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DATE: 1 February 2016

To: Members of the
DEVELOPMENT CONTROL COMMITTEE

Councillor Peter Dean (Chairman)
Councillor Nicky Dykes (Vice-Chairman)
Councillors Vanessa Allen, Graham Arthur, Douglas Auld, Kathy Bance MBE,
Eric Bosshard, Katy Boughey, Lydia Buttinger, Simon Fawthrop, Ellie Harmer,
Charles Joel, David Livett, Russell Mellor, Alexa Michael, Richard Scoates and
Michael Turner

A meeting of the Development Control Committee will be held at Bromley Civic
Centre on **TUESDAY 9 FEBRUARY 2016 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
10 DECEMBER 2015 (Pages 1 - 8)**

4 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

In accordance with the Council's Constitution, questions to this Committee must be received in writing 4 working days before the date of the meeting. Therefore please ensure questions are received by the Democratic Services Team by 5pm on Wednesday 3 February 2016.

5 PLANNING APPLICATION - (15/04759/FULL1) - FOOTZIE SOCIAL CLUB, STATION APPROACH, LOWER SYDENHAM, LONDON SE26 5BQ (Pages 9 - 78)

6 LAND AT HAVELOCK RECREATION GROUND - APPLICATION FOR REGISTRATION AS A TOWN OR VILLAGE GREEN (Pages 79 - 86)

7 MARKETING AND DEVELOPMENT BRIEF: OPPORTUNITY SITE B TWEEDY ROAD (Pages 87 - 106)

8 RESPONSE TO CONSULTATION ON PROPOSED CHANGES TO NATIONAL PLANNING POLICY (Pages 107 - 118)

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DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 7.30 pm on 10 December 2015

Present:

Councillor Peter Dean (Chairman)
Councillor Nicky Dykes (Vice-Chairman)
Councillors Vanessa Allen, Graham Arthur, Douglas Auld,
Kathy Bance MBE, Eric Bosshard, Lydia Buttinger, Simon Fawthrop,
Ellie Harmer, Charles Joel, Alexa Michael, Richard Scoates and
Michael Turner

Also Present:

Councillor Will Harmer

38 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillors Katy Boughey and David Livett whose absence was due to the rescheduling of this meeting.

39 DECLARATIONS OF INTEREST

No declarations of interest were received.

40 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

41 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 29 OCTOBER 2015

RESOLVED that the Minutes of the meeting held on 29 October 2015 be confirmed and signed as a correct record.

42 PLANNING APPLICATION - (15/03136/FULL1) - 25 ELMFIELD ROAD, BROMLEY BR1 1LT (CONQUEST HOUSE) - BROMLEY TOWN WARD

Description of application - Demolition of existing building and erection of 12/13 storey mixed use building to comprise commercial 881.5 sqm (GIA/retail floorspace at ground and part first floor level (Class A1/A2/A3/B1) and 69 residential units at upper floors (27 one bed, 31 two bed and 11 three bed), 46 car parking, 132 cycle parking, refuse stores and landscaping and other associated works.

The Planning Development Control Officer reported that Members should have received an e-mail from the applicants containing a letter and legal advice note which made reference to a cross-section comparing the previous and current proposals which were not included so a copy of the submitted cross-section had been placed in front of Members. It was confirmed that consideration of the contents of the submission, did not result in any alteration to the officer recommendation except for a very minor alteration to the initial sentence of the first recommended ground for refusal which was amended to read:- "The site is not a suitable location for the *proposed* tall building.". The submission suggested that the report did not provide an analysis of the planning balance of the advantages and disadvantages of the scheme. Whilst it was considered that the report provided detailed analysis of the relevant issues, to avoid any ambiguity in light of the applicant's submissions, the on balance recommendation set out in the report was based on the weighing up of the potential contributions of the development to housing provision including affordable housing, the town centre environment, Business Improvement Area and employment floorspace versus the harm that would be caused by the size and design of the building and its impact on the surrounding area including residential amenity.

A number of late objections had been received in relation to the revised details submitted in November, the majority of which confirmed that the amendment had not altered residents' views; in particular, several residents pointed out that overlooking would still be possible from recessed balconies.

The following inaccuracy on page 26 of the Committee report was noted:- The increase between the appeal scheme and the current submission (the latest version with new façade) was related to habitable rooms NOT the number of windows. The application scheme (both the original submission and the amended drawings) had 46 habitable rooms overlooking the Palace Estate, the Appeal scheme had 44. This was an increase despite the lower height.

The reference made to 7 affordable units on page 30 of the report was now out of date as the applicants were proposing 10 in accordance with the Council's independent viability assessment.

Further comments had been provided by Transport for London who were disappointed that the car parking provision had not been reduced from 46 spaces; they therefore requested a Car Parking Management Plan be implemented to monitor usage of the spaces. They were also disappointed with the Electric Vehicle Charging Point provision and requested this be increased to meet London Plan standards. A planning condition concerning the demountable car stacker was also requested. TfL were satisfied that the cycle parking provision of 132 spaces was in line with London Plan Standards.

The following oral representations were received from Mr Will Edmonds, agent in support of the application:-

- Members had been provided with a copy of a letter from the Managing Director of Taylor Wimpey together with the legal opinion of Leading Counsel.
- It was critical for Members to have full regard to the previous appeal decision with the only relevant question being whether the reduction in height and scale of the development was sufficient.
- Redevelopment of the site would bring substantial capital investment to the town centre and New Homes Bonus to the Borough. It would also provide significant improvements to the surrounding public realm.
- The three reasons for refusal as set out in the report of the Chief Planner were wholly unjustified and not supported by analysis. The development would not give rise to impact on the residents of Palace Estate. The architectural design of the building was excellent with a high quality of materials being used. The applicant had gone to considerable lengths, by way of discussions with Ward Members and officers, to address the issues of height and scale.

The Chairman referred to the Planning Inspector's Appeal Decision which stated the previous proposal's excessive height would result in an unduly overbearing new building that would damage, unacceptably, the living conditions of nearby residents. This contradicted Mr Edmonds' view that no impact would arise on residents of the Palace Estate. Mr Edmonds disagreed with this statement.

The following oral representations in objection to the application were received from local resident, Mr Steven White:-

- Of the 134 responses to the application, only one resident was in favour of the scheme.
- The height, scale and mass of the development would result in an overbearing dominance of the surrounding area and would tower above neighbouring Rafford Way and Palace View.
- There were numerous technical reasons why the application did not apply to planning standards.

Oral representations in objection to the application were received from Ward Member Councillor Will Harmer. Councillor Harmer acknowledged that Mr Edmonds had been forthcoming in meeting with Ward Members and officers. He also congratulated the planning officer's excellent report which addressed all relevant points individually. In relation to the current application, even with the reduction in height to 12 storeys, this would still be an inappropriate

building for this particular site and whilst redevelopment was needed, the proposals did not outweigh the three reasons for refusal. There was a lack of architectural merit to the proposed building which consisted of a small square block giving the appearance of being squat and slab-like. The strongest objection and the most important reason for rejection, related to the resulting impact on the residential amenity of the surrounding area. As required by the Area Action Plan, this application would be out of balance with its surroundings.

Councillor Dykes fully endorsed the three recommended reasons for refusing the application. The site was inappropriate for a tall building and the revised proposals had failed to address the Planning Inspector's concerns raised in his comments that the proposals would have an unacceptably damaging impact on local residential amenity. The Inspector also stated that the perception of 'eyes in the sky' would add to the damage caused to residential amenity; this would still be the case even with the current reduction in height. The architectural design of the building was unattractive and would not sit well in an area surrounded by residential houses. The correspondence received from Taylor Wimpey appeared to contain only selective text. For the reasons mentioned above, Councillor Dykes moved that the application be refused.

In seconding the motion for refusal, Councillor Michael commented that whilst there was a time and a place for tall buildings, this site was not one of them. The design and style of the building was of poor quality and unattractive and its drabness would only contribute to what was already a dark and gloomy street.

It was suggested that should the application be refused and a second appeal submitted and lost, then the Council should formally seek costs from the applicant.

Members having considered the report, objections and representations, RESOLVED that PERMISSION BE REFUSED as recommended, for the reasons set out in the report of the Chief Planner with the first sentence of condition 1 being amended to read "The site is not a suitable location for the proposed tall building."

**43 LOCAL PLAN DRAFT ALLOCATIONS, FURTHER POLICIES
AND DESIGNATIONS CONSULTATION
SEPTEMBER/OCTOBER 2015 INITIAL REPORT**

Report DRR/113

Members considered the consultation process undertaken in September/October 2015 in respect of the Local Plan 'Draft Allocations, Further Policies and Designations' document. The scale of response was substantial, with over 1,100 individual responses being received, many covering a number of sites/policies and designations. A further report setting out the key issues arising from the consultation and their implications for the

Local Plan, would be brought to future meetings of the DCC and the Executive.

RESOLVED that:-

- 1) the consultation process undertaken with regard to the Local Plan 'Draft Allocations, Further Policies and Designations' document be noted; and**
- 2) the scale of the response be noted with a further report being brought to DCC and the Executive analysing the responses and their implications for the Local Plan.**

44 LOCAL GREEN SPACE

Report DRR15/112

Member agreement was sought on the proposed process for inviting sites to be nominated by local communities to be assessed as Local Green Space (LGS) by the Council. The process would include a six week consultation period on the draft criteria for the assessment of potential LGS sites and a revised Draft Local Green Space Policy. The suggested approach was triggered by the Executive decision made on 15 July that a petition to designate Bull Lane allotments as Local Green Space should be taken into consideration as a formal submission as part of the Local Plan process.

It was reported that designation of Local Green Space could only be applied through the plan making process. Should a suggested site already be protected, e.g. designated as Green Belt, it was unlikely that designation would bring additional benefits to the site and that it would be taken forward as local green space.

Councillor Michael believed this to be a positive move and one which should be pursued. However, she also drew Members' attention to the fact that not all land would remain protected if very special circumstances were proven for development of a particular site.

Councillor Bosshard was pleased with the introduction of the LGS as a way of protecting green space for local community use. The Executive Committee's decision in July 2015 that a petition to designate Bull Lane allotments as Local Green Space should be taken into consideration has only just reached the six-week consultation stage; as this would need to be incorporated into the Local Plan, officers were asked if the process could be accelerated.

RESOLVED that the Executive Committee be recommended to endorse:-

- 1. the proposed local criteria for assessing potential sites for the Local Green Space designation and the revised Draft Local Green Space Policy for consultation; and**

2. **the process for inviting local communities to submit sites for consideration as Local Green Space and comment on the revised Draft Local Green Space Policy.**

45 REVISIONS TO THE STATEMENT OF COMMUNITY INVOLVEMENT (SCI)

Report DRR15/109

The Council adopted the current Statement of Community Involvement (SCI) in 2006 when it was one of the statutory documents required to be produced as part of the plan-making process. The SCI sets out the Council's approach to the consultation undertaken as part of the planning application process as well as the Local Plan process.

It was necessary to amend the current SCI to reflect the various legislative and regulatory changes that had taken place since 2006. It also highlighted the technological advances made in the Council's consultation process and the pressure on resources.

RESOLVED that the draft Statement of Community Involvement (SCI) be endorsed for the Executive to agree for public consultation.

46 LOCAL DEVELOPMENT SCHEME 2015-17

Report DRR15/110

Members considered an amended Local Development Scheme (LDS) for 2015/17 which set out a revised timescale for the preparation of the Local Plan for the Borough. It also showed an indicative timescale for the preparation of a local Community Infrastructure Levy and a new Planning Obligations Supplementary Planning Document (SPD).

Referring to page 102 of the report and noting the omission of the updated SPG in relation to the Petts Wood Area of Special Residential Character (ASRC), Councillor Fawthrop sought assurance from officers that this would be included in the Local Plan document.

RESOLVED that the Executive be recommended to approve the revised Local Development Scheme for 2015/2017 as the formal management document for the production of the Bromley Local Plan.

47 DELEGATED ENFORCEMENT ACTION (JULY-SEPTEMBER 2015)

Report DRR15/114

The report provided an update on enforcement activity undertaken from July-September 2015.

RESOLVED that the report be noted.

The Chairman moved that the following report, not included in the published agenda, be considered as a matter of urgency on the following grounds:

The report sought Members' approval to add a condition to the unissued Listed Building Consent for the Old Town Hall. The condition was omitted in error when the application was previously considered and granted by Members at the DCC meeting held on 8 September 2015.

If Members agreed to the additional condition, officers could then proceed with issuing a decision notice.

48 (15/00151/LBC) - OLD TOWN HALL, 30 TWEEDY ROAD, BROMLEY BR1 3FE

On 8 September 2015, the Development Control Committee granted Listed Building Consent for renovation and new build works for the Old Town Hall. The application was approved subject to conditions however, a condition requiring secure matching of internal and external works for making good was omitted in error. To enable officers to proceed with issuing the decision notice, Members were requested to include this condition and grant Listed Building Consent as previously agreed.

It was reported that discussion had taken place with the applicant who was satisfied that the condition be included.

RESOLVED that Listed Building Consent be GRANTED as previously agreed, with the inclusion of the additional condition as set out in the report.

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

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

50 EXEMPT MINUTES OF THE MEETING HELD ON 29 OCTOBER 2015

RESOLVED that the exempt Minutes of the meeting held on 29 October 2015 be confirmed and signed as a correct record.

The meeting ended at 8.15 pm

Chairman

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Agenda Item 5

Report No.
DRR16/026

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

Date: Tuesday 9th February 2016

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

Title: DC/15/04759/FULL1 - FOOTZIE SOCIAL CLUB, STATION APPROACH, LOWER SYDENHAM

Contact Officer: Jake Hamilton, Acting Deputy Development Control Manager
(Strategic Majors)
0208 313 4802 E-mail: jake.hamilton@bromley.gov.uk

Chief Officer: Chief Planner

Ward: Copers Cope

OS Grid Ref: E: 536826 N: 171157

Applicant: Relta Ltd c/o West and Partners

Objections: YES

Description of Development:

Demolition of the existing buildings and redevelopment of the site by the erection of a basement plus part 8 part 9 storey building comprising 253 residential units (128 x one bed; 115 x two bed and 10 x three bed units) together with the construction of an estate road, car and cycle parking spaces and landscaping of the east part of the site to form an open space accessible to the public.

Key Designations

Adjacent to a Site of Interest for Nature Conservation
Biggin Hill Safeguarding Area
London City Airport Safeguarding Area
Flood Zones 2/3
Green Chain
Metropolitan Open Land (MOL)
River Centre Line
Smoke Control

Proposal

The redevelopment comprises the erection of a substantial building to accommodate 253 residential units together with the provision of 190 car parking spaces and 484 cycle parking spaces.

The development would be created in a linear fashion along the western edge of the site. The height of the building would be consistent along its length at 9 storeys (with the top

floor set back from the main bulk of the building). The building is set atop a podium which contains undercroft car parking and a plant room at lower ground floor level. A landscaped bank is proposed to the eastern side of the podium, with flood/ventilation grilles at the base and stepped access to the building at ground floor (podium) level. The northern elevation is blank at ground floor level. The south and west facades are punctuated with main entrances, fenestration and balconies serving the ground floor units and openings to the refuse and car park areas.

The building would be constructed primarily of London stock bricks, with white brick cladding within the balcony recesses and translucent cast channel-glass detailing on the top floor, aluminium windows and powder coated steel balconies.

An access road would run down the western edge of the site with a number of street level parking spaces (64 surface level parking spaces and 126 in the undercroft). To the east the remainder of the MOL would be re-landscaped to include new public paths and a children's play area.

This application follows an earlier submission for a larger residential proposal on the site, which was refused planning permission under ref. 15/00701 on 24th September 2015 on four grounds, relating to the acceptability of the development in principle in view of the MOL designation, the suitability of the site for a tall building and the quality of the development proposed, the quality of accommodation for future occupiers and provision of wheelchair accessible dwellings, and the absence of an appropriate solution to mitigate potential flood risk. An appeal against the Council's refusal to grant planning permission has been lodged by the applicant and a public inquiry is due to take place in May 2016.

The development adopts the same key principles as the previous proposal, being based around a single linear block form aligned with the western site boundary, with the remainder of the site proposed to be landscaped and made available for public use.

The key differences between the previous proposal and that currently pending consideration can be summarised as follows:

- Height of development reduced from a maximum of 12 storeys to 9
- Number of dwellings reduced from 296 to 253
- Number of parking spaces reduced from 222 to 190
- Amendments to external appearance of building including introduction of additional and alternative facing materials
- Addition of landscaped bank to eastern edge of podium (in place of blank wall and ventilation/flood grilles)
- Reorganisation and reduction in quantum of surface level car parking
- Additional pedestrian access point introduced to eastern side of building
- Ground floor internal layout revised, with internal corridors reduced in length and single aspect 3 bedroom units removed
- Larger terraces added to western side of building at ground floor level.

The applicant has submitted the following reports to support the application:

Architectural Design Statement (prepared by Ian Richie Architects)

This statement sets out the context of the site, its constraints and opportunities (from the applicant's perspective) and an assessment of the proposal against relevant development plan policies and national guidance. The applicant considers this site to be an extension of the urban site at Dylon. This statement confirms that the site comprises

an area of 18,649 sqm; the footprint of the new building would be 2962 sqm leaving 14,881 sqm for external landscape and access routes. The density equates to 136 u/ha or 344hr/ha.

The statement sets out the landscape strategy for the site which seeks to respond to the flood risk designation and ecological benefits of the existing landscape.

The statement includes aerial views of the site, a view from Addington Hill and a number of CGIs from surrounding viewpoints as well as photographs of a model.

The accommodation schedule sets out unit types, tenure and location as well as details of refuse facilities and car parking. The building is effectively split into three blocks (divided by a core but physically attached) so that affordable and private tenure accommodation is split.

Shadow diagrams have been provided that show the proposed landscaped space would be largely overshadowed during the evening all year round but would receive a minimum of 2 hours sunlight all year round during the day thus meeting BRE guidelines.

Planning Design and Access Statement (prepared by West and Partners)

This document describes the site, surrounding context, details of the proposal, consultation undertaken and the applicant's assessment of the proposal in relation to relevant development plan policies. The applicant believes that this proposal represents a sustainable form of development when assessed against relevant policies.

The document sets out the history of Dylon as it is considered that the assessment of that scheme is relevant to the consideration of the current application. However, Officers accept that Dylon has some relevance in that it is an adjacent development and has a similar architectural language to the proposal but it is important to recognise that Dylon was not designated as MOL and therefore the circumstances and context of that development are significantly different to the current proposal. Officers are not disputing that Dylon is an urban site but for reasons that will be demonstrated throughout this report do not accept that the application site is an acceptable extension of the Dylon development.

The document also sets out relevant planning history in relation to this site including the recent refusal of planning permission (under ref. 15/00701/FULL1) for a part eight, part nine, part eleven and part twelve storey development comprising 296 residential units, which was refused on 24th September 2015.

This document also seeks to place some weight on the fact that an extension to the Bakerloo line including a stop at Lower Sydenham Station has been identified in the Mayors Infrastructure Plan and therefore the PTAL rating of the site will increase significantly. However, it is important to note that whilst this extension has been identified it is not yet committed or under construction so the limited weight can be given to this particular point at this stage.

Affordable Housing Statement (prepared by West and Partners)

This statement confirms the breakdown of private and affordable units and confirms that the units will meet all necessary quality standards. The proposal would provide a UDP policy compliant level of affordable housing. Consequently it was not necessary for the applicant to submit a Financial Viability Assessment.

Daylight and Sunlight Assessment (prepared by West and Partners)

This technical report assesses the impact of the proposal upon the future occupiers of the development as well as adjoining occupiers. The report has been prepared having regard to BRE Report 209 'Site layout Planning for Daylight and Sunlight – a guide to good practice'. In terms of neighbouring developments it is only necessary to assess the impact on the approved scheme at Dylon Phase 1 as other residential properties are far enough away from the site not to be affected and the adjacent commercial properties fall outside of the scope of assessment. Commercial buildings are not afforded the same level of protection in this respect. The report concludes that the proposed development would not have a significant adverse impact on the adjacent Dylon Phase 1 scheme and that the new units would meet the recommended BRE levels for daylight and sunlight.

Phase 1 Habitat Survey (prepared by Betts Ecology)

This report was prepared on the basis of a site walkover. The report concludes that the site provides breeding habitat for a range of common birds and some of the poplar trees may offer potential for roosting bats. The report suggests a further bat survey should be undertaken prior to any works to trees or demolition of buildings and that the landscaped area to the east of the site is retained and consideration given to its enhancement and expansion. Additional planting should make use of native species and new buildings should include bird and bat boxes. Any works to trees should be undertaken outside of bird nesting season.

Flood Risk Assessment (prepared by RPS)

This report has been submitted because the site is designated as Flood Zone 2 (medium probability) and Zone 3 (high probability). The report covers relevant planning policy, existing and proposed drainage, flood risk mitigation, surface water management and sequential test. It is noted that the report refers to flood risk policies in the UDP which have not been saved.

The applicants FRA has been prepared in liaison with the Environment Agency whose advice has informed the buildings slab levels extent of landscaping and surface water drainage solutions. Detailed site specific flood monitoring has been undertaken in addition to site specific flood storage calculations. The FRA concludes that this site is suitable for residential development subject to conditions to control flood risk mitigation and drainage.

Flood Modelling Information (prepared by RPS)

The information confirms that the lower deck car park is the only area of the building that may flood. The plans submitted show that a permeable grill will be located the full length of the car park to allow flood water to enter the car park deck in an unrestricted manner. The grill is the full height of the anticipated flood events and the lower deck has been set within the landscape to ensure that it will gravity drain. A revised flood modelling addendum was also prepared.

Foul Sewerage Drainage Assessment (prepared by GDM)

This report sets out the approach to foul drainage which will be a modified single stack system connecting to the public foul water sewer in Worsley Bridge Road.

Surface Water Drainage Details (prepared by RPS)

Proposed surface water drainage concept plans and drainage calculations have been provided. The plans show details of infiltration tanks, detention tanks and final outflow to the Pool River. A copy of a letter from Thames Water to the applicant (dated 17th July) is also included. The letter confirms that Thames Water do not object to the principle of the development and have no concerns with the proposed levels of growth and discharge.

Air Quality Assessment (prepared by Air Quality Consultants)

This site lies within an Air Quality Management Area. This report sets out the site description and baseline conditions for air quality, addressing construction and operational phases impacts and appropriate mitigation. The report concludes that during construction a package of mitigation measures to minimise dust emissions would be necessary but with mitigation measures in place the overall impacts will not be significant. During operation, traffic generated by the proposal will affect air quality at existing properties along the local road network. However, the assessment concludes that the emissions will result in imperceptible increases. Concentrations will remain well below the objectives and the impacts would be negligible.

The proposed development includes an energy centre with gas fired CHP and boiler plant. It is not anticipated that this would give rise to any adverse air quality impacts.

Overall the assessment concludes that with mitigation measures in place the construction and operational air quality impacts of the development are judged to be insignificant.

A covering letter from Air Quality Consultants (dated 29th October 2015) was also provided which confirms that due to the similarity between the current proposal and that previously submitted and refused, it is not deemed necessary to reproduce the air quality assessment for the reduced scheme.

Energy Statement and Sustainability Appraisal (prepared by Isambard Environmental)

This statement relates to the earlier application ref. 15/00701 and has been prepared in line with the principles of the London Plan Energy Hierarchy. The building fabric will seek to reduce CO₂ emissions by 7.59% over the Building Regulation compliant figures, using CHP to reduce CO₂ by a further 72.32% and if necessary utilising PV panels.

Geotechnical and Geoenvironmental Ground Investigation Report (prepared by Geosphere Environmental Ltd)

The purpose of this report is to assess the ground conditions of the site and the potential risk to human health and the environment. An intrusive investigation was undertaken and a number of potential contaminant sources and pathways to receptors were identified. The investigation confirmed that some contaminants are present at elevated concentrations in excess of guideline values. Consequently mitigation measures are proposed in terms of further surveys, use of top soils, appropriate piling methods and drainage solutions.

Planning Noise and Vibration Report (prepared by Cole Jarman)

Noise and vibration surveys were undertaken to assess the impact of adjacent uses. The site is exposed to noise and vibration from the adjacent railway, factories and commercial uses. The report concludes that double glazing would be sufficient to ensure appropriate levels of amenity could be achieved for future occupiers. Alternative means of ventilation are recommended for some residential properties to maintain suitable levels of amenity and remove any sole reliance upon openable windows for ventilation. Noise levels for balconies are expected to be below recommended levels when the effects of some light screening from balustrades are taken into account. It has been concluded that there is no requirement for any vibration isolation treatment.

A letter from Cole Jarman (dated 22nd October 2015) was also provided which confirms that due to the similarity between the current proposal and that previously submitted and refused and in the absence of any new planning guidance to warrant re-consideration of the findings of the original report, that the findings of the original report should still stand and be equally applicable to the new reduced scheme.

Tree Survey Report (prepared by Ian Richie Architects)

This report confirms that there are number of trees on the site including Poplar trees along the western edge adjacent to the railway line, Willows, Oaks and Sycamores growing along the banks of the River Pool. The trees are estimated to be between 40-50 years old. The report categorises the majority of the trees as Grade C (poor condition) with some of the Willows and Sycamore being Grade B (fair condition). The report assumes that the trees have received no maintenance and the Poplars have suffered from a poor level of care affecting their health. The Poplars are incompatible with the environment and contribute to leaf problems on the adjacent railway. The Willows are a valuable ecological species and are effective for stabilizing the bank of the River Pool. The Sycamore and two of the Oak trees require some maintenance. A pair of Oak trees has significant damage and should be removed.

The report includes details of measures to protect trees during construction and a proposed new tree schedule which includes a number of new trees in the landscaped section of the site.

Transport Assessment and Residential Travel Plan (prepared by Royal Haskoning DHV)

This statement sets out an analysis of existing transport links, local highway operation, transport demand arising from the proposal, junction capacity assessment and relevant policy considerations, compared to the previous application. The proposal includes provision for 190 car parking spaces and the TA states a commitment to provide a car club with 2 spaces dedicated on site. Although it is noted that this commitment for a car club is not suggested in the Planning Statement which deals with proposed planning obligations.

As a result of parking surveys undertaken, the assessment concludes that the surrounding area is subject to commuter parking during the day but there is sufficient parking capacity in the area at night. In any event the proposed provision of onsite car parking meets London Plan and UDP standards. The junction capacity modelling for Worsley Bridge Road/Station Approach/Montana Gardens indicates that the proposal will not have a significant impact.

The applicant considers that the development would not result in a 'severe' transport impact and as such the scheme accord with national transport policy.

Landscape Management Plan (prepared by Ian Ritchie Architects)

This document sets out the detailed proposals for the landscaped areas of the site including the part of MOL that is intended to be opened up for public access. The maintenance plan would cover a period of one year post completion. Details of maintenance and monitoring are confirmed. It is proposed to plant a range of different tree species within the site with large areas of soft landscape and gym and play equipment.

Economic and Regeneration Benefits Assessment (prepared by NLP)

This report provides an assessment of the economic benefits of the proposal. The report sets out an analysis of the socio-economic baseline position of the surrounding area and identifies the following economic benefits that could arise from the proposal:-

- 190 temporary construction jobs
- 290 indirect jobs
- £42.8m construction value
- £2.7m New Homes Bonus
- £381,000 additional Council Tax Revenue
- £1.39m Mayoral CIL and other Planning Obligations

MOL Assessment (prepared by NLP)

This assessment has been prepared to examine the effect of the proposal on MOL and to establish whether very special circumstances exist to justify development on the MOL. The report sets out relevant national and development plan policies. It acknowledges that residential development would, by definition, be inappropriate but enhancement of the retained open space and provision of open access together with remediation of the pool river would be appropriate in MOL terms.

The report describes the visual role of the site and its townscape character with focus upon where the site can be viewed from within the surrounding area and wider borough. In this respect the report concludes that the site is a low quality urban site which differs in character from the remainder of the MOL. The site is not publically accessible, is not well maintained and plays a limited role in views from publically accessible places.

The report considers the landscape and visual impact of the proposal. The proposed building would be sited in an area that is already occupied by buildings. Whilst part of the site is designated as Green Chain it is not open to the public, the proposal would improve this by opening up the site for public use. The report suggests that the effect on openness of this part of the MOL would be limited due to the limited views of the site and lack of access to it.

The report suggests that due to its use, urban character and immediate context the site is distinct and separate from the remainder of the MOL. It is noted that the wider MOL has a number of buildings on it, many of which were approved after designation of the MOL and it is therefore argued that there is precedent for residential and other buildings being approved on MOL and Green Chain Land in this locality.

The report suggests that the site does not meet any of the London Plan MOL criteria for designation. It further suggests that the site does not serve a Green Belt or MOL purpose.

The report concludes that, the 'in principle harm' to the MOL would be limited to the large replacement building covering less than 50% of the site. The existing openness of the site is very limited so the proposed building would have limited effect on openness. Overall 'in principle harm to the MOL' would be limited and no harm would arise from other planning considerations.

The reports sets out potential benefits of the proposal being, improved public access, enhanced outdoor recreation facilities, landscape, visual amenity and biodiversity enhancements and improving damaged land. As well as these benefits the report suggests that housing need and delivery and socio-economic benefits arising from the proposal are material considerations.

The report sets out policy relevant to Bromley's 5 year housing land supply and provides a critique of the approach taken by the Council in assessing need and producing the 5 year supply. The report concludes that the scheme is capable of making a significant contribution to local housing needs (including affordable housing).

The report seeks to set out very special circumstances for the proposal, identified as:-

- The site is erroneously designated as MOL
- The proposal would have limited actual harm to MOL openness
- The in principle harm arises solely from the new residential building
- The proposal would satisfy all MOL land use objectives
- Cumulatively with the adjacent Dylon development the proposal would make a significant contribution to housing need and delivering socio-economic benefits
- The proposal would transform the vitality and quality of Lower Sydenham

The report concludes that the MOL, housing, socio-economic, regeneration, design and place making benefits are significant and more than sufficient to outweigh the harm caused by the proposal and therefore very special circumstances exist.

MOL Assessment Addendum (prepared by NLP)

The addendum to the MOL Assessment includes a number of Accurate Visual Representations (AVRs) of the application scheme from a number of the viewpoint positions identified in the initial document. The AVR's have been prepared by a specialist visualisation company (Preconstruct). The AVRs provide further clarity of the future townscape showing the Phase 1 development of the land to the north of the application site which is now under construction pursuant to the permission of April 2010 (ref.09/01664) and the proposed building the subject of the current application. The applicant's overall conclusions on the effects of the proposed development on landscape and visual receptors are unaltered and have been reinforced by the AVRs.

Desk Top Archaeological Assessment (prepared by Isambard Archaeology)

The report concludes that the site has low heritage significance.

Bromley Five Year Housing Land Supply Assessment (prepared by NLP)

The report has been prepared as a review of the 5 year housing land supply position in the Borough. The report suggests that there are a number of discrepancies in the Councils calculations and that 704 units should be removed. This reduces the Council to 4.1 years of supply. The report makes the following main points:-

- The report is written in the context that historically the Council has not been able to demonstrate a five year supply of housing land including when tested at appeal.
- Reference is made to an historic reliance on the appeal process, windfall sites and the allocation of sites.
- Reference is made to Appeal Decisions from 2006-2009 including Blue Circle Bromley Common, 154-160 Croydon Road and Anerley School for Boys.
- The report sets out background information on the Borough's housing supply targets and delivery since 2007/08 and sets out the various components of housing supply over the next five years.
- The London-wide context is set out in paragraphs 4.3 – 4.9 and makes reference to the fact that the targets set out in the London Plan will not provide sufficient housing to meet objectively assessed need.
- The NLP report specifies that the Council's evidence only looks at past rates of delivery since 2007/08 but that they have looked at a much longer period of time. Past delivery rates versus past targets are set out in the report since 1996/97. Reference is made in paragraph 4.18 that average completions since 2004 only amount to 597 dwellings per annum and emphasises the need to identify more housing sites.
- A 5% buffer is considered to be robustly justified.
- In respect of Housing Supply, NLP considers that there is no evidence to suggest that the 15 sites listed as known sites with planning permission not commenced is not deliverable in the five year period (with reference to paragraph 47, footnote 11

of the NPPF). A significant piece of evidence not considered by the Council is the rate at which planning permissions lapse without being implemented.

- It is suggested that some 'commenced sites' should be removed from the Council's calculations, some 'allocated sites' should be reduced and a more realistic calculation of 'small sites' allowance should be made
- Following a review of site specific completions data there is a decline in completions on small sites that is considered material. Given this trend, NLP consider that the number of small windfall sites should be reduced from 1100 to 742 units.
- Office to residential allowance considered acceptable although various assumptions are made in relation to the Council's data on this category.
- Long term vacant units allowance considered acceptable.

The report concludes that the Council cannot demonstrate a 5 year supply consequently planning permission should be granted for the development unless adverse impacts would significantly and demonstrably outweigh benefits (Paragraph 14 of the NPPF).

Bromley Housing Land Supply Trajectory (prepared by NLP)

The report considers the housing trajectory set out in the consultation document "Draft allocations, further policies and designations document" (Sep 2015) and considers whether it is a reasonable and robust position upon which to effectively plan and meet housing needs in the Borough. The trajectory covers the period 2015/16 – 2029/30 – concern is expressed in relation to the small site windfall allowance, the delivery of 900+ units within broad location from years 5-15 and considers that if LBB have exhausted options in urban areas, on brownfield land especially in areas of good public transport accessibility the next consideration should be the delivery of housing in the Green Belt and MOL. It is considered more sites need to be allocated to give greater certainty.

Location

The 1.8 ha site is located on the outskirts of Beckenham close to Sydenham and the borough boundary with Lewisham. The site is the second phase of the redevelopment of the former Dylon factory site. This is a triangular site, bound to the west by railway tracks, the north by the proposed first phase of the Dylon development and to the southeast by the Pool River and a strong tree belt. There are some small pavilion buildings along the western edges of the site and an access track. The open space was last used as a playing field.

The site has been allowed to fall into a poor state of repair being used for storage of vans and a dumping ground for un-roadworthy vehicles and ad hoc items. The site has historically been subject to enforcement investigation.

The surrounding area is dominated by large areas of open space that are designated as Metropolitan Open Land (MOL) and are part of the South East London Green Chain – a series of connected public open spaces. Most of these surrounding open spaces are used as playing fields. The site is also situated within one of the views of local importance from the Addington Hills. This makes the site particularly sensitive to new development. Furthermore, 80% of the site is located within Flood Zone 3.

The built context is less sensitive. There is no particular built character around the site. The areas to the west of the railway are predominantly industrial with poor quality one and two storey sheds set within small trading estates. Many of these are vacant and

there is very little consistency in terms of the building forms and materials. The railway cutting itself is surrounded on both sides by tall slender trees that create a natural border along the western edge of the site. The access point to the development will be via Station Approach and past the western edge of the Dylon development. Station Approach is lined with 2 storey business units.

There are no residential areas with a direct relationship with the Phase 2 site. However, there is a small estate of modern 2 and 3 storey houses to the northeast. Further to the south, houses on Copers Cope Road back on to open views towards the new development. Although, there is no direct relationship with these dwellings the site, the views they currently enjoy will be affected by the scheme. These dwellings are predominantly 2- 3 storey Victorian villas. Copers Copse Road itself is a very pleasant street with trees lining each site and attractive outlooks across open space.

The topography of the site falls gently from the north to the southern corner and from west to east towards the Pool River.

The site is located next to Lower Sydenham Train Station with direct links to central London.

Comments from Local Residents and Amenity Societies

Nearby owners/occupiers were notified of the application by letter. Site notices were displayed and an advertisement was placed in the local press.

At the time of writing this report 3 letters of objection had been received. The full comments can be read on file but are summarised as follows:

- Proposal ought to have been submitted as part of the original Dylon scheme to allow the full impact of both schemes to be considered as part of an overall masterplan
- Significant impact on the local area
- Further pollution and congestion
- Development is out of keeping with local areas
- Blocking of sunlight
- Overlooking
- Lack of suitable infrastructure to support a development of this scale
- Overall loss of green space and trees

Other Representations

At the time of writing no letters of support had been received for the application.

Additional representations received after the publication of this report will be reported at the committee meeting.

Comments from Consultees

GLA stage 1 comments (summary – full comments attached as Appendix 1): London Plan Policies on land use principles (metropolitan open land, playing fields), housing, urban design, inclusive access, flooding, sustainable development and transport are relevant to this application. The application does not fully comply with these policies and cannot be supported in principle at this stage. Further information is needed in order to fully comply with the London Plan. The potential remedies to issues of non-compliance are set out below:

- **Land use principles:** The proposal is inappropriate development within Metropolitan Open Land and 'very special circumstances' have not been demonstrated to outweigh the harm to the openness of MOL.
- **Housing:** While the indicative affordable housing offer of 36% accords with Bromley Council's UDP Policy, the applicant is required to conduct a financial viability assessment to demonstrate that the maximum reasonable amount of affordable housing is being delivered on this greenfield, windfall site (based on existing use value for open space). This should be scrutinised by the Council and/or their independent consultant and both reports supplied to the GLA. Further information is also required on the unit mix within the affordable housing tenures. The quantum of affordable family sized units is fairly low and the applicant should explore increasing this. The residential quality is broadly supported although the ground floor requires more work to reduce the number of units per core and improve ground level access. The density exceeds the guidance in the London Plan and supports the concern that the design is harmful to MOL openness.
- **Urban Design:** While the footprint spread has been contained to the western edge and the maximum height reduced, the mass, scale and continuous wall of development would still be harmful to the MOL setting. The ground floor layout also requires further work to create street based activity, improve the public realm and the buildings relationship to the adjacent open land.
- **Inclusive access:** Further detail is required on inclusive design of the public realm, in particular how those with mobility issues access the development conveniently and safely from nearby streets and how wheelchair users access the podium from the adjacent amenity space and vice versa. In addition, further clarification is required on the quantum and management of the disabled parking spaces.
- **Sustainable development:** The applicant has resubmitted the energy statement from the previous application without any revisions and therefore should update the energy statement to account for any changes to the scheme since the previous application. This is required to enable an appropriate assessment against London Plan Policy 5.2.
- **Flooding:** The submitted flood risk and drainage information is the same as submitted with the previous scheme and this information was considered acceptable subject to the inclusion of a number of relevant planning conditions. The applicant should therefore confirm that the flood risk and drainage strategies remain relevant and appropriate to the revised design and refer to those comments previously made in GLA planning report D&P/3633/01.
- **Transport:** The site layout and vehicular arrangements remain unchanged and therefore the applicant should have regard to those comments made on the previous application. In addition, TfL raise concerns that the access arrangement proposed would not give priority to pedestrians and cyclists over motor vehicles and the applicant should revisit the landscaping designs for the development in accordance with London Plan Policy 6.10.

With regard to the applicant's position in respect of housing need as part of the very special circumstances argument, the GLA observed that as set out in the assessment of the original application, it should be noted that the London Plan housing targets are based on a Strategic housing Land Availability Assessment (SHLAA) which was tested and endorsed at Examination in Public. A key principle of the SHLAA and London Plan is that the target can be met without the need to consider designated open space.

Bromley Council has in previous years been able to demonstrate a five year housing supply in its Annual Monitoring Reports, and indeed has reported annual completions above the target. Furthermore, within its committee report for the original application, the Council asserted with confidence that it has a deliverable five year housing land supply and provides a robust defence to the applicant's case on housing need and housing land

supply. The Council recently agreed its updated housing land supply paper (June 2015) based on the GLA's latest Strategic Housing Land Availability Assessment (SHLAA 2013). GLA officers are satisfied with the Council's position in this regard. Nonetheless, even if the Council's position with regard to housing land supply were vulnerable as suggested by the applicant's own assessment and were to be accepted as a VSC, the NPPF and London Plan Policy make it clear that those circumstances must outweigh the harm that would be caused to the MOL from inappropriate development. In this case, for the reasons set out within the report in relation to the design, height and mass, the harm would be significant, and GLA officers are of the view that that harm would not be outweighed by the benefits of the scheme in relation to housing supply and improved landscape.

Notwithstanding the above, if it were to be verified that the Council's housing land supply had been incorrectly calculated, GLA officers are of the opinion that the Council should have the opportunity to respond and demonstrate how it would meet a shortfall through the Local Plan review process; which is currently underway, and the granting of this planning permission should not be a foregone conclusion.

TfL Comments: TfL reiterates comments previously submitted in relation to application number DC/15/00701/FUL1, as the only difference between that application and this one is a small reduction in the overall number of residential units and car parking spaces. The site layout and vehicular access arrangements are the same as previously.

TfL also wishes to add that the access arrangement proposed would not give priority to pedestrians and cyclists over motor vehicles, and a one-way system proposed for vehicular traffic would discourage cycling and walking to and from the site without a contra-flow cycle lane and more generous footways. Although TfL did not previously raise this at Stage 1 of the GLA referral process for DC/15/00701/FUL1, very similar comments by LB Lewisham Highways were noted in the local planning officer's Committee Report, so TfL raised it at Stage 2

Following further internal consultation with our Cycling team, TfL questions whether a turning head and cul-de-sac are necessary considering there will be relatively few vehicle movements. A more informal approach could be used, reducing the 'highway' character of routes within the site. The landscaping should be attractive for people to use whether on foot or cycling or driving, rather than a long, straight expanse of tarmac that vehicles can take at speed.

The applicant may wish to investigate alterations to the surface treatment, removing centre lines and other markings, and introducing planting and other softer features. The 'roundabout' at the end of the cul-de-sac may be unnecessary and comes across as over-engineered. For service vehicles local widening may be sufficient rather than a full turning head. Inset drop-off bays may also be unnecessary, as drop off can take place from the street. If they were removed, service vehicles could turn in the space gained.

Overall the applicant should revisit the landscaping designs for the development in accordance with London Plan Policy 6.10 Walking, which states "Development proposals should ensure high quality pedestrian environments and emphasise the quality of the pedestrian and street space by referring to Transport for London's Pedestrian Design Guidance [current draft attached]" and local authorities should "encourage a higher quality pedestrian and street environment, including the use of shared space principles, such as simplified streetscape, decluttering, and access for all."

Notwithstanding the above, TfL accepts the trip generation associated with the proposed development would be unlikely to have any significant strategic impact on the local public transport and highway networks.

It is noted that under the previous application, TfL requested a financial contribution towards the improvement of bus stops in the vicinity of the site (relating to provision of step-free access and an additional shelter).

Thames Water: No objection subject to recommended Conditions and Informatives.

Environment Agency (summary): We have no objections to the proposal subject to planning conditions being imposed on any permission granted. With respect to concerns within the remit of the Environment Agency the revised proposal is largely unchanged from the previous scheme for Phase 2, planning reference DC/15/00701/FUL1 and as such our position is as for the previous version. We would like to recommend additional conditions to protect and enhance the ecological value of the site including the Pool River.

Sport England: It is understood that the site forms part of, or constitutes a playing field as defined in the Development Management Procedure Order. The consultation is therefore statutory and Sport England has considered the application in light of the National Planning Policy Framework (in particular paragraph 74) and its policy to protect playing fields. Essentially Sport England will oppose the grant of planning permission for any development which would lead to the loss of a playing field, unless one of the 5 exceptions applies:

- An assessment has demonstrated that there is an excess of playing fields in the catchment and the site has no specific significance for sport
- The development is ancillary to the use of the playing field and does not affect the quantity/quality of the pitches
- The development only affects land incapable of forming part of a playing pitch and would lead to no loss of ability to use/size of the playing pitch
- Playing field lost would be replaced with equivalent of better in terms of quantity, quality or accessibility
- The proposed development is for indoor/outdoor sports facility of sufficient benefit to sport to outweigh the detriment caused by the loss of the playing field.

The proposed development would appear to be sited on an existing area of playing field. Locating the proposed development on the existing playing field would prejudice the use of the playing field. Should the Council be minded to grant planning permission then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009 the application should be referred to the Department for Communities and Local Government.

Network Rail (summary – full comments available to view on file): The developer/applicant must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure

- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

Detailed comments have been provided in respect of vehicle incursion, fencing, future maintenance, drainage, plant and materials, scaffolding, piling, lighting, noise and vibration.

Historic England (archaeology) (summary): Recommends approval of the submitted archaeological desk-based assessment report. Given the potential for archaeological interest of part of the site in respect of its potential for in situ prehistory archaeology, a condition to require a process of archaeological investigation is recommended. It is further recommended that a limited programme of trial trench investigation and boreholes can be progressed, to enable judgement to be made as to whether there is an on-going archaeological interest and if so how it may be mitigated.

London Borough of Lewisham (initial comments): I note there is a deficit of around 50 flats proposed from the last scheme but regardless I think the concerns on parking and concerns around Station Approach are still valid given the number of units proposed. Therefore LBL objects to the development if these matters have not been addressed.

Highways Comments (summary): In summary, the proposed development will have a reduced travel demand in comparison with application 15/00701/FULL1. Over the course of a day (07:00-19:00), this reduction equates to 146 traffic movements and 178 movements by public transport.

The development will result in a minor impact on the operation of the Southend Lane/Worsley Bridge Road traffic signal control junction. However this reason is not sufficient to warrant a refusal on highways grounds. Furthermore the access arrangement lacks detail and is unsatisfactory in terms of legibility and permeability. The relationship between the development and station in terms of wayfinding, distance and quality requires more careful consideration.

A number of conditions are recommended. The following items should be secured through a legal agreement:

- Extension of double yellow lines to top of the bus cage by Traffic Order on northbound side of Worsley Bridge Rd (circa £2,400 plus painting) (this section of Worsley Bridge Road is part of LB Lewisham; therefore their consent is required)
- Kerb raised on northbound side to enable step free access – c3m wide section at gap in grass verge (with consent required from LB Lewisham)
- Move northbound stop c5m north and to kerbside. (with consent required from LB Lewisham)
- Re-paint bus cages on both sides and loading bay on northbound side
- New traffic sign on southbound side stating ‘Bus stop only’
- New shelter on southbound side and some concreting of grass verge (6 week lead-in required and bus shelter will cost approximately £12 – 13k)
- Car Club- two parking spaces on-site are reserved for use by Car Club vehicles. The spaces would be at surface level and the car club operator will be appointed to operate a minimum of 1 car at the location for at least 2 years. The operator would add a second car as demand requires.
- A sum of money (£5,000) is secured through the s106 for a period of 5 years to make any changes (provision of waiting restrictions and possibility of introducing

pay and display bays around the site) should parking become a problem after the development is complete.

Environmental Health Pollution (summary): Contamination: The contamination assessment finds remediation works are required and as such a K09 condition should be attached.

Noise: The acoustic report finds environmental noise levels assessed are not a bar to the development. The report recommends standard thermal double glazing of a specified Rw, with requirement for separate acoustic passive vents as a precaution on the western side. To ensure this is complied with I would recommend a condition. It is important to note that the report states the following in respect of noise levels at the industrial sites to the North West: '*There was no noise of any note from the adjacent factory to the North West...*'. It is unclear as to whether the London Engineering site or other nearby sites are currently occupied. Either way, the assessment does not account for potential noise from unused or unoccupied industrial units or units with B2 permission but not currently used to their full potential.

The development is very close to these industrial uses and there is a risk that developing this site for residential use will create new sensitive receptors that could impact on the ability of occupiers to utilise the existing industrial sites as fully as would be presently possible. As a precautionary approach it is prudent to ask for a further noise assessment of potential noise from the nearby B2\B8 uses and require the glazing\ventilation treatments to be sufficient to account for this rather than simply the measured noise levels taken at a time when there was an absence of any industrial noise. This could be secured by way of a pre commencement condition.

The acoustic report recommends imperforate balcony treatments to mitigate external noise as far as possible. A condition should be attached to ensure compliance. No external plant is mentioned in the acoustic report. If any external mechanical services plant is proposed a condition should be attached.

Air Quality: The site is within an Air Quality Management Area where development is required to be designed to mitigate the impact of poor air quality to within acceptable limits. I therefore recommend conditions.

Lighting: external illumination should be controlled by condition.

Strategic Housing: At the time of drafting the report no comments had been received. Any comments received will be reported verbally at the meeting.

Drainage Advisor: We accept the provision of geocellular crate soakaways to reduce the discharge rate to 5l/s for all events including the 1 in 100 plus climate change storm event. Condition: The development permitted by this planning permission shall not commence until a surface water drainage scheme for the site based on sustainable drainage principles, and an assessment of the hydrological and hydro geological context of the development has been submitted to, and approved by, the Local Planning Authority. The surface water drainage strategy should seek to implement a SUDS hierarchy that achieves reductions in surface water run-off rates to Greenfield rates in line with the Preferred Standard of the Mayor's London Plan.

Reason: To reduce the impact of flooding both to and from the proposed development and third parties.

Cleansing (summary): There is sufficient capacity within the bin stores and access to the site is good (min 4.1m). All kerbs will need to be dropped at the points where the

containers will be pulled from the bin stores to the collection vehicles (or the 'drop off' areas as shown). All surfaces will need to be solid with no loose gravel etc. Concerns were raised in respect of residents parking in the drop off areas, which could impede passage for the containers and may become common practice over time if not enforced.

Tree Officer (summary): The application site is largely open grassland with trees being limited to the periphery of the site. The proposed building does not threaten the loss of any significant trees. The Landscape Plan illustrates proposed tree planting. The specifications have not been provided on the landscaping details. Full landscaping details are recommended to be secured by condition.

Rights of Way Officer: There are no registered public rights of way affected by this proposal and so there no objections from this perspective.

Planning Considerations

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

Relevant UDP policies include:

H1 Housing Supply
H2 Affordable Housing
H7 Housing Density and Design
T1 Transport Demand
T2 Assessment of Transport Effects
T3 Parking
T5 Access for People with Restricted Mobility
T6 Pedestrians
T7 Cyclists
T9 and T10 Public Transport
T15 Traffic Management
T18 Road Safety
BE1 Design of New Development
BE4 Public Realm
BE17 High Buildings
BE18 The Skyline
NE2 and NE3 Development and Nature Conservation Sites
NE7 Development and Trees
NE12 Landscape Quality and Character
G2 Metropolitan Open Land
G7 South East London Green Chain
L6 Playing Fields
ER7 Contaminated Land
IMP1 Planning Obligations

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

- Affordable Housing SPD
- Planning Obligations SPD
- SPG1 Good Design Principles
- SPG2 Residential Design Guidance

Bromley's Draft Local Plan: Policies and Designations Document has been subject to public consultation and is a material consideration (albeit it of limited weight at this stage). Policies relevant to this application include:

5.1 Housing supply
5.3 Housing design

- 5.4 Provision of affordable housing
- 6.3 Social infrastructure in new developments
- 6.4 Health and wellbeing
- 7.1 Parking
- 7.3 Access to services for all
- 8.1 General design of development
- 8.11 Landscape quality and character
- 8.15 Metropolitan Open Land
- 8.19 South East London Green Chain Walk
- 8.42 Tall and large buildings
- 8.43 Skyline
- 10.1 Sustainable waste management
- 10.3 Reducing flood risk
- 10.4 Sustainable urban drainage systems
- 10.6 Noise pollution
- 10.7 Air quality
- 10.10 Sustainable design and construction
- 10.11 Carbon reduction, decentralise energy networks and renewable energy

A consultation on the Draft Allocations, further policies and designations document was carried out in September 2015.

Relevant London Plan Policies include:

- Policy 1.1 Delivering the strategic vision and objectives for London
- Policy 2.6 Outer London: vision and strategy
- Policy 2.7 Outer London: economy
- Policy 2.8 Outer London: transport
- Policy 3.1 Ensuring equal life chances for all
- Policy 3.3 Increasing housing supply
- Policy 3.4 Optimising housing potential
- Policy 3.5 Quality and design of housing developments
- Policy 3.6 Children and young people’s play and informal recreation facilities
- Policy 3.8 Housing choice
- Policy 3.9 Mixed and balanced communities
- Policy 3.10 Definition of affordable housing
- Policy 3.11 Affordable housing targets
- Policy 3.12 Negotiating affordable housing on individual private residential and mixed use schemes
- Policy 3.13 Affordable housing thresholds
- Policy 5.1 Climate change mitigation
- Policy 5.2 Minimising carbon dioxide emissions
- Policy 5.3 Sustainable design and construction
- Policy 5.5 Decentralised energy networks
- Policy 5.6 Decentralised energy in development proposals
- Policy 5.7 Renewable energy
- Policy 5.8 Innovative energy technologies
- Policy 5.9 Overheating and cooling
- Policy 5.10 Urban greening
- Policy 5.11 Green roofs and development site environs
- Policy 5.12 Flood risk management
- Policy 5.13 Sustainable drainage
- Policy 5.14 Water quality and wastewater Infrastructure
- Policy 5.15 Water use and supplies
- Policy 5.16 Waste self-sufficiency
- Policy 5.17 Waste capacity
- Policy 5.18 Construction, excavation and demolition waste
- Policy 5.21 Contaminated land
- Policy 6.3 Assessing effects of development on transport capacity
- Policy 6.9 Cycling
- Policy 6.10 Walking

Policy 6.11 Smoothing traffic flow and tackling congestion
Policy 6.13 Parking
Policy 7.1 Building London's neighbourhoods and communities
Policy 7.2 An inclusive environment
Policy 7.3 Designing out crime
Policy 7.4 Local character
Policy 7.5 Public realm
Policy 7.6 Architecture
Policy 7.14 Improving air quality
Policy 7.15 Reducing noise and enhancing soundscapes
Policy 7.17 Metropolitan Open Land
Policy 7.19 Biodiversity and access to nature
Policy 8.2 Planning obligations
Policy 8.3 Community infrastructure levy

The London Plan SPG's relevant to this application are:

Accessible London: Achieving an Inclusive Environment (2014)
Housing (2012)
London Housing Design Guide
Mayor's Housing Standards Policy Transition Statement (2015)
Draft Interim Housing (2015)
Sustainable Design and Construction (2014)
Shaping Neighbourhoods: Play and Informal Recreation (2012)

National Planning Policy Framework 2012 (NPPF)

The NPPF contains a wide range of guidance relevant to the application specifically sections covering sustainable development, delivering a wide choice of quality homes, requiring good design, conserving and enhancing the natural environment, decision-taking and implementation. The NPPF makes it clear that weight should be given to emerging policies that are consistent with the NPPF.

Paragraph 7 states that, 'There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure

A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being

An environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.'

Paragraph 14 makes it clear that at the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as the golden thread running through both plan-making and decision taking. In terms of decision taking it states that, 'where a development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a

whole; or specific policies in this Framework indicate development should be restricted (specific policies in the NPPF cover issues such as land designated a Green Belt).

Paragraph 49 states that, 'Housing applications should be considered in the context of the presumption in favour of sustainable development.'

Paragraph 56 that, 'Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.'

Paragraph 60 states that, 'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.'

Paragraph 61 states that, 'Although, visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. '

Paragraph 63 states that, 'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.'

Paragraph 64 states that, 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

Paragraph 65 states that. 'Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).

Paragraphs 79-92 of the NPPF sets out the Government's intention for Green Belt. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

The Green Belt is intended to serve five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 96 states that, 'In determining planning applications, local planning authorities should expect new development to: 'take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'

Paragraph 100 states that, 'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.'

Paragraph 101 states that, 'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.'

Planning History

History for this site includes:

88/01449: Single storey stable block and formation of car park. Permitted.

89/01826: Use of sports ground for car boot sales. Refused.

95/00294: Single storey detached building for use as a mini cab office. Permitted.

14/02176: Temporary static caravan for security purposes (retrospective). Refused.

15/00701: Demolition of the existing buildings and redevelopment of the site by the erection of a basement plus part 8/9/10/11/12 storey building comprising 296 residential units (148 x one bed; 135 x two bed and 13 x three bed units) together with the construction of an estate road, 222 car parking spaces, 488 cycle parking spaces and landscaping of the east part of the site to form an open space accessible to the public. Refused for the following reasons:

1. The proposed redevelopment of this site designated as Metropolitan Open Land (MOL) for residential purposes is considered to be inappropriate development in principle. The applicant has failed to demonstrate very special circumstances or that the proposal is a sustainable form of development. Furthermore the substantial level of harm that would arise from the development by way of harm to the MOL, design, and amenity and flood risk is considered to outweigh any housing land supply or other socio-economic benefits that would arise or benefits of opening up public access to the MOL and enhancing its landscape. As such the proposal is contrary to the aims and objectives of the NPPF (2012) and Policies 7.17 of the London Plan (2015) and G2 of the UDP (2006).

2. This site is considered to be an inappropriate location for a tall building as it fails to satisfy the requirements of Policy BE17 of the UDP. Furthermore, the proposal by virtue of its scale, form and monolithic appearance, amount of development, adverse impact on the Landscape and the Skyline, poor response to the existing street network and connections, failure to improve or enhance the legibility and character of the area, adverse podium design, lack of active frontage and poor public realm amounts to overdevelopment of the site and fails to provide a scheme of high quality design contrary to the aims and objectives of the NPPF (2012), Policies H7, BE1 BE4 and BE18 of the UDP, Policies 7.1, 7.2, 7.3 7.4, 7.5 and 7.6 of the London Plan, The Mayors Housing SPG and SPG1 Good Design Principles and SPG2 Residential Design Guidance.

3. The proposal by virtue of its podium design, poorly considered access arrangements, outlook for some of the ground floor units; and questions over the ability of single aspect flats to promote natural ventilation and mitigate solar gain or provide adequate amenity in terms of noise when windows are open; fails to demonstrate that a high quality living environment with satisfactory standards of amenity will be provided for future residents. Furthermore it has not been demonstrated that the development is capable of providing 10% wheelchair provision across all tenures, with suitable access, car parking and internal layout. The proposal is therefore contrary to Policies H7 and BE1 of the UDP, Policies 7.1, 7.2, 7.3 and 7.6 of the London Plan, The Mayors Housing SPG, SPG2 Residential Design Guidance and the Bromley's Affordable Housing SPD (2008).

4. This site lies within Flood Zone 2 and 3 and meets the requirements for Sequential Test in the NPPF. Despite the ability of the design to mitigate flood risk, the approach

taken has significant adverse effects on the quality of the development. As such it has not been demonstrated that an appropriate solution to mitigate potential flood risk can be achieved in accordance with the aims and objectives of the NPPF (2012) and Policy 5.12 of the London Plan.

An appeal against this decision has been lodged with the planning inspectorate, and is anticipated to be heard at a public inquiry in May 2016.

Relevant history for Dylon includes:

09/01664: Mixed use redevelopment comprising basement car parking and 2 part five/ six/ seven/ eight storey blocks for use as Class B1 office accommodation (6884 sqm)/ Class A1 retail (449 sqm)/ Class A3 cafe/ restaurant (135 sqm)/ Class D1 creche (437 sqm) and 149 flats (32 one bedroom/ 78 two bedroom/ 39 three bedroom). Refused but Appeal Allowed.

13/01973: Erection of five storey building comprising 74 residential units; A1 retail; A3 cafe/ restaurant and a D1 creche in place of Block A03 forming part of the approved planning permission 09/01664 for the redevelopment of the Dylon site. Appeal Allowed.

13/03467: Erection of five storey building comprising 74 residential units; A1 retail; A3 cafe/ restaurant and a D1 creche in place of Block A03 forming part of the approved planning permission 09/01664 for the redevelopment of the Dylon site. Appeal Allowed.

14/01752: Erection of a five storey building comprising 55 residential units; B1 office; A1 retail; A3 cafe/restaurant; and a D1 creche in place of Block A03 of the approved permission ref. 09/01664/FULL1 for the redevelopment of the Dylon site. Refused.

Total approved development on the Dylon Phase 1 site is 223 residential units and 1,021 sqm of commercial floorspace (A1/A3/D1).

15/04692: Section 73 application for a minor material amendment to 09/01664/FULL1 (as amended under 13/1973/FULL1); (to provide a total of 223 residential units, A1 retail unit, A3 café/restaurant unit, D1 crèche and associated works) for amendments to the external elevational treatments, materials, fenestration and landscaping, re-configuration of windows, balconies and internal layout of units, core, upper terraces and form of roof, additional windows and balconies, re-configuration of bin stores and refuse, additional substation and reduction of size of the basement. Pending consideration.

15/04702: Section 73 application for a minor material amendment to 13/01973/FULL1 (amendment to block A03 forming part of pp 09/01664);(to provide a total of 223 residential units, A1 retail unit, A3 café/restaurant unit, D1 crèche and associated works) for amendments to the external elevational treatments, materials, fenestration and landscaping, re-configuration of windows, balconies and internal layout of units, core, upper terraces and form of roof, additional windows and balconies, re-configuration of bin stores and refuse, additional substation and reduction of size of the basement. Pending consideration.

Consideration

The main issues to be considered are:

- Principle of Development, MOL and Presumption in Favour of Sustainable Development (NPPF Paragraph 14)
- Density
- Design
- Landscaping and Public Realm

- Trees and Ecology
- Housing Issues
- Highways and Traffic Issues
- Impact on Adjoining Properties
- Sustainability and Energy
- Planning Obligations

Principle

The application site is designated Metropolitan Open Land and is part of the South London Green Chain. Consequently the principle of developing the site for residential purposes must be considered in this context.

The current extent of Metropolitan Open Land is strongly supported by London Plan Policy 7.17 which also seeks to protect it from development having an adverse impact on its openness. Policy 7.17 of the London Plan states that in planning decisions regarding MOL, “inappropriate development should be refused except in very special circumstances, giving the same level of protection as in the greenbelt. Supporting Paragraph 7.56 to the MOL policy makes it clear that the policy guidance of paragraphs 79-92 of the NPPF on Green Belts applies equally to MOL. It further states that “the Mayor is keen to see improvements in [MOL]’s overall quality and accessibility”.

Policy 7.17 acknowledges the importance of the Green Chain to London in terms of open space network, recreation and biodiversity. The Green Chain should be designated as MOL due to its London wide importance.

As stated above paragraphs 79-92 of the NPPF sets out the Government’s intention for Green Belt. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Paragraph 83 states that local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan.

Paragraphs 87 - 89 make it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Furthermore, a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or

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

As with the previous proposal to redevelopment this site, the proposed development includes substantial new buildings which do not fall within the exceptions set out in paragraph 89 of the NPPF. The new residential buildings are inappropriate development. The harm this inappropriate development; by definition, causes should be given substantial weight.

Policy G2 of the UDP is consistent with the rest of National and London Plan policy. It confirms permission for “inappropriate development” will not be permitted on MOL unless “very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or other harm”. The policy also identifies that “the construction of buildings”, which the proposed residential development falls into, constitutes inappropriate development on MOL and thus causes harm to it.

Policy G7 of the UDP seeks to protect the Green Chain. The policy states that, ‘Development proposals will be required to respect and not harm the character or function of the Green Chain and the Green Chain Walk, as defined on the Proposals Map. Measures to protect this designated area are to include the use of suitable screening, landscaping or in appropriate areas the planting of native vegetation and enhancing of wildlife habitats.

The Council will protect land within the Green Chain, as defined on the Proposals Map, and promote it as a recreational resource whilst conserving and, where appropriate, enhancing the landscape. The South East London Green Chain comprises a number of open spaces in a variety of ownerships and largely in recreational use, which extend in a virtually continuous arc from the Thames, through the London Boroughs of Bexley, Greenwich, Lewisham and Bromley. The boroughs jointly administer the Green Chain in accordance with the objectives in the Green Policy Document, agreed by the South East London Green Chain Joint Committee in 1977. The well-established partnership between boroughs maintains the Green Chain as a valuable recreational amenity, landscape and nature conservation reserve for the wider south-east London area.’

At the present time the site is not open to public use. It has been allowed to fall into a poor condition and is currently being used for a low level amount of ad hoc storage. However, the site is clearly separate from the built up development to the north, it forms part of the wider MOL to the south and east and is an important buffer between built form and open landscape. Deliberate neglect or lack of public access is not in itself a reason to allow development on important protected sites such as this.

As with the previous application, the developer proposes to landscape and make the eastern part of the existing MOL space publicly accessible. Whilst this is welcome this cannot be at the expense of inappropriate development on the remainder of the site. In order to be granted planning permission for the residential element of the proposal, the applicants must demonstrate that the development would constitute “very special circumstances”.

The applicant has again sought to make a case for very special circumstances through the submission of their document titled ‘MOL Assessment’ (the details of which have been set out above). Very special circumstances are stated by the applicant to apply because:

- The development would assist in meeting housing need and meet and exceed the London Plan minimum housing target for Bromley on a deliverable site in the absence of an up to date housing trajectory and lack of available sites.
- The applicant contends that Bromley is unable to meet its 5 years housing land supply as it fails to proactively designate a sufficient number of sites, relying on appeal approvals to meet housing targets.
- The land does not meet the London Plan criteria as defined in 7.17 for designating MOL
- The 'in principle harm' that may arise from the development would be limited and there would be limited impact on openness
- The proposal would meet MOL criteria
- The benefits of the proposed development are considered by the applicant to outweigh the loss to MOL because of the carefully considered, exemplary and quality design of the proposed development and the improvements to the existing MOL land by making it publicly accessible

As set out above, in accordance with paragraph 87, this revised proposal continues to be inappropriate development by definition, which is harmful to the Green Belt and should not be approved except in very special circumstances. The local planning authority should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness or any other harm is clearly outweighed by other considerations. For the reasons set out below it is not considered that the applicants suggested very special circumstances exist.

Housing Need and Supply

It is recognised that at national level, the NPPF (paragraph 49) states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

UDP Policy H1 requires the Borough to make provision for additional dwellings over the plan period acknowledging a requirement to make the most efficient use of sites in accordance with the density/location matrix. However, the presumption in favour of additional housing is intended to focus development within built up areas and on brownfield land, the need for additional housing provision does not outweigh national and development plan policies that seek to protect Green Belt/MOL.

Although policy 3.3 of the London Plan does state that “boroughs should seek to achieve and exceed [their] relevant housing targets as defined in table 3.1 (641 units per annum for Bromley), and that those targets should be “augmented where possible with extra housing capacity to close the gap between identified housing need and supply in line with the requirement of the NPPF” is mainly relevant at the LDF preparation stage. The NPPF (para.47) requires local planning authorities to identify and keep up-to-date a deliverable five year housing land supply against their housing requirement, with an additional buffer of 5%.

The latest five year housing supply paper was agreed by the Council in June 2015 and concludes that the Borough does have a five year housing supply for the period

01/04/2015 – 31/03/2020. Importantly, the annual target of 641 units per annum is based on the latest Strategic Housing Land Availability Assessment (SHLAA 2013) evidence for London boroughs which assessed potential capacity for provision on small (<0.25ha) and large sites (>0.25ha). This evidence, in addition to relevant London Plan policies, supporting text on housing supply and the further explanation provided in the relevant London Plan Inspector's report, informed the Borough's update.

Part E. of London plan policy 3.3 identifies the type of sites where development would be brought forward to supplement targets. If it does identify potential in areas of good transport accessibility (points d and e) it directs such development towards "existing residential areas" and "surplus commercial and public land" which the site being considered does not fall in. In addition, the identification of such sites should be done at plan making process stage.

The applicant contends that Bromley is unable to meet its 5 years housing land supply as it fails to proactively designate a sufficient number of sites, relying on windfall sites and appeal approvals to meet housing targets. The applicant has submitted a Review of Bromley's Five Year Housing Land Supply Assessment (October 2015 - NLP) in support of the application. The content of their report is set out in the earlier sections of this report.

NLP's analysis removes 704 units from the Council's five year housing supply calculation and the supply to 4.01 years with a deficit of 606 dwellings.

In response to the Draft Report prepared by NLP, The Council's June 2015 Five Year Housing Land Supply Assessment has been prepared consistent with Section 6 of the NPPF especially paragraph 47 and related advice of the PPG on what constitutes a 'deliverable site'.

Officers contend that the housing supply position for the Borough has significantly changed since 2007. From April 2011 the Council has published five year housing supply positions annually setting out that previous housing shortfalls for different London plan periods do not accrue based on advice from the GLA. The backlog of housing need is taken into account when GLA London-wide SHLAA's are carried out. The appeal decisions referenced were decided prior to this advice during periods where a housing shortfall had been specified.

The Local Plan has been progressed following a call for sites for housing and other uses (February 2014) and a consultation on "draft allocations further policies and designations" was carried out from September to October 2015. Comments received are currently being considered by officers and will be reported to Members in the near future. Recommendations made as a result of the consideration of representations will feed into the draft Local Plan. This will include looking at representations regarding Years 6-15 (and Years 1-5) of the Plan including those set out by NLP in their critique. Of particular relevance to the consideration of the planning application is the Five Year Housing Supply position.

A number of the sites listed have had relatively recent decisions and it is considered at this stage that there is not clear evidence in relation to the schemes themselves that they will not be implemented within five years.

With regard to currently allocated sites it is considered that these units are deliverable by March 2020.

In terms of small schemes that have already commenced it is considered that these are deliverable within five years in light of the small size of the schemes (1-8 units).

The Borough's housing target is based on the recently endorsed GLA SHLAA (2013) and the adopted London Plan (2015). The inclusion of the small site allowance within the Council's Five Year Housing Supply Paper is consistent within the GLA's SHLAA 2013 and advice set out in paragraph 3.19A of the London Plan that specifies the small site allowance should form part of the 5 year supply.

The Housing Supply Policy in the London Plan Policy 3.3 March 2015) and the principal evidence on which it is based (SHLAA 2013) are both relatively recent. The recent SHLAA is further evidence that there is an adequate housing land supply in the borough.

It is considered that overall the Council's Five Year Housing Supply position (June 2015) is that the Five Year Housing Supply is demonstrated and will continue to be monitored on a regular basis.

The applicant considers that "very special circumstances" justifying development on MOL have been established by virtue of the ability of the site to meet housing need and housing land supply. However, Officers do not agree that very special circumstances are justified on this specific basis. Officers are of the view that the housing supply targets of London Plan Policy 3.3 can be met without developing this designated MOL site. Consequently the ability of this site to deliver additional homes for the Borough cannot be accepted to override the harm to MOL as required in UDP Policy G2. In any event, the advice of the PPG is that unmet housing need is unlikely to outweigh harm to the Green Belt (MOL) and other harm to constitute very special circumstances.

Meeting the MOL designation criteria

In order to be designated as MOL, the London Plan states that the land needs to meet one of the criteria defined by Policy 7.17. The applicant seeks to argue that this site is erroneously designated MOL in that it fails to meet any of the designation criteria, or the purposes for including land within this designation.

The policy however states that "Any alterations to the boundary of MOL should be undertaken by boroughs through the LDF process". Paragraph 83 of the NPPF – which also as established earlier in this report also applies to MOL- states that "greenbelt boundaries" should only be altered in "exceptional circumstances" through the preparation/review of the local plan. As such, it is not considered that it is appropriate to reconsider the designation of the site as MOL using London Plan criteria as part of this planning application.

In addition, it is considered that the site does meet criteria a) and d) of the policy. Indeed the nature of the site is "clearly distinguishable from the built up area" (criteria a.) as most of it has been left open. Built development on the site remains low key and is some distance away from the Dylon and Maybrey industrial/housing sites. In addition, some of the development on the site has been carried out without previously having been approved by the local authority which contributes to the extent of the built footprint of the site (enforcement action has been taken and a current investigation is underway). The railway is a clear barrier separating the site from the industrial area to the west and it cannot be said that there is continuity between the urban form of the area and the site. In addition the site meets criteria d. as it is part of the green chain. Consequently without prejudice to the position set out in the paragraph above Officers are of the opinion that this site deserves its designation as MOL.

Improvements to Metropolitan Open Land and Design Quality

As with the previous proposal, the scheme suggests a trade-off between developing part on the site whilst improving the remaining MOL through landscaping, providing gym and play facilities and by providing a point of access into the site. The applicant considers that “The enhancement and establishment of public access to the retained MOL is also a material consideration in weighing the balance of policy considerations” which would “provide justification to set aside Policy 7.17 of the London Plan and G2 of the Bromley UDP, which aim to protect MOL from development. Policy 7.17 of the London Plan and G2 of the UDP cannot be “set aside”. It is agreed that what is proposed in terms of the open space element of the proposal could be an improvement on MOL (however, for reasons discussed in the design section below the detail of this element is not considered to be acceptable). Nevertheless, even if the open space element were considered to be well designed it should be understood that policy G2 of the UDP requires very special circumstances to be demonstrated first. If those are demonstrated, it will be considered whether those Very Special Circumstances outweigh the harm caused by inappropriate development.

As discussed above, this application does not demonstrate that very special circumstances apply in this case, especially in view of Bromley’s updated housing supply figures and therefore whatever benefits would be brought to the remaining MOL cannot be used to justify loss of MOL. Similarly, meeting Bromley’s and the GLA’s design policy requirements and the guidance of other documents, including as stated exceeding the size and layout of the residential standards of the London Design Guide (as stated in the Design and Access, Scale and appearance and Amenity sections of the Planning, Design and Access Statement) cannot be taken to contribute to establish very special circumstances in itself. It could be used to established that the benefits of the scheme outweigh the harm done by inappropriate development through very special circumstances however because the case for very special circumstances has not convincingly been made in this instance and therefore however positive the features of the proposed development, those are immaterial to this case.

Precedents

The applicant provides a number of examples of residential schemes (in both Bromley and elsewhere) which have previously been approved on MOL and Green Belt. Applications, the outcome of which were determined as part of the planning application process were assessed on their own merits and how they were determined does not set a precedent for this application. As for the scheme at Anerley School for Boys which was determined on appeal, the inspector’s decision considered that the site did not meet any of the London’s plan MOL criteria (7.17) however as stated above, it is considered that this particular site does meet some of the MOL criteria. Again, whilst this was considered on appeal, it is generally not appropriate to revisit MOL designations as part of the planning application process.

Principle Summary

The nature of the development proposed in this case is fundamentally the same as that considered under the previous application (ref. 15/00701). Given the MOL designation of the site the proposed residential development continues to be inappropriate development. Such development should not be approved except in very special circumstances. The applicant has again sought to demonstrate that very special circumstances apply on the basis that this site does not meet the criteria for designating MOL and in any event that redevelopment of this site for residential purposes is required to meet housing need and supply in the Borough, particularly in light of recent changes to the London Plan and that there would be limited harm on openness.

The appropriate mechanism for challenging the designation of sites is through the Local Plan process not individual planning applications and for the reasons demonstrated in this report it is not accepted that this site is required to meet housing need and supply in the borough, and consequently it is not accepted that the applicant has demonstrated very special circumstances. The benefits of the proposal have been carefully assessed and weighed against the harm that could arise from the proposal. On balance officers do not consider that the benefits of the proposal would outweigh the harm caused by loss to the MOL and therefore the principle of the development is considered to be unacceptable in accordance with Policy 7.17 of the London Plan, Policy G2 of the UDP and the NPPF. It is noted that the GLA again support this view.

Density

Policy 3.4 in the London Plan seeks to ensure that development proposals achieve the optimum housing density compatible with local context, the design principles in Chapter 7 of the plan, and with public transport capacity. Table 3.2 (Sustainable residential quality) identifies appropriate residential density ranges related to a site's setting (assessed in terms of its location, existing building form and massing) and public transport accessibility (PTAL).

The applicant considers this site to fall within an urban setting, and accordingly that the appropriate density range is 200-450 hr/ha or 70-170 u/ha as set out in Table 3.2 of the London Plan or 300-450 hr/ha/100-150u/ha according to Table 4.2 of the UDP. At a density of 344 hr/ha or 136 u/ha they consider the application to fall within the appropriate density range.

Officers do not agree with the applicant's assessment of density. The site is not part of the Dylon site, it is not identified as a housing site but is currently designated as MOL. The site is inset within MOL and adjacent to the Dylon site which has been granted permission for a scheme with an urban density. It is considered that this site forms a transition zone between the urban development to the north and suburban development, taking account of the area to the south and east of the site characterised by a predominance of semi-detached houses and Metropolitan Open Land. The appropriate density range would therefore be within the London Plan suburban range of 150-250 hr/ha or 50-95 u/ha. Therefore, the current proposal (even taking account of the reduction in the number of units when compared to the previous proposal) significantly exceeds this range and would therefore constitute overdevelopment.

As discussed above the principle of redeveloping this site for residential use is considered to be unacceptable. Even if putting the MOL considerations to one side, the proposal is not considered to be a sustainable form of development. One of the strongest reasons in justifying this development put forward by the applicant is the site's location adjacent to Lower Sydenham train station. The transport implications of this scheme will be discussed in detail below. However, the transport report states that the site achieved a PTAL rating of 2, which is considered 'poor'. The site is actually quite isolated from surrounding facilities. The nearest primary school and local shops are approximately a ten minute walk from the site. GPs surgeries are a 17 min walk away. The only facilities near the site are sports fields and gyms. Whilst the Dylon development includes some commercial units, there is no guarantee when or whether these will be delivered. Furthermore it is noted that there is no disabled access to Lower Sydenham Station at present. Consequently, the sustainability credentials of this location are therefore questionable and there are concerns about appropriateness of the site to accommodate the density proposed.

The NPPF states that planning permission can be given to buildings that are not compatible with the existing townscape if they promote high levels of sustainability and

concerns have been mitigated by good design. The isolated location of this building and the poor quality of the design explored in later paragraphs clearly show that that sustainability alone and provision of a high density scheme cannot be justified.

Playing Fields/Sport England Comments

This site was historically used as a sports facility for the Dylon Factory. Given its historical use Sport England were consulted on the application. Their response has been set out in full above. The application includes a letter from the site owner which states 'since acquiring the site in 2007 there have been no sports activities carried out on the playing fields at Footzie Social Club. Car boot sales were held on the playing fields between 2003 and 2009, there are records for the licenses obtained for this activity'. The applicant has also submitted an assessment to demonstrate that there is an excess of playing fields in the catchment area.

In light of the fact that the site has not been used as a playing pitch or sporting facility for a considerable period of time (in excess of 8 years) officers are not seeking to raise an objection to the application in this respect. In the event that this application were to be considered acceptable in all other respects the application would be referred to the Secretary of State in accordance with the Consultation Direction 2009.

Design

Design is a key consideration in the planning process. Good design is an important aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

The NPPF requires Local Planning Authorities to undertake a design critique of planning proposals to ensure that developments would function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Proposals must establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses and support local facilities and transport networks. Developments are required to respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. New development must create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and are visually attractive as a result of good architecture and appropriate landscaping.

London Plan and UDP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design. UDP Policy BE1 sets out a list of criteria which proposals will be expected to meet, the criteria is clearly aligned with the principles of the NPPF as set out above.

The key elements of design are assessed below.

Appropriateness of a Tall Building

Policy BE17 defines a tall building as one which significantly exceeds the general height of the buildings in the area. Proposals for tall buildings will be expected to provide:

- (i) a design of outstanding architectural quality that will enhance the skyline
- (ii) a completed and well-designed setting, including hard and soft landscaping
- (iii) mixed use at effective densities and
- (iv) good access to public transport nodes and routes.

The proposed building is considered to be a tall building in the context of its surroundings. Although the height of the development has been reduced from a maximum of 12 storeys (as proposed in the recently refused application) to 9 and would be of similar height to the tallest element of the consented Dylon scheme on the adjacent site, the building would continue to significantly exceed the general height of buildings in the area. The proposal does not satisfy the criteria set out in Policy BE17.

Delivering a tall building in this location is completely contrary to planning policies within the UDP and London Plan. Policy 7.7 of the London Plan states that tall and large buildings should generally be limited to sites in the Central Activity Zone, opportunity areas and areas of intensification or town centres that have good access to public transport. The site is not located in any of these locations and although the site is located next to Lower Sydenham station, the PTAL rating is 2, this is considered poor. When setting out suitable locations for tall buildings the London Plan clearly states that tall buildings should be part of a plan led approach to change or develop the area and not have an unacceptably harmful impact on their surroundings. Policy 7.7 of the London Plan clearly states that tall buildings should relate to the proportion, composition, scale and character of surrounding buildings, urban grain and public realm and areas where the character would not be adversely affected. This is repeated in Policy BE1 of the Bromley UDP that states that development should complement the scale form and layout of the area.

The built character in the local area is varied, and there is little consistency. It varies from 2 storey suburban dwellings to industrial sheds. The consented scheme adjacent to the application site will introduce a new urban form between 5 and 8 storeys. The landscape of the site and wider area does, however, give the area a strong character. Proposals on the application site should therefore respond to the landscape and open space, as the primary influence on the site. This does not mean that the development of the application site should be of a suburban scale, but it should respond sensitively and positively to the landscape and open space. The proposed 9 storey building forming a continuous 'wall' to the open space would be completely out of character with the landscape and open space

Policy 7.7 of the London Plan states that tall buildings should improve the legibility of an area by emphasising a point of civic or visual significance. This is an isolated site. There are no public facilities or destinations apart from the train station. Furthermore, instead of emphasising a point of visual significance, in this case the open views across the South East London Chain, the building blocks it out. The building would also block existing views of the MOL from the railway line.

Policy 7.7 of the London Plan states that tall buildings should have ground floor uses that relate to surrounding streets. This development has a very poor relationship with the surrounding streets. There are no uses at ground floor along the northern and eastern edges of the building and those on the west and southern areas relate only to the parking areas and have no relationship to the surrounding street network.

In conclusion a tall building is considered to be entirely inappropriate for this location contrary to Policy 7.7 of the London Plan and Policies BE17 and BE1 of the UDP.

Impact on the Landscape and Skyline

Policy BE18 states that, 'Development that adversely affects important local views, or views of landmarks or major skyline ridges, as identified in Appendix VII, will not be permitted. This development sits within the view of local importance described in Appendix VII as the view' From Addington Hill of panorama across Crystal Palace,

Penge, Beckenham and Greenwich towards Shooters Hill, Isle of Dogs and Blackwall Reach.’ This proposal also needs to be considered in its context of an important MOL landscape and relationship to the South East London Chain– a series of connected open spaces.

Policy G2 of the UDP states that within Metropolitan Open Land, *‘Permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm’*. Policy G7 of the Bromley UDP states that new development should respect the character of the South East London Chain.

All of the views provided as part of the planning application show that the mass and scale of proposed buildings will, despite the reduction in height proposed from the previously refused scheme, severely impact on the open character of the site adversely affecting the setting and character of the MOL and Green Chain. Despite planted screening around the western and south-eastern borders of the site, the building is highly visible and blocks existing open views.

Paragraph 7 of the NPPF states that the planning system must protect and enhance the natural environment. This is repeated in policy NE12 of the UDP that states that the Council will seek to safeguard the quality and character of the local landscape. The impact a tall building in this location will have on the skyline cannot be ignored. The site is situated within a view of local importance from the Addington Hills. Policy BE18 of the Bromley UDP clearly states that development that adversely affects important local views will not be permitted. Furthermore the open nature of the surrounding landscape will be severely impacted by the development.

Whilst the applicant has provided a number of views, including one long-range view from the Addington Hills, only limited visual impact assessment has been undertaken. The MOL Assessment Addendum submitted by the applicant includes a handful of Accurate Visual Representations of the scheme together with the Dylon development from local viewpoints along Worsley Bridge Road (across the MOL), Kangley Bridge Road and Lennard Road. With the exception of the Lennard Road view, where the development is obscured by existing buildings at the HSBC sports ground and has been illustrated in wireline, all of the views demonstrate the detrimental impact that a building of the form and scale proposed would have on the surrounding area.

The London Plan clearly states that tall buildings should not have an unacceptable harmful impact on their surroundings. At present, the applicant has provided no real proof that long-range views will be protected. Furthermore, creating a ‘wall’ of development will cast shadows onto the new public open space the extent of which is not clear from the application material. Furthermore, the improvements to the open space have been stated as one of the key justifications for developing on MOL. The space created therefore has to be of the highest quality. The proposed building will have an overbearing appearance for users of the open space, and will potentially overshadow it for parts of the day. Together with the blank frontage of the ground floor level, the building will be a hostile presence on the open space (See Podium Design and Impact in Public Realm). This is not overcome in this revised proposal through the addition of a landscaped bank alongside the eastern edge of the podium.

The London Plan clearly states that tall buildings should not have an unacceptable harmful impact on their surroundings. It is clear from looking at the views provided that this scheme would have a harmful impact. Despite the tree belt that surrounds the scheme along two edges and the reduced height proposed in the current application, it would continue to be highly visible due to its height and mass. This is unacceptable.

The site previously provided sporting facilities for the Dylon factory and is no longer in use and not accessible to the public. The applicant proposes to create a public open space on the undeveloped area of land. While this could bring benefits to the area for the reasons set out earlier in this report very special circumstances have not been demonstrated. Whilst the Applicant's Metropolitan Open Land Assessment does set out a case for the potential of development to improve access and the setting and functionality of the MOL the proposals are insufficient to overcome the MOL policy because the scale, siting and design of the proposals will harm the openness and visual amenity of the MOL. This is contrary to Policy G2 of the Bromley UDP and Policy 7.17 of the London Plan. The visual impact assessment has not clearly demonstrated the effect of such a large building and is not enough to justify the approach set out by the applicant, even with the reduced scale of development now proposed.

In conclusion the revised proposal is considered to be entirely inappropriate for this location due to the significant adverse impact on the landscape and skyline contrary to Policies BE18, NE12, G2 and G7 of the UDP and Paragraph 7 of the NPPF.

Street Network and Connections

London Plan Policy 7.4 states that, 'A Development should have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. It should improve an area's visual or physical connection with natural features. In areas of poor or ill-defined character, development should build on the positive elements that can contribute to establishing an enhanced character for the future. Buildings, streets and open spaces should provide a high quality design response that:

- Has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass
- Contributes to a positive relationship between the urban structure and natural landscape features, including the underlying landform and topography of an area
- Is human in scale, ensuring buildings create a positive relationship with street level activity and people feel comfortable with their surroundings
- Allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area
- Is informed by the surrounding historic environment.'

Policy 7.5 states that, 'Development should make the public realm comprehensible at a human scale, using gateways, focal points and landmarks as appropriate to help people find their way. Landscape treatment, street furniture and infrastructure should be of the highest quality, have a clear purpose, maintain uncluttered spaces and should contribute to the easy movement of people through the space. Opportunities for the integration of high quality public art should be considered, and opportunities for greening (such as through planting of trees and other soft landscaping wherever possible) should be maximised. Treatment of the public realm should be informed by the heritage values of the place, where appropriate.'

The supporting text to Policy 7.5 states in paragraph 7.16, 'The quality of the public realm has a significant influence on quality of life because it affects people's sense of place, security and belonging, as well as having an influence on a range of health and social factors. For this reason, public and private open spaces, and the buildings that frame those spaces, should contribute to the highest standards of comfort, security and ease of movement possible. This is particularly important in high density development (Policy 3.4).

There is a strong emphasis in planning policy to deliver new buildings that contribute to and are integrated into the existing network of streets. Paragraph 7.4 of the London Plan states that development should have regard to the form function and structure of an area. Section 4.1 of the Bromley Residential Guidance SPG states that Layout should be integrated into the existing street network and that cul de sacs should be avoided. The London Housing Design guide specifically states in 1.1.1 and 1.1.2 that developments should demonstrate how the scheme responds to its physical context and integrates into the surrounding network of streets. This has not been achieved by the material submitted by the applicant. The form and layout of the development is broadly the same as that previously proposed, and is essentially a single structure located within a cul de sac. It is in a peripheral location that is constrained by the railway and the river. This limits its ability to relate to the surrounding context. This is a predominantly business/industrial area. There is not a connected network of streets, rather buildings set in inward looking trading estates or housing developments. New development should attempt to address this issue not compound it.

There is emphasis in planning policy to create permeable, accessible areas. This is stated in Policy 7.1 and 7.5 of the London Plan. The access road to the site is not visible from Station Approach. It is hidden behind the Dylon development. There is no connection with the existing townscape. Whilst it is noted that the Applicant has strengthened the pedestrian connection from Station Approach to the proposed open space and proposes access through the Dylon scheme, there remains no clear connection between the surrounding context and the primary access to the building (parallel to the railway).

Respecting the character of the existing streetscape is a strong theme of the planning policies identified. Paragraph 60 of the NPPF states that local distinctiveness should be reinforced by new development. This is repeated in Policy 7.1 of the London Plan which states that new buildings should reinforce or enhance the character and Policy BE1 of the Bromley UDP that states that the development should be imaginative and compliment the scale, form, layout and materials of the adjacent areas. Whilst there is no significant local built character in the area, there clearly is a distinctive natural environment created by large areas of open space. In the absence of any real built character, the landscape should inform the design of the building. The scale and mass of this large slab block does not relate to the green open character of the site and blocks views from the east and west.

In summary the revised proposal fails to positively integrate into its surrounding context contrary to Policies 7.1, 7.4 and 7.5 of the London Plan, Policy BE1 of the UDP and Bromley Residential supplementary design guidance.

Poor Design Quality

There is a strong emphasis in development plan policies, national and local planning guidance to deliver good design. Paragraph 56 of the NPPF states that good design is indivisible from good planning. Policy BE17 of the UDP states that buildings that exceed the general height of buildings in the area should be of outstanding architectural quality. The Residential Design SPG is very clear in stating that the appearance of the proposed development and its relationship with its surroundings are both material considerations in determining planning applications.

Policy 7.6 states that, 'Architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape.' It goes on to state that buildings and structures should:

- Be of the highest architectural quality
- Be of a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm
- Comprise details and materials that complement, not necessarily replicate, the local architectural character
- Not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy,
- Incorporate best practice in resource management and climate change mitigation and adaptation
- Provide high quality indoor and outdoor spaces and integrate well with the surrounding streets and open spaces
- Be adaptable to different activities and land uses, particularly at ground-level
- Meet the principles of inclusive design
- Optimise the potential of sites'

Following the previous refusal of planning permission, the architect has attempted to further articulate the façade of this building by introducing additional external facing materials including white brick cladding and white powder coated balcony balustrades, with the aim of adding "more apparent rhythm of solid and void to the elevation". However, all of the views presented continue to read as a singular monolithic structure. The introduction of white brick cladding within the balcony recesses does little to break up the significant mass of the development, which is further exacerbated through the loss of the stepped massing previously proposed as a result of the reduction to a consistent height of 9 storeys. Despite the revisions then, this is far from the imaginative and attractive buildings required by Policy BE1 of the UDP.

Attempts have also been made to address concerns previously raised in respect of access to and circulation around the building. An additional entrance has been added to the western elevation, and the entrances have been repositioned to align with the vertices of the concertinaed articulation of the building. Whilst this does go some way to addressing the concerns regarding access on the western side of the building, access from the open space to the eastern side of the building is still set at podium level, raised above ground level. This is contrary to standard 3.1.1 of the London Housing Design Guide that states that, 'All main entrances to houses, ground floor flats and communal entrance lobbies should be visible from the public realm and clearly identified,' and to Standard 3.1.3 that states that, 'The approach to all entrances should preferably be level or gently sloping'.

At ground floor level, circulation in the building would continue to be structured around internal central corridors. The London Housing Design Guide states that, 'Where dwellings are accessed via an internal corridor, the corridor should receive natural light and adequate ventilation.' There does not appear to be any natural light in these spaces. These long corridors also impose on the amenity of ground floor residents. Many people will be using the access corridors and this could have a noise and security impact on people living on the ground floor level. Their amenity is protected by Policy BE1 of the UDP. The London Housing Design Guide also states that, 'The layout of adjacent dwellings and the location of lifts and circulation spaces should seek to limit the transmission of noise to sound sensitive rooms within dwellings.' It is not clear how the applicant will protect the amenity of these residents. Indeed, many of the flats open directly into habitable rooms, which are particularly vulnerable to noise. The noise assessment submitted considers the impact of external noise sources on future occupiers but does not address this specific issue. A clearer approach to this issue is urgently required.

A significant concern with the previous proposal was that the circulation arrangement led to many of the flats becoming single aspect. This limits opportunities for effective natural ventilation and passive solar design - contrary to Paragraph 96 of the NPPF and BE1 of the UDP that state that the layout and orientation should consider ways to reduce energy consumption. Furthermore paragraph 5.2.2 of the London Housing Design Guide states that, 'Where single aspect dwellings are proposed, the designer should demonstrate how good levels of ventilation, daylight and privacy will be provided to each habitable room and the kitchen.'

Whilst there are no longer any three bedroom single aspect units proposed, a number of the flats facing towards the railway line to the west would continue to be single aspect. This continues to be a particular concern, given the findings of the Noise Assessment which concludes that these units will require an alternative means of ventilation as relying solely on openable windows could lead to noise pollution. Policy 7.15 of the London Plan seeks to protect residential occupiers from unacceptable noise pollution. Given the relationship to the railway and commercial buildings to the west it is considered that single aspect facing units on this façade should be avoided as dual aspect units would enable future occupiers to take advantage of the quieter parts of the site to the east. The Design and Access Statement confirms that these units can use acoustic rated trickle vents for ventilation, although this is unlikely to be sufficient to ventilate the flats during the summer months and mitigate the impacts of solar gain.

Furthermore, the explanatory text for 5.2.2 states that, 'The Mayor believes dual aspect should be the first option that designers explore for all new developments.' There is no evidence that the applicant has investigated full the potential to provide dual aspect dwellings. No technical or site constraints are presented to justify this choice. This is unacceptable.

Concerns were previously raised in respect of the circulation arrangements to gain access to the upper levels. The revisions to building access discussed above have gone some way to improving legibility with an additional pedestrian access now proposed, however once in the building at ground floor level residents on the upper floors still need to navigate their way to a secondary circulation area with stairs and lifts that will take them to their level. A different system operates on the eastern side of the building, where the accesses lead directly to secondary circulation areas. This arrangement remains ill thought out and does not incorporate the 'highest standards of architecture,' as required by Policy 7.6 of the London Plan.

The highways and parking implications of the proposal are discussed in detail in the relevant sections below. With particular regard to the design of the surface parking area, revisions have been made to reduce the number of spaces and in turn provide a revised layout, with parking bays now aligned in parallel with the road on its western edge. This does provide a slightly greater opportunity for soft landscaping alongside the western edge of the building but views from the ground floor flats would continue to be dominated by the car parking, which would not be a pleasant outlook for residents, especially those with a single aspect in this direction. Again, this is contrary to policies such as Policy BE1 of the UDP that states that space about buildings should provide opportunities to create attractive settings with hard or soft landscaping and with the parking chapter of the Residential Design Guidance SPG that states that the council is committed to reducing the dominance of parking on the public realm.

As presented and having regard to the revisions made to the scheme since the previous refusal of planning permission, the proposal fails to provide a good enough standard of design quality when assessed against relevant development plan policies and national and local design guidance.

Podium Design and Effects on Public Realm

London Plan Policy 7.1 states that, 'The design of new buildings and the spaces they create should help reinforce or enhance the character, legibility, permeability and accessibility of the neighbourhood.' Policy 7.3 states that, 'Development should reduce the opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating. In particular:

- Routes and spaces should be legible and well maintained, providing for convenient movement without compromising security
- There should be a clear indication of whether a space is private, semi-public or public, with natural surveillance of publicly accessible spaces from buildings at their lower floors
- Design should encourage a level of human activity that is appropriate to the location, incorporating a mix of uses where appropriate, to maximize activity throughout the day and night, creating a reduced risk of crime and a sense of safety at all times
- Places should be designed to promote an appropriate sense of ownership over communal spaces
- Places, buildings and structures should incorporate appropriately designed security features
- Schemes should be designed to minimise on-going management and future maintenance costs of the particular safety and security measures proposed

The above measures should be incorporated at the design stage to ensure that overall design quality is not compromised.'

The most critical failure in the design of the previous proposal was considered to be the positioning of the building above a single storey podium. The podium houses car parking at lower ground level, and is built out at ground floor level to accommodate the access road from Station Approach to the west and raised communal terraces to the east.

The principal concern raised in relation to the podium design under the previous application was the creation of a single storey blank frontage along the eastern edge of the building. This was considered to severely compromise the quality and success of the public space as there would be limited passive surveillance at ground level. The addition of a door from the podium car park and proposed 'leaf' design for the car park grills was not sufficient to improve the quality of this podium edge. Indeed, it was considered that a door between the car park and open space could actually make the development more insecure and open up potential for crime as there is no passive surveillance from the proposed dwellings on this elevation. Paragraph 58 of the NPPF, Policy 7.3 of the London Plan, Policy BE1 of the Bromley UDP and the General Design Guidance SPG (Ease of Movement) state that developments should design out opportunities for such behaviours.

As designed the proposal is contrary to Policy 7.7 of the London Plan and Policy BE17 of the UDP that requires tall and large buildings to have ground floor activities that provide a positive relationship to the surrounding streets. The Public Realm Quality section of the General Design Principles SPG, the Fences and Boundaries section of the Residential Design SPG and Policy BE7 of the UDP all clearly state that high, blank walls and boundaries should be avoided.

In seeking to address these concerns, the applicant has revised the eastern edge of the podium to provide a landscaped bank which rises up from the proposed public open space to reach the podium (ground floor) level. Whilst this has resulted in a slight

improvement to the visual appearance of this part of the development, providing a softer edge to the development, it does not address the concerns previously raised in respect of natural surveillance and security. The ground floor flats continue to be elevated above the ground level within the public realm, and again the open space will not be overlooked at this level. Neither is the route that people will follow along the edge of the open space to the entrances on the eastern side of the building. These entrances are raised and accessed via long staircases between the park and podium level. The applicant has not indicated how these will be secured. With no passive surveillance the park and entrance spaces will feel dangerous and will be vulnerable locations for anti-social behaviour and crime. Paragraph 58 of the NPPF, Policy 7.3 of the London Plan, Policy BE1 of the Bromley UDP and the General Design Guidance SPG (Ease of Movement) state that developments should design out opportunities for such behaviours.

Good public realm design is promoted throughout planning policy. The general design principles SPG states that the Council is committed to good quality public realm. The London Plan states that Development should make the public realm comprehensible at a human scale and that be of a composition that enhances and appropriately defines the public realm. It also requires the public and private open spaces should contribute the highest standards of comfort security and ease of movement. These principles have not been achieved by the application. Whilst the new uses and routes through the park do open up the space to the public, the space itself is not effectively framed by built development. Subsequently, the opportunity to create a successful open space has been missed.

In summary, the revised proposal continues to fail to adequately address its surroundings at ground floor level resulting in poor and potentially dangerous public realm contrary to Policies 7.3 and 7.7 of the London Plan, BE1, BE7 and BE17 of the UDP and national and local design guidance.

Trees and Ecology

Policy NE7 requires proposals for new development to take particular account of existing trees on the site and on adjoining land. Policies NE2 and NE3 seek to protect sites and features which are of ecological interest and value. Planning Authorities are required to assess the impact of a development proposal upon ecology, biodiversity and protected species. The presence of protected species is a material planning consideration. English Nature has issued Standing Advice to local planning authorities to assist with the determination of planning applications in this respect as they have scaled back their ability to comment on individual applications. English Nature also act as the Licensing Authority in the event that following the issue of planning permission a license is required to undertake works which will affect protected species.

This application was accompanied by a habitat survey (the details of which were set out in earlier sections of this report). The report is considered to be acceptable in terms of identifying potential impacts on ecology and required mitigation.

Notwithstanding the above concerns with respect to the podium treatment and consequential adverse impact on public realm the Council's Tree Officer has confirmed that there is no objection to the proposed removal of trees as set out in the applicant's submission. In the event that this application were acceptable in all other respects it would be appropriate to request a detailed landscaping strategy by way of condition which would need to include sufficient and robust replacement tree planting, native species to improve ecology and habitats and ecological enhancements such as bird and bat boxes.

It would also be appropriate to attach conditions requiring detailed bat surveys to be undertaken prior to any tree works being carried out and restrictions on work being undertaken to trees during breeding season.

Housing Issues

At regional level, the 2015 London Plan seeks mixed and balanced communities (Policy 3.9). Communities should be mixed and balanced by tenure, supported by effective and attractive design, adequate infrastructure and an enhanced environment. Policies 3.11 and 3.12 of the plan confirm that Boroughs should maximise affordable housing provision, where 60% of provision should be for social housing (comprising social and affordable rent) and 40% should be for intermediate provision and priority should be accorded to the provision of affordable family housing.

UDP Policy H7 outlines the Council's criteria for all new housing developments. The policy seeks the provision of a mix of housing types and sizes.

a) Size and Tenure of Residential Accommodation

The proposal would provide the following residential development

	1 Bed	2 Bed	3 Bed	Total
Private	81	75	5	161
Affordable	47	40	5	92
Total	128	115	10	253

The size mix of units equates to 51% one beds, 45% 2 beds and 4% three beds. This represents a similar breakdown to the previous application, and whilst it is noted that concerns were raised at that time by the Council's Strategic Housing Officer in respect of the number of two bedroom units proposed (a greater number was preferred), this mix is again considered to be acceptable on balance.

In accordance with the Mayor of London's Transition Policy Statement (2015) 10% of new housing is required to meet building regulation M4 (3) 'wheelchair user dwellings'. Bromley's Affordable Housing SPD confirms that 10% of all housing including affordable housing should be wheelchair accessible in developments of 20 or more units. The applicants Planning Statement states that 10% wheelchair units would be provided which would meet the policy requirement. The Design and Access Statement confirms that 26 units (13 one bedroom, 12 two bedroom and 1 three bedroom units) would be provided as wheelchair accessible, of which 10 would be located within Block B03 as affordable dwellings.

Typical layout plans for the units has been provided at a scale of 1:50. However, the plans lack sufficient detail to demonstrate that the 26 units would be capable of meeting wheelchair standards. For private units the relevant standard would be the GLA standard but for affordable units the standard would be SELHP. Additionally it is not entirely clear whether appropriate access or car parking can be provided. It is not clear from the submission that such standards could be achieved. Consequently the applicant has failed to sufficiently address London Plan Policy 3.8, the Mayors Housing SPG or Bromley's Affordable Housing SPD.

Policy H2 of the UDP requires sites capable of providing 10 or more dwellings to make provision for 35% affordable housing (by habitable room). A lower provision of affordable housing can only be accepted where it is demonstrated that the viability of the scheme cannot support policy compliant provision. In such instances the maximum level of affordable provision must be sought. Recent changes to the NPPF and PPG raise the

threshold to 11 or more dwellings. In this instance the development comprises 296 residential units and therefore triggers the need to address Policy H2. The application includes a UDP policy compliant provision of affordable housing (253 total unit of which 92 units will be affordable = 36% or 641 total hab rooms of which 234 affordable hab rooms = 36.5%). Consequently officers did not request the submission of a Financial Viability Assessment.

In the stage 1 response the GLA advised that London Plan Policies 3.11 and 3.12 require the maximum reasonable amount of affordable housing to be delivered in all residential developments above ten units, taking into account; the need to encourage rather than restrain development; the housing needs in particular locations; mixed and balanced communities, and; the specific circumstances of individual sites. They acknowledge that that in the planning statement, the applicant confirms that 36% of the units will be provided as affordable units, with a tenure split of 60% social rent and 40% intermediate, the preferred tenure split in the London Plan. The offer at this stage therefore meets the policy requirement in Bromley's UDP. The site however, is a greenfield, windfall site which could not have been purchased on the basis of its development potential. In addition, the London Plan policy is for the maximum reasonable amount of affordable housing to be delivered and is a far more up-to-date policy than Bromley Council's UDP policy. On that basis therefore, GLA officers require the applicant to conduct a financial viability appraisal to demonstrate the maximum reasonable amount of affordable housing will be delivered, based on the development's viability. This should be based on the existing use value (EUV) of the site (open space) or a suitable benchmark land value (of comparable open space transactions).

The GLA require the Council and/or its independent consultant to scrutinise the toolkit appraisals to determine whether the maximum reasonable amount of affordable housing that the development can deliver is being secured as opposed to 35% required by UDP policy. The GLA has requested that both the applicants and Councils viability reports are submitted prior to the application being referred back at stage two.

The GLAs position on this matter is noted. If this application were considered to be acceptable in principle this particular issue would have been discussed further with the applicant and GLA in order to find an appropriate solution.

The projected tenure split within the application is 60% rent 40% intermediate although a detailed breakdown of tenure in terms of identified units was not provided. Again if this application were considered to be acceptable in principle further details would have been sought from the applicant.

b) *Standard of Residential Accommodation*

Policy H7 of the UDP and the Residential Standards SPD sets out the requirements for new residential development. The Mayor's Housing SPG, which is now to be read alongside the Housing Standards Policy Transition Statement (October 2015) sets out guidance in respect of the standard required for all new residential accommodation to supplement London Plan policies. Part 2 of the Housing SPG deals with the quality of residential accommodation setting out baseline and good practice standards for dwelling size, room layouts and circulation space, storage facilities, floor to ceiling heights, outlook, daylight and sunlight, external amenity space (including cycle storage facilities) as well as core and access arrangements.

Table 3.3 of the London Plan and Standard 4.1.1 of the SPG sets out minimum space standards for new development. The standards require 1bed2person units to be a minimum 50 sqm, 2b3p units to be 61 sqm and 2b4p units to be 70 sqm. All of the units

meet the minimum unit sizes and make adequate provision for amenity space by virtue of private balconies and terraces as well as the communal landscaped space to the east of the building. All of the 3 bed units are located at entrance level. The applicant has stated that all units met Lifetime Home Standards and has provided layout plans to demonstrate compliance in this respect. However, this is no longer a relevant standard and in accordance with the Transition Statement 90% of all new dwellings should meet building regulation M4(2) 'accessible and adaptable dwellings'. In the event that the scheme was to be recommended for approval compliance with this standard might be secured by condition.

However, as discussed in the design section above there are concerns in respect of the design in terms of the number of one bed single aspect units, the approach to access and circulation and the noise implications for units on the ground floor as well as outlook for the lower single aspect units. It is considered that the detailed design could be improved to offer a better standard of amenity for future occupiers in accordance with the aims and objectives of the Mayors Housing SPG.

Playspace

Based on the Mayor's play space SPG, there is a requirement for 163 sq.m of playspace on site. An area of playspace has been identified in the landscape plans. It is not clear how much provision is proposed but this could be addressed as part of a condition if this application were acceptable in all other respects.

Highways and Traffic Issues

The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, safe and suitable access to the site can be achieved for all people. It should be demonstrated that improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. The NPPF clearly states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

London Plan and UDP Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards within the UDP and London Plan should be used as a basis for assessment.

Under the previous application, it was concluded that the proposed development would not have any severe adverse impacts in respect of highways issues and therefore no objections were raised in this respect. This application includes an updated Transport Assessment (as well as the TA submitted in respect of the earlier application) which assesses the impacts of the reduced scheme on the operation of the local highway and transport network, including during the construction period as well as the operation of the development.

On the basis that this proposal is of a reduced scale and proposes fewer residential units, it follows that there would also be a reduced impact on the local highway and transport network and accordingly no objections are raised to the scheme in this regard. As with the previous scheme, the Council's Highways Officer has advised that the development would continue to result in a minor impact on the operation of the Southend Lane/Worsley Bridge Road traffic signal control junction. However this reason is not sufficient to warrant a refusal on highways grounds.

In respect of car and cycle parking provision, the overall numbers of spaces provided have been reduced to accord with the reduced quantum of development now proposed. A total of 190 car parking spaces are proposed, which equates to a ratio of 0.75 spaces per dwelling. This ratio is consistent with the previous application. The level of cycle parking provision accords with the London Plan and is acceptable. The application continues to propose a car club (with 2 on site spaces) and an appropriate provision of electric vehicle charging points, which is supported.

TfL have expressed concerns regarding the access arrangements and which would not give priority to pedestrians and cyclists over motor vehicles. TfL suggest that a more informal approach to the site layout could be used to reduce the 'highway' character of routes within the site, and recommend that the applicant should revisit the landscaping designs for the development in accordance with London Plan Policy 6.10 Walking, which states "Development proposals should ensure high quality pedestrian environments and emphasise the quality of the pedestrian and street space by referring to Transport for London's Pedestrian Design Guidance [current draft attached]" and local authorities should "encourage a higher quality pedestrian and street environment, including the use of shared space principles, such as simplified streetscape, decluttering, and access for all."

Were the scheme considered to be acceptable in other respects, it is considered that further revisions to the scheme should be sought to address these concerns.

Impact on neighbouring amenity

Policy BE1 of the UDP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

As with the previous proposal, notwithstanding the significant concerns in relation to other aspects of the scheme as set out in this report, it is not considered that the development would give rise to unacceptable impacts in terms of neighbouring amenity.

The site is largely surrounded by a range of non-residential uses comprising commercial and industrial uses to the north and west and MOL to the east and south. The closest residential properties would be the Dylon Phase 1 scheme when built. Given the significant distance between this site and existing residential properties to the east and south it is not considered that any harm to amenity would occur. There would be a degree of overlooking between the units on this scheme and the approved Dylon development. However, anyone choosing to move into the new schemes would be aware of the relationship and it is not considered that any mutual overlooking would give rise to an objection that could be sustained as a reason for refusal.

Whilst there may be some potential for overlooking onto adjacent uses to the west it is important to note that the adjacent buildings are not in residential use. Whilst some level of overlooking may occur it is not considered that the level of harm that would arise is significant enough to warrant refusal of this application.

It is recognised that during construction of the development there could be a significant amount of noise and disturbance from construction related activity including vehicular traffic. Construction related noise and activity cannot be avoided when implementing a development of this nature and scale. This is a relatively short term impact that can be managed as much as practically possible through measures such as a Construction Logistics Plan (CLP), dust prevention measures and control of construction hours. If this

application were considered to be acceptable in all other respects relevant conditions could be used to limit the adverse impacts of construction.

Concerns regarding traffic impact and parking issues that may arise in nearby streets that benefit from uncontrolled parking have been considered and discussed above.

Sustainability and Energy

The NPPF requires Local Planning Authorities to adopt proactive strategies to mitigate and adapt to climate change. London Plan and Draft Local Plan Policies advocate the need for sustainable development. All new development should address climate change and reduce carbon emissions. For major development proposals there are a number of London Plan requirements in respect of energy assessments, reduction of carbon emissions, sustainable design and construction, decentralised and renewable energy. Major developments are expected to prepare an energy strategy based upon the Mayors energy hierarchy adopting lean, clean, green principles.

The energy strategy submitted with the previous application has been re-submitted with this current application. The strategy confirms that all new dwellings would meet CfSH Rating 4 and a CHP would be incorporated to help meet London Plan CO2 reductions. As a result of achieving Level 4 under the CfSH sustainability assessment the proposal will address sustainability principles in terms of use of energy and water, construction techniques and building materials, waste, pollution and health and well-being.

Overall, the submitted information is comprehensive and thorough. However, it has not been updated to reflect the current reduced proposal nor has confirmation been provided that the information prepared in relation to the earlier proposal would continue to apply in this case. It was previously concluded that the strategy for reducing carbon emissions is in line with policy and acceptable (subject to the provision of additional information required to meet GLA comments which could be secured by condition), and accordingly it is considered appropriate to require the submission of full details in relation to carbon emissions reduction by condition.

Sustainable Urban Drainage Systems

Policy 5.13 of the London Plan requires development to utilise SUDS, unless there are practical reasons for not doing so though supporting text to the policy also recognises the contribution 'green' roofs can make to SUDS. The hierarchy within that policy is for a preference for developments to store water for later use.

Within this development surface water is proposed to be discharged to a soakaway or discharged to the adjacent watercourse in order to mimic the existing surface water run-off regime for the site. The potential to provide SUDs has been considered as part of the preliminary design process and will be incorporated into the final landscaping scheme.

This application does not include the provision of living roofs as the applicant has stated that the roof area could be used to accommodate PV panels. This is regrettable as it is possible for PV panels to be positioned on top of living roofs. Indeed the provision of living roofs below photo-voltaic panels optimises the efficiency of the PVs bringing additional sustainability benefits to the development. It is considered that the lack of a living roof is a missed opportunity to make a positive contribution in terms of SUDs, ecological benefits and visual amenity.

Notwithstanding the lack of green roof provision the development is capable of incorporating SUDs. The Council's Drainage Officer has confirmed that there is no objection to the proposal subject to conditions requiring submission of a detailed drainage strategy.

Flood Risk Mitigation

Paragraph 100 of the NPPF states that areas of highest flood risk should be avoided. London Plan Policy 5.12 states that development proposals must comply with the flood risk assessment and management requirements set out in the NPPF and associated Technical Guidance. Developments that are required to pass the exceptions test will need to address flood resilient design and emergency planning.

This site is located in an identified Flood Risk Area, 14% of the site is in Flood Zone 1, 80% of the site is in Flood Zone 3 and 6% is in Zone 2. The flood levels vary across the site between 23.94 AOD and 25.07 AOD. The proposed finished floor levels of the development have been determined through the site specific modelling exercise undertaken in conjunction with the Environment Agency. The ground floor (access) level will be set at 27.0m AOD and the lower deck car park floor level at 24.0m AOD.

The proposals to mitigate flood risk on site remain unchanged from the previous application, although the interface between the landscaped space and the undercroft area has been redesigned. As with the previous scheme in order to mitigate the impact of flooding the residential areas of the development, the surface level parking and access routes area all located in areas free from flooding. The ground floor of the development has been set at 27m AOD which means the residential areas are located a minimum of 2m above the 1 in 100 year plus climate change flood event. This approach provides an opportunity for dry escape or refuge in the event of a flood. In order to address concerns regarding flooding of the undercroft car parking area the design incorporates grilles along the eastern boundary of the building.

The position of the Environment Agency remains the same as previously advised regarding the previous application. No objections have been raised subject to planning conditions being imposed on any permission granted. Further conditions have been recommended to protect and enhance the ecological value of the site, including the Pool River.

As with the previous scheme, it is acknowledged that the Environment Agency and Drainage Officer do not object to the proposal and flood risk issues could technically be overcome by way of an engineered solution. However, the proposed means of dealing with flood risk is not considered to be acceptable from a design perspective. The primary reason for the design of the podium is to mitigate against flood risk. By raising the building up the residential accommodation sits 2m above the maximum flood level identified by the applicants modelling exercise of 650mm. It is not clear whether it is necessary to have such a large distance between the flood level identified and the residential accommodation or whether the need to raise the building simply presented an opportunity to accommodate car parking at lower ground level. While this approach does mitigate against flood risk, and satisfies the requirements of the Environment Agency and Emergency Planning, the consequences for the success of the scheme in terms of design, especially along the edge of the open space, are disastrous.

There is no evidence to suggest that the project team investigated other approaches to manage flood risk. Arguably, a site such as this one is not appropriate for development. Building on such a site at the expense of good design and placemaking promoted throughout planning policy is unacceptable. The applicants comments within the FRA regarding the suitability of the site for development based on housing need are noted but for reasons already discussed in this report the site is not considered to be necessary or indeed appropriate for meeting housing need in the Borough, the proposal is contrary to development plan policies and therefore the sequential test should be applied. The Council do not consider this site to be necessary to meet housing need and therefore

question the suitability of the site for residential development in light of the flood risk designation and proposed measures for dealing with this. Whilst the FRA considers that the Exception Test has been passed, it has not been demonstrated that there are wider sustainability benefits to the community that outweigh the flood risk, in this case. As it stands the Council do not accept that the Exception Test has been passed.

Other Considerations

Air quality, archaeology and land contamination has been addressed by way of submission of technical reports which have been scrutinised by relevant consultees. No objections are raised in this respect and if approved, appropriate conditions could be attached to control these specific aspects of the proposal in detail.

Planning Obligations

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

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

Paragraph 122 of the Community Infrastructure Levy Regulations (April 2010) puts the above three tests on a statutory basis. From 5th April 2015, it is necessary to link Education, Health and similar proposals to specific projects in the Borough to ensure that pooling regulations are complied with.

In this instance the application is considered to be unacceptable in principle and matters of detail. Consequently necessary s106 obligations have not been negotiated with the applicant. However, if this application were to be approved it would be necessary for the development to mitigate its impact in terms of:-

- Education (£573,967.13)
- Health (£247,434)
- Affordable Housing
- Wheelchair housing
- Access to and maintenance of the public open space.
- Provision of car club membership
- Highways contributions to address Bromley and TfL requirements

Under the original application Network Rail raised a concern with the lack of lift access at Lower Sydenham Station and requested that the applicant address this by way of a financial obligation to provide lift access. If this application had been considered acceptable in principle this matter would also have been discussed with the applicant.

Environmental Impact Assessment

The Council issued a Screening Opinion on 14th January 2016 pursuant to Regulation 5 confirming that the development would not be likely to have significant effects on the environment generating a need for an Environmental Impact Assessment. It was considered that the application could be fully and properly assessed by way of technical reports without the need for a full EIA.

Summary

This application seeks planning permission for a revised proposal to redevelop this site following the refusal of planning permission under ref. 15/00701. In seeking to address the grounds of refusal, a number of changes have been made to the scheme. However the principle of the development continues to be inappropriate in MOL, and despite its reduced height and other changes made the scheme continues to be unacceptable in terms its nature and scale, impact on the local environment and surrounding area. The benefits of the proposal have again been carefully weighed against the harm arising, this report has considered those matters in light of the NPPF (paragraphs 14, 49 and 87) as well as adopted and emerging development plan policies and other material considerations including third party representations.

As discussed in this report, the principle of developing the site for residential purposes is by definition inappropriate development in MOL. Officers have considered the very special circumstances put forward by the applicant and have weighed up the substantial harm caused by the inappropriate development as well as other harm resulting from overdevelopment, design and flooding against the benefits of the scheme which include the economic and regeneration and housing supply benefits associated with the provision of additional residential units for the Borough and providing public access and landscaping improvements to the MOL.

On balance officers do not consider that the potential harm to the MOL by reason of inappropriateness and other harm due to overdevelopment, design and flood risk are clearly outweighed by the benefits of the development set out above. Therefore very special circumstances do not exist and the principle of redeveloping this site for residential purposes is considered to be wholly unacceptable and contrary to national and development plan policies which seek to protect MOL.

In addition, there are some fundamental issues in terms of amount, scale and detailed design of the proposal that would seriously threaten the character, placemaking and functionality of the area, quality of the proposed building, open space and public realm, as well as giving rise to a poor standard of amenity for future residents including occupiers of wheelchair units. It is also considered that the proposed measures to deal with flood risk are inappropriate and unacceptable as they have a significant adverse effect on the quality of the proposed development. Notwithstanding the MOL designation it is considered that the proposal in its detail results in adverse impacts that significantly and demonstrably outweigh the benefits of the development.

Overall, the adverse impacts of the development together with the restrictions under MOL policy significantly and demonstrably outweigh the benefits, in spite of the general presumption in favour of sustainable development.

Consequently it is recommended that this application be refused for the reasons set out below.

Were the Council minded to approve this application formal referral to the Secretary of State would be necessary before determination given Sport England objections. In any event this application must be referred to the Mayor before determination in accordance with the request of the GLA in its Stage One Response (referable under .Category 1.A – development which comprises or includes the provision of more than 150 dwellings and Category 3D – development on land allocated as MOL which would include construction of a building with a floor space of more than 1000 sqm)

Background papers referred to during the production of this report comprise all correspondence on file ref 15/04759 and other files referenced in this report, excluding exempt information.

RECOMMENDATION: REFUSE (SUBJECT TO ANY DIRECTION BY THE MAYOR OF LONDON) for the following reasons:

1. The proposed redevelopment of this site designated as Metropolitan Open Land (MOL) for residential purposes is considered to be inappropriate development in principle. The applicant has failed to demonstrate very special circumstances or that the proposal is a sustainable form of development. Furthermore the substantial level of harm that would arise from the development by way of harm to the MOL, design, and amenity and flood risk is considered to outweigh any housing land supply or other socio-economic benefits that would arise or benefits of opening up public access to the MOL and enhancing its landscape. As such the proposal is contrary to the aims and objectives of the NPPF (2012) and Policies 7.17 of the London Plan (2015) and G2 of the UDP (2006).

2. This site is considered to be an inappropriate location for a tall building as it fails to satisfy the requirements of Policy BE17 of the UDP. Furthermore, the proposal by virtue of its scale, form and monolithic appearance, amount of development, adverse impact on the Landscape and the Skyline, poor response to the existing street network and connections, failure to improve or enhance the legibility and character of the area, adverse podium design, lack of active frontage and poor public realm amounts to overdevelopment of the site and fails to provide a scheme of high quality design contrary to the aims and objectives of the NPPF (2012), Policies H7, BE1 BE4 and BE18 of the UDP, Policies 7.1, 7.2, 7.3 7.4, 7.5 and 7.6 of the London Plan, The Mayors Housing SPG and SPG1 Good Design Principles and SPG2 Residential Design Guidance.

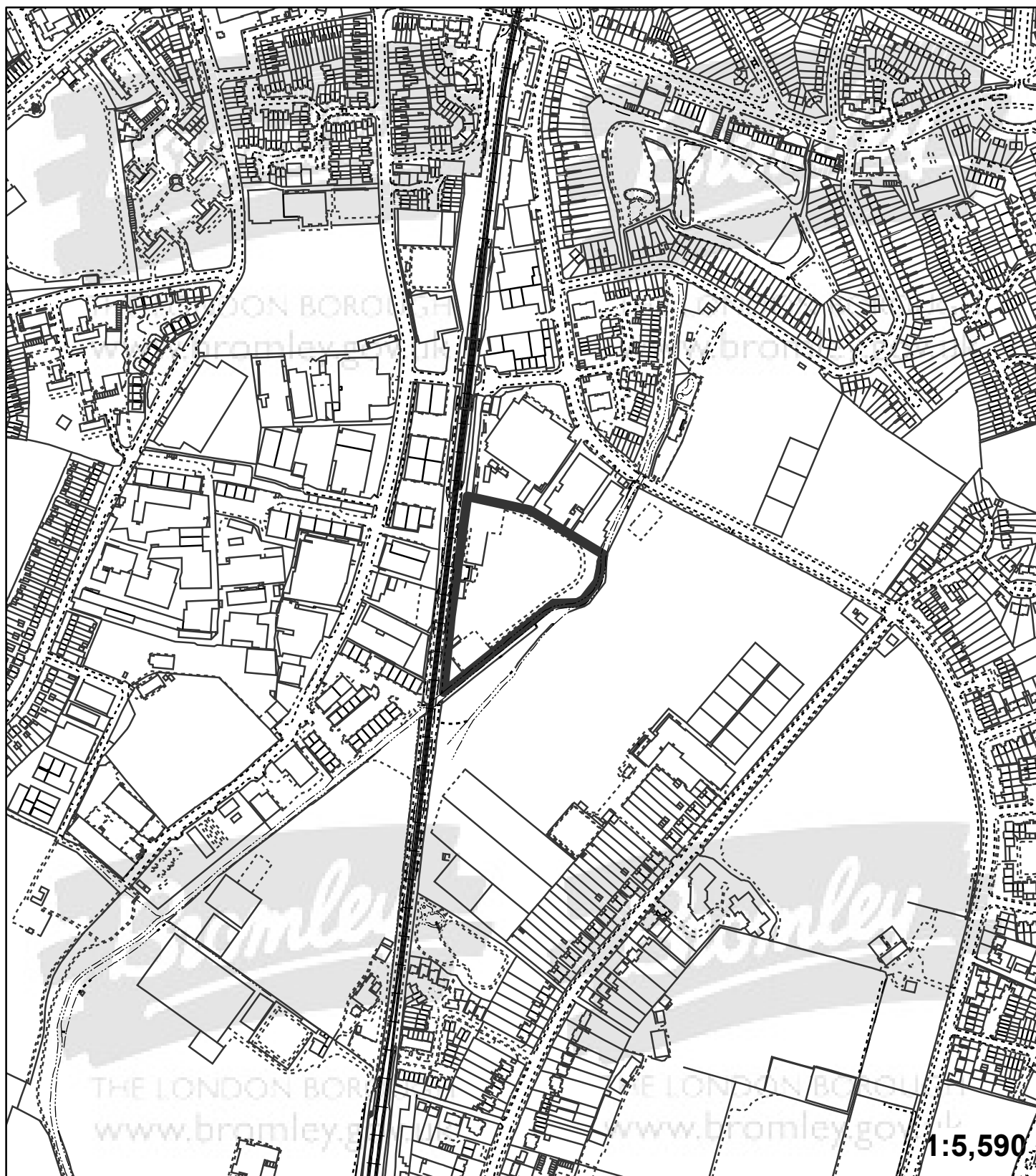
3. The proposal by virtue of its podium design, poorly considered access arrangements, outlook for some of the ground floor units; and questions over the ability of single aspect flats to promote natural ventilation and mitigate solar gain; or provide adequate amenity in terms of noise when windows are open fails to demonstrate that a high quality living environment with satisfactory standards of amenity will be provided for future residents. Furthermore it has not been demonstrated that the development is capable of providing 10% wheelchair provision across all tenures, with suitable access, car parking and internal layout. The proposal is therefore contrary to Policies H7 and BE1 of the UDP, Policies 7.1, 7.2, 7.3 and 7.6 of the London Plan, The Mayors Housing SPG, SPG2 Residential Design Guidance and the Bromley's Affordable Housing SPD (2008).

4. This site lies within Flood Zone 2 and 3 and meets the requirements for Sequential Test in the NPPF. Despite the ability of the design to mitigate flood risk, the approach taken has significant adverse effects on the quality of the development. As such it has not been demonstrated that an appropriate solution to mitigate potential flood risk can be achieved in accordance with the aims and objectives of the NPPF (2012) and Policy 5.12 of the London Plan.

Application:15/04759/FULL1

Address: Footzie Social Club Station Approach Lower Sydenham
London SE26 5BQ

Proposal: Demolition of the existing buildings and redevelopment of the site by the erection of a basement plus part 8 part 9 storey building comprising 253 residential units (128 x one bed; 115 x two bed and 10 x three bed units) together with the construction of an estate road, car and



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

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Development, Enterprise and Environment

Jake Hamilton
Bromley Council
Town Planning
Civic Centre
Stockwell Close
Bromley
BR1 3UH

Our ref: D&P/3633a/JF01
Your ref: DC/15/04759/FULL1
Date: 28 January 2016

Dear Jake,

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

Footzie Social Club, Station Approach, Lower Sydenham, SE26 5BQ
Local planning authority reference: DC/15/04759/FULL1

I refer to the copy of the above planning application, which was received from you on 22 December 2015. On 28 January 2016, the Mayor considered a report on this proposal, reference D&P/3633a/01. A copy of the report is attached, in full. This letter comprises the statement that the Mayor is required to provide under Article 4(2) of the Order.

The Mayor considers that the application does not comply with the London Plan, for the reasons set out in paragraph 88 of the above-mentioned report, which should be addressed before the application is referred back to the Mayor.

If your Council subsequently resolves to make a draft decision on the application, it must consult the Mayor again under Article 5 of the Order and allow him fourteen days to decide whether to allow the draft decision to proceed unchanged, or direct the Council under Article 6 to refuse the application, or issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application and any connected application. You should therefore send me a copy of any representations made in respect of the application, and a copy of any officer's report, together with a statement of the decision your authority proposes to make, and (if it proposed to grant permission) a statement of any conditions the authority proposes to impose and a draft of any planning obligation it proposes to enter into and details of any proposed planning contribution.

Please note that the Transport for London case officer for this application is Andrew Dorian, e-mail andrew.dorrian@tfl.gov.uk, telephone 020 3054 7041.

Yours sincerely,



Colin Wilson
Senior Manager – Development & Projects

cc James Cleverly, London Assembly Constituency Member
Nicky Gavron, Chair of London Assembly Planning Committee
National Planning Casework Unit, DCLG
Alex Williams, TfL
Mr Christopher Francis, West & Partners, 127 Metal Box Factory, 30 Gt Guildford Street,
London SE1 OHS

28 January 2015

Footzie Social Club, Lower Sydenham

in the London Borough of Bromley

planning application no. DC/15/04759/FULL1

Strategic planning application stage 1 referral

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

The proposal

Demolition of the existing buildings and redevelopment of the site by the erection of a basement plus part eight part nine storey building comprising 253 residential units (128 x one bed; 115 x two bed and 10 x three bed units) together with the construction of an estate road, car and cycle parking spaces and landscaping of the east part of the site to form an open space accessible to the public.

The applicant

The applicant is **Relta Ltd** and the architect is **Ian Ritchie Architects**.

Strategic issues

The proposals represent **inappropriate development** on **Metropolitan Open Land** and **very special circumstances** have not been demonstrated to outweigh the harm caused to the open quality and permanence of the MOL.

While the maximum building height has been reduced, the **layout, height, mass, and density** will be harmful to the open character and quality of the MOL, and further work is also required on the ground floor layout to improve street level activity and good quality public realm.

The indicative position on **affordable housing** is acceptable at this stage although further information is required on the **unit mix** across the affordable tenure. Matters of **flooding** and **children's playspace** are acceptable subject to further clarification and planning condition.

Further information is required on matters of **inclusive access, energy and transport** and a number of conditions are required.

Recommendation

That Bromley Council be advised that the application does not comply with the London Plan for the reasons set out in paragraph 88 of this report, which should be addressed before the application is referred back to the Mayor.

Context

1 On 22 December 2015 the Mayor of London received documents from Bromley Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. Under the provisions of The Town & Country Planning (Mayor of London) Order 2008 the Mayor has until 1 February 2016 to provide the Council with a statement setting out whether he considers that the application complies with the London Plan, and his reasons for taking that view. The Mayor may also provide other comments. This report sets out information for the Mayor's use in deciding what decision to make.

2 The application is referable under Categories 1A and 3D of the Schedule to the Order 2008:

Category 1A: *"Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats".*

Category 3D: *"Development on land allocated as Green Belt or Metropolitan Open Land...which would involve the construction of a building with a floorspace of more than 1,000 square metres or a material change in the use of such a building."*

3 Once Bromley Council has resolved to determine the application, it is required to refer it back to the Mayor for his decision as to whether to direct refusal; take it over for his own determination; or allow the Council to determine it itself.

4 The Mayor of London's statement on this case will be made available on the GLA website www.london.gov.uk.

Site description

5 The site is triangular in shape and comprises an area of 18,649 sq.m. currently occupied by a large area of open space and an area of hardstanding used for parking and storage with a few small scale buildings. It is bound to the west by the Hayes to London Charing Cross railway line with Lower Sydenham Station a short distance further north, with an industrial estate beyond the railway lines to the west. To the south and east the site adjoins further open space used as playing fields, and to the north it adjoins another warehouse and a recently implemented flatted development (by the same applicant and architect) on the wider site of the former Dylon International premises (referred to as Dylon phase one). It is understood that the current site historically provided open space and recreation for employees of Dylon International.

6 The site is accessed via a single lane private road off Station Approach and Worsley Bridge Road that runs parallel with the railways lines and adjacent to the phase 1 site. There is a narrow track leading to the southern part of the site. The topography of the site falls gently from the north to the southern corner and from west to east towards the Pool River.

7 The site is designated as Metropolitan Open Land (MOL) in Bromley Council's Unitary Development Plan (UDP) and forms part of a Green Chain. The Pool River runs along the south-east boundary of the site.

8 The nearest part of the Transport for London Road Network (TLRN) is London Road A205 approximately 1.5 kilometres to the north. The nearest part of the Strategic Road Network (SRN) is Crystal Palace Road A234 approximately 750 metres to the south.

9 A bus stop approximately 350 metres east of the site on Worsley Bridge Road is served by the 352 service, enabling journeys to Beckenham and Bromley town centres. Lower Sydenham national rail station is approximately 200 metres north of the site, providing access to London Cannon Street, London Bridge, Waterloo East and London Charing Cross stations. The application is Phase 2 of a wider scheme and the Public Transport Accessibility Level (PTAL) is two (on a scale of one to six, where six is excellent).

Site history

10 The site was historically associated with the site to the north, for which planning permission was granted in 2010, referred to as Dylon Phase 1 and has now been implemented. This development comprised the erection of a part five, six, seven, eight storey building plus basement to provide 149 residential units, B1 office accommodation, A1 retail space, A3 cafe/restaurant and D1 creche with car parking and landscaped open space. It was allowed on appeal following the Council's decision to refuse permission on grounds of its impact on character and the openness of the Metropolitan Open Land.

11 The application site was subject to a previous planning application of potential strategic importance which submitted to the Council in February 2015 and referred to the Mayor in April 2015. The application sought the demolition of the existing buildings and redevelopment of the site to provide a part eight, nine, ten, eleven and twelve storey building comprising 296 residential units. In his initial representations, the Mayor advised the Council that the application did not comply with the London Plan. In particular the Mayor advised the Council that the proposal represented inappropriate development within MOL, that 'very special' circumstances had not been demonstrated to outweigh the harm and that further justification was required on the loss of the site as a former playing field. In addition, further strategic issues relating to affordable housing, urban design and inclusive access and further information regarding climate change and transport were raised (GLA ref:D&P/3633/01).

12 In September 2015, the Council resolved to refuse planning permission for the proposals based on the following four reasons:

- The proposals were considered to be inappropriate development in the MOL and the applicant had failed to demonstrate very special circumstances. The substantial level of harm that would arise from the development by way of harm to the MOL, design, amenity and flood risk was considered to outweigh any housing land supply or other socio-economic benefits that would arise or the benefits of opening up public access to the MOL and enhancing its landscape.
- The site was an inappropriate location for a tall building as it failed to satisfy local policy requirements in this respect. The proposal by virtue of its scale, form and monolithic appearance amount of development, adverse impact on the landscape and the skyline, poor response to the existing street network and connection, failure to improve or enhance legibility and character of the area, adverse podium design, lack of active frontage and poor public realm amounts to overdevelopment of the site and fails to provide a scheme of high quality design.
- The proposal by virtue of its podium design, poorly considered access arrangements, outlook for some of the ground floor units; ability of single aspect flats to promote natural ventilation and mitigate solar gain; or provide adequate amenity in terms of noise when windows are open fails to demonstrate a high quality living environment. It was demonstrated that the development is capable of providing 10% wheelchair provision across all tenures, with suitable access, car parking and internal layout.

- The site is within Flood Zone 2 and 3 and despite the ability of the design to mitigate flood risk, the approach taken has significant effects on the overall quality of the development. As such it had not been demonstrated that an appropriate solution to mitigate flood risk could be achieved.

13 On 23 September 2015, the Mayor of London considered a report on the above (D&P/3633/02) and having regard to the details of the application, the matters set out in the committee report and the Council's draft decision notice decided there were no sound planning reasons for him to intervene in the case and advised Bromley Council that he was content for it to determine the case itself.

Details of the proposal

14 The application seeks to address the above reasons for refusal and proposes the demolition of the existing buildings and redevelopment of the site by the erection of a basement plus part 8 part 9 storey building comprising 253 residential units (128 x one bed; 115 x two bed and 10 x three bed units) together with the construction of an estate road, car and cycle parking spaces and landscaping of the east part of the site to form an open space accessible to the public.

15 The main revisions to scheme relate to the reduction in the maximum building height to nine storeys, a reduction in the number of units from 296 to 253 and some revisions to the surrounding public realm.

Strategic planning issues and relevant policies and guidance

16 The relevant issues and corresponding policies are as follows:

- Land use principles *London Plan;*
- Metropolitan Open Land *London Plan;*
- Housing *London Plan; Housing SPG; Draft Interim Housing SPG; Shaping Neighbourhoods: Play and Informal Recreation SPG;*
- Affordable housing *London Plan; Housing SPG, Draft Interim Housing SPG;*
- Density *London Plan; Housing SPG; Draft Interim Housing SPG;*
- Urban design *London Plan; Shaping Neighbourhoods: Character and Context Draft SPG;*
- Inclusive access *London Plan; Mayor's Accessible London SPG;*
- Flooding *London Plan;*
- Sustainable development *London Plan; Sustainable Design and Construction SPG; Mayor's Climate Change Adaptation Strategy; Mayor's Climate Change and Energy Strategy; Mayor's Water Strategy;*
- Transport and parking *London Plan; the Mayor's Transport Strategy;*
- Crossrail *London Plan; Mayoral Community Infrastructure Levy.*

17 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plans in force for the area are; the 'saved' policies of Bromley Council's Unitary Development Plan, originally adopted on 20 July 2006 with the majority of policies saved in 2009, and; the London Plan (Consolidated with Alterations since 2011).

18 The following are also relevant material considerations:

- Bromley Council's Draft Policies and Designations Local Plan (consultation closed March 2014);

- Minor Alterations to the London Plan;
- The National Planning Policy Framework and National Planning Policy Guidance.

Land use principles - Metropolitan Open Land

19 As stated in paragraph seven, the site is designated as Metropolitan Open Land (MOL). Policy 7.17 of the London Plan confirms that the strongest protection should be given to London's MOL in accordance with national guidance, and inappropriate development should be refused except in very special circumstances, giving the same level of protection as in the Green Belt.

20 The relevant national guidance on Green Belts is set out in paragraphs 79-92 of the NPPF and this applies equally to MOL. The construction of new buildings in MOL is inappropriate development, although NPPF paragraphs 89-90 identify circumstances where new buildings are not inappropriate, including for example buildings for agriculture/forestry, facilities for outdoor sport/recreation and small extensions or replacements of existing buildings. London Plan Policy 7.17 echoes this approach and states that appropriate development will be limited to small scale structures to support outdoor open space uses. The application proposals are, therefore, inappropriate development which is harmful to MOL. As set out in NPPF paragraphs 87-88, very special circumstances (VSC) need to exist to outweigh the harm caused.

21 The applicant has put forward a number of reasons to justify the development on MOL comprising its VSC case and these are assessed below.

MOL designation

22 In its planning statement and MOL Assessment, the applicant retrospectively applies the policy tests of London Plan Policy 7.17 used when considering whether to designate land as MOL in the preparation of a Local Plan. The applicant asserts that when considering a proposal for development on MOL, it is appropriate to undertake an assessment to establish whether or not the land meets these tests. What follows is the applicant's assertion that the land is erroneously designated as MOL as it does not satisfy the MOL designation criteria set out in the policy because part of the site contains structures and hardstanding, there is no public access to it and it does not contain any landscape features of national or metropolitan value. While it forms part of a Green Chain the applicant asserts that it fails to meet at least one of the preceding tests and so fails the last test.

23 As previously expressed in the Mayor's representations on the original proposals (GLA ref: D&P/3633/01), the planning application process is not the process through which to challenge the designation of MOL. As advised, this needs to be done via the Local Development Framework process, so that MOL boundaries can be considered strategically by the Council and the Mayor. The extent of the MOL boundary in this location was established and reaffirmed in previous development plan iterations. It is understood that the applicant has submitted a number of representations to the Council throughout its consultation on the preparation of its draft Local Plan, which is currently ongoing, urging the Council to re-assess all Green Belt and MOL boundaries and to promote the application site for residential use. At the time of writing, it is understood that the MOL designation for the application site has remained unchanged.

24 Notwithstanding the above, as previously advised, it is the GLA officer's view that the site does meet the necessary criteria in Policy 7.17 for designating MOL. The land does contribute to the physical structure of the area and is clearly distinguishable from the built up area to the north, as it is part of and connects with a wider network of open space, which is clearly visible in long range and shorter views (from Addington Hills for example and from the railway). It also forms part of a designated Green Chain and includes open air facilities that formerly were used for sport and recreation which could serve a significant part of London if public access were allowed.

Housing need

25 As part of the applicant's case for demonstrating VSC, it asserts that the Council will be unable to meet, let alone exceed, the increased borough housing target within the 2015 London Plan without developing sites such as this. In order to substantiate this claim; the applicant has commissioned an assessment of Bromley's five year housing land supply, which was shared in draft form as part of the consultation on the previously refused scheme. The assessment has identified a number of discrepancies in the calculation of the Council's five year housing supply land and as a result has removed a total of 704 residential units, which would result in the five year supply being reduced to 4.1 years. On this basis, the applicant argues that as the Council cannot demonstrate a five year supply of housing, in accordance with paragraph 14 of the National Planning Policy Framework (NPPF), planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits.

26 As set out in the assessment of the original application, it should be noted that the London Plan housing targets are based on a Strategic Housing Land Availability Assessment (SHLAA) which was tested and endorsed at Examination in Public. A key principle of the SHLAA and London Plan is that the target can be met without the need to consider designated open space.

27 Bromley Council has in previous years been able to demonstrate a five year housing supply in its Annual Monitoring Reports, and indeed has reported annual completions above the target. Furthermore, within its committee report for the original application, the Council asserted with confidence that it has a deliverable five year housing land supply and provides a robust defence to the applicant's case on housing need and housing land supply. The Council recently agreed its updated housing land supply paper (June 2105) based on the GLA's latest Strategic Housing Land Availability Assessment (SHLAA 2013). GLA officers are satisfied with the Council's position in this regard. Nonetheless, even if the Council's position with regard housing land supply were vulnerable as suggested by applicant's own assessment and were to be accepted as a VSC, the NPPF and London Plan Policy make it clear that those circumstances must outweigh the harm that would be caused to the MOL from inappropriate development. In this case, for the reasons set out within this report in relation to the design, height and mass, the harm would be significant, and GLA officers are of the view that that harm would not be outweighed by the benefits of the scheme in relation to housing supply and improved landscape.

28 Notwithstanding the above, if it were to be verified that the Council's housing land supply had been incorrectly calculated, GLA officers are of the opinion that the Council should have the opportunity to respond and demonstrate how it would meet a shortfall through the Local Plan review process; which is currently underway, and the granting of this permission should not be a forgone conclusion. In this respect, those comments made in paragraph 23 of this report are equally relevant to this issue.

Other MOL residential development in Bromley

29 The applicant has provided a detailed summary of a number of example cases or varying circumstances, both granted by the Council and allowed on appeal for housing developments on Green Belt and MOL over the past eight years. While the value these case studies provide in demonstrating the consideration of very special circumstances in other MOL development applications is noted, as acknowledged by the applicant, each planning application must be assessed on its own merits, and therefore these are not relevant to the consideration of this specific planning application and is not, therefore, an argument of very special circumstances for this application.

MOL improvements

30 Notwithstanding the above, the applicant has highlighted that the proposals would deliver a number of benefits to the MOL, principally by opening up the site to public access, retaining and enhancing the open space and landscape features on the eastern side adjacent to Pool River, improving its recreational value, and enhancing biodiversity. The conditional state of the site is also referred to, although it is noted that there are a number of enforcement cases currently pending for unauthorised uses.

31 As noted in Policy 7.17 and previously expressed, the Mayor is keen to see improvements in the quality and accessibility of MOL and Green Chains, and the benefits set out above are therefore supported and welcomed. However, arguably these could be achieved without the scale of inappropriate development proposed and would in most cases be a policy requirement of any development. These improvements therefore, despite welcomed, cannot be fully accepted as very special circumstances and do not outweigh themselves outweigh the harm to MOL.

Conclusion on VSC

32 The applicant has put forward a number of factors to justify inappropriate development on MOL. Whilst the improvement to the landscape and provision of public access is welcomed, by itself it is not a very special circumstance. With regards to Housing need, as previously expressed in the Mayor's initial representations on the original application and as demonstrated in some of the precedent examples provided, this could be a valid VSC argument in some cases. However, as set out above, GLA officers are satisfied with the Council's position in this regard and have been assured that the Council is, and will continue to be able to, meet its housing target over the next five years. Furthermore, if such a case arose that it was demonstrated and verified that the Council's housing supply calculations were in correct, this should be corrected through the Local Plan review process as a first priority. In light of the above, very special circumstances to outweigh the harm caused by the inappropriate development on MOL have not been demonstrated.

Impact on openness

33 NPPF paragraph 79 makes it clear that the essential characteristic of Green Belt/MOL is its openness and permanence. Whether or not very special circumstances exist to outweigh the harm caused by inappropriate development on MOL, it is also necessary to consider the impact on the openness and character of the MOL.

34 This is discussed in greater detail in paragraphs 58 to 64 of this report in the urban design section. However, the overall conclusion is that while the maximum height of the building has been reduced by three storeys, overall the revised height, scale and mass of the building must, by definition have a harmful impact on openness as largely undeveloped open land with a few small scale buildings is being replaced by a substantial building.

Playing fields

35 Paragraph 74 of the NPPF sets out that existing open space, sports and recreation land should not be built on except in certain prescribed circumstances. These include: evidence that the land is surplus to requirements, a replacement would be secured in a suitable location, or the proposal is for alternative sport/recreation use which outweighs the loss.

36 While it would appear that through neglect and various unauthorised activities, the land has not been used as a playing field for some time, it is understood that it historically provided a sport and recreation facility for employees of Dylon International. The applicant is required to demonstrate therefore how the proposed development meets the exceptions outlined in the NPPF, to justify that the loss of this land for sport/recreation purposes is acceptable.

37 As part of the original planning application, the applicant submitted further details demonstrating that the area is not deficient in either open space or playing pitches, and confirms that the site has not been used as a playing field for more than eight years. It is noted that the Council did not pursue a refusal reason on this basis that the proposals would result in its loss. However, given the statutory representation from Sport England, the application would be required to be referred to the Department for Communities and Local Government (DCLG), in the event of a resolution to grant permission.

Housing

38 The proposal seeks to provide 253 residential units with the following unit mix:

Unit type	No. of units	% of units
1 bed flat	128	51%
2 bed flat	115	45%
3 bed flat	10	4 %
TOTAL	253	100%

Affordable housing and tenure

39 London Plan Policies 3.11 and 3.12 require the maximum reasonable amount of affordable housing to be delivered in all residential developments above ten units, taking into account; the need to encourage rather than restrain development; the housing needs in particular locations; mixed and balanced communities, and; the specific circumstances of individual sites. The tenure split suggested by the London Plan is 60% social/affordable rent and 40% shared ownership. The NPPF, the Mayor's Housing SPG and the London Plan clearly state that to maximise affordable housing in London and provide a more diverse offer for the range of people requiring an affordable home, the affordable rent product should be utilised in the affordable housing offer in residential developments.

40 Bromley Council's current 'saved' policy in the UDP on affordable housing requires all residential developments to provide 35% affordable housing with a tenure split of 70% social rent to 30% intermediate, unless it can be demonstrated (through viability or the aim for mixed communities, for example) that a lower level or different tenure split is appropriate.

41 The applicant states that 92 units in B03 will be made available as affordable housing units, which equates 36% of the overall number of units and will be delivered via a tenure split of 60% social rent and 40% intermediate, in accordance with the preferred tenure split in the London Plan. The offer at this stage therefore meets the policy requirement in Bromley's UDP. The site however, is a greenfield, windfall site which could not have been purchased on the basis of its development potential. In addition, the London Plan policy as outlined above, is for the maximum reasonable amount of affordable housing to be delivered and is a far more up-to-date policy than Bromley Council's UDP policy. On that basis therefore, GLA officers require the applicant to conduct a financial viability appraisal to demonstrate the maximum reasonable amount of affordable housing will be delivered, based on the development's viability. This should be based on the existing use value (EUUV) of the site (open space) or a suitable benchmark land value (of comparable open space transactions).

42 The Council and/or its independent consultant should scrutinise the toolkit appraisals to determine whether the maximum reasonable amount of affordable housing that the development can deliver is being secured. GLA officers will require both reports to be submitted prior to the application being referred back at stage two. It is noted that this issue remained unaddressed at the decision making stage for the original application and this should therefore be addressed.

43 The affordable housing offer, tenure split, and type of products proposed, should aim to meet both local and strategic needs, whilst also maximising the overall provision. As noted in paragraph 39, in order to maximise affordable housing delivery and provide a more diverse offer for those requiring an affordable home, the affordable rent product should be utilised. In Bromley where values are more affordable than central London, the affordable rent product can maximise the affordable quantum without necessarily impacting on the affordability of the units for local people. GLA officers therefore strongly urge the applicant to consider affordable rent as a product, whilst ensuring that the final offer, tenures and unit mix proposed meets both local and strategic housing needs. The financial viability assessment should therefore include a policy compliant scenario test, with affordable rent to indicate whether there would be a difference in affordable quantum, as well as details of how rent levels inputted into the toolkit have been established.

44 GLA officers welcome further information on the applicant's timescales for delivery. If, due to phasing, the units will not be delivered in the short term, GLA officers would welcome the inclusion of a review mechanism in the section 106 agreement, requiring the developments finances to be re-tested at a later stage to allow any additional financial surplus to be captured prior to implementation/between phases, that may be generated by an uplift in sales values. Such a mechanism would need to be designed so as to ensure an appropriate proportion of any financial surplus would be awarded to the Council, and ring-fenced for the delivery of additional affordable housing units.

Mixed and balanced communities

45 London Plan policies 3.8, 3.9 and 3.11 and the Mayor's Housing SPG all accord priority to affordable family housing in new residential development, promote housing choice and seek a balanced mix of unit sizes and tenures in new developments in order to promote mixed and balanced communities, which can be achieved by providing a mix of tenures across the development and ensuring that the scheme is tenure blind.

46 From the information provided, it is suggested that all units in B03 will be affordable and will provide 47 one bed units, 40 two bed units and 5 three bed units. As set out in the Mayor's initial consultation response to the original application, to ensure a mixed and balanced community, the affordable units should be spread as far as practicable across the development and there should be no design differences between the tenures. The applicant should therefore provide

further information on how this has been explored in the design process. In addition, the applicant should provide a detailed breakdown of unit types across tenures.

47 The development includes ten family sized units (those with three or more bedrooms), representing approximately 4% of the total development. While this is a fairly low proportion of family units, this reflects the proportion of family sized units that the Council accepted when considering the original application, as the local housing market shows a demand for two bedroom properties. The mix is therefore acceptable in the context of local housing needs. However, further information on the unit and tenure mix of the affordable housing element is required before further comment can be provided on the acceptability of the proportion of affordable family housing. Notwithstanding this, from the information available, this is expected to be low and the applicant should seek to maximise this provision in accordance with the strategic priority afforded to maximising affordable family housing.

Residential quality

48 London Plan Policy 3.5, Table 3.3 and Annex One of the Housing SPG set out requirements for the quality and design of housing developments, including minimum space standards for new development. The application documents demonstrate that the minimum floor space and floor-to-ceiling height standards would be met or exceeded, together with compliance with the Lifetime Homes standard, which is welcomed and should be secured by condition.

49 The Mayor's Housing SPG states that new residential development should generally not provide more than eight units per core, in order to promote a sense of community and ownership over one's home. In addition, in order to achieve a quality internal environment in terms of light and cross-ventilation, the SPG states that dual aspect units should be maximised and single aspect units facing north should be avoided altogether.

50 The design and access statement and application drawings demonstrate that generally there will be either three or four units per core and due to the high number of cores, dual aspect units have been maximised with no single aspect north-facing units, which is commended. Generally unit sizes meet or exceed the Mayor's draft housing standard in the recently published Minor Alterations to the London Plan (MALP) consultation.

51 Private amenity space will be provided for each dwelling by way of balconies or private patio areas, and due to the site's MOL setting, residents would also benefit from extensive open space for recreation and amenity.

Density

52 London Plan Policy 3.4 requires development to optimise housing output for different locations taking into account local context and character, design principles set out in London Plan Chapter 7 and public transport capacity. Table 3.2 provides the density matrix in support of this policy. Based on the characteristics of the location set out in paragraphs 5-9, the site can be regarded as having a 'suburban' setting as it is predominantly characterised by low-rise housing development and low density industrial areas with open space. The applicant has previously disagreed with this view and considers the setting to be 'urban' based on the Inspector's assessment of the setting of the Dylon 1 scheme to the north. However, as previously expressed in the Mayor's final decision on the original application, GLA officers agree with the Council's view that the setting of a site within the MOL should not be the same as a site of previously developed land within an industrial estate (such as Dylon 1) and that this site is different in character.

53 For a 'suburban' setting with a medium PTAL rating, the matrix suggests a residential density in the region of 150-250 habitable rooms per hectare. The revised application documents

confirm that the scheme has a density of 344 habitable rooms per hectare and therefore falls outside of the 'suburban' range but within the 'urban' range.

54 While the policy seeks to optimise housing output and realise the optimum potential of sites, it also acknowledges that the density matrix should not be applied mechanistically, as other factors such as the surrounding context, layout and residential quality will also inform the appropriate density range. As noted earlier, the site is in MOL where any development must be designed to maintain openness. In this instance and in the context of the comments made at paragraph 58 to 64 on urban design,

55 Even if VSC for inappropriate development were to be accepted to allow the principle of residential development to proceed, the design, density, mass and height of such a development would still be expected to be sensitive to its surroundings and respect the open character and visual amenity of the MOL. As noted in the urban design section below, the development's density is not appropriate to the MOL setting as the resultant wall of built mass and its height is not a design approach that sits well in the open context. This further adds to the argument that the impact on the open character is too great. In this respect, there remains a strategic concern with regards to the design and density of the development.

Children's play space

56 Children and young people need free, inclusive, accessible and safe spaces offering high-quality play and informal recreation opportunities in child-friendly neighbourhood environments. Policy 3.6 of the London Plan states that development proposals that include housing should make provision for play and informal recreation, based on the expected child population generated by the scheme and an assessment of future needs.

57 Applying the methodology within the Mayor's Play and Informal Recreation SPG (2012), and based on the accommodation schedule set out above, the development will generate a child yield of sixteen children requiring approximately 164 sq.m. of playspace. However, this figure is based on a wholly private scheme as there is no detailed information at this stage on the unit mix across the affordable tenures, so will need to be updated when the application is referred back at stage two. Nonetheless, given the site's location in MOL and the extensive open space that will remain on site, there is sufficient scope to ensure that on-site playspace is provided. While it is noted from the landscape management plan that the adjacent area of MOL will provide a formal play area and open gym facilities, the applicant should however provide an indicative play space strategy before the application is referred back at stage two, which should be secured by condition by the Council.

Urban design

58 The main strategic issue in urban design terms is the visual impact the proposals will have on the open quality of the surrounding MOL. As noted earlier in this report, London Plan Policy 7.17 sets out that except in a few cases, development in the MOL is inappropriate and harmful and only in very special circumstance can that harm be outweighed by other benefits. The Policy and the NPPF also make it clear that in all cases, built form must be designed so as to minimise its visual impact on the open quality.

59 As set out earlier in this report, the applicant has revised the design of the proposals in light of the Council's reasons for refusal of the original application; the main revision being the reduction of the maximum building height from twelve to nine storeys. However, while the scale of the building has been marginally reduced at its centre, the massing still presents a predominantly nine storey wall of development that is not appropriate to the open context of the site. On the basis of the above policy context, significant concerns still remain with regards to the scale and

bulk of the building, and the development's ability to enhance the spatial relationship with the MOL. As a result, many of the urban design issues raised with the original application remain relevant to the revised proposals and these are set out below.

60 It is accepted that the quality of the MOL along the western boundary particularly has less value, but as noted elsewhere in this report it would appear that this is due to unauthorised activity and neglect. In addition, whilst the Inspector granting the permission for Dylon Phase 1 described that site as being relatively secluded in nature and land locked by the industrial land and adjoining street network, the layout and massing of that scheme aligns with the surrounding street edges, mediating in scale with the neighbouring industrial units and residential properties. The application site however is less secluded, more open in nature and more prominent in views further to the east/south-east as demonstrated in the visuals submitted.

61 The proposal seeks to continue the building line and draw on the scale of the western portion of Phase 1, introducing a linear building form of eight storeys with a stepped back ninth storey along the edge of the railway. While marginally smaller in scale than the previous scheme, this still results in a visually prominent wall of development when viewed from the main expanse of MOL to the south-east of the site. This would significantly alter the quality of openness of this part of the MOL and although officers acknowledge that this has been reduced, would still cause a substantial amount of overshadowing, limiting the usability of the open space particularly during late afternoon/evening in the summer months. While there may be a case to be made for introducing some enclosure between the railway line and MOL to enhance the quality of the space, the scale and bulk of the proposed building goes beyond what could be recognised as being necessary or acceptable to achieve this. The revised scale would also almost entirely block the views of the MOL from the railway line, a characteristic which connects the MOL with the wider urban area.

62 The applicant has sought to address those concerns raised with regards to the western ground floor frontage of the original application, particularly the concern that it was dominated by the required vehicular/serving access arrangements and car parking, and offered little to ensure a high quality public realm. In response, larger terrace gardens have been provided in front of the ground floor units and the level of surface car parking has been reduced with additional planting along the railway line incorporated. In addition, an extra entrance in the centre of the block has been introduced. However, while this may go some way to improving the pedestrian environment and outlook along this edge, this does not address the concern regarding the potential lack of street based activity. The applicant should also have regard to those comments in the transport section below regarding the pedestrian environment.

63 Similarly, while it is acknowledged that the eastern ground floor frontage has now been modulated to try and address the blank and continuous, inactive retaining wall which raised strategic concerns on the original scheme, the landscaped solution effectively 'greens' the lower portion of the retaining wall and does not help provide an increased degree of natural surveillance to the MOL to the east. Therefore, those fundamental concerns raised with regards to the ground floor/podium level raised in the original consultation still remain.

64 As detailed above, in the context of the MOL, the revised form and massing strategy still raises concern due to its monolithic, wall-type massing and its relationship to surrounding open land and cannot be supported in terms of London Plan Policy 7.17 in its current form. As a result the applicant should revisit the form and massing approach and any future proposals should include a clear demonstration as to how the scale and bulk of development is designed to respond to the need to maintain the open quality of MOL.

Inclusive design

65 The aim of London Plan Policy 7.2 is to ensure that proposals achieve the highest standards of accessibility and inclusion. Inclusive design principles if embedded into the development and design process from the outset help to ensure that all of us, including older people, disabled and deaf people, children and young people, can use the places and spaces proposed comfortably, safely and with dignity.

Residential units

66 The design and access statement demonstrates how the development responds to the principles of inclusive design, and typical floor plans showing how the design of the residential units meets the sixteen Lifetime Home standards have been included. The submission confirms that 26 units will be wheelchair accessible, which equates to 10% of the total number of units, and these will be distributed across the building and unit sizes. Sample flat layouts have been provided demonstrating compliance with relevant wheelchair housing design guidance and in order to ensure compliance with the new housing technical standards, the Council should include a condition to secure the Building Regulation standards M4(2) and M4(3).

Public realm

67 Extending the Lifetime Homes concept to the public realm can help to ensure that the parking areas, the routes to the site and links to adjacent public transport and local services and facilities are also designed to be accessible, safe and convenient for everyone, particularly disabled and older people.

68 Whilst the planning permission includes details of how disabled people access each of the entrances safely, further information clarifying safe and inclusive access to the rest of the site is required before this aspect of the scheme can be appropriately assessed. This should include information on the varying levels, gradients, widths and surface materials of the paths and how they are segregated from traffic and turning vehicles etc, and how any level changes on the routes will be addressed, how wheelchair users would access the site safely and conveniently given its tucked away position down a private road and how step free access to the podium deck from the open space will be achieved.

Parking

69 The submitted basement and ground floor plan identifies a total of nineteen disabled car parking spaces; this does not comply with the policy requirement of one wheelchair parking space for each wheelchair accessible unit. However, other application material refers to twenty spaces and this should therefore be clarified. In any respect, given that this quantum does not meet the policy requirement, it is recommended that the allocation of these bays must be actively managed to ensure that they are always available to those in greatest need. A parking management plan should identify how bays will be allocated to residents of the wheelchair accessible units and should include a mechanism to ensure that the supply and demand of the blue badge bays are regularly monitored and the provision reviewed. This ensures that the provision going forward equates to the demand from disabled residents and visitors, and also ensures that the bays are effectively enforced.

Sustainable development

70 The applicant has resubmitted the energy statement from the previous application without any revisions and therefore the applicant is required to update the energy statement to

account for any changes to the scheme since the previous application, for example updated in carbon emission figures due to the changes in number of residential units.

71 During previous consultation the applicant was required to provide further revisions and information including updated emissions figures to include the centralised system with gas boilers based on Part L 2013, sample SAP worksheets, information on the Dylon 1 heating arrangement to establish whether there is capacity to connect and further detail on the combined heat and power (CHP) unit, including management arrangements. The majority of the issues outlined were addressed for the previous application; however, the applicant should confirm that the proposed revisions are still applicable to the current application before the revised scheme can be appropriately assessed.

72 From the SAP worksheets provided it can be seen that the assumption used in the modelling is that CHP will provide 100% of the heating demand, this is contrary to the energy statement which states that gas boilers will also provide heating in order to meet the peak demands, and represents a significant overestimation of the carbon emission savings for the development. The applicant should therefore update the community heating assumptions to include the gas boilers which will meet the peak demands and account for approximately 25% of the space heating demand (as stated in the energy statement). The applicant should also provide the CHP manufacturer data sheet that shows the efficiency based on gross fuel input is 88.1%. The applicant should specifically request the efficiency based on Gross values from the manufacturer as datasheets are often quoted based on Net values. The updated carbon emission figures, modelling assumption and SAP sheets should be provided in the revised energy statement.

73 The applicant should also consider the installation of photovoltaic panel (PV) given the extent of roof space and orientation.

74 A reduction of 253 tonnes of carbon dioxide per year in regulated emissions compared to a 2013 Building Regulations compliant development is expected which is equivalent to an overall saving of 72%. While the carbon dioxide savings exceeds the target in London Plan Policy 5.2, further information is required as outlined above to ensure compliance with London Plan energy policies.

Flood risk and drainage

75 It appears that the applicant has resubmitted the same flood risk assessment produced in support of the previous application and therefore the applicant should confirm that this still remains relevant to the revised proposals.

76 In particular, the applicant should confirm that the basement arrangement remains unchanged as this forms an integral part of the flood storage strategy. Subject to this confirmation, the flood strategy assessed as part of the original application was considered an appropriate risk based response and was acceptable in terms of London Plan Policy 5.12. If the proposals were granted planning permission, the flood related planning conditions previously proposed by the Environment Agency would need to be secured.

77 Similarly, the applicant should confirm that the drainage strategy remains as previously proposed. If so, the applicant should have regard to those comments raised in the previous GLA planning report (ref:D&P/3663/01). Subject to the above confirmation, the principles of the surface water management for the site were previously found to be acceptable, subject to the inclusion of a planning condition to agree and secure the specific measures for the site.

Transport

78 In light of the minor revisions to the transport element of the proposals and that the site layout and vehicular arrangements remain unchanged; the applicant should have regard to those comments made on the previous application.

79 On further assessment of the proposals, Transport for London (TfL) raises concerns that the access arrangement proposed would not give priority to pedestrians and cyclists over motor vehicles, and that a one-way system proposed for vehicular traffic would discourage cycling and walking to and from the site without a contra-flow cycle lane and more generous footways. Although this was not raised in TfL's initial response to the original application, very similar comments by Lewisham Council's Highways officers were noted in the Council's planning officer's Committee Report and TfL agree with this view.

80 Following further internal consultation with the TfL Cycling team, it is questioned whether a turning head and cul-de-sac are necessary considering there will be relatively few vehicle movements. A more informal approach could be used, reducing the 'highway' character of routes within the site. The landscaping should be attractive for people to use whether on foot or cycling or driving, rather than a long, straight expanse of tarmac that vehicles can take at speed.

81 The applicant is advised to investigate alterations to the surface treatment, removing centre lines and other markings, and introducing planting and other softer features. The roundabout at the end of the cul-de-sac may be unnecessary and comes across as over-engineered. For service vehicles, local widening may be sufficient rather than a full turning head. Inset drop-off bays may also be unnecessary, as drop off can take place from the street. If they were removed, service vehicles could turn in the space gained.

82 Overall the applicant should revisit the landscaping designs for the development in accordance with London Plan Policy 6.10, which states that development proposals should ensure high quality pedestrian environments and emphasise the quality of the pedestrian and street space by referring to Transport for London's Pedestrian Design Guidance and that local authorities should encourage a higher quality pedestrian and street environment, including the use of shared space principles, such as simplified streetscape, decluttering, and access for all.

83 Notwithstanding the above, TfL accepts the trip generation associated with the proposed development would be unlikely to have any significant strategic impact on the local public transport and highway networks.

Community Infrastructure Levy

84 Mayoral CIL will be payable at a rate of £35 per sq.m (see Community Infrastructure Levy Charging Schedule – Mayor of London, February 2012). TfL seeks clarification as to the exact uplift in floorspace, as the CIL Liability form for the development is not available from the Council's website.

Local planning authority's position

85 At the time of writing the local planning authority's position is unknown.

Legal considerations

86 Under the arrangements set out in Article 4 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor is required to provide the local planning authority with a statement setting out whether he considers that the application complies with the London Plan, and his reasons for taking that view. Unless notified otherwise by the Mayor, the Council must consult the Mayor again under Article 5 of the Order if it subsequently resolves to make a draft decision on the application, in order that the Mayor may decide whether to allow the draft decision to proceed unchanged, or direct the Council under Article 6 of the Order to refuse the application, or issue a direction under Article 7 of the Order that he is to act as the local planning authority for the purpose of determining the application and any connected application. There is no obligation at this present stage for the Mayor to indicate his intentions regarding a possible direction, and no such decision should be inferred from the Mayor's statement and comments.

Financial considerations

87 There are no financial considerations at this stage.

Conclusion

88 London Plan policies on **land use principles (metropolitan open land, playing fields), housing, urban design, inclusive access, flooding, sustainable development and transport** are relevant to this application. The application does not comply with these policies and cannot be supported in principle at this stage. Further information is needed in order to fully comply with the London Plan. The potential remedies to issues of non-compliance are set out below:

- **Land use principles:** The proposal is inappropriate development within Metropolitan Open Land and 'very special circumstances' have not been demonstrated to outweigh the harm to the openness of MOL.
- **Housing:** While the indicative affordable housing offer of 36% accords with Bromley Council's UDP policy, the applicant is required to conduct a financial viability assessment to demonstrate that the maximum reasonable amount of affordable housing is being delivered on this greenfield, windfall site (based on existing use value for open space). This should be scrutinised by the Council and/or their independent consult and both reports supplied to the GLA. Further information is also required on the unit mix within the affordable housing tenures. The quantum of affordable family sized units is fairly low and the applicant should explore increasing this. The residential quality is broadly supported although the ground floor requires more work to reduce the number of units per core and improve ground level access. The density exceeds the guidance in the London Plan and supports the concern that the design is harmful to MOL openness.
- **Urban design:** While the footprint spread has been contained to the western edge and the maximum height reduced, the mass, scale and continuous wall of development would still be harmful to the open MOL setting. The ground floor layout also requires further work in order to create street based activity, improve the public realm and the buildings relationship to the adjacent open land.
- **Inclusive access:** Further detail is required on inclusive design of the public realm, in particular how those with mobility issues access the development conveniently and safely from nearby streets and how wheelchair users access the podium from the adjacent amenity space and vice versa. In addition, further clarification is required on the quantum and management of the disabled parking spaces.

- **Sustainable development:** The applicant has resubmitted the energy statement from the previous application without any revisions and therefore the it should update the energy statement to account for any changes to the scheme since the previous application. This is required to enable an appropriate assessment against London Plan Policy 5.2.
- **Flooding:** The submitted flood risk and drainage information is the same as submitted with the previous scheme and this information was considered acceptable subject to the inclusion of a number of relevant planning conditions. The applicant should therefore confirm that the flood risk and drainage strategies remain relevant and appropriate to the revised design and refer to those comments previously made in GLA planning report D&P/3633/01.
- **Transport:** The site layout and vehicular arrangements remain unchanged and therefore the applicant should have regard to those comments made on the previous application. In addition, TfL raise concerns that the access arrangement proposed would not give priority to pedestrians and cyclists over motor vehicles and the applicant should revisit the landscaping designs for the development in accordance with London Plan Policy 6.10.

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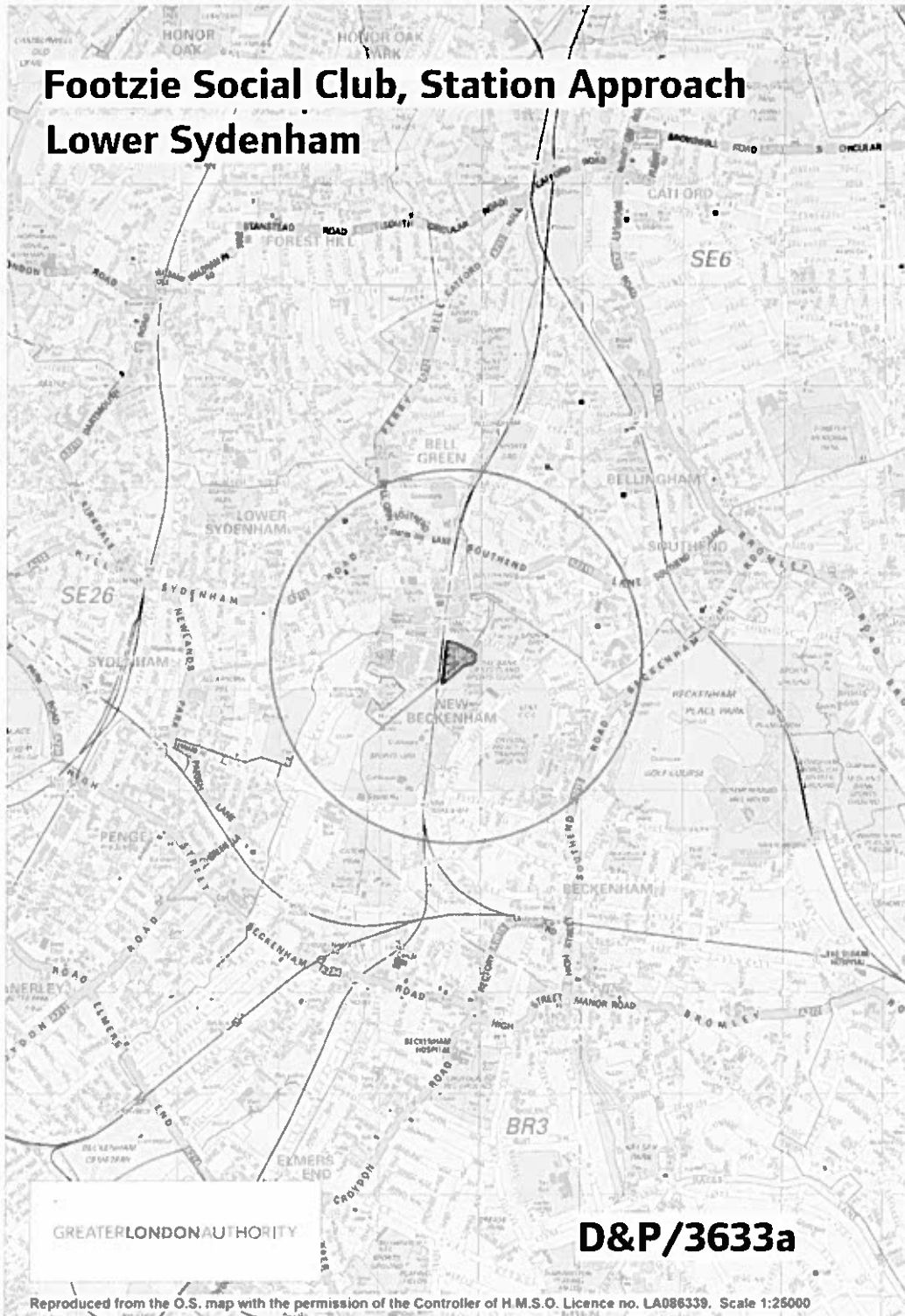
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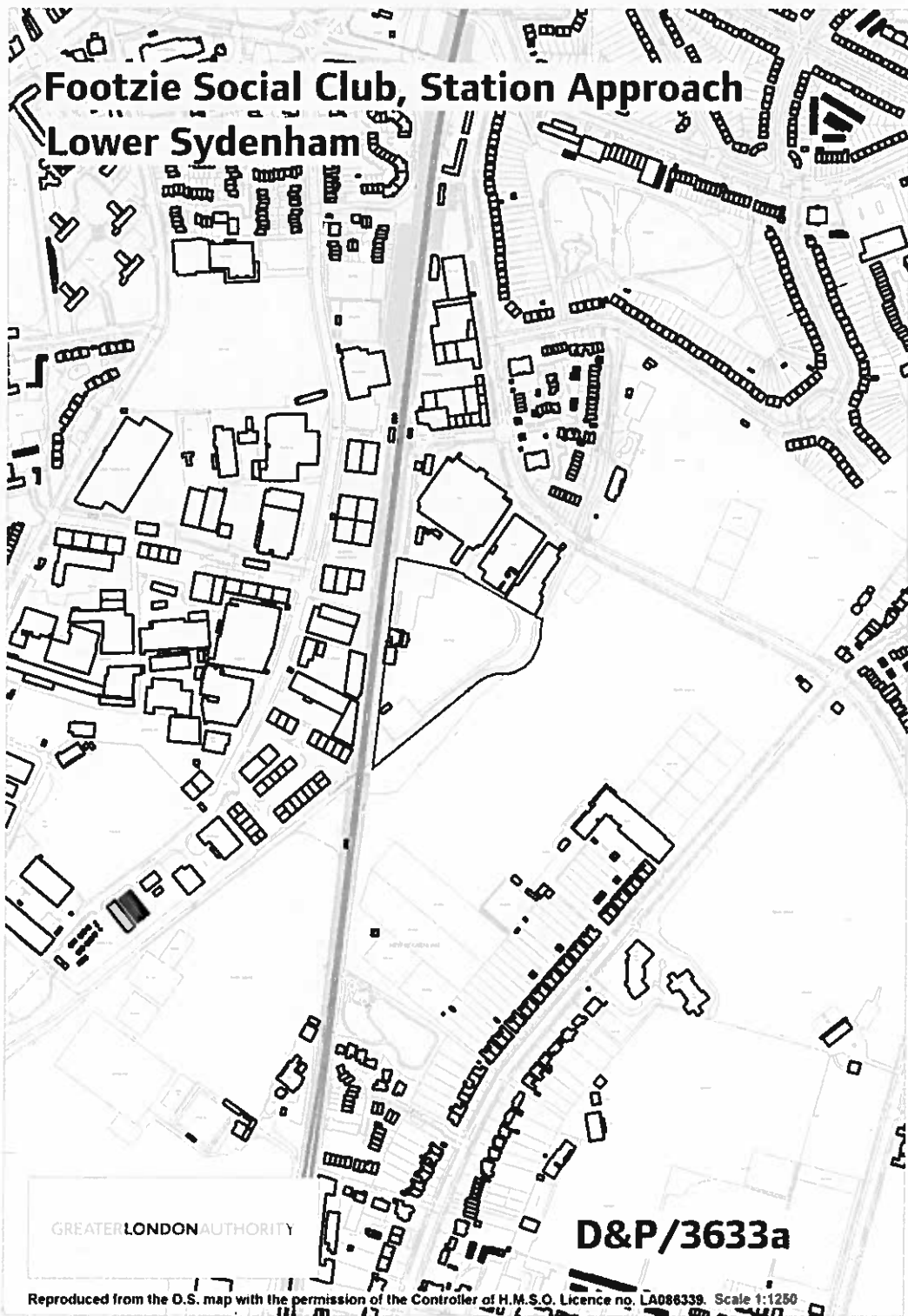
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Footzie Social Club, Station Approach Lower Sydenham





**Footzie Social Club, Station Approach
Lower Sydenham**

GREATER LONDON AUTHORITY

D&P/3633a

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Report No.
CSD16029

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

Date: Tuesday 9 February 2016

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

Title: LAND AT HAVELOCK RECREATION GROUND - APPLICATION FOR REGISTRATION AS A TOWN OR VILLAGE GREEN

Contact Officer: Marion Paine, Lawyer
Tel: 020 8461 7647 E-mail: Marion.Paine@bromley.gov.uk

Chief Officer: Director of Corporate Services

Ward: Bromley Town;

1. Reason for report

The Council is the Registration Authority for town and village greens within its area. Section 15 of the Commons Act 2006 provides that land can become a new green if a significant number of the inhabitants of any locality or any neighbourhood within a locality have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years. They must continue to do so at the time of the application or meet the alternative qualifying period specified in section 15. The Council received an application dated 27th March 2015 to register land comprising the Havelock Recreation Ground, Bromley on the basis that it has become a Town Green. After completion of the statutory requirements, it is the duty of the Council as registration authority to decide whether or not the area should be registered as a new Town or Village Green, or whether to cause a public inquiry to be held for an Inspector to make a recommendation in this respect. The purpose of the report is to set out the legal position and the evidence for members to make that decision.

2. **RECOMMENDATION(S)**

To decline to register the land as a new town or village green for the reasons set out in the report.

Corporate Policy

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

Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre:
 4. Total current budget for this head: £
 5. Source of funding:
-

Staff

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Customer Impact

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

Ward Councillor Views

1. Have Ward Councillors been asked for comments? This report is being copied to Ward Councillors, whose comments will be reported verbally
2. Summary of Ward Councillors comments:

3. COMMENTARY

Land, once registered as a Town or Village Green, will remain available for continued enjoyment by the inhabitants for recreational use. Registration does not in itself confer any recreational rights that did not exist prior to registration. The practical effect of registration is only to confirm the existence of such rights. Consequently, a registered Village Green is held in the same way as any other land and, although nothing should be done which would interfere with the lawful recreational activities of the local inhabitants, the owner is not required to maintain it in a suitable state for such activities. A significant consequence of registration is that the land cannot be developed in such a way as would make it impossible to exercise those rights

There is a legal framework which must be applied to any application for such a registration.

3(1) Requirements of S15 of the Commons Act 2006

The application was made by Donald Alastair Scott in terms of S15(2), which states:

15 Registration of greens

(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.

(2) This subsection applies where—

(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and

(b) they continue to do so at the time of the application.

The burden of proof lies on the applicant to establish to the civil standard of balance of probabilities. Thus, in order to fulfil this requirement, the applicant must prove the various elements of the requirements, namely:

a) “A significant number...”

This does not necessarily mean substantial, but should be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers. Provided that a significant number of the inhabitants of the claimed locality or neighbourhood are among the users, it does not matter that many come from elsewhere. The requirement is to establish a clear link between the locality or neighbourhood and the proposed town or village green.

b) “... of the inhabitants of any locality...”

A “locality” cannot be created by drawing a line on a map. It must be some division of the county known to law, such as a borough, parish or manor.

c) “...or of any neighbourhood within a locality...”

Where a locality is relied on, for instance a town, it can be a relevant locality even if it is not (or is no longer) a recognisable local government unit.

d) “... have indulged as of right...”

As of right means that it is not use by force, stealth or with the licence of the owner. This does not turn upon the subjective belief of the users. The use must be judged objectively, from the standpoint of a reasonable owner.

e) "... in lawful pastimes..."

This is a composite expression which includes informal recreation such as walking, with or without dogs, and childrens play. Use that is more in the nature of a right of way, a cut-through or a shortcut will not fall to be considered as a lawful sport or pastime

f) "...on the land..."

"Land" is defined as including land covered by water, but is generally accepted as excluding buildings.

g) "...for a period of at least 20 years..."

The relevant use must generally continue throughout the whole of the 20 year period.

h) "...and they continue to do so at the time of the application."

In order to satisfy the criteria in S15(2) the qualifying use must continue at the date of the application.

3(2) The application and supporting evidence

The application may be made by any person, and should be done by completion and service of the Form 44, which contains an affidavit in support of the application and a map showing the location of the land in question.

Donald Alastair Scott, an individual who advised that he was representing the Friends of Havelock Recreation Ground, the constitution of which was also submitted to the Council, made the application.

A map was submitted showing the area in question, and the applicant identified the "locality or neighbourhood" as the eastern portion of Bromley Town Ward and southwestern portion of Bickley ward, as illustrated on an accompanying map.

A statutory declaration , accompanied by a detailed analysis of why the applicant felt that the area should be declared as a new Town Green were submitted by the applicant, together with extensive questionnaire and survey information from users of the area, with a comprehensive analysis of that information.

The application fulfilled the basic requirements and was accepted by the Council as Registration Authority. The Registration Authority therefore proceeded with publicising the application and requesting comment from the public.

3(3) Opposing submission

The London Borough Bromley in its capacity as landowner was advised of the application.

They responded within the consultation period summarised as follows:-

1. The application includes the nursery situated on the land in a building which was formerly a pavilion but has been leased as a nursery since at least 1996 and fenced off from the remainder of the land. As such it has not been used by the public and should be removed from the application as it does not meet the statutory requirements, and
2. As the applicants have pointed out, the remainder of the land is and has since the 1950's been maintained and used for recreation purposes and is designated as Urban Open Space (it is included in the parks and recreation ground byelaws under the Open Spaces

Act 1906) and the Council is therefore effectively inviting the public to use it, making their use of the land *by right* and not *as of right* as is necessary to meet the statutory requirements for registration as a town or village green.

3(4) The applicant's response

Having received the above mentioned objection, a copy was sent to the applicant, who was invited to make any further submissions in respect of these comments and who responded with the following points in summary:-

1. In respect of the nursery area, it was acceptable to the applicant that this is removed from the application
2. The purpose of the application is to formalise the protection of the land from development and other forms of detrimental activity for the benefit of the Council and local residents.
3. The status of Town Green would give the Council a robust defence against pressure of increased housing density and declining recreational space. Pointing out that legislation generally makes it an offence to interrupt or encroach on such a designated area.
4. Surveys conducted by the applicant's group and by councillors, together with the lack of objections received, demonstrate the depth and unanimity of feeling of local residents in the face of any threat to the preservation of the recreation ground as it is now.
5. The recreation ground was created over a period of 10 years in the last century by the Council on behalf of residents, doubtless partially funded by them through their rates. Whether its use is now *by right* or *as of right* is surely of very little consequence; what we are seeking is the protection of the land in terms of the Commons Act which affords it greater protection than other legislation of Inclosure Acts and Open Spaces Acts.

3(5) Analysis

Having made a valid application, it is for the applicant to show, on the balance of probabilities, that the application land fulfils all the criteria for registration.

The tests mentioned in part 1 of this document should therefore be applied.

a) – c) "A significant number of the inhabitants of any locality or of any neighbourhood or locality..."

The applicant has carried out detailed research by way of surveys and questionnaires and their evidence appears to show that the recreation ground has been and still is well used by local residents for recreational purposes.

d) "... have indulged as of right..."

This is a crucial statutory test which must be applied to the application. The applicant has agreed throughout that the area was created by the Council as a recreational facility, with the

public using it by virtue of the Council permitting them to do so, openly and without fear of challenge. Whilst the applicant considers that whether its use is by right or as of right is surely of very little consequence, this is not the case. It is in fact a crucial statutory test which has been the subject of significant court decisions.

As a recreational facility covered by Council byelaws, and managed by them for recreational purposes, the right to access the area would be “by right” (ie in exercise of a legal right to do so, as opposed to “as of right”.(ie without permission, by force or secrecy).The public is entitled indulge in lawful sports and pastimes there.

In a recent case [*R(Barkas) v North Yorkshire County Council*], the Supreme Court decided that “...where the owner of the land is a local authority which has lawfully allocated land for public use (whether for a limited period or for an indefinite period), it is impossible to see how, at least in the absence of unusual additional facts, it could be appropriate to infer that members of the public have been using the land “as of right”, simply because the authority has not objected to their using the land. It seems very unlikely that, in such a case, the legislature could have intended that such land would become a village green after the public had used it for 20 years. It would not merely be understandable why the local authority had not objected to the public use; it would be positively inconsistent with their allocation decision if they had done so. The position is very different from that of a private landowner, with no legal duty and no statutory power to allocate land for public use, with no ability to allocate land as a village green, and who would be expected to protect his or her legal rights.”

This would therefore appear to preclude the registration in terms of the application.

This decision was clarified by the other recent decision of *R(Goodman) v Secretary of State for the Environment, Food and Rural Affairs*, in relation to the implied appropriation of land for recreational use. In the Goodman case there was a challenge to the finding that land had been appropriated from employment to recreational use by implication. This challenge was upheld due to a lack of evidence that the Council had intended to appropriate the land to its new purpose.

In the current application, the land is clearly held and managed for recreation purposes, so the *Goodman* point does not arise.

e) “...in lawful pastimes...”

This must be more than use that is in the nature of a right of way, but can include walking, football or bird watching for example. The applicant has indicated in their survey analysis that activities have taken place which would constitute “lawful pastimes”.

f) “...on the land...”

If the other elements of the application were fulfilled, the plan would require to be amended to exclude the nursery.

g) & h) “...for a period of 20 years and they continue to do so at the time of the application”

The uses indicated by the applicant’s analysis would appear to fulfil the time requirement.

3(6) Conclusions

As may be seen from the analysis above, it is not considered that the application can succeed.

Whilst it is not considered relevant by the applicant, the *by right* versus *as of right* distinction is fundamental to the application, and in this case the application fails to fulfil this requirement.

3(7) Options

The Council as Registration Authority may decide to register or decline to register the land as a new Town or Village Green on the basis of the application and the evidence before them.

Alternatively, the Council may wish to cause a Public Inquiry to be held before a suitably qualified Inspector. If an inquiry is held, the Inspector would consider the application and evidence, hear witnesses, and apply the law to the facts and then report to the Council with a recommendation as to whether or not to register the land as a new Town or Village Green.

If the applicant or landowner is not satisfied with the outcome of the application, the remedy open to them is to seek a judicial review of the decision of the Council as Registration Authority.

If the Council is of the view that the application fails to meet the statutory requirement for registration, but wished to register the area as a town green in any case, they have the option of voluntarily registering it.

This would mean refusing the current application and proceeding to use their powers as the owner of the land in terms of S15(8) of the Commons Act which states that “*The owner of any land may apply to the commons registration authority to register the land as a town or village green*”. If such an application is made then the Council as Registration Authority must grant the application if it is satisfied that the applicant is the owner of the land and that any consents required (eg charge or lease holders) have been obtained. Such an application does not need to satisfy any of the other tests required when a non owner third party makes such an application.

4. FINANCIAL IMPLICATIONS

If a Public Inquiry is to be held, the cost could amount to £15 – 20,000.

5. LEGAL IMPLICATIONS

Addressed in the body of the report.

6. PERSONNEL IMPLICATIONS

If there is to be a Public Inquiry, then one member of staff would be required to act on behalf of the Council as Registration Authority and one on behalf of the Council as landowner, together with any staff required as witnesses.

Non-Applicable Sections:	Policy Implications
Background Documents: (Access via Contact Officer)	The file containing the application and other documents referred to in this report may be obtained from the writer and will be available to members prior to the committee.

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Report No.
RR16/025

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

9 February 2016

Date: EXECUTIVE COMMITTEE

10 February 2016

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

Title: OPPORTUNITY SITE B TWEEDY ROAD DESIGN GUIDANCE
AND DISPOSAL

Contact Officer: Kevin Munnely, Head of Renewal
0208 313 4582 E-mail: kevin.munnely@bromley.gov.uk

Heather Hosking, Head of Strategic Property, 0208 313 4421.
heather.hosking@bromley.gov.uk

Chief Officer: Marc Hume, Director of Regeneration & Transformation

Ward: Bromley Town Centre

1. Reason for report

1.1 Opportunity Site B Tweedy Road is a development site in the Bromley Town Centre Area Action Plan, with a residential designation for around 70 units. The site was formed from the residual land left over from the A21 widening in the 1980's. The site is currently being used as the works compound for the Bromley North Village Public Realm improvements. It is anticipated that these works will be completed by the end of February 2016 and the temporary use will cease. The site is surplus to operational requirements and Executive approval is now being sought to market the Opportunity Site for sale and possible joint venture options.

1.2 It is acknowledged that this is a sensitive site, with a complex planning history and to support the marketing of this site further design guidance has been produced as to the form and style of development that would be considered acceptable on the site. This guidance supplements existing design guidance and has been consulted on with representatives of the Bromley Civic Society, Bromley Colleges and Historic England and their views will be incorporated into the final marketing document that proposes a layout containing a total of 24 units.

2. RECOMMENDATION(S)

Members of the Development Control Committee

1. Endorse the additional guidance for marketing purposes.

Members of the Executive

1. Members are requested to agree to the advertisement of Opportunity Site B, Tweedy Road, Bromley on the open market as set out in paragraph 3.7 of the report.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment Vibrant, Thriving Town Centres:
-

Financial

1. Cost of proposal: Advertising costs estimated at £4k
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Regeneration
 4. Total current budget for this head: £931k
 5. Source of funding: Existing revenue budget 2015/16
-

Staff

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Section 123 of the 1972 Local Government Act:
 2. Call-in: Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Incorporated in the main body of the report

3. COMMENTARY

- 3.1 Opportunity Site B Tweedy Road has been identified as a development site in the Bromley Town Centre Area Action Plan (BTCAAP) adopted in November 2010 and designated for residential development of around 70 units (Policy OSB). This site has an area of 0.33 ha (0.766 acres) and was formed from the residual land left over from the A21 widening in the 1980's. The site is currently being used as the works compound for the Bromley North Village Public Realm improvements. It is anticipated that these works will be completed by the end of February 2016 and the temporary use will cease.
- 3.2 It is acknowledged that this is a sensitive site, with a complex planning history. The Council submitted a planning application in 2003 for a scheme of 28 units, which was subsequently reduced to 22 units, and withdrawn before determination. The site was then marketed in 2006 and following a selection process an offer was accepted from Affinity Sutton for a 72 unit residential development incorporating a 35 bed foye facility to provide housing and support for young adults. The planning application was refused in August 2008 and in April 2009 an appeal was dismissed. The Planning Inspector commented in his report that he considered that the principle of development on the site was acceptable, but that he was "not persuaded that the 72 units proposed would produce a development suited to the context of the surrounding area and in [his] judgement the proposal in terms of design and layout would be tantamount to an overdevelopment of the site." The Inspector referred to the important views into the Conservation Area afforded by the site, and the important element of spacious relief from the encroachment of built form it provides.
- 3.3 The BTCAAP Policy for the site requires the Council to work with developers to secure the sensitive redevelopment of the site. Whilst the policy states "Although the Density Matrix in the London Plan could facilitate around 70 residential units because of the sensitivity of this site any proposal will be determined on the basis of the impact of the development on:
- The character of the area;
 - The retention of important views into the Conservation Area;
 - A satisfactory relationship with housing that exists to the north;
 - The recognition of the context provided by Bromley and Sheppard's Colleges;
 - Effective landscaping of the site to integrate the development into the townscape.

Further Guidance

- 3.4 This site has already been declared surplus to Council requirements. Executive approval is now sought to market the site as a residential development opportunity. However, as the review of the recent planning history has illustrated this is complex site which will be a challenge to develop to ensure that any scheme meets the specific requirements of the site in the context of its setting. In order to provide a greater degree of certainty to potential bidders further guidance has been prepared to support the marketing of this site and provide a design context for the assessment of bids. It is proposed that the guidance is included in the marketing information.
- 3.5 Officers have worked with architects Holder Mathias to draft clear development guidance as to the form and style of development that would be considered acceptable on this site. This guidance expands on existing design principles contained within Appendix 5 of the BTCAAP, that requires any development on the site to respect and enhance the historic environment and setting of both Bromley College and Sheppard's College. The guidance identifies the main constraints and opportunities of the site and sets out a series of Key Design Drivers to guide development, attached as Appendix 1. The Guidance also sets out in plan view the form of

development considered acceptable and the relationship to the adjacent Listed Buildings and Conservation Area. In summary the guidance proposes a layout of three residential blocks containing a total of 24 residential units, taking the format of the Victorian Villa style which is the dominant residential form in the area. The massing assessment supports a three storey structure with the third storey contained within a hipped roofline, with materials and fenestration detail to match the locality. The guidance illustrates that parking can be accommodated on a 1:1 basis.

- 3.6 The current guidance has also considered the findings of previous planning and appeal history for the site. The design team has also consulted with Ward Members, the representatives of the Bromley Civic Society, Bromley Colleges and Historic England and their views have been incorporated into the final marketing document.

Disposal Options

- 3.7 Members have in the past expressed a preference for the ability to share in development profits achieved from a scheme on this site. This could be achieved by:
- i) Seeking offers for the freehold interest subject to an overage. Bidders could be invited to submit an offer for the site and to provide an assessment of the total sales value of their proposed scheme, which would have to be based on the design principles established as part of the Holder Mathias work. Any sales receipts achieved on the first sale of the units above this amount (as evidenced by the Land Registry records) would be subject to an overage payment to the Council – the sales particulars could set the percentage (say 50%), or the bidders could be requested to put forward a percentage in their bid.
 - ii) The price could be set at a fixed amount and offers could be sought on the basis of the additional overage payable above a sales threshold. The bids would be assessed on the basis of the threshold offered and the percentage.
 - iii) The land could be offered for no up-front payment on the basis of a percentage share of the total sales income from the completed scheme. Offers based on the percentage could be sought. Information on the anticipated sales values could be required as part of the bidding process.
- 3.8 It is difficult to provide a comparison of the receipts likely to be achieved by the Council under the different options. In theory, when valuing a site in order to submit its most competitive offer, a developer will assess the gross development value of the site, which is the total sales value of his proposed scheme. In order to do so, he will have regard to current values for the type of development being proposed. Following the accepted valuation practice, this will be based on current values, but in order to be competitive developers generally make assumptions about the levels by which values will increase over the development period and reflect that in their bid. This is a high risk strategy, as property values have been shown to be cyclical in nature, with periods of falling values occurring during some economic periods. This was demonstrated during the last recession when many housebuilders went out of business, or came close to collapse, because of optimistic assumptions about property value growth that were not achieved.
- 3.9 If the bids received on a full payment (plus overage, option i) are based on an assumption of increasing sales values, in theory, when analysing the values taking a partial payment “up-front” or no payment will result in the same net present value as the up-front payment, with the exception that offers based on either arrangement should reflect the benefit to the purchaser of not bearing all or part of the finance costs associated with the site purchase. However, the opportunity cost to the Council of this arrangement would have to be reflected in any assessment of an offer, as, by delaying a receipt, the Council has foregone interest on it at a

minimum of Treasury lending rates, or at property investment yields if the receipt could have been invested in a property at an initial yield of 5-6%.

Risks

- 3.10 It must be noted that there are risks associated with a delayed receipt. The lowest risk to the Council is in the full up-front payment with an overage arrangement (Option 1), as payment is received on completion of a sale and before a start on site. Offers could be sought on a conditional and unconditional basis to enable a comparison of the two. The report produced by Holder Mathias should provide some certainty about the type of development that will be acceptable in planning terms, which should enable developers to submit unconditional bids. If an offer is accepted which does not proceed to a completed sale the Council will have lost time, and will have incurred some professional costs, but it will still own the land and will be able to re-market.
- 3.11 If a deferred payment is agreed there is a risk if the purchaser ceases trading before all the payment has been received. The level of risk will depend on the nature of the arrangement with the developer. If no up-front payment is made the Council should retain the freehold of the site and transfer individual long leases to purchasers and eventually the freehold interest. This will mean that the Council will have to be a party to each individual sale. If a partial up-front payment is made the developer is likely to require the transfer of the freehold interest before starting on site in order to have an interest against which to raise finance, putting the Council at risk of receiving the overage in the case of business failure. The Council could protect its interest by taking a charge over the property but if the developer needs external funding in order to proceed with the development, that funding will almost certainly be conditional on the Council postponing its charge to give the funder priority.
- 3.12 The Council is also at risk if the property market deteriorates during the development period and values decrease. The level of risk will relate to the level of deferred payment agreed. It is suggested that offers could be sought on all three bases to enable a comparison of the offers received to inform a decision on the sale arrangements.

4. POLICY IMPLICATIONS

- 4.1 Opportunity Site B Tweedy Road is a development site in the Bromley Town Centre Area Action Plan (BTCAAP), designated for residential development of around 70 units. Policy OSB 'Corner of Tweedy Road/London Road' remains the relevant site specific adopted policy. This and all other relevant policies within the Development Plan for the Borough will apply in consideration of any scheme when submitted for planning permission.
- 4.2 The site is included in the Council's Five Year Housing Supply Paper 2015 (June 2015) with a figure of 40 homes, the reduction indicated in this report can be offset by an increase in the provision of homes as part of the Site C Former Town Hall and South Street Car Park site.

5. FINANCIAL IMPLICATIONS

- 5.1 The estimated cost of advertising the site is £4k and can be met from the Regeneration budget.
- 5.2 It is recommended that offers be sought for all three disposal options detailed in 3.7 above. All offers received will be evaluated and compared to inform a decision on the sale of the site.

6. LEGAL IMPLICATIONS

- 6.1 Section 123 of the 1972 Local Government Act requires a local authority to secure the best consideration reasonably obtainable when it disposes of land (other than on a lease of 7 years

or less) unless it has the benefit of an express or general consent of the Secretary of State. This site would be advertised on the open market to ensure compliance with this requirement.

7. PERSONNEL IMPLICATIONS

- 7.1 Marketing of the site will be undertaken by the Strategic Property team and the results will be reported back to the Executive Committee.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	

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**APPENDIX 1 - SITE B, TWEEDY ROAD,
DESIGN GUIDANCE**

Tweedy Road—Bromley Site A

Design Principles

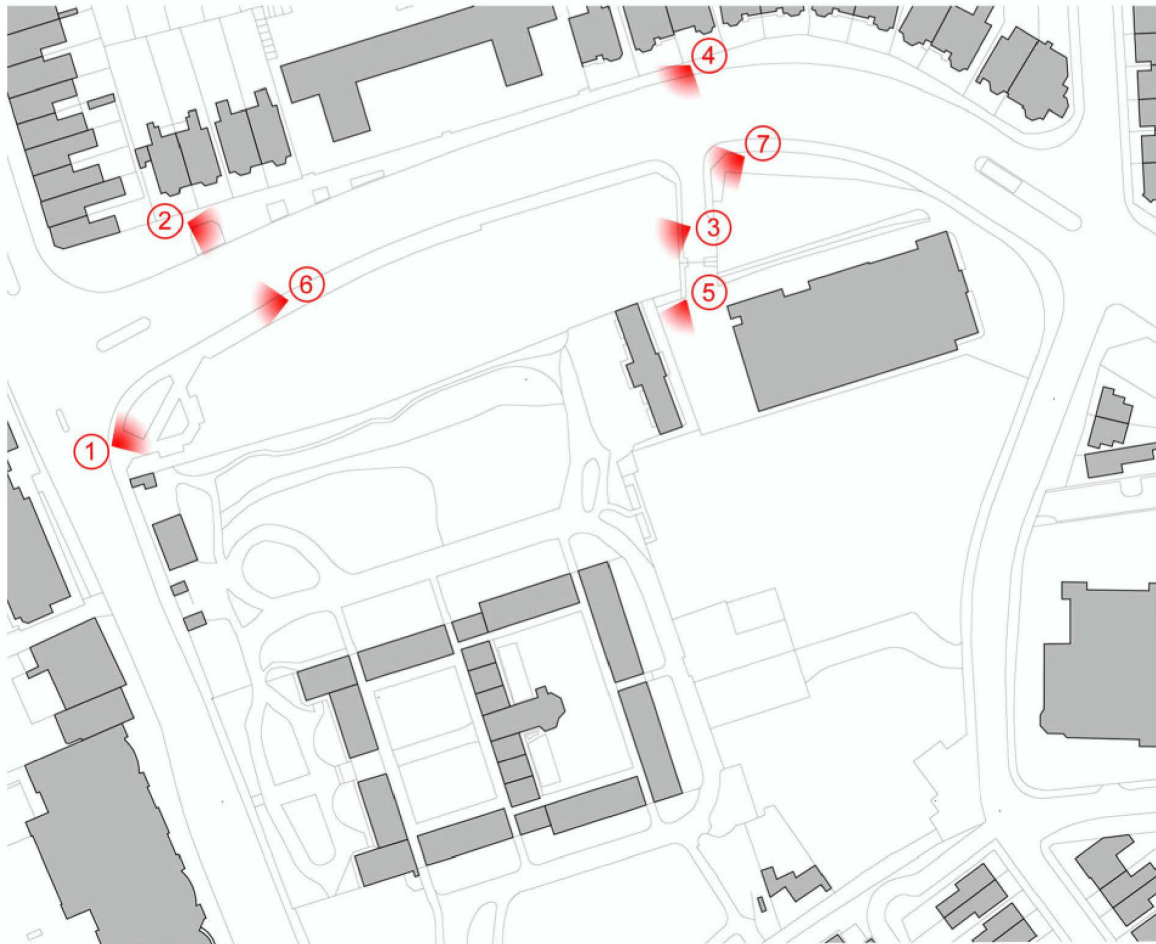
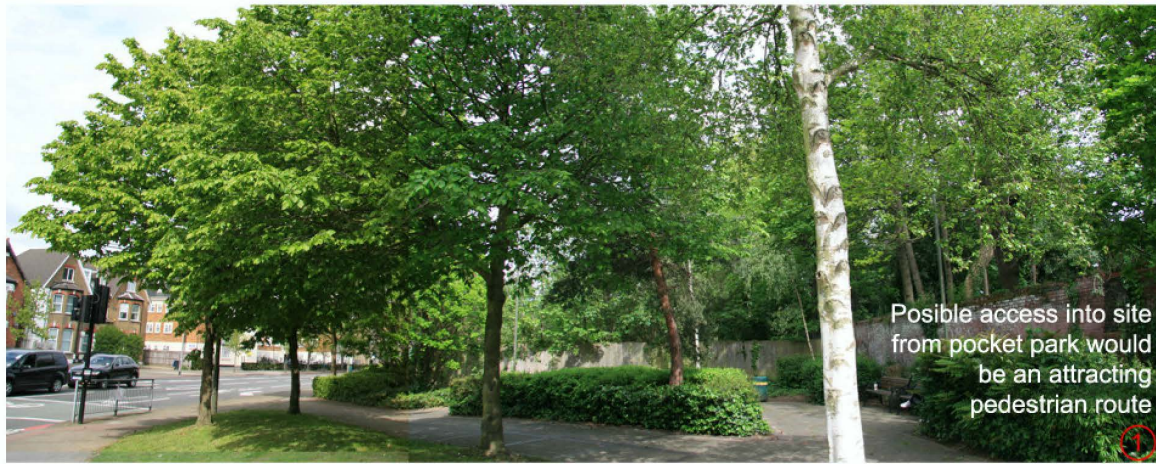
Bromley Council
Bromley
December 2015

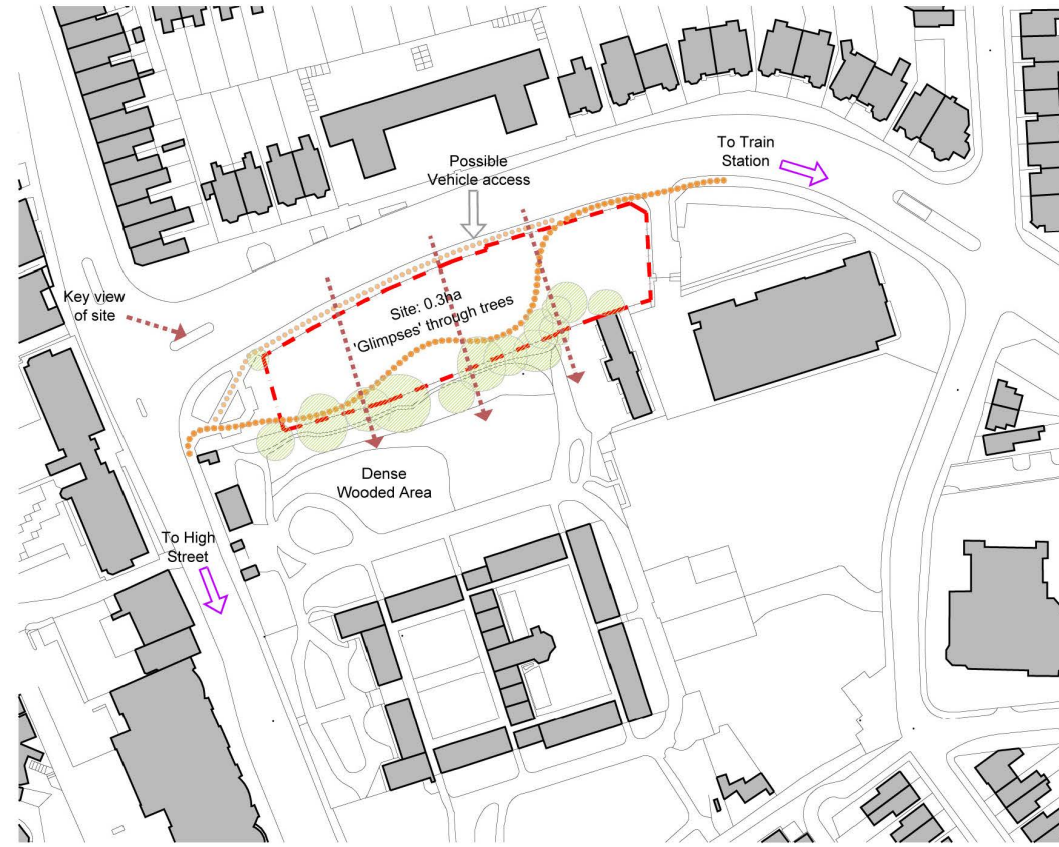
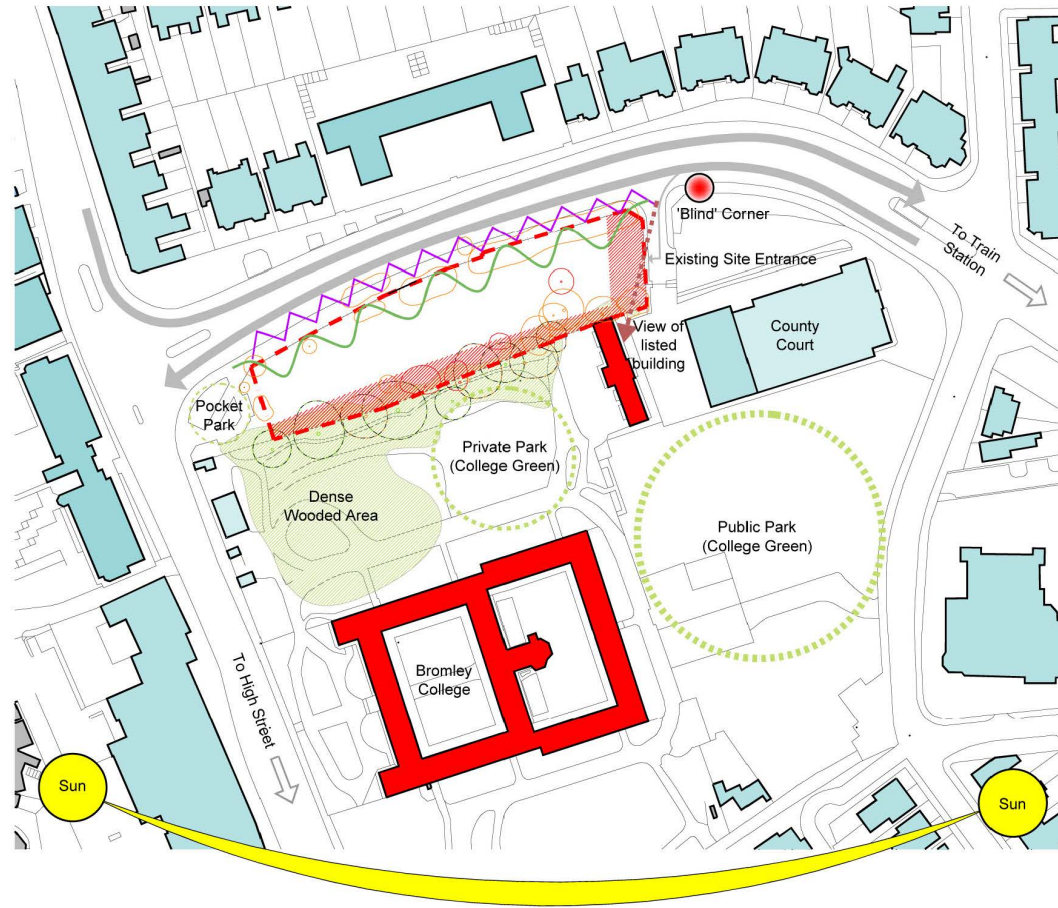






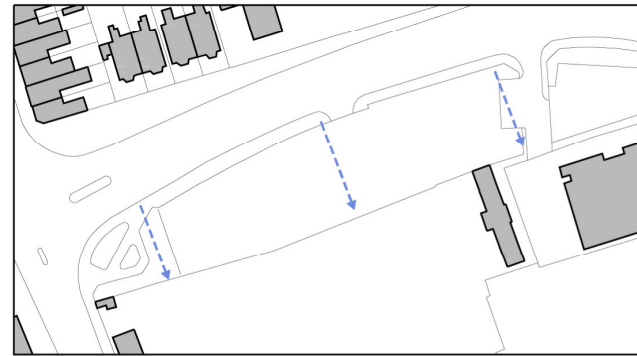
North view of Bromley College &
Tweedy road



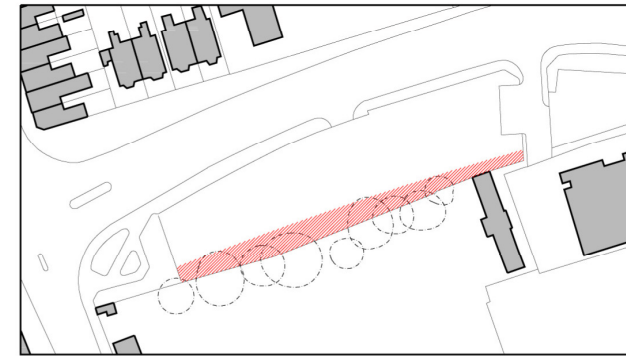


Key	
	4 Storey Buildings
	2/3 Storey Buildings
	1 Storey Buildings
	Listed Buildings
	Dense wooded area
	Areas not to build upon
	Heavy traffic
	Site Boundary
	Green Open Space
	Possible trees to preserve
	Heavy traffic noise
	Elevation relief
	Views
	Primary pedestrian route
	Secondary pedestrian route

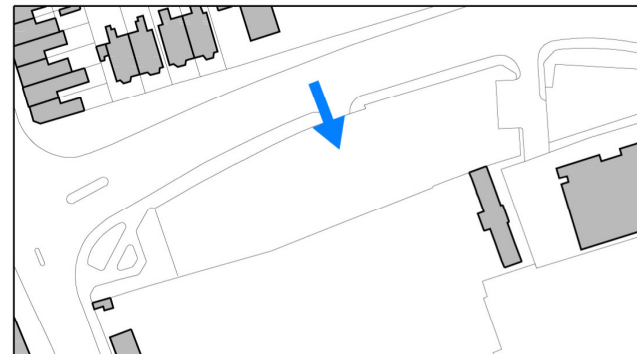
Design Guidance - Key Design Drivers



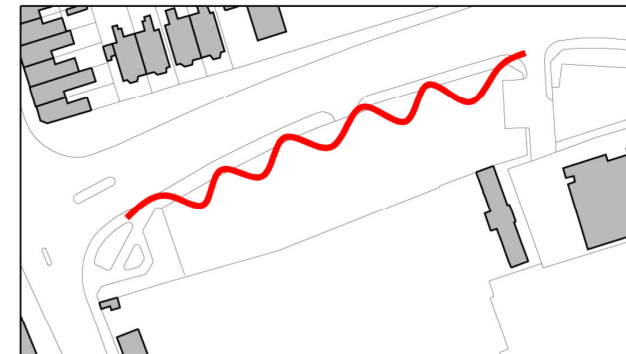
Views through the development must be provided to maintain a connection with the wooded area to the south



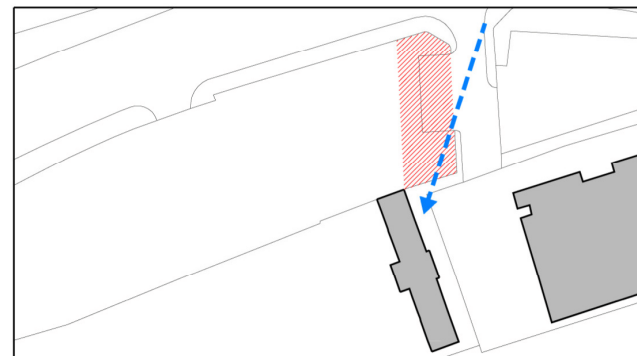
A buffer must be provided at the south of the site in order to protect the privacy of surrounding spaces and allow the preservation of existing, mature trees.



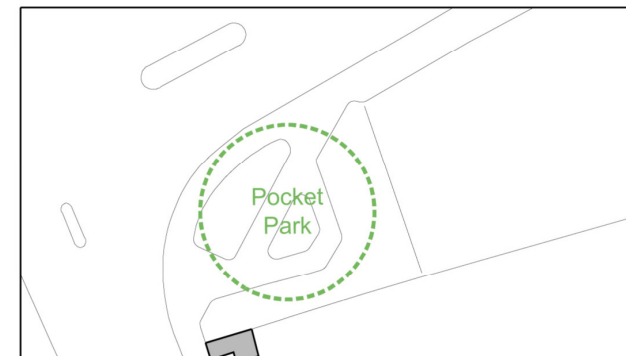
An access point to the site should be introduced in order to alleviate congestion at the existing site entrance which is a blind turning.



Some relief to the site boundary line must be introduced in order to avoid a dense linear sightline along Tweedy Road.



A 10m strip at the east of the site should not be built upon in order to improve the views of the listed building beyond. Improved landscaping is desirable in this location.

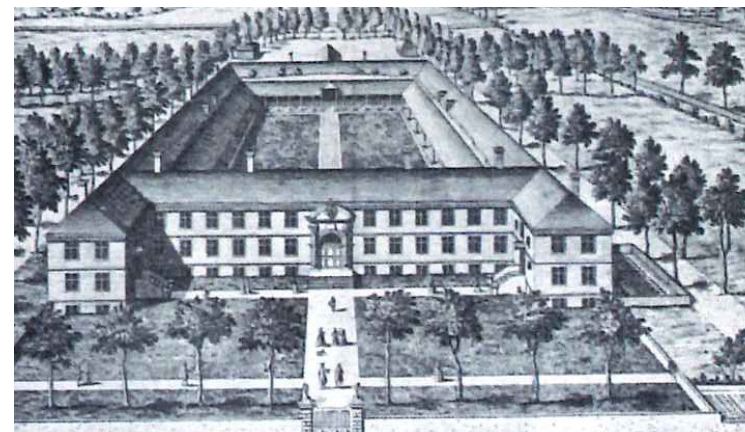


The pocket park to the west of the park should be incorporated into the design.

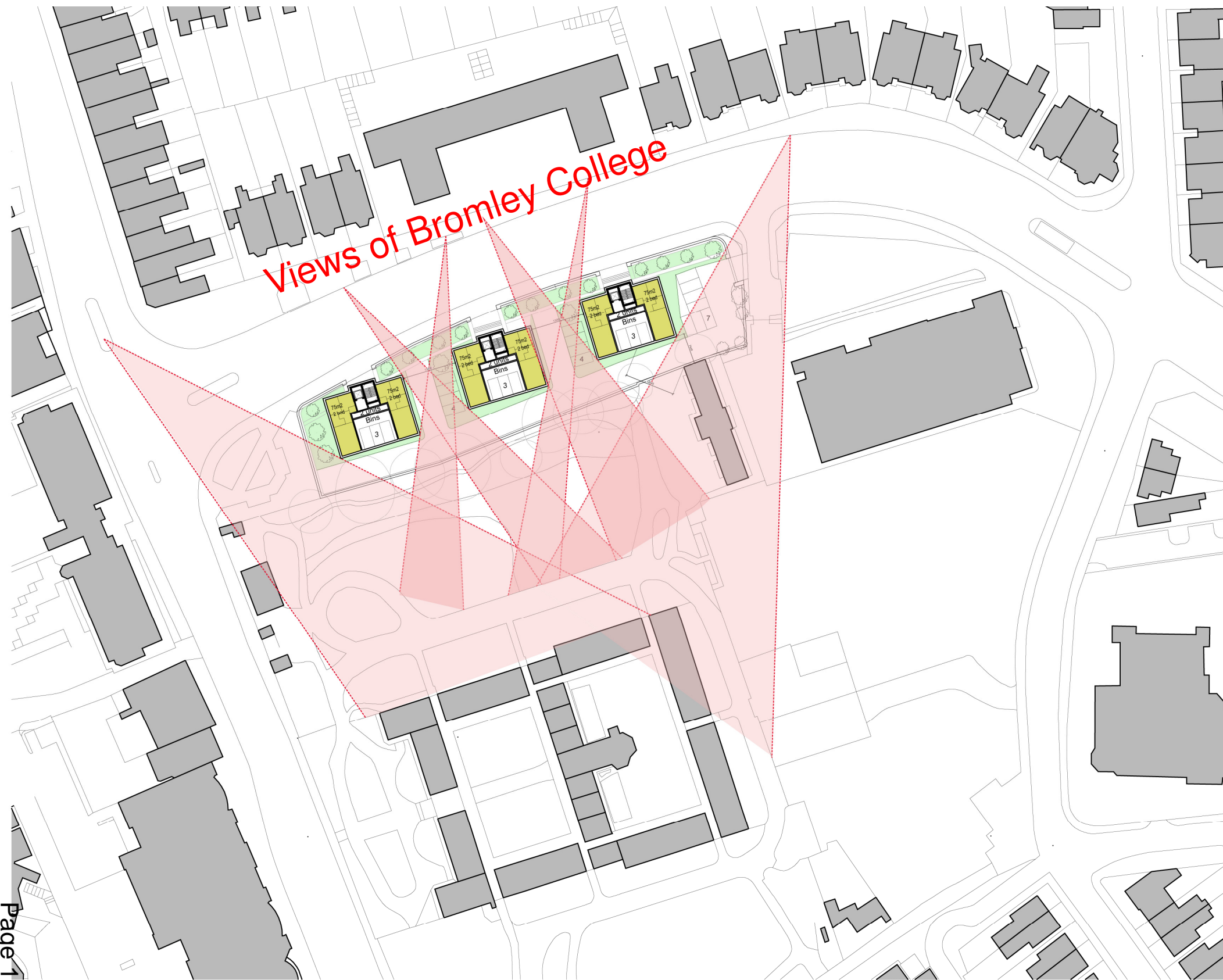
Restored North view of Bromley College

In 1987 demolition of housing along on the site occurred and revealed the northern view which had not been seen for over 100 years. This was an important Gateway / Landmark into Bromley in 1672.

This is an important historic asset and clearance of the site has had an enhancing effect on Bromley College!







SCHEME PARTICULARS

- 3 Residential blocks
- 3 floors of apartments
- 8 units / block
- 24 units
- Range of 1b & 2b units
- 1b - 66sqm
- 2b - 75 sqm
- On site parking - 24 spaces
- Refuse & cycle facilities
- Pitched roof third floor
- Landscaped frontage
- Retained site access



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Report No.
DRR 16/024

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

Date: Tuesday 9 February 2016

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

Title: RESPONSE TO CONSULTATION ON PROPOSED CHANGES TO NATIONAL PLANNING POLICY

Contact Officer: Stephanie Turner and Claire Glavin Planner
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Stephanie.Turner@bromley.gov.uk, Claire.Glavin@bromley.gov.uk

Chief Officer: Chief Planner

Ward: (All Wards);

1. Reason for report

The Government is consulting on changes to the National Planning Policy Framework (NPPF) in order to increase the delivery of housing. The changes will impact on planning decisions and on local policy being developed in the emerging Local Plan. This report seeks Members agreement to the Council's response to this consultation.

2. **RECOMMENDATION(S)**

DCC is asked to:

Agree that the suggested responses set out in this report form the basis of the Council's response to the NPPF consultation.

Corporate Policy

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

Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Planning
 4. Total current budget for this head: £1.243m
 5. Source of funding: Existing revenue budget 2015/16
-

Staff

1. Number of staff (current and additional): 59ftes
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
 2. Call-in: Not Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough-wide
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

Background

- 3.1 In December 2015 the Government issued a consultation paper containing proposals to make specific changes to the National Planning Policy Framework (NPPF). It is set in the context of the Government's drive to deliver additional housing and runs in parallel to the Housing and Planning Bill which is proceeding through Parliament. The original deadline for comments has been extended and the consultation is open until February 22nd 2016.
- 3.2 The Government summarises the proposed changes as:
- Broadening the definition of affordable housing to expand range of low cost housing opportunities for those aspiring to own their own home;
 - Increasing the density of development around commuter hubs, to make more efficient use of land in suitable locations;
 - Supporting sustainable new settlements, development on brownfield land and small sites, and delivery of housing allocated in plans; and
 - Supporting delivery of starter homes.

However, there are a number of specific policy changes – including to Green Belt policy – within these four areas of potential relevance to Bromley.

Changes to the definition of affordable housing

- 3.3 The Government proposes to amend the national planning policy definition of affordable housing to include “a fuller range of products” particularly to enable home ownership. The NPPF defines affordable housing as:

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

- 3.4 The Government considers that the current definition is unnecessarily constrained and risks stifling innovation. The new definition would include “products analogous to low cost housing or intermediate rent such as discount market sales or rent-to-buy housing”. Revised policy will require local planning authorities to plan for the housing needs of those who aspire to become home owners as well as those whose needs are best met through rented homes. This will still be subject to the viability of individual sites.
- 3.5 In parallel, the Housing and Planning Bill is introducing a statutory duty on local authorities to promote the delivery of starter homes, and a requirement for a proportion of starter homes to be delivered on all reasonably-sized sites.
- 3.6 Starter homes are new dwellings for first-time buyers under the age of 40, sold at a discount of at least 20% of market value. The cap in London will be £450,000. They cannot be resold or let on the open market for five years.

- 3.7 The Government proposes to introduce a transitional period (of 6 to 12 months) for the amended affordable housing definition so that local planning authorities can make changes to their policies.

Question: Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wider range of low cost homes?

Suggested response

- 3.8 *There is concern that the proposal will reduce the amount of housing which currently falls within the 'affordable housing' definition i.e. social rented, affordable rented and intermediate housing. Further clarification is required in relation to whether or not the additional low cost market products and starter homes would be in addition to affordable units already sought by boroughs. Starter homes should not be delivered at the expense of housing which currently falls within the affordable housing definition.*
- 3.9 *There is also concern that the units referred to will not remain in perpetuity which will impact negatively upon the level of affordable stock available in the future and will not help address housing needs across the Borough.*
- 3.10 *Boroughs would have to be able to demonstrate that there is a need for the new products through Strategic Housing Market Assessments.*
- 3.11 *The proposals would impact upon the level of Community Infrastructure Levy sought on schemes because starter homes would be exempt. This has implications for the wider infrastructure required by the community whereby schemes could be allowed without the necessary infrastructure to support the development, for instance, schools, health facilities*

Increasing residential density around commuter hubs

- 3.12 The consultation document states that there are significant benefits to encouraging development around new and existing "commuter hubs", which it defines as:
- a) a public transport interchange (rail, tube or tram) where people can board or alight to continue their journey by other public transport (including buses), walking or cycling; and
 - b) a place that has, or could have in the future, a frequent service to that stop. We envisage defining a frequent service as running at least every 15 minutes during normal commuting hours
- 3.13 Revised national planning policy will expect local planning authorities, in both plan-making and in taking planning decisions, to require higher density development around commuter hubs wherever feasible.
- 3.14 A minimum density requirement is not suggested, the consultation document stating "we consider that it is important for density ranges to be decided locally to be aimed at local needs. Setting a minimum density would be unnecessarily prescriptive, and could fail to take account of local character and increase the risk of lower quality development."

Question: Do you agree with the Government's definition of commuter hub? If not, what changes do you consider are required?

Suggested response

- 3.15 *The Council broadly agrees with the definition, except the use of the phrase in b) “a place that has, or could have in the future, a frequent service to that stop”. This would be better phrased “....or is proposed to have in the future...” otherwise this could apply to any location.*

Question: Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?

Suggested response

- 3.16 *It is considered that the density matrix in the London Plan (with reference made within borough Plans) takes into account how accessible locations are to public transport facilities and suggested density ranges reflect this.*
- 3.17 *It is important to note that there are other factors which should influence the density of development and ought to be considered when deciding an appropriate level.*

Question: Do you agree that the Government should not introduce a minimum level of residential densities in national policy for areas around commuter hubs? If not, why not?

Suggested response

- 3.18 *We agree that the Government should not introduce a minimum density. Factors such as local character and context are key in influencing the appropriate density. The London Plan however does already include a minimum density as a guide for new development within London Boroughs.*

Supporting housing development on brownfield land (including small brownfield sites)

- 3.19 The National Planning Policy Framework already states that planning should encourage the effective use of land by re-using brownfield sites provided they are not of high environmental value, and that local councils can set locally appropriate targets for using brownfield land. In the Housing and Planning Bill, the Government have set out their intention to require local planning authorities to publish and maintain up-to-date registers of brownfield sites suitable for housing. These brownfield registers will be a vehicle for granting permission in principle for new homes on suitable brownfield sites.
- 3.20 Changes to national policy are proposed to give “substantial weight” to using brownfield land for housing - a form of ‘presumption’ in favour of brownfield land. Development proposals for housing on brownfield sites should be supported, unless overriding conflicts with the Local Plan or the National Planning Policy Framework can be demonstrated and cannot be mitigated.
- 3.21 The Government acknowledges that small sites of less than ten units play an important role in helping to meet local housing need and considers that the proposed changes will enable more small brownfield sites to be developed with associated local economic and social benefits.

Question: Do you consider that it would be beneficial to strengthen policy on development of brownfield land for housing? If not, why not and are there any unintended impacts that we should take into account

Suggested response

- 3.22 *Although existing policy already supports this position the Council considers that proposals relating to the process for sites being placed upon the brownfield register are onerous and will have significant financial implications for Local Authorities. As a London Borough we consider the proposals as set out in the consultation to be an unnecessary measure and raise objection to these being implemented. Paragraph 22 makes reference to proposed clearer policy on the benefits of using brownfield land for housing and therefore it would have been beneficial for the new wording to have been consulted upon.*
- 3.23 *In addition to the financial and resource implications for boroughs, it is important to note that whilst there is a need for more housing nationally, the consultation does not give consideration to other land uses which may also be competing for the same limited supply of land.*

Supporting development on all small sites

- 3.24 The Government wishes make it easier for applicants to secure permission in principle for development on small sites (less than 10 units). They propose to apply the approach for brownfield land to other small sites, provided the sites are within “existing settlement boundaries” and well-designed to promote or reinforce local distinctiveness. It is proposed to retain protection against unwanted development of back gardens. Proposals for development on small sites immediately adjacent to settlement boundaries should be carefully considered and supported if they are sustainable.
- 3.25 The consultation document asks if national planning policy should set out that local planning authorities should put in place a specific local policy for addressing applications for small sites.

Question: Do you consider that it would be beneficial to strengthen policy on development of small sites for housing? If not, why not? How could the change impact on the calculation of local planning authorities’ five-year land supply?

Suggested response

- 3.26 *Paragraph 24 does not specifically outline the types of small sites that are relevant in this section and this needs to be clarified. Where there are specific policies in the NPPF which indicate that development should be restricted e.g. Green Belt and Local Green Space, these should be excluded from the modified policy. In general, further clarification of the policy intention would be beneficial. The borough has a good record of providing small sites in suitable location and expects that this will continue to feature in the five-year land supply.*

Question: Do you agree with the Government proposal to define a small site as a site of less than 10 units? If not, what other definition do you consider is appropriate, and why

Suggested response

- 3.27 *Within London a small site is defined as less than 0.25ha and is defined within the London-wide Strategic Housing Land Availability Assessment. Monitoring documents and five year housing land supply documents adhere to the latter definition so to change this to less than 10 units would not be beneficial.*
- 3.28 *Without a site size threshold, a small number of units could be built on a site which is considered to be “large”.*

Question: Do you consider that national planning policy should set out that local planning authorities should put in place a specific positive local policy for assessing applications for development on small sites not allocated in the Local Plan?

Suggested response

3.29 *No, because each site should be treated on its own merits against Local Plan policies. Existing policies relating to new housing, design and visions and objectives can ensure that proposals are assessed on their own merits.*

Ensuring housing is delivered on land allocated in plans

3.30 The Government recognise that there may be many reasons why homes cannot be built out at the anticipated rate of delivery, and it is important that there are sufficient incentives and tools in place to support the timely build out of consented development.

3.31 They acknowledge that driving up delivery rates depends on all partners playing their part. It is suggested that Local planning authorities can help to ensure that homes delivered match local requirements in a number of ways, including: allocating a good mix of sites in their Local Plans; efficient discharge of planning conditions; helping to resolve other blockages to development (such as other consents required); shortening the timescale by which development must begin; and ensuring a sufficient pipeline of deliverable planning permissions. The Government recognise that developers can also play their part, and are discussing with house builders and others what steps should be taken to drive faster build-out.

3.32 In order to drive up delivery rates of housing, the Government is looking to amend national planning policy to address significant shortfall between the homes provided for in Local Plans and the houses being built. The housing delivery test, introduced in the Autumn Statement 2015, will compare the number of homes that local planning authorities set out to deliver in their Local Plan is against the net additions in housing supply.

3.33 Under-delivery could be expressed as a percentage below expected delivery – this would be made over a two-year period so that it is not distorted by short-term fluctuations. To strengthen the incentive for delivery on consented sites, it is proposed to amend planning policy to make clear that where significant under-delivery is identified over a sustained period, action needs to be taken.

3.34 One approach could be to identify additional sustainable sites (or new settlements) - in sustainable locations, well served by infrastructure, and with clear prospects for delivery - if the existing approach is demonstrably not delivering the housing required.

Question: We would welcome your views on how best to implement the housing delivery test, and in particular:

- **What do you consider should be the baseline against which to monitor delivery of new housing?**
- **What should constitute significant under-delivery, and over what time period?**
- **What steps do you think should be taken in response to significant under-delivery?**
- **How do you see this approach working when the housing policies in the Local Plan are not up-to-date?**

Suggested response

- 3.35 *The baseline by which to monitor the delivery of housing in London would be the relevant annual London Plan target.*
- 3.36 *A time period of two years is not long enough and there should be flexibility for boroughs to be able to discuss delivery figures in the context of what sites are being delivered at that point in time. For example, there may be cases where a large net loss (as a result of regeneration improvements) is going to come into effect over 1-3 years which has an impact on delivery targets. It would be overly onerous to expect boroughs to undergo a review of their Plan in this context if they were able to demonstrate that there are sufficient sites in place over the Plan period. Additionally, if a borough is having to undertake discussions regarding under-delivery this could have an adverse impact upon any existing five year housing supply document that is in place. Consequently this could result in the need for additional resources to defend schemes at appeal.*

Question: What would be the impact of a housing delivery test on development activity?

- 3.37 *See above*
-

Supporting delivery of starter homes

- 3.38 Starter homes are to be made available at a minimum discount of 20% of market value for first-time buyers under the age of 40, on properties of up to £450,000 in London. They cannot be resold or let on the open market for five years.
- 3.39 National planning policy contains an exception site planning policy to release land specifically for starter homes. This allows applicants to bring forward proposals on unviable or underused commercial or industrial brownfield land not currently identified in the Local Plan for housing.

Unviable and underused commercial and employment land

- 3.40 The Government intends to bring forward proposals to extend the current exception site policy, and strengthen the presumption in favour of starter home developments.
- 3.41 A proposed amendment to the NPPF would “make it clear that unviable or underused employment land should be released unless there is significant and compelling evidence to justify why such land should be retained for employment use.” This would require an up-to-date needs assessment and significant additional evidence of market demand. It could expect local planning authorities to adopt a policy with a clear limit on the length of time (such as 3 years) that commercial or employment land should be protected if unused and there is not significant and compelling evidence of market interest of it coming forward within a 2 year timeframe.
- 3.42 In addition, the Government propose to widen the scope of the current exception site policy for starter homes to incorporate other forms of unviable or underused brownfield land, such as land which was previously in use for retail, leisure and non-residential institutional uses (such as former health and educational sites).
- 3.43 To ensure there is greater certainty that planning permission will be granted for suitable proposals for starter homes on exception sites, it is proposed to amend the exception site policy to make it clearer that planning applications can only be rejected if there are overriding design, infrastructure and local environmental (such as flood risk) considerations that cannot be mitigated.

Question: Do you consider that the starter homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?

Suggested response

- 3.44 *No, we have concerns that this risks these uses being deliberately run down and communities losing valuable social infrastructure. This is unlikely to be replaced if starter homes are exempt from CIL contributions.*

Question: Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?

- 3.45 *No, we run the risk of permanently diminishing commercial land, many offices have already been converted to residential.*
-

Encouraging starter homes within mixed use commercial developments

- 3.46 The Government believes there is the potential to encourage a greater proportion of housing in general and starter homes in particular within mixed use commercial developments across the country, for example new town centre developments or existing town centre regeneration. Where existing mixed use commercial developments contain unlet commercial units, they could be converted to housing including as starter homes. There would need to be clear evidence that the unit has remained unlet for a reasonable period or there is little likelihood of the unit being let for a commercial use.

Question: Should starter homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?

Suggested response

- 3.47 *We would not object to high standard starter homes being encouraged in town centres although the current policy facilitates this where appropriate. We would still want to protect primary retail frontages and would not support a change which would potentially undermine the vitality and viability of town centres.*
-

Enabling communities to identify opportunities for starter homes

- 3.48 Neighbourhood plans prepared by local communities should consider the opportunities for starter homes in their area. National planning policy currently considers limited affordable housing for local community needs as “not inappropriate” in the Green Belt, where this is consistent with policies in the Local Plan. It is proposed to amend current policy so that neighbourhood plans can allocate appropriate small-scale sites in the Green Belt specifically for starter homes.

Question: Should local communities have the opportunity to allocate sites for small scale starter home developments in their Green Belt through neighbourhood plans?

Suggested response

- 3.49 *No, this would potentially undermine the strength and effectiveness of Green Belt policy. If, after five years, the starter homes can be sold on the open market, how will they continue to provide for local community needs which are justifying the policy change?*
-

Brownfield land in the Green Belt

- 3.50 The Government state that they are committed to protecting the Green Belt, and are maintaining the strong safeguards on Green Belt set out in national planning policy. However, they are considering the potential release of brownfield land in the Green Belt as part of the approach to delivering starter homes. They propose to change policy to support the regeneration of previously developed brownfield sites in the Green Belt providing this contributes to the delivery of starter homes, and subject to local consultation.
- 3.51 It is proposed to amend the paragraph 89 of the National Planning Policy Framework that prevents development of brownfield land where there is any additional impact on the openness of the Green Belt. It would be revised to state that development on such land may be considered *not inappropriate* development where any harm to openness is “not substantial”.

Question: Should planning policy be amended to allow redevelopment of brownfield sites for starter homes through a more flexible approach to assessing the impact on openness?

Suggested response

- 3.52 *No, this would harm the openness of the Green Belt and undermine the strength and effectiveness of Green Belt policy. It is unclear how a starter home would cause any less harm to the Green Belt than any other type of home (and after five years it becomes a market home).*
-

Transitional arrangements

- 3.53 Other than for the amended definition of affordable housing, the Government do not consider that the proposed policy changes require a transitional period.

Question: We would welcome your views on our proposed transitional arrangements.

Suggested response

- 3.54 *Additional evidence will be required to ensure that viable commercial, employment retail, leisure and non-residential institutions are not lost to starter homes for which there is no demonstrable need. It is considered that a transitional period should be allowed for this.*

4. POLICY IMPLICATIONS

- 4.1 If the proposed changes are made to the NPPF, changes will be required to the emerging Local Plan and the CIL and affordable housing viability work. Additional evidence will be required in particular to demonstrate continuing need and viability for commercial, retail, leisure and non-residential institutional uses.

5. FINANCIAL IMPLICATIONS

- 5.1 At this stage it is not possible to quantify the financial implications of the proposed changes set out in the consultation.

6. LEGAL IMPLICATIONS

- 6.1 Any changes to the Government's National Planning Policy Framework would need to be reflected in the Council's development plan and planning decisions.

Non-Applicable Sections:	Personnel
Background Documents: (Access via Contact Officer)	Consultation on changes to the National Planning Policy Framework December 2015 Ministerial Statement on Starter Homes, March 2015 National Planning Guidance on Starter Homes Housing and Planning Bill 2015

Links:

Consultation on changes to the National Planning Policy Framework

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488276/151207_Consultation_document.pdf

Ministerial Statement on Starter Homes, March 2015

<https://www.gov.uk/government/speeches/starter-homes>

National Planning Guidance on Starter Homes

<http://planningguidance.communities.gov.uk/blog/guidance/starter-homes/starter-homes-guidance/>

Housing and Planning Bill

<http://services.parliament.uk/bills/2015-16/housingandplanning.html>

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