Garden is anticipated by Policy OSM of the Bromley Town Centre Area Action Plan (2010) in an area closer to adjacent residential occupiers than proposed by CSC.

It should also be remembered that CSC envisage A3 use rather than A4 (Drinking Establishments) or A5 (Hot Food Takeaway) outlets that occupy other parts of the town centre. As you will be aware to be classified as an A3 use the primary purpose must be the sale and consumption of food and drink on the premises.

The Local Planning Authority is required to have evidence to substantiate each reason for refusal with reference to the statutory development plan and other material considerations and the introduction of fresh and substantial evidence at appeal can constitute unreasonable behaviour (Circular 03/2009). Given the nature of the proposed development, the development plan allocation for restaurant development at Queen's Garden (Policy OSM) and the proposed conditions and no objection from the Environmental Health Officer, it is our firm view that the Council's reason for refusal of the application on these amenity grounds cannot be reasonably upheld and evidenced at appeal. It is beneficial (and recommended by the Government and PINS) to focus on the material differences between the main parties thereby reducing the time and costs associated with the appeal. Having regard to this and the advice contained within Circular 03/2009 please can the Council confirm whether it intends to defend this particular aspect of the reason for refusal?

Yours sincerely

**Pauline Stocker**

Associate Director

Copy

Karen Bradshaw  
Brett Harbutt  
Barry Jeeps

London Borough of Bromley  
Capital Shopping Centres  
Stephenson Harwood LLP



# Appeal Decision

Site visit made on 7 March 2007

by **Rodney Baker** BSc MA MRICS MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: enquiries@planning-  
inspectorate.gsi.gov.uk

Date: 19 March 2007

**Appeal Ref: APP/G5180/A/06/2031438/NWF**

**Land adjacent to Abbaye, Queens Gardens, Kentish Way, Lownds Avenue, Bromley, BR1 1NG**

- 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 Tragus Holdings against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/06/00916/FULL1, dated 13 March 2006, was refused by notice dated 16 June 2006.
- The development proposed is installation of decking with umbrellas, lighting and fencing and use of the land for the placing of tables and chairs.

**Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.**

## Main Issues

1. The main issues are the impact on the living conditions of the occupiers of flats near the site and the effect on the character of Queens Gardens which is in Bromley Town Centre Conservation Area.

## Planning Policy

2. The Bromley Unitary Development Plan (UDP) was approved in July 2006. It forms part of the development plan for the area. The UDP includes a number of policies relating to conservation areas, landscape and the amenities of residents. Supplementary Planning Guidance has been published on Bromley Town Centre Conservation Area. The Bromley Town Centre Action Area Plan has been referred to, but I am not aware of the status of this document.

## Reasons

### *Noise and disturbance*

3. Abbaye is a public house/restaurant on the ground floor of The Glades shopping centre, it faces onto a walkway or colonnade which in turn gives onto Queens Gardens, a large open space with several imposing mature trees and grassed areas. Above the colonnade are flats which have windows and balconies which overlook Queens Gardens.
4. The appeal site is about 8.8m x 7m. It is within Queens Gardens adjacent to 2 bays of the colonnade. Part of the colonnade is used as a seating area for Abbaye and people were

having lunch there when I visited the site. The colonnade is also used as a pedestrian access to The Glades. Two windows in the flats would be directly above the eastern half of the appeal site at second and third floor level. There are windows at first, second and third floor levels just to the east of the site.

5. The intention is to have about 11 tables probably with umbrellas and heaters and the hours of operation sought are 10:00 - 22:00 Mondays to Saturdays and 12:00 - 21:00 on Sundays. The gardens are part of an alcohol exclusion area, but the appeal site could be taken out of that area if it were licensed for alcohol consumption.
6. The tables currently used in association with Abbaye are beneath the covered way so that any noise from there is muffled. The appeal site could accommodate as many as about 40 people if all the tables were occupied. There is likely to be noise from people talking and making merry, as well as noise associated with the delivery of food and the setting and clearing of tables. This noise would be somewhat attenuated by the umbrellas and by the distance of the tables from the windows, the nearest of which would be about 5-6 m.
7. The site is likely to be most busy in the summer months when the windows in the flats are most likely to be open. This may increase the likelihood of nuisance to the occupiers. However, the disturbance would be limited by the proposed opening hours.
8. The park is a public space and is a busy route between car parks, the Council offices and The Glades, so occasional noise is to be expected. The park is used for occasional music events and permission was granted for a temporary ice rink. The appellant states that there have been no complaints about the use of the colonnade for eating and drinking.
9. Furthermore, there are other forms of control over rowdy behaviour and it would not be in the interests of the operators to allow people to drink, on-site, beverages not bought at Abbaye. Nor would it be in their interests to allow the local residents to be disturbed. I think it likely that the Council as landlord would retain some control over the operations.
10. In these circumstances, I consider that there is a risk that there would be disturbance to residents, but that the risk may be acceptable due to the town centre location of the site.

#### *Conservation Issues*

11. Residents have objected to the loss of public open space in an area which was bequeathed to the public by the Lord of the Manor. Arrangements for the use of the space would be a matter for the Council who are the owners. To my mind, acceptable recreational use of open space can include eating and drinking. The Bromley Town Centre Action Area Plan includes policies for the increased attractiveness and vitality of the centre. Such a policy would be in tune with the advice in Government policy on Town Centres, including that which seeks to maintain lively and attractive centres in the evenings<sup>1</sup>. The gardens are busy and the proposed use is likely to add to their attractiveness to the general public. Even those who did not use the premises may find a well run café/restaurant added to the interest of the area.
12. The Gardens are a well-used part of the conservation area, but also serve as a quiet refuge in an otherwise busy area. Nevertheless, the use would occupy only a small corner of the open

---

<sup>1</sup> Planning Policy Statement 6 – Planning and Town Centres

space near the shops; a great deal of space would remain for other forms of relaxation and enjoyment. Consequently, I consider the scheme to be in accordance with conservation and open space policies and with the SPG on the conservation area. The proposals have the potential to enhance the character of this part of the conservation in accordance with Policy BE11. It also complies with Policy G8 on urban open space, as the use is related to the existing use and it is very small in scale.

#### **Conditions**

13. Although there are risks to the living conditions of the occupiers of the flats, the scheme has advantages for the town centre and for the conservation area. In these circumstances it is appropriate to examine whether a temporary permission would be acceptable as a trial run for the operation.
14. The Council officers have suggested a period of 3 years. The appellants would prefer not to be subject to a temporary permission, but if one were imposed it should not be shorter than 6 years, as this would allow the capital costs of about £90,000 to be written off. To my mind, 6 years is a long time for which to grant a temporary permission for a trial period. However, having regard to the benefits of the scheme to the Town Centre, I consider that in this case it would be appropriate. In my view such permission would respect the amenity provisions of Policy BE1 of the UDP.
15. I do not consider that a personal permission would meet the advice in Circular 11/95. Details of lighting would be necessary to minimise the effect of lighting on the neighbours. Details and samples of all materials would be necessary to ensure that the design fitted in with the conservation area. A condition limiting the use to the area applied for is unnecessary as enforcement action could be taken against encroachment into the gardens. A condition preventing the use of loudspeaker equipment is necessary to reduce the potential for disturbance.

#### **Other Matters and Conclusions**

16. I have considered the comments made regarding the tree. Most of the branches are on the side away from the proposed seating area. A temporary permission would enable the effect on the tree to be monitored. A condition requiring a method statement would be necessary to ensure that rain water reached the roots and that the piling system used did not interfere unnecessarily with the root system. To my mind, the railings proposed would not be out of keeping with the conservation area.
17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

#### **Formal Decision**

18. I allow the appeal, and grant planning permission for installation of decking with umbrellas, lighting and fencing and use of the land for the placing of tables and chairs on land adjacent to Abbaye, Queens Gardens, Kentish Way, Lownds Avenue, Bromley, BR1 1NG in accordance with the terms of the application, Ref DC/06/00916/FULL1, dated 13 March 2006, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
- 2) No customer shall be permitted to be within the application site and all lighting shall be extinguished outside the following times: 10:00hrs - 22:00hrs Mondays to Saturdays, 12:00hrs – 21:00hrs on Sundays.
- 3) No development shall take place until details and samples of the materials to be used in the construction have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No amplified or other music or other form of broadcasting shall be played within the application site.
- 5) The structure hereby permitted shall be removed and the use hereby permitted shall be discontinued on or before the date 6 years from the commencement of the use. On or before that date, the land shall be restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority. The appellants shall inform the Local Planning Authority of the date of commencement within one week of commencement of the use.
- 6) Before the development hereby permitted commences, details of a scheme of lighting shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved scheme.
- 7) Before the development hereby permitted commences, a detailed method statement of the construction of the decking and protection of trees and tree roots shall be submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved scheme.

*RH Baker*