



THE LONDON BOROUGH  
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DATE: 30 September 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, Charles Joel, Mrs Anne Manning, Russell Mellor, Tom Papworth  
and Richard Scoates

A meeting of the Development Control Committee will be held at Bromley Civic  
Centre on **TUESDAY 8 OCTOBER 2013 AT 7.30 PM**

MARK BOWEN  
Director of Corporate Services

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 12 SEPTEMBER 2013 (Pages 1-14)**

**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 Wednesday 2 October 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	(13/02451/OUT) - 1 Westmoreland Road, Bromley	15-38	Bromley Town

**6 CHANGE OF USE FROM OFFICES TO RESIDENTIAL IN PARTS OF BROMLEY TOWN CENTRE - PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION**  
(Pages 39-46)

**7 LOCAL LIST OF VALIDATION REQUIREMENTS FOR PLANNING APPLICATIONS** (Pages 47-50)

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## DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 7.30 pm on 12 September 2013

### Present:

Councillor Peter Dean (Chairman)  
Councillor Alexa Michael (Vice-Chairman)  
Councillors Graham Arthur, Douglas Auld, Nicholas Bennett J.P.,  
Eric Bosshard, Katy Boughey, Lydia Buttinger, Simon Fawthrop,  
Peter Fookes, John Ince, Russell Jackson, Charles Joel,  
Mrs Anne Manning, Tom Papworth and Richard Scoates

### Also Present:

Councillors David Hastings

### 12 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

An apology for absence was received from Councillor Nicky Dykes. An apology for absence was also received from Councillor Russell Mellor and Councillor Nicholas Bennett JP attended as substitute.

### 13 DECLARATIONS OF INTEREST

Councillor Mrs Manning declared a personal interest in Item 9 as her son was a Planning Director at G L Hearn.

Prior to this meeting, an Urgency Committee was convened to consider a dispensation request from Councillor Jackson to permit him to address Members on the planning application relating to Item 5.2 - 49 Shortlands Road in which he had a prejudicial interest as the owner of a neighbouring property. An unconditional dispensation was granted and Councillor Jackson spoke as a member of the public but did not take part in the discussion or vote. The speaker in support of the application had no objection to this.

As Councillor Buttinger also had a prejudicial interest in Item 5.2, the Urgency Committee resolved that she could remain in the meeting but should refrain from taking part in the discussion or vote.

Cllr Nicholas Bennett declared a personal interest in Item 5.1 as he was a member of the Bromley Conservative Club who were tenants of the building. Cllr Bennett said that the Club had sold the building some three years ago and remained there on a peppercorn rent for up to 5 years. The Club would have no financial benefit in any development or otherwise. The Chairman asked whether the applicant or the objectors had any objection to Cllr Bennett remaining and taking part in the proceedings. Both parties indicated that they had no objection.

**14 CONFIRMATION OF THE MINUTES OF THE MEETING HELD  
ON 20 JUNE 2013**

**RESOLVED that the Minutes of the meeting held on 20 June 2012 be confirmed and signed as a true record.**

**15 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE  
MEETING**

The following oral question was received from Mr Tony Banfield on behalf of The Friends of Bromley Town Parks and Gardens and Bromley Civic Society:-

“In the absence of a mention in tonight’s report, are Members clear that in respect of the Italian Garden, the Town Green Inspector found that three out of the four statutory criteria were fulfilled and that the question mark over the 20 year use up to the time of the application has in real terms been well overtaken by the present date. Would Members therefore consider registering the Garden or deferring the matter for a more informative report before reaching a decision?”

The Chairman responded as follows:-

“The Inspector, in his preliminary remarks at the Inquiry, made it clear to all parties that it would be very hard for the Council to reject the recommendations of the Inspector when his report was submitted. He considered all of the evidence. It is a core requirement that the 20 year use at the time of the application is established. He found that this was not the case, as explained in the very detailed report. Indeed, a few days before the Inquiry commenced, you considered whether you should withdraw the application as you had become aware of evidence which suggested that the 20 years use could not be proved.

Whilst the Inspector found that the application fell at this hurdle, he did, for completeness give his conclusions in relation to the other criteria which fell to be considered in the event that the 20 year use had been satisfied. It is not as clear as you assert, that the application would clearly have succeeded if the 20 years had been satisfied. In paragraph 211 of the report, the Inspector states that *“Should the fate of this application have depended on it, I would have advised that future representations have been sought on the as of right issue in relation to the Italian Garden”*. He goes on to say that *“Happily nothing turns on any of this in the instant matter as the application must fail in any event for the reasons explained above”*.

The application falls to be determined in respect of information at the date of the application. If Members were minded to overturn the recommendation in the report, they would require to have a sustainable reason to do so.”

In a supplementary statement Mr Banfield requested that Members consider the officer's report which suggested there was an option to decline the recommendations of Mr Paul Wilmshurst. The Chairman responded that Members would fully consider the matter during discussion of Item 7 and would come to a decision at that time.

## 16 PLANNING REPORTS

Members considered the following planning application:-

Item No.	Ward	Description of Application
16.1 (page 9)	Bromley Town	(13/01202/FULL1) - 25 Elmfield Road, Bromley: Demolition of existing building at 25-27 Elmfield Road and erection of 16 storey mixed use building to comprise 2 commercial/retail units at ground level (Class A1/A2/A3/B1) and office accommodation (Class B1) at the first floor level with 82 residential units on upper floors (32 one bedroom, 46 two bedroom and 4 three bedroom flats). Associated part basement/part surface car parking (including 2 on-street car club spaces in Palace View), cycle and refuse stores and landscaping.

Oral representations from Mr Will Edmonds, agent in support of the application made the following comments:-

- The residential led mixed use scheme was the result of over two years engagement and extensive consultation with Councillors, officers and the local community, including three exhibitions. The feedback received resulted in very significant changes to the scheme.
- The grounds for refusal set out in the report were misleading for the following reasons:-
  - The development was wholly compliant with policy that simply required no net loss of office space in new developments. This development would double office space on site.
  - As required by officers, the scheme incorporated 14 affordable housing units - the maximum viable number. A commuted sum of circa £1.2 million would prove more beneficial to the Borough as a whole and could be renegotiated if necessary.
  - In terms of height, as a matter of principle officers accepted that a tall building in this location would not be contrary to policy. By definition

therefore, it must be accepted that new development can give rise to noticeable change in the townscape and skyline.

The scheme would not harm heritage assets, amenity or open space and the building would not be visible from the High Street. It would only have a material impact from three locations. From Kentish Way and Masons Hill, the proposed building would be of a scale expected in a town centre location.

Views to the town centre from the Palace Estate already encaptured the Kentish Way flyover and existing buildings in Elmfield Road which were of a scale taller than the prevailing heights found in residential areas. Against the existing townscape, any harm would, at its worst, be minimal and should be assessed against the significant planning benefits that would arise from the scheme.

- There was no technical justification to refuse the scheme on the grounds of overdevelopment and loss of amenity. If the scheme was considered acceptable in townscape terms, it was incumbent on new developments to make effective use of previously developed land, particularly in highly accessible locations such as this.
- The scheme had undergone design changes including reorientation of balconies and narrowing of windows specifically to address local residents' concerns in regard to overlooking.

Approving the scheme would not in any way set a precedent. The circumstances of the application were unique and could not be replicated on other sites within the Business Improvement Area.

In response to Member questions, Mr Edmonds confirmed that negotiations with several housing providers had taken place for the provision of shared ownership units. With regard to the provision of just 52 car parking spaces for 82 dwellings, Mr Edmonds commented that the location could not be more accessible as there was excellent public transport facilities in the area and options to establish a car club were being investigated. Councillor Fawthrop suggested that the issues concerning parking needed to be addressed.

Mr Edmonds stated that only a maximum of 14 affordable housing units could be provided due to viability reasons and confirmation from officers was currently awaited on this. When the original application was submitted, a commuted sum had been offered towards providing units elsewhere within the Borough.

Oral representations in objection to the application were received from Mr John Harvey, Chairman of the Palace Estate Residents Association. Mr Harvey made the following points:-

1. The substantial public response to the proposals showed an overwhelming opposition by residents to the plans.

2. The proposed development was adjacent to one side of the Palace Estate which comprised solely of low rise two storey houses with gardens and in particular, was next to and would tower above and overlook Rafford Way and Palace View.
3. Information from experts in the Planning Department and elsewhere provided many technical and regulatory reasons why the proposal did not comply with agreed plans for the area.
4. Residents' principal objection was that, at sixteen storeys high, the building would be far too dominant in its location which would be immediately adjacent to the low rise houses on the Palace Estate and would cause a major infringement of privacy for those residents.
5. The situation would be particularly aggravated by the residential nature of the proposals because unlike office properties, residents of the block would be at home at the same time as residents of adjacent houses and properties would be fully overlooked from the flats and in particular, from the balconies.
6. There were many areas within the Borough where flats were predominant and satisfactorily grouped together however, the heights of those developments were kept within reasonable bounds and were not in locations where low rise properties were seriously affected.
7. There were precedents for other developments where firm guidelines had indicated that the height of the buildings should be "tapered" so as not to affect the amenity of adjacent low rise properties.

In conclusion, Mr Harvey commented that although Palace Estate residents accepted the site would be developed, it should be on the basis that it was as an appropriate, acceptable and desirable improvement to the current outdated buildings. The proposed development would be far too high and dominant for the location and too close to the low rise houses.

Oral representations from Ward Member Councillor David Hastings were received. Also speaking on behalf of fellow Ward Members, Councillor Hastings objected to the application for the following reasons:-

- The proposal would be an overdevelopment of the site which would undermine quality of life for the following reasons:-
  - The development contradicted the vision of the Town Centre Business Area and Bromley Town Centre's Area Action Plan (BTCAAP). The character of the area should be retained.

- The site was in an ideal position for premium office space and the proposal would have an impact on the ability to provide employment opportunities in the area.
- The height and bulk of the development would be overdominant resulting in harm to the appearance and character of the area.
- There would be a detrimental impact on residential properties in the vicinity.
- The number of affordable housing units offered did not accord with Bromley's housing targets.
- There was a distinct lack of parking provision.

Councillor Hastings concluded by saying that the proposal would result in a negative impact on the surrounding area and on business office space. There was demand for Grade A space and the BTCAAP stated the need to work towards the provision of a thriving and vibrant town centre.

Councillor Buttinger was fully supportive of development on the site where a mix of low level and high rise buildings would be appropriate. However, this proposal was of poor design and would result in an overdevelopment of the site. Insufficient consideration had been given to the impact on local residents and the applicant should reconsider the design of the building and provide adequate car parking facilities.

Councillor Michael stated that any development at the site would need to be appropriate for Bromley Town Centre. This proposal was excessive in height, of poor design and out of keeping with the surrounding area. There were issues concerning the lack of affordable housing and car parking space and the development may be more acceptable if the height of the building was reduced by three or four storeys. Councillor Michael moved that the application be refused for the reasons set out in the report.

Councillor Ince agreed with the comments made by other Councillors and stated that if the building were to be reduced by several storeys, then the number of affordable housing units offered (which fell below Bromley's target of 35%), may become acceptable. Councillor Ince seconded the motion for refusal.

The Chief Planner reported that, taking account of the updates received since the writing of the report, including the advice of the Council's advisor on affordable housing viability, there were no changes to the recommendation. He also confirmed that the site was located within the Town Centre Area Action Plan.

The Chairman agreed that this was a developable site, a key part of Bromley Town Centre and should be considered as if it was an Area Action Plan



application. Issues relating to affordable housing could be resolved through negotiation. In the present economic climate, office space was difficult to rent out. Every building must contribute to the visual character of the area by virtue of its architectural design and should be impressive. The reasons for refusing this application were justified however, the first reason for refusal should be amended to include more emphasis on the architectural design of the building.

Councillor Bennett believed that granting the application as it stood would set a precedent on height within the area along Kentish Way.

Councillor Fawthrop stated that the issues around provision of office space should be examined as demand had changed over time e.g. many people now worked from home.

Councillor Joel supported and encouraged mixed developments. People living in the proposed units would probably understand there was little car parking provision and would use public transport. The applicant could look to reduce the height of the building and the provision of shared affordable housing should be looked into as during oral representations it was noted that the applicant was waiting for guidance from officers which showed a willingness to progress. The Council should give developers an opportunity to help make Bromley a better place to live.

Councillor Arthur liked the idea of mixed development and commented on the need to accept that it must be viable and market-led. There was a good deal about the application to commend and he suggested that negotiations should continue.

Councillors Auld and Boughey had attended a presentation given by the applicant and had concluded that whilst some issues needed to be addressed, overall they were satisfied that the proposal was acceptable.

**Following a vote of 10-5 Members RESOLVED that the application be REFUSED for the reasons set out in the report with condition 1 amended to read:-**

**'1 The proposed development would, by reason of its height, scale, siting and design which would not be of the outstanding architectural quality required by the development plan, appear as an unduly prominent and overbearing addition to the town centre skyline, out of character with the scale, form and proportion of adjacent development, giving rise to an unacceptable degree of harm to the character and appearance of the area including the adjacent Palace Estate, contrary to Policies BE1 and BE17 of the Unitary Development Plan, Policy BTC19 of the Bromley Town Centre Area Action Plan and London Plan Policy 7.7.'**

Members considered the following planning application:-

Item No.	Ward	Description of Application
16.2 (page 33)	Shortlands	(13/01598/FULL1) - 49 Shortlands Road, Shortlands, Bromley: Single storey side/rear extension and conversion of lower ground floor flat to provide 1 two bedroom and 1 one bedroom flats.

This application was previously considered by Members of the Plans 1 Sub-Committee on 8 August 2013. As a decision could not be reached, Members resolved that the application be deferred and submitted for consideration by Members of the Development Control Committee.

As stated in the declarations previously given, Councillor Jackson was granted unconditional dispensation to speak as a member of the public. As the owner of No. 51 on the first floor of the building, Councillor Jackson made the following representations in objection to the application:-

- There was an existing extant permission to convert the building into four flats and by the intensification of side and rear extensions, this application sought to increase the number of flats to five.
- The addition of a fifth flat would push the scale of the building a bit too far resulting in limited parking at the front and outside.
- As the site was located within Shortlands Conservation Area, unique and special standards needed to be upheld. The current proposal would be out of keeping with the character of the area.
- The application included the erection of a 1.8m fence which would change the spatial standards and amenity space of the communal back garden. If the application were to be granted, a condition should be included to retain the openness of the area.

In conclusion, Councillor Jackson requested that the application be refused on the grounds of impact on the Conservation Area and overintensification of the site.

Oral representations in support of the application were received from Mr Mehta, Agent for the applicant. Mr Mehta submitted the following comments:-

- The proposal was for the addition of a new residential flat at ground floor level including a low-level single storey side and rear extension. The ground floor would consist of 2 residential flats, comprising 1 and 2 bedrooms, with access to the large garden. Both flats would be dual aspect and generous in size with modest extensions.

- No objections were received from local residents. The initial application for a similar but larger proposal had been refused earlier in the year and no objections had been made at that time.
- Having taken on board Councillors' thoughts and comments during the previous Committee meeting, the design team had reviewed the proposal to try and enhance the scheme further. In particular, altering the design of the roof on the single-storey side extension. Having reviewed the proposal and the Council's policies on side extensions, it appeared that the proposal met with the requirements expected by the Council. Furthermore, the proposal was subordinate and subservient to the host property and it was considered to be of an acceptable standard.
- There would be provision for one car parking space per housing unit.
- With regard to tree works, there were no Tree Preservation Orders in existence.

In response to a Member question, Mr Mehta confirmed that a 3m wide path at the side of the building was available for people to access the rear of the property. Issues regarding ventilation to the existing flats had been investigated and considered to be acceptable.

The Chief Planner informed Members that should the application be granted, withdrawal of permitted development rights for the erection of a fence could be incorporated into the conditions. The inclusion of a slab level condition was also suggested.

Having recommended deferral at the previous Committee meeting because the side extension was set back and looked odd when viewed from the front, Councillor Mrs Manning now concluded that nothing further could be done to improve the side extension. Councillor Mrs Manning therefore moved that the application be granted as recommended with the addition of slab level and access conditions.

Although Councillor Michael was concerned that the side extension would imbalance the area, she was not convinced refusal of the application would stand at appeal. For this reason, Councillor Michael agreed that permission should be given as recommended with additional conditions.

Councillor Fawthrop moved refusal of the application on the grounds that the proposal was detrimental to the Conservation Area and overintensive.

Councillor Bennett believed the application would take away the character of the area and he therefore supported refusal.

**RESOLVED** that the application be granted as recommended subject to the conditions set out in the report with the addition of a further three conditions to read:-

**‘13. Details of the proposed slab levels of the building(s) and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.**

**REASON:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

**14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, revoking and re-enacting this Order) no walls or fences shall be erected within the rear garden of the property to be converted into flats without the prior approval in writing of the Local Planning Authority.**

**REASON:** In order to comply with Policy H7 of the Unitary Development Plan and in the interest of visual amenities of the area.

**15. The rear garden of the property shall not be subdivided into separate amenity areas for the flats.**

**REASON:** In order to comply with Policy H7 of the Unitary Development Plan and in the interest of the visual amenities of the area.’

**17            SALE OF LAND IN PLOTS OFF KEMNAL ROAD,  
                  CHISLEHURST - PROPOSED ARTICLE 4 DIRECTION**

**Report DRR 13/108**

Members considered a request to endorse the making of an Article 4 Direction to remove specific forms of permitted development in regard to plots of Green Belt land offered for sale via the internet. The land, situated within a Conservation Area just off Kemnal Road, Chislehurst, was regarded as a site of importance for nature conservation. In order to prevent the erosion of the amenity of the area and to protect the appearance and character of the countryside, it was deemed necessary to seek an Article 4 Direction.

Councillor Bosshard emphasised the need to preserve Green Belt land and moved that the Article 4 Direction should be approved. Councillor Boughey seconded the motion.

Concerns were raised in regard to the length of time it would take for the Direction to come into force (12 months). The option to issue the Direction with immediate effect was discussed. However, Members were informed that an Immediate Direction carried the risk that claims for substantial compensation would be sought against the Council. The Chief Planner advised that a Non-Immediate Direction was proposed in the report and recommended a Non-Immediate Direction as this minimised the risk of compensation being payable. In any event, should it prove necessary, an

Immediate Direction could be issued at a later date. The Chief Planner tabled a slightly revised plan of the area.

Councillor Fawthrop urged the Council to be proactive in its protection of the Green Belt and moved an amendment to the recommendation for the Article 4 Direction to be issued with immediate effect. This was seconded by Councillor Buttinger.

**Following a vote of 11-5, Members RESOLVED that the making of an Article 4 Direction be endorsed.**

**Following a further vote, Members RESOLVED that the Portfolio Holder for Renewal and Recreation be requested to authorise the making of the Article 4 Direction to be issued with immediate effect.**

**18 ITALIAN GARDENS AND GLADES TERRACE APPLICATION  
FOR REGISTRATION AS A TOWN OR VILLAGE GREEN.**

**Report RES 13150**

Members considered an application to register land comprising The Italian Garden and Glades Terrace, Kentish Way, Bromley as a Town Green. A Public Inquiry to consider the application and to hear objections, was held in May 2013 by Mr Paul Wilmshurst, a barrister with expertise in this area. In July 2013, the Council received Mr Wilmshurst's report containing his summary recommendations.

The Chairman reported that the Council had fulfilled its statutory obligations in holding a Public Inquiry. He agreed with the findings in Mr Wilmshurst's report and moved that the report be accepted and the application be declined. Councillor Auld seconded the motion.

**Following a vote of 13-2, Members RESOLVED that:-**

- 1) The report prepared by Mr Paul Wilmshurst on the application to register the land comprising The Italian Garden and Glades Terrace, Kentish Way, Bromley as a Town or Village Green be accepted; and**
- 2) The application to register the land in whole or in part be declined for the reasons set out in Mr Paul Wilmshurst's report dated 31 July 2013.**

**19 PLANNING SERVICE IMPROVEMENTS AND PROGRESS WITH  
ACTION TO MINIMISE PLANNING APPEAL COSTS**

**Report DRR 13/015**

In January 2013, Members endorsed a revised Outline Planning Improvement Plan as a framework for improvement. Customer Service and Planning Enforcement were identified as priority areas. This report contained updates

on the progress achieved so far and Members considered proposals to support economic growth. An updated version of the Improvement Plan was also attached.

At the DCC meeting held in June 2013, it was agreed that a Panel Group be formed to assist with the preparation of an action plan to minimise future planning appeal costs awarded against the Council. Members received an update on the progress achieved so far; they were also requested to endorse informal Guidelines for Members sitting on Planning Committees.

The Chief Planner reported an improvement in customer service had been achieved and difficulties experienced in contacting officers had eased with the introduction of a new 'hunt' telephone system. To ensure the continuance of efficiency, it would be necessary to employ two additional members of staff.

Councillor Michael stated that one-third of people who responded to the customer satisfaction survey were dissatisfied with the ease of contacting the service however, once they had done so, 85% of people were satisfied with the service they received. Councillor Michael agreed that temporary staff should be employed to alleviate difficulties.

It was noted that whilst the processing of major applications had improved, the performance of minor applications had not achieved the 65% target.

Councillor Bosshard suggested that Penge and Anerley be included as an economic growth area. The Chairman confirmed that he too had recommended the inclusion of several other areas in the Borough.

Having noted that Bromley undertook far more enforcement action than Sevenoaks or Tandridge (Appendix 1, page 55), Councillor Michael stated it would be useful to compare the number of staff in each Council Enforcement Team to see if Bromley carried out more work with less staff. The Chief Planner reported that as an average, Bromley employed 4.5 members of staff compared to 5.5 members of staff elsewhere.

The Chairman advised that meetings of the Enforcement Member Working Party would take place every two months. At the previous meeting, several cases had been individually studied and an informal guidance setting out proposed methods of good practice for Members had been produced. Various concerns were raised with the content of the guidance and it was agreed that the document be withdrawn, reviewed and amended, to incorporate Member comments and suggestions.

**RESOLVED that:-**

- 1) the Planning Service improvements be noted;**
- 2) the next priorities set out in the report be endorsed; and**

- 3) **the informal Guidelines for Committee Members set out in Appendix 3 of the report, be withdrawn, reviewed and amended to incorporate Member comments and suggestions.**

## **20 LOCAL DEVELOPMENT SCHEME VERSION 5 2013-2015**

### **Report DRR 13/103**

Members considered an updated version of the Local Development Scheme (LDS), the project management document for the production of the Local Plan for the Borough. The latest version reflected the move to preparing a Local Plan rather than the Local Development Framework in line with the Government's Planning Reforms and National Planning Policy Framework (2012) and the changes in resources.

The Chairman commented that this was a very clear, straightforward, easy-to-follow document - one of the best reports he had read relating to the Local Plan.

Councillor Bosshard thought the timing for the production of the scheduled preparation time for the draft CIL charges appeared to be rather late and suggested bringing this forward by 3-6 months. He was informed that CIL regulations had changed and with further changes planned for the autumn, the timescale would be brought forward if possible. Councillor Arthur commented that considerable income could be obtained with the introduction of a CIL and suggested that a variable levy be imposed to enable individual control of residential, retail and business areas.

Members were advised that the South London Partnership had undertaken research with regard to the Mayoral CIL however, this was inconclusive on the impact of CIL within boroughs.

**RESOLVED that the revised Local Development Scheme for 2013/15 as the formal management document for the production of the Bromley Local Plan, be recommended to the Executive as acceptable.**

### **Any Other Business**

Councillor Mrs Manning attended an Urban Design London conference relating to housing standards and had brought back a copy of the London Housing SPG which she thought Members may find of interest.

The meeting ended at 9.35 pm

Chairman

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# Agenda Item 5.1

**Application No :** 13/02451/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 part 3/part 11 storey building comprising 1518 sqm Class B1 office floorspace and 71 residential units (25x1 bed; 30x2 bed; 16x3 bed flats), 47 car parking spaces and associated landscaping, servicing and cycle parking OUTLINE

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
Bromley Town Centre Area  
Local Cycle Network  
Flood Zone 2  
Flood Zone 3  
London City Airport Safeguarding  
London City Airport Safeguarding Birds  
London Distributor Roads  
Open Space Deficiency  
River Centre Line

## **Proposal**

Outline planning permission is sought for the demolition of all buildings on the site and erection of a part 3/part 11 storey building with a mix of office and residential uses. It is proposed to provide 1517 sqm of office floorspace on the 3 floor levels of `the 'podium' fronting Masons Hill, wrapping around part of the lower 3 floors facing Westmoreland Road.

A total of 71 residential units will be provided on the ground floor fronting Westmorland Road and Sandford Road and across all of the upper floors of the 11 storey structure.

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 minimum and maximum range for the height, length and depth of each part of the building.

Should permission be granted detailed drawings will be submitted for consideration in the future based within this range of dimensions.

Members will recall that planning permission was refused for the 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 under ref 12/02385/OUT for the following reasons:

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.

The current application seeks to address concerns raised in the previous application.

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 3 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 height of the 'podium' has been reduced from a maximum height of 13m to a maximum height of 11.25m (to the top of the roof) in order to improve the views to the Keston Ridge from the High Street for this part of the development.

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, and offices with the entrance to Masons Hill.

#### 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 12-13.98m). The plans state that no part of the building, at this most southerly point, will project any further to the rear (closest to properties in Pinewood Road) or be higher 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 2 residential units at the lowest level, with the remaining 69 residential units on the upper 10 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 will incorporate balconies to provide amenity space for the flats and a communal roof garden above the 3 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 Affordable Housing Viability Submission, Flood Risk Assessment, Noise Assessment, Transport Assessment, Interim Travel Plan, 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 building, with 4450 sqm of office floorspace, which has been vacant for several years.

- 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 have been received which are summarised below. Comments have also been received from Hayes Village Association, Bromley Green Party, Bromley Friends of the Earth and Bromley Christian Centre

- Additional residential units on top of 200 at Bromley South Central - burden on local amenities (health and schools). Need more social projects
- Significant visual impact of tall building - will be out of keeping with local character, dominate the locality, excessive height and bulk. Impact of whole building on Keston Ridge is unacceptable. 'Tower' element should be reduced now that hotel development has been removed.
- Height of building should be reduced as proposed height will have an adverse impact on protected views of Keston Ridge.
- Previous concerns about 9 storeys and now 11
- Can't compare the impact of this building with RBS - that is further away from residential properties
- Impact of tall building on residential amenity of nearby residents - loss of privacy, overlooking to private garden space, loss of daylight and sunlight, loss of prospect, imposing as it is too close to the rear of these properties, increased noise from the new occupants. There has been no appreciable difference offered by this scheme.
- Also overshadow St Marks Church and St Marks Old School. Revised materials are an improvement but height and form of 'tower' block is incompatible with listed and locally listed buildings
- Inadequate car parking provision on site and potential impact on nearby streets
- Impact on highway network, adding cars to a busy junction
- Impact of culvert means limited space at ground level so the building is forced to go higher to make scheme viable
- Why are there 71 residential units when the AAP only requires 40
- The applicant previously put a case against offices but is now proposing offices- will offices be left vacant if they can't be filled
- Wind tunnel effect from 2 tall buildings opposite each other
- Lack of site notice

- There should be an integrated development with the site occupied by Bromley Christian Centre. If not legal steps should be taken to secure access across the application site for the future redevelopment of the BCC site. Overlooking of site and especially outside youth activities by future residents. Loss of outdoor playspace for The Ark Pre-School during construction due to noise and dust - this could affect enrolment and the Council requirement to provide a pre-school on the site. Concern that future occupants of the flats may complain about noise generated by the numerous BCC activities which will lead to conflict.

Several letters welcome the provision of office and residential uses and the removal of the hotel use on the site

### **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 47 car parking spaces is proposed for the office and residential units. Vehicular access will be via Sandford Road utilising the existing access point. The proposed level of parking is 0.65 spaces per unit. 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.

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.

A total of 96 cycle parking spaces will be provided, with 12 of these for the office development. The total number of spaces is acceptable but more of the spaces should be provided for residents.

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 raises no objection and recommend conditions relating 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 is supported in London Plan terms.
- Housing - the applicant's submission will need to be checked to confirm affordable housing and playspace provision.
- Design - careful consideration of overall design, massing and layout is required. Some concern about number of single aspect rooms.
- Inclusive access - some concern regarding safe access to entrance points are raised
- Tall buildings - the GLA recommend the impact of the building should be assessed locally when reaching a decision
- Flooding - application should follow the drainage hierarchy and policies in the London Plan relating to culvert structures.
- Climate change mitigation - applicant's broad approach is acceptable. Further revisions and information is required before CO2 savings can be verified and deemed acceptable.
- Transport - TfL is satisfied that the development is unlikely to impact on the public transport or strategic road network. The retention of bus stops should be confirmed.

Should the Council be minded to grant permission for this development the application will be referred back to the GLA for final consideration. The applicant will need to address the concerns raised above.

### **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  
Planning Obligations SPD

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
- 7.14 Improving air quality management
- 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 should 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.

1. 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.
2. 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. This application was refused on April 17th 2013 under ref 12/02385/OUT

## **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

### 1. Compliance with the 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, approximately 500 sqm 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 buildings may be acceptable on part of the site subject to an appropriate assessment in accordance with Policy BTC19.

The applicant has submitted the current scheme, which comprises a mix of residential and office development, in response to the second reason for refusal which relates to the absence of appropriate replacement office floorspace in the previous application.

The current application seeks permission for residential and office development and the hotel use that formed part of the previous application has been removed. Strictly speaking this proposal does not fully meet the requirements of Policy OSL.

To address this concern the applicant provides the following justification for the proposed mix in the Planning Statement and the Design and Access Statement - this is summarised below:

- The viability statement confirms that the proposal, as submitted, generates a profit that would not normally be considered acceptable by a developer. This is, in part, because the office floorspace requires cross-subsidy from the residential element - the introduction of a hotel would worsen the situation.
- Further, due to site constraints and the relatively small scale of development proposed, it is not physically possible for office development, residential and a hotel to all be accommodated within the development. There would be a need for multiple entrances, cores and servicing at ground level, all in a relatively small space, together with the difficulty of managing 3 different uses within the courtyard.

In addition to the applicants comments above, Members may wish to note that there are approximately 250 hotel bedspaces either proposed, completed or under construction in the town centre since the adoption of the Bromley Area Action Plan.

With regard to the quality of the office floorspace in the existing building, the applicant advises that the layout and quality is such that there is little demand for this floorspace from prospective tenants. The current scheme would replace 4450 sqm of office floorspace with high quality Grade A floorspace that is likely more attractive to future tenants.

In view of the various factors above the re-provision of office floorspace is welcomed. The provision of Grade A office accommodation as a self-contained element within the scheme, with its own separate entrance, meets current market expectations in terms of quality and space. It is recognised that, in terms of supply,

there is a marked deficit in quality Grade A office floorspace and this lack of space is a disincentive to investment and employment in Bromley. In light of the number of hotel bedspaces either proposed, completed or under construction it is considered that the absence of hotel bedspaces on this site is an acceptable approach.

In order to protect the proposed office provision, a condition is recommended removing permitted development rights to change the office use to residential. This is considered appropriate as the office floorspace provided is replacement of office floorspace that has been lost and this should be retained to ensure that the scheme accords with relevant policies in the UDP and the BTCAAP.

In addition a clause has been included in the draft s106 agreement that secures the proportion of office to residential floorspace proposed in this outline application is replicated when the reserved matters application is submitted.

## 2. Financial viability, affordable housing and S106 contributions

Policy H2 of the Unitary Development Plan and BTC3 of the BTCAAP require the provision of affordable housing as part of development proposals of this size. This policy states that 35% habitable rooms shall be for affordable housing.

Other contributions relating to health, education, wayfinding and public realm are also sought through Policy BTC OSL and BTC31 in the BTCAAP and Policy IMP1 in the UDP and the Council's adopted Planning Obligations SPD.

The applicant has undertaken a viability assessment of the financial viability assessment (FVA) that was submitted and their report concluded that the proposed scheme can support 6 intermediate affordable units and a financial contribution of £250,000 (includes health, education, housing, public realm and wayfinding).

The Council appointed a consultant to carry out an independent assessment of the applicant's financial viability appraisal. Following negotiations the applicant now offers 6 affordable housing units and a financial contribution of £350,000 (includes health, education, housing, public realm and wayfinding).

The independent consultant advises that this contribution is acceptable and therefore the scheme meets the policy requirements in respect of planning obligations.

## 3. The acceptability of the indicative building on the amenities of neighbouring properties.

It is accepted that there will have some impact on the amenity of the occupants of the nearest residential properties. In this respect 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 whether 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 each floor. 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 the 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 building steps 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 approximately 37m, 41m and 46m respectively.

In the Design and Access Statement the applicant has suggested 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 daylight and sunlight the proposed building is sited 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. It is considered that this will be most affected by the proposed development above 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 this is acceptable. .

In summary it may be considered that the illustrative plans indicate that a building which 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.

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

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 previous application (ref 12/02385) included a reason for refusal relating to this matter. It was considered that the combination of the 11 storey 'taller' element and the 4 storey 'podium' would, when combined, detrimentally compromise the protected long distance view to Keston Ridge.

The applicant has addressed this concern by reducing the height of the 'podium' by 1m. As a result the overall height of this element would not exceed the full height of the existing building. This has been possible mainly by introducing offices to this element of the scheme. The floor to ceiling height for offices is greater than for the retail and hotel units previously proposed, but by providing only 3 floors of offices (rather than 4 floors of the previous uses), the overall height has been reduced. The applicant has submitted indicative sections to show the relative heights and they have advised that the overall height of this element cannot be reduced further as this would mean the development would not meet minimum height standards.

Revised photographic evidence has been submitted by the applicant that shows that, from the lower end of the High Street (approx. outside the Slug and Lettuce), the views of Keston Ridge are not now be completely obscured by the proposed building and the present time glimpse of the ridge above the existing building at this point will be retained above the 'podium' element. Views to the ridge are obscured by the 'taller' element of the building. Views of the ridge to the left of the front part of the Police Station remain unchanged.

Moving up the High Street views of the ridge beyond continue to be obscured by the 'taller' element but views are retained above the 'podium' element. Slightly further north the proposed building becomes obscured by other buildings in the High Street and, therefore, does not have an impact on long distance views.

The Area Action Plan Policies OSL and BTC19 and UDP Policies BE17 and 18 indicate that a tall building may be acceptable on this site providing that views of the Keston Ridge are taken into consideration. In order to provide the quantum of development envisaged by this policy a taller building is proposed. However to minimise the impact of the building a lower 'podium' element is also proposed. This has been reduced further since the previous application. On this basis Members may consider that, whilst part of the development will obscure long distance views from the town centre, this has now been minimised to an acceptable level.

## 5. Car Parking

The proposed car parking for this site is 47 spaces for 1517 sqm of office floorspace and 71 residential units. This amounts to 0.65 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.

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 number of spaces proposed for this development is 47. 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, in their formal Stage 1 report, advise that the level of parking proposed accords with the London Plan. 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.

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 in general and site specific terms, and there are no other material considerations to outweigh these policies.

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

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 is set back from Sandford Road, thereby providing a visual gap between it and the proposed building.

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 School, the closest part of the development is the 'podium'. As part of this application the height of this element has been reduced to 3 storeys which results in an overall reduction in height of 1m. As mentioned earlier in this report this now results in a building of a similar height to the existing building. In this respect it is considered that the impact on St Marks former school is less than the previous scheme.

In respect of the taller element this is significantly set back from this listed building. Whilst it would be visible in views of the listed building it may be considered that this part of the building would not unduly impact on the setting of the listed building.

In summary 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 proposal on both a local and wider context.

It is recognised that a large building will be needed on the site to accommodate the quantum of development envisaged by BTCAAP Policy OSL.

In this instance it is considered that a building of the illustrative parameters shown on the submitted plans can be accommodated on the site without having an unacceptably harmful effect on the amenities of the occupants of nearby residential

properties and the locally listed St Marks Church and the listed former St Marks School.

In the previous application (ref 12/02385) concerns were raised regarding the impact of the 4 storey 'podium' on the long distance views of Keston Ridge from the High Street and the application was refused. The height of this element of the current scheme has been reduced by 1m in order to address these concerns. On this basis it is considered that, on balance, the impact on these views has been lessened to such an extent that the scheme is now acceptable.

With regard to the uses proposed for the building, Policy BTC OSL seeks a hotel led, mixed use scheme. The current scheme proposes office and residential floorspace only. For the reasons set out in the report it is considered that the removal of the hotel element is acceptable. The overall quantum of office and residential floorspace is considered acceptable in principle. It is acknowledged that residential uses are needed to cross subsidise the replacement office floorspace and it is considered that the proportion of replacement office floorspace is acceptable.

Furthermore it is considered that the S106 contributions in respect of affordable housing, health and education payments, wayfinding and public realm are acceptable.

Therefore it is recommended that planning permission be granted subject to the recommended conditions and the signing of a S106 agreement.

Background papers referred to during the production of this report comprise all correspondence on file ref. 13/02451 excluding exempt information.

as amended by documents received on 16.09.2013

**RECOMMENDATION: PERMISSION (SUBJECT TO THE PRIOR COMPLETION OF A SECTION 106 AGREEMENT relating to affordable housing, education, health, wayfinding and public realm)**

and the following conditions:

- |   |        |  |             |
|---|--------|--|-------------|
| 1 | ACA02  | Details req. pursuant outline permission | appearance, |
|   |        | landscaping, scale and layout            |             |
|   | ACA02R | Reason A02                               |             |
| 2 | ACA03  | Compliance with landscaping details      | 1           |
|   | ACA03R | Reason A03                               |             |
| 3 | ACA07  | Boundary enclosure - no detail submitted |             |
|   | ACA07R | Reason A07                               |             |
| 4 | ACA09  | Landscaping scheme (inc.street furniture |             |
|   | ACA09R | Reason A09                               |             |
| 5 | ACC01  | Satisfactory materials (ext'nl surfaces) |             |
|   | ACC01R | Reason C01                               |             |
| 6 | ACC03  | Details of windows                       |             |
|   | ACC03R | Reason C03                               |             |



- 7 ACH01 Details of access layout (2 insert)  
ACH01R Reason H01
- 8 ACH02 Satisfactory parking - no details submit  
ACH02R Reason H02
- 9 ACH16 Hardstanding for wash-down facilities  
ACH16R Reason H16
- 10 ACH18 Refuse storage - no details submitted  
ACH18R Reason H18
- 11 ACH22 Bicycle Parking  
ACH22R Reason H22
- 12 ACH23 Lighting scheme for access/parking  
ACH23R Reason H23
- 13 ACH27 Arrangements for construction period  
ACH27R Reason H27
- 14 ACH29 Construction Management Plan  
ACH29R Reason H29
- 15 ACH32 Highway Drainage  
ADH32R Reason H32
- 16 ACH33 Car Free Housing  
ACH33R Reason H33
- 17 ACI20 Lifetime Homes Standard/wheelchair homes  
ADI20R Reason I20
- 18 ACI21 Secured By Design  
ACI21R I21 reason
- 19 ACK03 No equipment on roof  
ACK03R K03 reason
- 20 ACK05 Slab levels - no details submitted  
ACK05R K05 reason
- 21 ACK07 Disabled access (see DI12)  
ADK07R Reason K07
- 22 ACK09 Soil survey - contaminated land  
ACK09R K09 reason
- 23 The reserved matters to be submitted for approval by the Local Planning Authority as part of Condition 1 above shall be within the parameters set out on Plan 27987 A-003-104 in respect of scale and layout.  
**Reason:** In order to ensure that the development complies with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the surrounding area.
- 24 The land within the site identified for safeguarding for future road alignment as shown on Plan 30271/001AC shall be permanently retained for such purposes and shall not be used for any other purposes.  
**Reason:** To comply with Policies BTC OSL and BTC23 in the Bromley Town Centre Area Action Plan to enable the implementation of future transport schemes.
- 25 The part of the development shown on indicative plan 27987 A-03-101 annotated as 'offices' on levels +2, +3 and +5 shall be used for Class B1(a) Offices only and for no other purpose in Part 3 of Schedule 2, Class J 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 or re-enacting that Order with or without modification. This condition will apply

to all office floorspace identified on plans to be submitted for approval by the Local Planning Authority at 'reserved matters' stage as required by Condition 1 above.

**Reason:** In order to comply with Policy OSL of the Bromley Town Centre Area Action Plan and to retain the re-provision of office floorspace as required by this policy.

26 Prior to the commencement of the use hereby permitted, a Framework Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan should include measures to promote and encourage the use of alternative modes of transport to the car. It shall also include a timetable for the implementation of the proposed measures and details of the mechanisms for implementation and for annual monitoring and updating. Each land user will then develop individual travel plans within the context of the site-wide plan. These individual plans shall be submitted to and approved by the Local Planning Authority. The Travel Plans shall be implemented in accordance with the agreed timescale and approved details.

**Reason:** In order to ensure appropriate management of transport implications of the development and to accord with Policy T2 of the Unitary Development Plan.

27 Prior to the first occupation of any part of the development details of a Service Delivery Plan shall be submitted to and approved by the Local Planning Authority. The Plan shall be implemented in accordance with the approved details and operated thereafter. The Plan shall include measures for annual monitoring and updating.

**Reason:** In order to comply with Policy T18 of the Unitary Development Plan and to provide adequate, safe and convenient access for service vehicles and in the interest of the free flow of traffic and conditions of highway safety.

28 Details of electric car charging points shall be submitted to and approved in writing by the Local Planning Authority and the charging points shall be installed in accordance with the approved details and shall be permanently retained in working order thereafter.

**Reason:** In the interests of promoting more sustainable means of car travel.

29 Details of measures to secure the privacy of the occupants of nearby residential properties from windows and amenity spaces within the approved development shall be submitted to and approved by the Local Planning Authority before any work is commenced. The development 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 to protect the amenities that nearby residents can expect to enjoy.

30 Measures to ensure an active frontage on the ground floor level for the proposed office element shall be submitted to and approved by the Local Planning Authority before the first occupation of any part of the building and shall be implemented in accordance with the approved details.

**Reason:** To comply with Policy BE1 of the UDP and Policy BTC OSL of the Bromley Town Centre Area Action Plan and to ensure that there is an improvement to the public realm in this respect.

31 Prior to the commencement of any development on the site a surface water strategy shall be submitted to and approved by the Local Planning Authority. The strategy should demonstrate that opportunities to implement

Sustainable Drainage System techniques at the site have been maximised, that surface water discharge from the site shall not exceed the greenfield run-off rate for the area of the site and the drainage system can accommodate any storm event up to and including the 1 in 100 year storm event plus climate change. The development shall be implemented in accordance with the approved details.

**Reason:** To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand and to comply with London Plan Policies 5.12, 5.13 and 5.15.

32 Before any works on site are commenced, an updated site-wide energy strategy assessment shall be submitted to and approved by the Local Planning Authority. The results of this strategy shall be incorporated into the final design of the buildings prior to first occupation. The strategy shall include measures to allow the development to achieve an agreed reduction in carbon dioxide emissions of at least 25% better than Building Regulations. This should include the reduction from on-site renewable energy generation as set out in the Sustainability Appraisal and Energy Strategy Report. The final designs, including the energy generation, detailed layout and elevations shall be submitted to and approved in writing by the Authority and shall be retained thereafter in operational working order, and shall include details of schemes to provide noise insulation and silencing for and filtration and purification to control odour, fumes and soot emissions of any equipment as appropriate.

**Reason:** In order to seek to achieve compliance with the Mayor of London's Energy Strategy and to comply with Policy 5.2 and 5.7 of the London Plan 2011.

33 Prior to commencement of construction on the site, the applicant will carry out an assessment of the effect on local air quality as a result of the heating system provided as part of the proposed development. The objective of the assessment will be to demonstrate that the design of the heating system is such that emissions of nitrogen dioxide shall not have a significant detrimental impact on existing air quality. The applicant will agree the scope of and approach to the Air Quality Assessment with the Local Planning Authority, in consultation with the Council's Environmental Health Officer. The condition shall not be discharged until the results and conclusions of the assessment have been submitted and agreed by the Head of Planning in consultation with the Council's Environmental Health Officer.

**Reason:** To meet the requirements of Policy 7.14 Improving Air Quality and to ensure the Air Quality Management Area is not compromised.

34 A scheme for protecting the proposed dwellings from traffic noise (including glazing and ventilation specifications) shall be submitted to and approved in writing by or on behalf of the Local Planning Authority before development commences and the scheme shall be fully implemented before any of the dwellings are occupied and permanently maintained as such thereafter.

**Reason:** In the interests of the amenity of future residents and to comply with Policy 7.15 of the London Plan.

35 A scheme for protecting the proposed balconies overlooking Westmoreland Road and Masons Hill from traffic noise (which shall include imperforate screens of at least 1100mm height and Class A absorption on the balcony soffits) shall be submitted to and approved in writing by or on behalf of the

Local Planning Authority before development commences and the scheme shall be fully implemented before any of the dwellings are occupied and permanently maintained as such thereafter.

**Reason:** In the interests of the amenity of future residents and to comply with Policy 7.15 of the London Plan.

36 At any time during the daytime (07.00-23.00) the combined noise level from all plant in terms of dB(A) shall be 10 decibels below the relevant minimum background noise level (LA90 15mins) measured at any noise-sensitive location. If the plant has a distinctive tonal or intermittent nature the noise level of the plant shall be increased by a further 5dBA for comparison with the background level. Thus if the predicted noise level is 40dB(A) from the plant alone and the plant has a tonal nature, the 40dB(A) shall be increased to 45dB(A) for comparison with the background level. Also the L90 spectra can be used to help determine whether the plant will be perceived as tonal. At any time during the night-time (23.00-07.00) the combined noise level from all plant in terms of dB(A) shall not exceed 25dB LAeq (15 mins) measured at any noise-sensitive location. If the plant has a distinctive tonal or intermittent nature the noise level from the plant shall not exceed 20dB LAeq (15 mins) measured at any noise-sensitive location. The L90 spectra can be used to help determine whether the plant will be perceived as tonal.

**Reason:** In the interests of the amenity of future residents and to comply with Policy 7.15 of the London Plan.

37 No construction above the first floor level shall take place until the developer has secured:

- a. the completion of a baseline Airwave Interference Study to assess Airwave interference to/from the adjacent police station
- b. the implementation of a scheme of mitigation works for the purposes of ensuring nil detriment during construction of the development identified by the baseline study. Such schemes of mitigation works shall be first submitted and approved by the Local Planning authority.

No occupation of the development shall take place until the developer has secured

- a. the completion of a Post-Construction Airwave Study to ensure nil detriment to Airwave reception attributable to the development.
- b. the implementation of a scheme of mitigation works for the purposes of ensuring nil detriment to the Airwave reception attributable to the development identified by the post construction study. Such schemes of mitigation works shall be first submitted and approved by the Local Planning authority.

**Reason:** To comply with Policy BE1 of the Unitary Development Plan to safeguard the operational requirements of the adjacent police station.

38 Prior to commencement of development details demonstrating that there will be no development on the site within a minimum distance of 1.2 metres from the outer edge of the culvert wall other than ground level hardstanding shall be submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

**Reason:** To ensure the structural integrity of the culvert wall and allow future maintenance and improvement of the culvert, thereby reducing the risk of flooding.

39 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

**Reason:** To protect controlled waters. National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution.

40 No impact piling shall take place until a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water or sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with the relevant water or sewerage undertaker. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

**Reason:** The proposed works will be in close proximity to underground water and sewerage utility infrastructure and piling has the potential to impact upon this infrastructure.

#### INFORMATIVE(S)

1 If during the works on site any suspected contamination is encountered, Environmental Health should be contacted immediately. The contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Authority for approval in writing.

2 You are advised that this application may be liable for the payment of the Mayoral Community Infrastructure Levy under the Community Infrastructure Levy Regulations (2010) and the Planning Act 2008. The London Borough of Bromley is the Collecting Authority for the Mayor and this Levy is payable on the commencement of development (defined in Part 2, para 7 of the Community Infrastructure Levy Regulations (2010)). It is the responsibility of the owner and /or person(s) who have a material interest in the relevant land to pay the Levy (defined under Part 2, para 4(2) of the Community Infrastructure Levy Regulations (2010)).

If you fail to follow the payment procedure, the collecting authority may impose surcharges on this liability, take enforcement action, serve a stop notice to prohibit further development on the site and/or take action to recover the debt.

Further information about Community Infrastructure Levy can be found on attached information note and the Bromley website [www.bromley.gov.uk/CIL](http://www.bromley.gov.uk/CIL)

3 You are reminded of your obligation under Section 80 of the Building Act 1984 to notify the Building Control Section at the Civic Centre six weeks

before demolition work is intended to commence. Please write to Building Control at the Civic Centre, or telephone 020 8313 4313, or e-mail: [buildingcontrol@bromley.gov.uk](mailto:buildingcontrol@bromley.gov.uk)

- 4 You should consult the Land Charges and Street Naming/Numbering Section at the Civic Centre on 020 8313 4742 or e-mail: [address.management@bromley.gov.uk](mailto:address.management@bromley.gov.uk) regarding Street Naming and Numbering. Fees and application forms are available on the Council's website at [www.bromley.gov.uk](http://www.bromley.gov.uk)
- 5 Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 8 metres of the top of the bank of the River Ravensbourne, a main river. This is required in addition to planning permission. Please contact Rich Peddie on 01252 729541 for details on how to apply.
- 6 Before the use commences, the Applicant is advised to contact the Pollution Team of Environmental Health & Trading Standards regarding compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990. The Applicant should also ensure compliance with the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2008 which is available on the Bromley web site.
- 7 Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
- 8 Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 8507 4890 or by emailing [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality). Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.
- 9 The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the details of the piling method statement.
- 10 With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary.

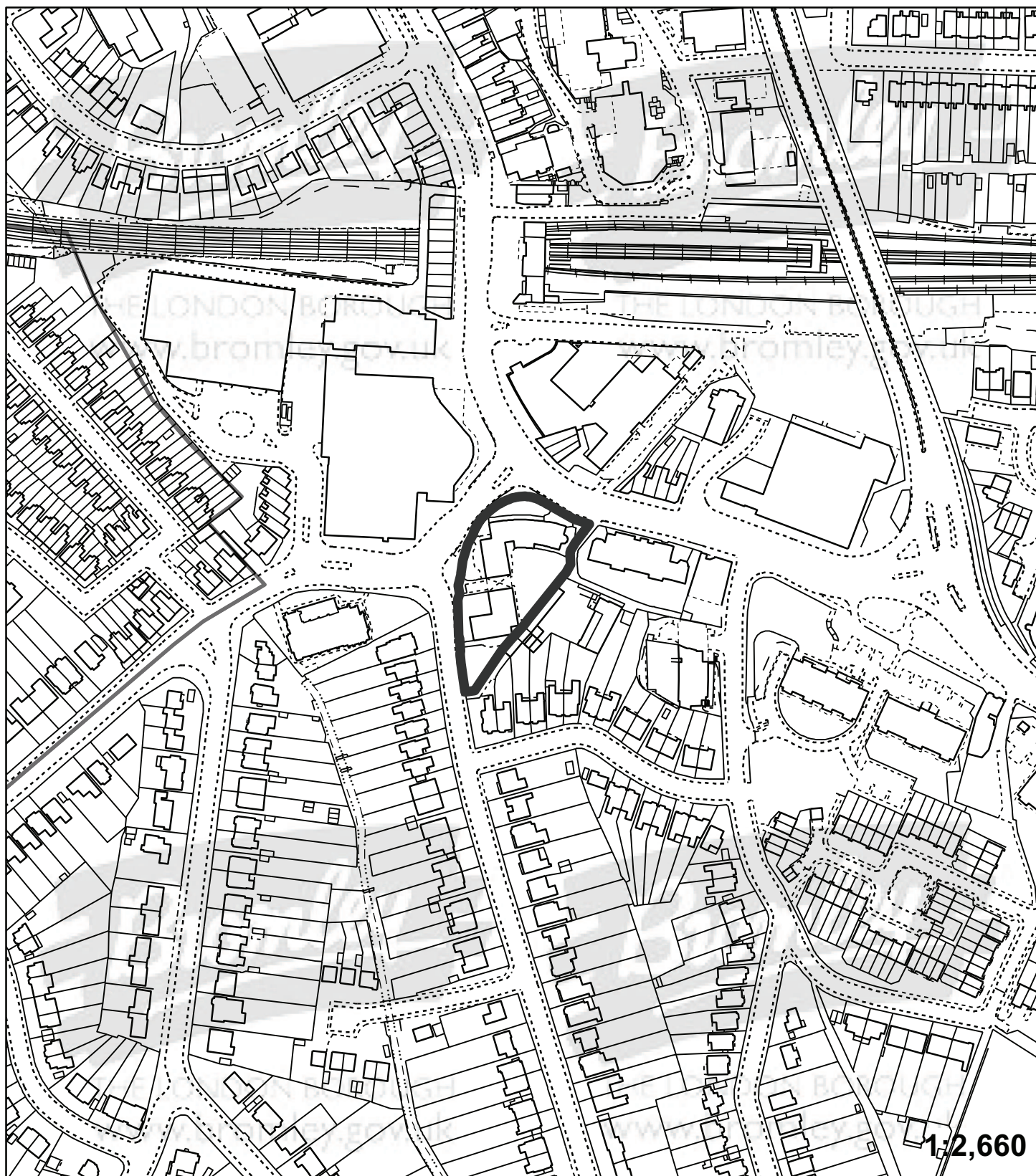
Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.

- 11 There are large water mains adjacent to the proposed development. Thames Water will not allow any building within 5 metres of them and will require 24 hours access for maintenance purposes. Please contact Thames Water Developer Services on 0845 850 2777.
- 12 Thames water will aim to provide customers with a minimum pressure of 10m (approx. 1 Bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Water pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- 13 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, prior to the commencement of any development, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details. Reason: The developer should be aware of the potential risks associated with the use of piling where contamination is an issue. Piling or other penetrative methods of foundation design on contaminated sites can potentially result in unacceptable risks to underlying groundwaters. We recommend that where soil contamination is present, a risk assessment is carried out in accordance with our guidance 'Piling into Contaminated Sites' - [http://publications.environment-agency.gov.uk/?lang=\\_e](http://publications.environment-agency.gov.uk/?lang=_e). - Product Code SCHO0202BISW-E-E. We will not permit piling activities on parts of a site where an unacceptable risk is posed to controlled waters.

**Application:**13/02451/OUT

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

**Proposal:** Demolition of existing building and erection of a part 3/part 11 storey building comprising 1518 sqm Class B1 office floorspace and 71 residential units (25x1 bed; 30x2 bed; 16x3 bed flats), 47 car parking spaces and associated landscaping, servicing and cycle parking **OUTLINE**



"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.  
DRR 13/124

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:**      **Development Control Committee**

**Date:**                      **8<sup>th</sup> October 2013**

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

**Title:**                      **CHANGE OF USE FROM OFFICES TO RESIDENTIAL IN PARTS OF BROMLEY TOWN CENTRE – PROPOSED NON-IMMEDIATE ARTICLE 4 DIRECTION**

**Contact Officer:**      Jim Kehoe, Chief Planner  
Tel: 020 8313 4441    E-mail: jim.kehoe@bromley.gov.uk

**Chief Officer:**              Marc Hume, Director of Regeneration & Transformation

**Ward:**                      Bromley Town

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## 1. Reason for report

- 1.1 This report recommends that the Council makes a non-immediate Article 4 Direction to withdraw the permitted development right for change of use from office to residential. This Direction would apply to the Business Improvement Areas, as shown in the Area Action Plan and nearby areas within a short distance of Bromley North and South Station, Appendix One. It is recommended that the Direction would be made in the near future. It would then come into force at least 12 months thereafter, all subject to confirmation by the Executive (Portfolio Holder) and taking account of representations received. The risk of compensation being payable using the non-immediate Direction is low. The cost of compensation under the immediate Direction procedure could be prohibitive.
- 1.2 The area selected for the Direction is a prime area for offices and this is reflected in its AAP designation and in the analysis of DTZ in their 2012 report on employment and commerce in the Borough. It is expedient to restrict the change of use from offices to residential in this area in order to avoid harmful impacts upon economic development.

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## 2. **RECOMMENDATION(S)**

- 2.1 That Members endorse the making of a 'non immediate' Article 4 Direction on the basis that it is expedient to restrict the Change of Use from Offices to Residential in parts of Bromley Town Centre in the terms described in the report.
- 2.2 That Members refer the matter to the R&R PDS Committee and the Portfolio Holder for Renewal and Recreation to authorise the making of the Direction.

### Corporate Policy

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

### Financial

1. Cost of proposal: No Cost:
  2. Ongoing costs: A small increase in planning applications, for which no fee is payable, is expected.
  3. Budget head/performance centre: Planning and Renewal
  4. Total current budget for this head: £2.618 m
  5. Source of funding: Existing Revenue Budget 2013/2014
- 

### Staff

1. Number of staff (current and additional): 64 ftes (excluding Building Control, Land Charges)
  2. If from existing staff resources, number of staff hours: 30
- 

### Legal

1. Legal Requirement: Non-Statutory - Government Guidance
  2. Call-in: Not Applicable: Further Details – Portfolio Decision
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): about 50 householders nearby, also the general public visiting the locality
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? An update will be provided.
2. Summary of Ward Councillors comments: An update will be provided.

### **3. COMMENTARY**

#### **3.1 Background**

The Government has amended the General Permitted Development Order (GPDO) to grant new rights to change from office use to residential use. The amended General Permitted Development Order (GPDO) came into force on 30<sup>th</sup> May 2013 and for a three year period allows office use to change to residential use permanently, subject to a prior approval process.

On 9<sup>th</sup> May 2013 the Government announced that office-to-residential permitted development rights would not apply to any of the borough, despite the Council submitting an application for areas of Bromley Town Centre, Cray Valley, Biggin Hill and other designated Business Areas, to be exempted from the Government's proposal.

The proposed Article 4 Direction would apply to smaller areas, within Bromley Town Centre, which is a prime area for offices shown in the AAP (2010) as a Business Improvement Area and identified as such by the DTZ (2012) study.

Article 4 Directions allow authorities to withdraw the permitted development rights that would otherwise apply by virtue of the Town and Country Planning (General Permitted Development) Order 1995 as amended (the 'GPDO'). An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development.

The current position is that change from office to residential will not require planning permission. Applicants are required to complete a prior approval notification process which covers: significant transport and highway impacts, development in areas of high flood risk, and land contamination. There are three potential outcomes of this process. The Council could determine that prior approval is not required and therefore the development will be allowed to proceed. If the Council decides that prior approval is required, further information on the specific matters will be sought so a proper assessment of the impacts can be made and prior approval can then be given or refused. If prior approval is refused, the applicant could then appeal to the Planning Inspectorate. In most cases in Bromley, prior approval is likely to be required only on the grounds of transport and highways impacts.

Article 4 Directions can be made with immediate effect or to take effect following a period of notice. If that period is at least a year then normally no compensation is payable. This report recommends that the Council issues a non-immediate Article 4 Direction in order to reduce the Council's liability to compensate landowners affected by the removal of permitted development rights. This is discussed further below.

During a 12-month notice period, the office-to-residential permitted development rights would apply. Following this period, this change of use would require a planning application to be submitted to the Council.

The Secretary of State for Communities and Local Government has the power to revoke or modify Article 4 Directions at any time.

#### **3.2 Expediency**

The Council may, if it is satisfied that it is expedient, make an Article 4 Direction that development described in any Part, Class or paragraph of Schedule 2 to the GPDO should not be carried out unless permission is granted for it on application. Among the factors to be considered by the Council when determining whether it is satisfied that it is expedient, is relevant government guidance.

Government guidance on the use of Article 4 Directions is set out in the replacement Appendix D to Circular 9/1995, last updated in June 2012.

It states that local planning authorities should consider making Article 4 Directions only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area.

Paragraph 2.2 of Appendix D to the Circular states that *“in deciding whether an article 4 direction would be appropriate, local planning authorities should identify clearly the potential harm that the direction is intended to address.”*

Paragraph 2.4 of Appendix D of the Circular, states:

*“There should be a particularly strong justification for the withdrawal of permitted development rights relating to:*

- *Cases where prior approval powers are available to control permitted development”*

As the conditions which apply to Class J development require prior approval a particularly strong justification is required in this case.

Permitted development rights for office to residential, could harm the proper planning of the area as well as local amenity. The harm can be broken down into the following categories, with some impacts being harmful both in terms of proper planning of the area, as well as to the amenity:

Economic impacts:

- Loss of office space
- Job losses
- Loss of capacity to develop additional office space and accommodate future job growth
- Dilution of Bromley Town Centre’s role within London including its role as a Metropolitan Centre

Amenity impacts:

- Impact on surrounding offices if ‘critical mass’ of business floorspace is lost

Although the government rejected the Council’s application for exemption its criteria showed that Bromley Town Centre did have the strongest case within the Borough.

An Article 4 Direction can be made if the Council is satisfied that it is expedient that development should not be carried out unless planning permission is granted on application. In determining whether it is expedient the Council should have regard to material considerations including the advice given in Appendix D to Circular 09/95. As noted the advice given by the Government is that local authorities should only consider making Article 4 Directions in exceptional circumstances. Taking into account all of the above, it is considered that such exceptional circumstances exist in this case.

### 3.3 Compensation

Local planning authorities are liable to pay compensation to landowners who would have been able to develop under the PD rights that an Article 4 Direction withdraws, if they:

- Refuse planning permission for development which would have been permitted development if it were not for an Article 4 Direction; or
- Grant planning permission subject to more limiting conditions than the GPDO would normally allow, as a result of an Article 4 Direction being in place.

Compensation may be claimed for *abortive expenditure* or other loss or damage *directly* attributable to the withdrawal of PD rights.

'Abortive expenditure' includes works carried out under the PD rights before they were removed, as well as the preparation of plans for the purposes of any work. The amounts involved under this may be modest but could accumulate over time and become burdensome.

Loss or damage directly attributable to the withdrawal of permitted development rights would include the depreciation in the value of land or a building(s), when its value with the permitted development right is compared to its value without the right. It is considered that the Council's potential liability for compensation would be prohibitive as residential value is significantly higher than offices per m<sup>2</sup> and there is a large office floorspace in the proposed Direction area.

However, it is unlikely that compensation is payable if the following procedure is followed.

- Notice of withdrawal is given in the prescribed manner including:

not less than 12 months before it takes effect;

Therefore, it is unlikely that compensation is payable if notice is given that the rights will be withdrawn a year later. This is considered to represent the most expedient decision for the Council to take. During the first twelve months, permitted development for change of use from B1 to residential uses would exist, and landowners might take advantage of these rights. However, if the Council were to remove these rights with immediate effect, any refusal of planning permission could result in a prohibitive burden of compensation liability.

## 4. POLICY IMPLICATIONS

4.1 The proposal supports the AAP policies for offices and Business Improvement Areas.

## 5. FINANCIAL IMPLICATIONS

5.1 Advice on compensation is set out above. The proposed route for implementation by way of a 12 month non-immediate Article 4 Direction will ensure that compensation claims are avoided. Costs associated with publishing and consulting on the Article 4 Directions will be met from the approved budget.

5.2 If an immediate Article 4 Direction is made, the Council would be exposed to potentially substantial compensation which is considered prohibitive.

5.3 Any applications for planning permission which would have previously been permitted, prior to an Article 4 Direction removing permitted development rights, are entitled to apply for planning permission without paying the usual planning application fees. The Article 4 Direction is therefore likely to lead to an increase in the number of planning applications for which planning

application fees will not be applicable. However, this is not expected to generate many additional applications.

5.4 By issuing a 12 month non-immediate Direction under Article 4, it is unlikely that any compensation claims will be payable.

## 6. LEGAL IMPLICATIONS

6.1 Article 4 (1) of the GPDO 1995 (amended) allows local Planning Authorities to withdraw certain Permitted Development Rights.

<b>Non-Applicable Sections:</b>	Personnel Implications
Background Documents: (Access via Contact Officer)	Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995. DCLG June 2012 L.B. Bromley Retail, Office, Industry and Leisure Study DTZ (2012)



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# Agenda Item 7

Report No.  
DRR/13/114

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Tuesday 8 October 2013

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

**Title:** LOCAL LIST OF VALIDATION REQUIREMENTS FOR PLANNING APPLICATIONS

**Contact Officer:** Tim Horsman, Deputy Development Control Manager  
Tel: 020 8313 4956    E-mail: Tim.Horsman@bromley.gov.uk

**Chief Officer:** Chief Planner

**Ward:** (All Wards);

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1. Reason for report

Recent changes to legislation require a review of the local information requirements for the validation of planning applications. This report sets out the updated requirements and consultation process and seeks Members agreement to the updated document.

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2. **RECOMMENDATION(S)**

**Members adopt the updated local information requirements document.**

### Corporate Policy

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

### Financial

1. Cost of proposal: No Cost:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Planning and Renewal
  4. Total current budget for this head: £2.618
  5. Source of funding: Existing Revenue Budget 2013 / 2014
- 

### Staff

1. Number of staff (current and additional): 64 FTE (excluding Building Control / Land Charges)
  2. If from existing staff resources, number of staff hours: 8
- 

### Legal

1. Legal Requirement: Statutory Requirement: Article 10 of the Town and Country Planning (Development Management Procedure) Order 2010
  2. Call-in: Not Applicable:
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Users of planning service
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

On 8 February 2011 Members of the Development Control Committee agreed to adopt the Council's local list of validation requirements for planning applications. This list has been used since that time to ensure that planning applications are accompanied by all documentation necessary to ensure proper consideration, in addition to the basic documentation required by primary legislation.

Recent updates to the Town and Country Planning (Development Management Procedure) Order 2010 [the DMPO] in Article 4 of The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 3) Order 2012 require the Local Planning Authority to review its local validation requirements every two years.

In the majority of cases agreement is easily reached with applicants regarding what is required to be submitted with an application, as officers use discretion to ask only for relevant documentation. The list predominantly provides guidance and help to those wishing to submit a planning application and explains why documents are required in certain circumstances. However, the legislation also introduced a right of appeal (Article 10A of the DMPO) where an applicant disputes the necessity of a document required by the Authority. If such an appeal is submitted, the local validation document will provide the basic justification as to why the document was requested to help settle the dispute.

The review process for the local validation requirements is set out in Section 5 of the government publication "Guidance on Information Requirements and Validation" March 2010. For the reasons set out above, the local list of validation requirements has been reviewed. The review has led to only minor changes, predominantly updates to policy references, and the most significant alteration is the consolidation of the previous matrix and text into a single document intended to improve presentation and ease of reference. The document also sets out the statutory national requirements.

An updated draft document has been made available via a link from the Planning homepage [www.bromley.gov.uk/planning](http://www.bromley.gov.uk/planning) on the Council's website for comment since 17 July 2013 and was also publicised by a notice in the News Shopper. At the time of reporting one representation had been received, which relates primarily to the Council's current validation processes rather than requirements.

In light of the minor changes and lack of any representations (subject to any reported verbally), it is recommended that Members agree the updated list of local validation requirements for planning applications for use in the validation of planning applications with immediate effect.

### 4. POLICY IMPLICATIONS

The continued ability to require applicants to submit additional material with applications will assist in assessing them against UDP policies and help to maintain the quality of decisions.

<b>Non-Applicable Sections:</b>	Financial; Legal; Personnel
Background Documents: (Access via Contact Officer)	Consultation Draft - Validation Guidance and Local Information Requirements for Planning Applications, July 2013; Town and Country Planning (Development Management Procedure) Order 2010 (as amended); DCLG Guidance on information requirements and validation, March 2010; DCLG Development Management Policy Annex: Information requirements and validation for planning applications, March 2010 Direct link to consultation on website <a href="http://www.bromley.gov.uk/downloads/file/1738/validation_guidance_and_local_information_requirements_for_planning_applications-consultation_draft_document">http://www.bromley.gov.uk/downloads/file/1738/validation_guidance_and_local_information_requirements_for_planning_applications-consultation_draft_document</a>

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