



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

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DATE: 21 January 2020

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

Councillor Alexa Michael (Chairman)

Councillor Yvonne Bear (Vice-Chairman)

Councillors Vanessa Allen, Katy Boughey, Mark Brock, Kevin Brooks, Peter Dean, Simon Fawthrop, Christine Harris, William Huntington-Thresher, Charles Joel, Russell Mellor, Tony Owen, Angela Page, Richard Scoates, Melanie Stevens and Michael Turner

A meeting of the Development Control Committee will be held at Bromley Civic Centre on **TUESDAY 28 JANUARY 2020 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 **QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting.

Questions specifically relating to reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically relating to reports on the agenda are received by the Democratic Services Team by **5 pm on Wednesday 22 January 2020**.

- 4 **CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 26 NOVEMBER 2019** (Pages 1 - 8)
- 5 **MATTERS OUTSTANDING FROM PREVIOUS MINUTES** (Pages 9 - 12)
- 6 **PLANNING APPLICATION (17/01564/FULL1) - BOURNEWOOD SAND AND GRAVEL, SWANLEY BYPASS, SWANLEY BR8 7FL (CRAY VALLEY EAST WARD)** (Pages 13 - 32)
- 7 **PLANNING APPLICATION (18/05599/FULL1) - LAND REAR OF TESCO STORES, EDINGTON WAY, SIDCUP (CRAY VALLEY EAST WARD)** (Pages 33 - 62)
- 8 **PLANNING APPLICATION (18/05600/FULL1) - LAND REAR OF TESCO STORES, EDINGTON WAY, SIDCUP (CRAY VALLEY EAST WARD)** (Pages 63 - 90)
- 9 **PLANNING APPLICATION (19/01345/FULL1) - 146 CHARTERHOUSE ROAD, ORPINGTON BR6 9EU (ORPINGTON WARD)** (Pages 91 - 138)
- 10 **PLANNING APPLICATION (19/01670/FULL1) - THE PORCUPINE, MOTTINGHAM ROAD, MOTTINGHAM SE9 4QW (MOTTINGHAM AND CHISLEHURST NORTH WARD)** (Pages 139 - 174)
- 11 **PLANNING SERVICE IMPROVEMENTS** (Pages 175 - 224)
- 12 **DEVELOPMENT MANAGEMENT TEAM PERFORMANCE** (Pages 225 - 228)
- 13 **PLANNING APPEALS QUARTERLY MONITORING REPORT - OCTOBER 2019 TO DECEMBER 2019** (Pages 229 - 258)
- 14 **DELEGATED ENFORCEMENT ACTION (OCTOBER 2019 TO DECEMBER 2019)** (Pages 259 - 262)
- 15 **LONDON PLAN UPDATE** (Pages 263 - 266)

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## **DEVELOPMENT CONTROL COMMITTEE**

Minutes of the meeting held at 7.30 pm on 26 November 2019

### **Present:**

Councillor Alexa Michael (Chairman)  
Councillor Yvonne Bear (Vice-Chairman)  
Councillors Vanessa Allen, Katy Boughey, Mark Brock,  
Kevin Brooks, Simon Fawthrop, Christine Harris,  
William Huntington-Thresher, Charles Joel, Russell Mellor,  
Tony Owen, Angela Page, Richard Scoates, Melanie Stevens  
and Michael Turner

### **Also Present:**

Councillors Neil Reddin FCCA

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

Apologies were received from Councillor Peter Dean.

### **36 DECLARATIONS OF INTEREST**

In respect of Item 6 (Minute 40) - Planning Application: (18/01660/FULL1) - Track Pavilion, Norman Park, Hayes Lane, Hayes, Bromley – Councillor Alexa Michael declared that she had commented on the application as a Ward Member and the comments were cited in the report. Councillor Michael explained that she had also responded to emails from members of the public and had been advised by a Council legal officer that these comments did not amount to pre-determination. Councillor Michael confirmed that she remained open to listening to the all the arguments and being persuaded by them.

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

No questions were received.

### **38 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 3 OCTOBER 2019**

**RESOLVED** that the Minutes of the previous meeting held on 3 October 2019 be confirmed and signed as a correct record.

### **39 MATTERS OUTSTANDING FROM PREVIOUS MINUTES**

All matters outstanding from previous Minutes had been completed.

**RESOLVED** that the report be noted.

**40 PLANNING APPLICATION: (18/01660/FULL1) - TRACK PAVILION,  
NORMAN PARK, HAYES LANE, HAYES, BROMLEY**

Description of application – Demolition of the existing pavilion, construction of a part single and part two storey multi-sports facility to provide an indoor multi-sport hall, physio treatment rooms, multi-function rooms, café and function area and relocation of an existing floodlight.

Oral representations from Mr Chris Hilditch in support of the application included the following statements:-

- He was a Trustee of the Blackheath and Bromley Harriers who were proud to present the planning application for the provision of the new facility.
- The clubhouse was being sold in order to facilitate the funding for the new facility.
- No objections to the application had been received.
- Numerous letters of support had been received including letters of support from sporting bodies.
- Thanked Officers for the support that had been provided during the development of the application.
- This would potentially be a great facility for the community.
- There would be access to disabled toilets on both floors on the new facility.
- There would be increased usage through encouraging more groups to use the facilities for Pilates, yoga, strength and conditioning and buddy fit classes, as well as the Park Run.
- The public would be allowed to use the toilet facilities.
- There may be 3 or 4 social functions throughout the year which would require the facility to remain open beyond 6pm at the weekend if permitted.

Oral representations from Ward Member Councillor Neil Reddin in support of the application were received at the meeting. Councillor Reddin noted that the proposed facility had been a long time in development, with a great deal of work going on behind the scenes. Councillor Reddin acknowledged the impact on the Green Belt but suggested that the report may have overstated the impact on the Green Belt as any effect on openness would be marginal. Councillor Reddin did however concur with the report that very special circumstances existed. For the reasons set out, all three Ward Councillors supported the application.

The Head of Development Management summarised the report in a brief presentation to Committee and outlined the key considerations of the application and the reasons for the recommendation. The Head of Development Management explained that the development would constitute inappropriate development in the Green Belt but that officers considered that very special circumstances had been demonstrated. A document of site

photographs and key drawings from the application was circulated to Members.

In opening the debate, Councillor Bear proposed that permission be granted given the very special circumstances that existed and the mitigating circumstances.

The motion was seconded by Councillor Fawthrop who suggested that the following two additional conditions should be added:

1. With 28 days' notice, the facility be permitted to remain open until midnight up to six times a year for social events.
2. That the colour of the building blend in with the Green Belt.

The Head of Development Management confirmed that Condition 15 required details of materials to be submitted.

Councillor Huntington-Thresher highlighted the importance of local provenance of trees in relation to condition 20. It was noted that additional wording could be added to the condition to address this issue.

The Committee noted the requirement that a Servicing and Delivery Plan be submitted. The Head of Development Management also confirmed that additional wording could be added to the conditions to cover foul water drainage.

The Head of Development Management also confirmed that disabled toilets were proposed for the entrance lobbies of both the ground floor and the first floor.

Having considered and debated the application, the Committee unanimously **RESOLVED** that **PERMISSION BE GRANTED** subject to **Stage 2 referral to the Mayor of London and any Direction by the Secretary of state as recommended and subject to the conditions and informatives set out in the report of the Assistant Director Planning.**

The following conditions were amended as follows:-

**11: The use hereby approved shall operate between the hours of 8am to 9pm Monday to Friday, and 8am to 6pm Saturdays and Sundays. On a maximum of 6 occasions per calendar year, the use shall operate up to 12.00am midnight, subject to written notice having been served on the Local Planning Authority no later than 28 days prior to the event.**

**20: Prior to commencement of development, details of replacement trees of sufficient quality and quantities shall be submitted to and approved by the Local Planning Authority in writing. Replacement trees shall be of local provenance where possible. The scheme as approved shall be carried out in the first planting season following the completion of each development phase. Any trees, shrubs or plants that die within a**

**period of five years from the completion of each development phase, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.**

**Reasons: To maintain the biodiversity value of the site and compliance with London Plan Policies 7.19 and Bromley Local Plan Policies 73 and 79.**

**The following conditions were added as follows:-**

**Prior to the commencement of development, details of a foul drainage scheme to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall thereafter be implemented in accordance with the approved details.**

**REASON: There are no public foul sewers near the site and to ensure satisfactory drainage can be achieved to comply with Policies 115 and 116 of the Bromley Local Plan.**

**41 COUNCIL'S RESPONSE TO CONSULTATION ON PLANNING APPLICATION (19/03935/ADJ) - FORMER BROKE HILL GOLF COURSE, SEVENOAKS ROAD, HALSTEAD, SEVENOAKS, KENT TN14 7HR**

Members considered the Council's proposed response to the consultation by Sevenoaks District Council on their planning application (19/03935/ADJ). As an Adjoining Authority Consultation, the Council was required to provide comments on the impacts of the development on the London Borough of Bromley.

Description of application – Outline application for residential development of up to 850 dwellings, incl. affordable housing units and self-build plots; up to 4.75 ha of retirement living; primary school hub with associated sports facilities/outdoor space; sports hub incl. rugby and hockey pitches with separate car park and clubhouse areas; 2 ha of commercial b1 use; local centre incl. commercial, retail and community facilities and undercroft car parking for Knockholt station; country park/open space incl. landscaping, infrastructure and ground works; with all matters reserved except for access (CONSULTATION BY SEVENOAKS DISTRICT COUNCIL).

The Head of Development Management advised Members that further comments had been received from the applicant in response to the issues outlined in the report.

In opening the debate, the Chairman noted that it was a substantial application and the site had not been allocated for housing in the emerging Local Plan. There were significant implications for infrastructure in the area

and a number of concerns had been raised about the impact on local roads. The Chairman further noted that the development would result in a requirement for increased medical facilities in the area and within the proposed application there was an absence of evidence concerning the impact of the development on local schools in Bromley borough. In conclusion, the Chairman stated that she considered the proposals to amount to inappropriate development in the green belt.

Councillor Page, as Ward Councillor for Chelsfield and Pratts Bottom stated that the report before the Committee comprehensively set out the various reasons for objection. Local Ward Councillors in Chelsfield and Pratts Bottom had already submitted objections to the proposals and Councillor Page proposed that the Committee raise objections for the reasons set out in the report. The motion was seconded by the Chairman.

In relation to the impact on schools, Councillor Huntington-Thresher queried the impact on Bromley schools questioning whether a one form entry school would be as popular as some of the larger schools in the surrounding area which would be able to offer a broader curriculum and better choice of extra-curricular activities.

The Committee noted that it was not yet clear what would be happening with Sevenoaks District Council's Local Plan. The site had not featured on the emerging Local Plan but that position could now change. The Head of Development Management advised Members that the decision of the Committee should focus on the issues within the application and be based on the information that was currently available.

Councillor Fawthrop raised the issue of 100% electric car charging facilities for the development and was advised that this was a matter for Sevenoaks District Council to consider.

Noting that the car park at Knockholt Station was comparatively small meaning that much of the parking was on-street, Councillor Bear suggested that LB Bromley's response should include comments about the impact on on-street parking around Knockholt Station.

Councillor Owen raised concerns about the impact on trains and delays that may be caused by commuters changing at Chelsfield Station.

**RESOLVED that the Council's objections to the application be endorsed as set out in the report of the Assistant Director (Planning), subject to the inclusion of additional comments relating to on-street car parking around Knockholt Station and education impact.**

## **42 PLANNING SERVICE IMPROVEMENTS**

### **Report DRR000000**

As part of on-going service improvements being made to the Planning Service, this report set out the current position in regard to timescales and updated action. Approval was sought for the new draft committee report template together with agreement to the proposed initial topic list for Member training.

The Chairman confirmed that the draft protocol would be presented to the Committee in January 2020. The protocol for site visit procedures for committee members would be included within the Protocol.

In response to a question, the Assistant Director (Planning) reported that recently there had been an improvement in Members providing reasons for calling in decisions but that there were still some call ins received without planning reasons.

A Member emphasised that substitutions at committee should be based on a member's ability to attend the meetings and where substitutions at meetings were required, the reasons for the substitution should be made clear.

Another Member highlighted that it would be much better if pictures relating to planning applications were projected on screen. It was suggested that a move to Committee Room 1 would better facilitate this. It was noted that where there was increased public interest in an application officers tended to know in advance and the meeting could be moved into the Council Chamber if necessary.

A Member also suggested that it would be helpful to monitor the outcome of appeals against the original officer recommendation.

In relation to the proposed changes to committee reports, Members noted that photos could be included in the body of committee reports to illustrate specific points. A Member expressed concern about the amount of paper that could be wasted and suggested that Members should be referred to particular planning applications and site plans to be viewed in their iPads.

Referring to the draft Committee report, Councillor Fawthrop suggested that the report should refer to 'conservation/area of special residential character (ASRC)'.

In response to a question from the Chairman, the Assistant Director (Planning) explained that work on training for Members was ongoing. Officers had received feedback that a variety of delivery methods would be appreciated and officers were investigating options for face-to-face and online training with a session on Probity in Planning being included in the training offer. The Assistant Director also confirmed that topics would be grouped



together where possible to minimise the number sessions members were required to attend.

The Assistant Director (Planning) also confirmed that nearly all the Planners in the Department were Chartered and were consequently required to attend regular training for the purposes of continuous professional development.

**RESOLVED that:-**

- 1. the timescales and updated actions set out in the report be noted;**
- 2. the new draft committee report template be agreed; and**
- 3. the topic list for Member training be agreed.**

**43 DELEGATED ENFORCEMENT ACTION (APRIL 2019 TO SEPTEMBER 2019)  
Report ES19086**

Members were provided with details of action taken under authorised Delegated Authority for breaches of planning control during the period April to September 2019.

**RESOLVED that the report be noted.**

**44 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 was 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.

**45 PLANNING APPEALS MONITORING REPORT - APRIL 2019 TO SEPTEMBER 2019  
Report ES19087**

The report outlined Planning Enforcement performance against performance indicators agreed at a meeting of the Public Protection and Enforcement PDS Committee on 27 September 2018 (Report ES18069).

An update on appeal statistics previously reported in July 2019 together with additional information set out in a new format was also provided.

The aim of the report was to provide an analysis of appeals to support development of planning policy and activity.

A Member queried why the report had been classified as exempt from publication. The Head of Planning and Development Support Team explained that Members were being asked to agree a new format for the report. The new format adopted a more forensic approach detailing the current status of appeals and publication at this time could be detrimental to the Council's interests. It was noted that if the new format were agreed, any future reports would be considered in Part 1 of the agenda.

A Member raised concerns about Members calling decisions to Committee where the decision was subsequently overturned at appeal. It was noted that this issue had recently been raised at the Standards Committee. The Chairman highlighted that the Committee should be seeking to set a target of the decisions being overturned at appeal being no more than the national average. She added that this would link to the additional training that had been requested in respect of probity in planning.

A Member confirmed that he was happy with the new format which presented information that the Committee had not received before. The Member highlighted however that it was hard to compare one year to the next and that Members would need to consider trends over time.

The Vice-Chairman welcomed the more forensic approach to performance and noted that historical information had been included in the report for the purposes of demonstrating the proposed format to the Committee. At this point Members were being asked to comment on, and if appropriate, approve the new format. In time, further detail could be included in the reports which would enable the Committee to identify emerging trends.

In response to a question, the Head of Planning and Development Support Team confirmed that the new format would present all appeals for a given year.

**RESOLVED that Members note the report and agree the new Planning Appeals format and contents.**

The Meeting ended at 8.40 pm

Chairman

Report No.  
CSD20012

London Borough of Bromley

PART ONE - PUBLIC

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

**Date:**                      **Tuesday 28 January 2020**

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

**Title:**                      **MATTERS OUTSTANDING FROM PREVIOUS MINUTES**

**Contact Officer:**      Mark Bowen, Director of Corporate Services  
Tel: 020 8313 4355      E-mail: mark.bowen@bromley.gov.uk

**Chief Officer:**              Director of Corporate Services

**Ward:**                      N/A

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1.      Reason for report

For Members to monitor progress against actions outstanding from previous meetings.

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2.      **RECOMMENDATION**

**Members to note that all actions outstanding from previous meetings had been completed.**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: None
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## Corporate Policy

1. Policy Status: Existing Policy. The Committee will be regularly updated on matters outstanding from previous meetings.
  2. BBB Priority: Excellent Council.
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## Financial

1. Cost of proposal: No Cost
  2. Ongoing costs: N/A
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £358,740
  5. Source of funding: 2019/20 revenue budget
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## Personnel

1. Number of staff (current and additional): There are 8 posts (6.79 fte) in the Democratic Services Team.
  2. If from existing staff resources, number of staff hours: Monitoring the Committee's matters outstanding can take up to two hours per meeting.
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## Legal

1. Legal Requirement: No statutory requirement of Government guidance.
  2. Call-in: Not applicable. The report does not involve an executive decision.
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## Procurement

1. Summary of Procurement Implications: N/A
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The report is intended primarily for Members of this Committee
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## Ward Councillor Views

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

### 3. COMMENTARY

This report updates Members on progress achieved in regard to requests made by the Committee at previous meetings. Following each meeting, required actions are listed and monitored to ensure that any outstanding issues are addressed in a timely fashion.

To date, all matters outstanding from previous meetings had been completed.

<b>Non-Applicable Sections</b>	Impact on Vulnerable Adults and Children, Policy, Financial, Personnel, Legal and Procurement Implications
Background Documents (Access via Contact Officer)	

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# Agenda Item 6

<b>Committee Date</b>	28/01/20	
<b>Address</b>	Bournewood Sand And Gravel Swanley Bypass Swanley BR8 7FL	
<b>Application number</b>	<b>17/01564</b>	<b>Officer</b> Paul Mellor
<b>Ward</b>	Cray Valley East	
<b>Proposal (Summary)</b>	Variation of Condition 1 of planning permission ref. 10/00657/VAR (allowed at appeal under PINS ref. APP/G5180/A/11/2145860) to permit continued extraction of Thanet Sand until 31st March 2020 and restoration and recontouring with inert waste until 14th January 2021, with associated access, buildings and structures to remain until 14th January 2021.	
<b>Applicant</b>	<b>Agent</b>	
Killoughery Waste Management Ltd	Miss Maureen Darrie	
43A Willow Lane Mitcham CR4 4NA	The Stables Long Lane East Haddon Northampton NN6 8DU	
<b>Reason for referral to committee</b>	Call-in	<b>Councillor call in</b> Yes

<b>RECOMMENDATION</b>	<b>PERMISSION</b>
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<p><b>KEY DESIGNATIONS</b></p> <p>Biggin Hill Safeguarding Area Green Belt London City Airport Safeguarding Sites of Interest for Nat. Conservation Smoke Control SCA 20</p>
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<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Sui generis – mineral extraction	Sui generis – mineral extraction
Proposed	Sui generis – mineral extraction	Sui generis – mineral extraction

<b>Representation summary</b>	Neighbour letters were sent on 23.6.17 and again on 3.10.19. A site notice was displayed on 20.6.17 A press advert was published on 19.7.17	
Total number of responses	7	
Number in support	0	
Number of objections	5	

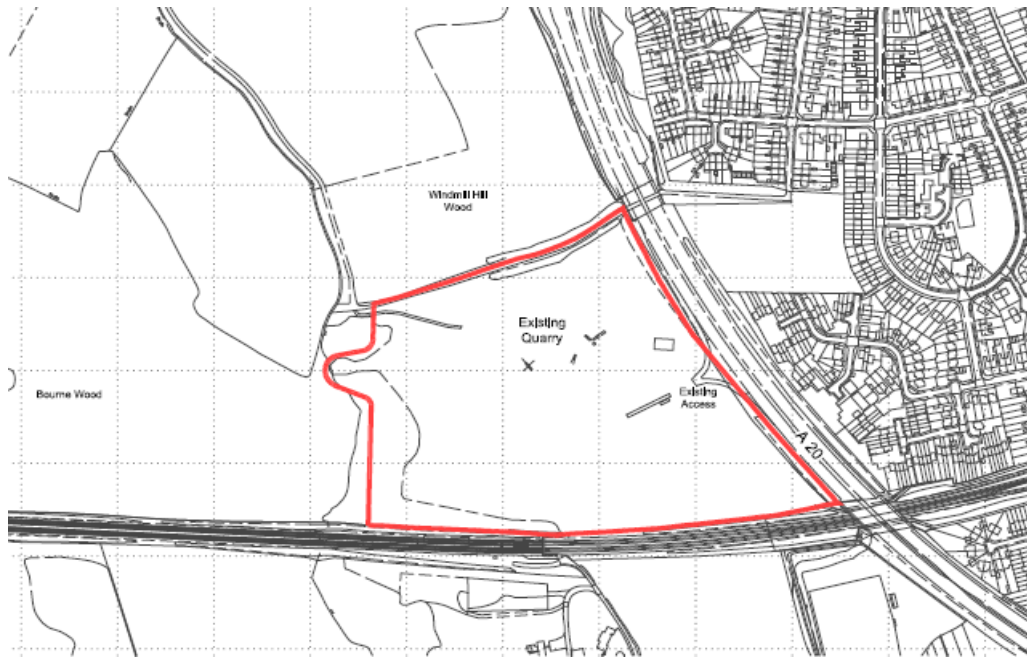
## 1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The development would not impact detrimentally on the openness and visual amenity of the Green Belt.
- The proposal would provide an economically viable and satisfactory solution to the completion of mineral extraction at the site and its subsequent restoration.
- The development would have no significant impact on highway safety, local residential amenity, the ecological value of the neighbouring Site of Importance for Nature Conservation and trees.

## 2. LOCATION

- 2.1. The site is located to the eastern edge of the Borough, between the A20 and railway line on the east and south sides and open land to the north and west. The site is already a working quarry with vehicular access directly onto the A20.
- 2.2. The site is located within the Metropolitan Green Belt and Flood Zone 1. Adjacent to the site is a Site of Importance for Nature Conservation (SINC) and an area of subject to a Tree Preservation Order.





### 3. PROPOSAL

3.1. The application is submitted under S73 of the Town and Country Planning Act 1990 to vary Condition 1 of permission ref. 10/00657/VAR, which was allowed on appeal. This particular condition requires the cessation of minerals extraction by 31<sup>st</sup> March 2017 and the completion of site restoration by 14<sup>th</sup> January 2018. The condition in full states:

'The extraction hereby permitted shall cease on or before 31 March 2017, and the associated infilling shall cease on or before 14 January 2018. All associated buildings, structures, plant and machinery, including the bund formed along the boundary with the A20(T), and the access to the A20(T) shall be removed from the site on or before 14 January 2018 and the signage on the A20(T) shall be removed on or before 14 January 2018.'

3.2. The application seeks an extension of time in which to complete Thanet sand extraction, more of which exists at the site, and the restoration of the site to appropriate levels in a phased manner and in accordance with previously approved restoration plans.

3.3. The proposed extension of time will therefore alter the wording of Condition 1 to include continued extraction of Thanet sand up until 31<sup>st</sup> March 2020 and the restoration of the site, including the re-contouring of the land with inert waste to be completed by 14<sup>th</sup> January 2021. All structures and associated equipment will also be removed from the site by 14<sup>th</sup> January 2021.

3.4. The proposal therefore seeks to amend the wording of Condition 1 to read as follows:

'The extraction hereby permitted shall cease on or before 31 March 2020, and the associated infilling shall cease on or before 14 January 2021. All associated buildings, structures, plant and machinery, including the bund formed along the boundary with

the A20(T), and the access to the A20(T) shall be removed from the site on or before 14 January 2021 and the signage on the A20(T) shall be removed on or before 14 January 2021.'

- 3.5. The application is submitted supported by a Planning Statement that explains that it is estimated that the site contains a further 180,000 cubic metres of Thanet sand and that there is a current demand for the mineral that makes the completion of the excavation a financially viable enterprise. The applicant has outlined that it is clear that the site cannot be left in its current condition and that they are confident that the extension of time sought is sufficient to complete the mineral extraction and restoration of the site.
- 3.6. A visit to the site was undertaken by officers on 20<sup>th</sup> September 2019 where the applicant outlined that only sand extraction and inert material infilling is currently occurring at the site. Material such as concrete and hardcore is brought into the site to be used to build and maintain the required roads to undertake the extraction operations. The inert materials being used to infill the quarry are hardcore, crushed materials and earth from other building sites. The applicant has also confirmed that all structures at the site are being used solely for this purpose, and there is no other activity at the site such as those subject to extant enforcement (specifically concrete batching and other waste sorting operations). The buildings at the site include a site office, storage/maintenance building, security building, first aid building, toilet building and other staff facilities. Some of the equipment previously at the site connected to unlawful operations by the previous site occupier has been removed, however at the time of the officer site visit the site still contains some equipment not associated with the current occupier (Killoughery).



#### **4. RELEVANT PLANNING HISTORY**

- 4.1. There is a lengthy planning history at the site, the most relevant and recent of which is set out as follows:
- 4.2. Application 10/00657 sought changes to conditions 1, 12 and 13 of permission 00/2071 so as to permit the use of the site for both sand extraction and infilling until January 2018. The application was refused by the Council on 13<sup>th</sup> January 2011 on the basis of the harm the ongoing extraction would cause. The application was subsequently allowed on appeal dated 8<sup>th</sup> August 2011.
- 4.3. Condition 2 of the Inspector's decision required the submission of a restoration and landscaping plan to be submitted to and approved by the Council within 3 months of the decision,. No such plan has been approved and therefore the current use of the site is in breach of this condition.
- 4.4. Application ref. 11/00140 was approved by the Council on 18<sup>th</sup> April 2011 for variation of conditions 1, 12, 13 and 16 of 00/02071 and condition 1 of 08/03444 to allow infilling only of existing quarry with inert waste and restoration with associated access, buildings and structures to continue/ remain until 14 January 2018.
- 4.5. Application ref. 11/04004 was refused by the Council on 18<sup>th</sup> September 2012 for change of use of part of existing quarry to allow for the pre-treatment of material prior to infilling by sorting/crushing to recycle any material that can be used to provide recycled aggregates for sale and the provision of associated storage bays. The refusal grounds were as follows:
- 4.6. 'The applicant has failed to demonstrate that very special circumstances exist to justify the grant of planning permission for a proposal which is industrial in nature and which is inappropriate in the Green Belt, harmful to the openness and character of the area and therefore contrary to Policies G1, G14 and G15 of the Unitary Development Plan, Policy 7.16 of the London Plan and guidance in the National Planning Policy Framework 2012.'
- 4.7. The application was subsequently dismissed on appeal on 13<sup>th</sup> June 2013.
- 4.8. Additional planning history at the site is set out as follows:
- 4.9. Application ref. 15/05258 was permitted for temporary relocation of site workshop and hardstanding for the washing of vehicles until 14th January 2018.
- 4.10. Application 09/02818 for an extension of time for extraction and infilling was withdrawn by the applicant in order that further discussions could take place.
- 4.11. Replacement workshop, weighbridge, offices and parking area were permitted in 2008 under reference 08/03444, as the area within which the original site offices were located is intended to be excavated.

- 4.12. In 2000 permission was granted by the Council for some changes to the permitted scheme under reference 00/02071 for Variation of condition 20 of application 96/00962 granted on appeal for extraction of Thanet Sand regarding restoration and re-contouring by disposal of inert waste, creation of vehicular access, the reduction in the width of the surface berm running along the eastern boundary of the site. Erection of repair shed. Erection of security compound comprising 3m high steel palisade fence around perimeter of compound, caravan for overnight accommodation for security guard, storage container, mess hut and 2 storey office/inspection facility. Erection of 3 metre high steel palisade fence along northern boundary of the site. This was the most recent permission for the site until its expiry in January 2011.
- 4.13. Details of dust suppression noise control and protection of the water course, signing changes on the A20(T) restoration and aftercare of the site, retention and protection of trees and hedgerows, trespass proof fence pursuant to conditions 06, 14, 17, and 18 of application 96/00962 granted on appeal for extraction of Thanet Sand and restoration and re-contouring by disposal of inert waste; creation of new vehicular access were approved under reference 99/02071.
- 4.14. Planning permission was initially granted at appeal under reference 96/00962 in 1997 for the "Extraction of Thanet sand and restoration and re-contouring by disposal of inert waste and creation of new vehicular access." at this site.
- 4.15. Enforcement history at the site is summarised by the following two extant notices:
- 4.16. 18/9/2069 Including the crushing/sorting of waste and stationing of machinery. Compliance was due 17/02/04. This notice was upheld on appeal and the Inspector removed the required restoration of the site as this had been previously covered and approved under previous planning history.
- 4.17. 09/00028 Cessation of concrete batching and stationing of vehicles/machinery not needed for quarry purposes. Only agreed machinery to remain on the site (this has not been complied with).

## 5. CONSULTATION SUMMARY

### A) Statutory

#### 5.1. GLA: **No objection**

The application does not raise any strategic issues. The GLA has confirmed that the application will not require a Stage 2 referral to the GLA and therefore planning permission may be granted accordingly. The GLA formal response will be reported verbally at the meeting following the Mayor's consideration of the Stage 1 report on 27<sup>th</sup> January.

#### 5.2. Highways Agency (Highways England): **No objection**

On the basis that the reserved matters proposals will not impact on the Strategic Road Network in Peak Hours. We therefore consider that the development will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para 10 and DCLG NPPF para 109), in this location. Highways England responded to a similar application in 2010 to extend the period of mineral extraction

and site restoration at Bournewood Sand and Gravel with no objection. This application would not result in any additional development or trips and therefore, it is expected that the development would not have an impact on the SRN.

5.3. Natural England: **No objection**

Natural England currently has no comment to make on the variation of condition 1.

5.4. Environment Agency: **No objection**

An Enforcement Notice served on that Company, in 2016, for failure to demonstrate appropriate basal engineering has been installed, as required by the Environmental Permit, has yet to be complied with. Such works required by the Environment Agency to meet the terms of the Notice will require a significant excavation of already emplaced waste to demonstrate a clay liner is in place, or where this cannot be demonstrated, a retro placement of a liner to satisfy the permit condition. The Applicant has not yet provided satisfactory details of the necessary remedial works to comply with the Environmental Permit. We have no objection to a proposal for the completion and restoration of the quarry to meet the planning requirements. However, we will require the outstanding basal engineering works to be completed as required by the Environmental Permit to ensure the long term protection of the environment is maintained.

5.5. Network Rail: **No objection**

After reviewing the associated information Network Rail have no objections to the proposals.

## **B) Local Groups**

6. Ramblers' Association: No comments received.

6.1. The Kent County Councillor for Swanley and Hextable has objected on the grounds that Bromley Council must not cede to a further extension of site operations as it has been previously agreed this site would only have permission to use this land up until 2018. Plenty of time has been given for the application to extract the sand required.

6.2. Kent County Council: No comments received. Under application ref. 11/00140 comments received stated that the use is appropriate in the Green Belt and that the infilling with inert waste offers an effective means of achieving the restoration of the land. It is further noted that the site offers a rare resource for the disposal of inert waste and makes a potentially significant contribution to reducing the export of construction, demolition and excavation waste from London for landfill into Kent and the south east.

6.3. Sevenoaks District Council: No Objection.

6.4. Swanley Town Council: Objection was raised when the original consultation was undertaken in 2017 - Degradation of air quality due to high levels of dust/pollution, new homes are planned to be built at St Marys in the next two years this will impact on the development and quality of life of new residents. The original permit for extraction had a time/date imposed by the Inspector which has already been extended twice, we believe it is time for the site to be returned to green belt. It has also been recorded that

there has been several breaches of Health & Safety on the site e.g. Broken Fences and a constant movement of large HGV transport. If Bromley Town Planning are minded to extend the permit then it is suggested that it only grants an extension of 1 year. Following re-consultation in October 2019, Swanley Town Council has confirmed that it has no comment.

- 6.5. Bromley Biodiversity Partnership: From an ecological viewpoint the quarry area would benefit from being left to rewild. Regarding sand martins, according to the BTO they are quick to colonise suitable habitats and so the lack of evidence of them at the development site shouldn't discourage leaving a suitable cliff face for them. The direction that the cliff faces '*makes little difference provided that it is sheltered from prevailing wind, rain and strong sunlight. The sector from north through east to south east is possibly the most favourable.*' Would it be possible to amend the restoration of the quarry site to keep the sand cliff and scrubby banks (which offer differing aspects for invertebrates and reptiles) and possibly also the water at its base rather than completely infilling it and covering it over with top soil? This area would be a fantastic rewilding project if left to itself (minus machinery & etc.). It would mean that the re-routed footpath would need to be retained as a legitimised PROW and the top of the cliff face would need to be fenced at the top for health & safety reasons. The sandy soil would encourage the development of Lowland Dry Acid Grassland, a priority habitat in the Bromley Biodiversity Plan & NERC Act, section 41 and rare in LBB. Bourne Wood SINC and the quarry site are part of a network of linked wildlife site which includes Hockenden Wood SINC, Hockenden Sand Pit SINC, St Paul's Cray Hill Park SINC & Ruxley Gravel Pits SSSI. The larger the area of linked countryside, the greater the biodiversity it supports.
- 6.6. Crockenhill Parish Council: The Parish Council would like the visual aspect to be considered. The machinery on the south side is an eyesore from Crockenhill and we would like to see it moved to a more screened position if possible.

### **C) Adjoining Occupiers**

7. Nearby owners/occupiers were notified of the application and representations received are summarised as follows:

#### 7.1. Objections:

- The quarry is an eye-sore when viewed from Stones Cross Road, Crockenhill. This is the S side alongside the railway and all manner of vehicles are placed there along the sky-line. The footpath from Crockenhill to Hockenden has been adversely affected by the works. The Company has not abided by current conditions placed on it and LBB has had to expend time and money to gain compliance. The quarry was established against the wishes of local people in Swanley and Crockenhill and the inspector deemed it acceptable because of the time limit of excavation and fill. The original conditions should be adhered to. We totally disagree with any extension of time of time for the bournewood and gravel /co
- They have already had more time than was originally permitted and we have had enough of the noise and pollution.

- The site does NOT preserve openness and visual amenities especially from Crockenhill. It would be great to have that view back following restoration of the site. In view of the proven case of dumped toxic waste in the past and the continued flaunting of the rules, burning rubbish and Sunday working perhaps the site should be closed down to allow investigation by the Environmental Agency into what percentage of waste dump was toxic/dangerous.
- Surely if the market for sand has remained constant, it should be concluded that the previous owners slowed sand extraction to prolong usage and therefore the 2018 deadline should be adhered to.
- The continuation of the land fill on this sight is totally altering the landscape of the area. The huge rise in earth levels must be having a geological effect.
- Also, since the transformation of the yard at Lower Hockenden Farm into an industrial vehicle training area, the number of very large industrial lorries etc. using Hockenden Lane has drastically increased which further affects the highway conditions.

7.2. Please note the above is a summary of objections received and full text is available on the Council's website.

## **8. POLICIES AND GUIDANCE**

8.1. Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:

- the provisions of the development plan, so far as material to the application,
- any local finance considerations, so far as material to the application, and
- any other material considerations.

8.2. Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

8.3. The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.

8.4. The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.

8.5. The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application.

8.6. The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.

8.7. Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan, and the London Assembly can veto the plan. These factors affect the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.

8.8. The application falls to be determined in accordance with the following policies:

London Plan Policies:

- 5.2 – Minimising Carbon Dioxide Emissions
- 5.12 – Flood Risk Management
- 5.13 – Sustainable Drainage
- 5.16 – Waste Net Self-Sufficiency
- 5.17 – Waste Capacity
- 5.18 – Construction, Excavation and Demolition Waste
- 5.19 - Hazardous Waste
- 5.21 – Contaminated Land
- 5.22 - Hazardous Substances and Installations
- 6.3 - Assessing the Effects of Development on Transport Capacity
- 6.11 Smoothing Traffic Flow and Tackling Congestion
- 7.14 – Improving Air Quality
- 7.15 – Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes
- 7.16 – Green Belt
- 7.19 – Biodiversity and Access to Nature
- 7.20 – Geological Conservation
- 7.21 – Trees and Woodlands

Draft London Plan:

- GG2 – Making the Best Use of Land
- GG5 – Growing a Good Economy
- G2 – London's Green Belt
- G6 - Biodiversity and Access to Nature
- G7 – Trees and Woodlands
- SI1 – Improving Air Quality
- SI7 - Reducing Waste and Supporting the Circular Economy
- SI8 - Waste Capacity and Net Waste Self-Sufficiency
- SI12 – Flood Risk Management
- SI13 – Sustainable Drainage
- T3 – Transport Capacity, Connectivity and Safeguarding
- T4 – Assessing and Mitigating Transport Impacts

Bromley Local Plan 2019:

- Policy 31 - Relieving Congestion
- Policy 32 – Road Safety
- Policy 49 – Green Belt
- Policy 67 – Mineral Workings and Associated Development



Policy 69 – Development and Nature Conservation Sites  
Policy 70 – Wildlife Features  
Policy 72 – Protected Species  
Policy 73 – Development and Trees  
Policy 74 – Conservation and Management of Trees and Woodlands  
Policy 77 – Landscape Quality and Character  
Policy 112 – Planning for Sustainable Waste Management  
Policy 115 – Reducing Flood Risk  
Policy 116 – Sustainable Urban Drainage Systems (SUDS)  
Policy 117 – Water and Wastewater Infrastructure Capacity  
Policy 118 – Contaminated Land  
Policy 119 – Noise Pollution  
Policy 120 – Air Quality  
Policy 122 – Light Pollution

Additional Guidance:

National Planning Policy for Waste (2014)

## **9. ASSESSMENT**

9.1. The main issues to be considered in respect of this application are:

- Mineral Workings and Associated Development
- Impact on Neighbouring Amenities
- Flood Risk, Drainage and Environmental Impact
- Highways and Traffic Issues
- Ecology and Trees
- Sustainability

### Mineral Workings and Associated Development

#### **Acceptable**

9.2. The site lies within the Green Belt and it is necessary to consider relevant policies in relation to this, and additionally highway and footpath matters, residential amenities, environmental impact, footpath diversion, mineral planning, waste and recycling and the impact on the Site for Nature Conservation which is to the west of the site, slightly overlapping the application area, in Bourne Wood. All of these are issues which have been previously considered and for this application, the impact resulting from an increased time for infilling must be considered with regard to current policy.

9.3. It is necessary in this case to balance the benefits of allowing additional time to achieve the infilling at this site with any harm caused for an extended period of 3 years. In particular it is pertinent to examine whether the background justification for the original appeal decision still exists, and whether the extension of the timescale for the proposal can be supported by current planning policies. In light of information set out in the Planning Statement accompanying the application it would seem permission ought to be granted for an extension in order to have any certainty that

the land will be suitably restored, given the current state of the site, and the likely timescale to complete works.

- 9.4. Regarding the need for void space for inert waste, in 1997 there was an identified need for void space for inert waste which was considered by the Inspector to partly justify allowing the appeal. Since that time the current London Plan has been published and this includes policies specifically relating waste. Bournemouth Sand and Gravel can be regarded as an existing landfill site, however no substantive evidence has been provided that it meets any specific need. At the time of the original decision, the Inspector stated that the site would "need to attract a relatively small proportion of [the significant amounts of inert waste exported into Kent for disposal] in order to keep pace with extraction."
- 9.5. Despite the positive economic conditions prevailing through the early 2000s, the pace of works at the site appeared to have been slow. However, information previously submitted confirmed that during 2009, a total of 315,836 tonnes of inert waste was delivered to the site and this equates to 143,562 cubic metres of fill at a rate of 2.2 tonnes per cubic metre. The Planning Statement submitted with the current application estimates that there is still approximately 180,000 cubic metres of Thanet sand to be extracted and that a further 550,000 cubic metres of inert materials is required to complete the infill and site restoration, at a similar conversion rate. The applicant is confident that this can be achieved in the time scale outlined in the application description, in spite of the current condition of the site and this was confirmed at the September site meeting.
- 9.6. London Plan Policy 5.18 states that 'new construction, excavation and demolition (CE&D) waste management facilities should be encouraged at existing waste sites, including safeguarded wharves, and supported by:
  - a. using mineral extraction sites for CE&D recycling
  - b. ensuring that major development sites are required to recycle CE&D waste on-site, wherever practicable, supported through planning conditions.
- 9.7. Waste should be removed from construction sites, and materials brought to the site, by water or rail transport wherever that is practicable.'
- 9.8. The supporting text states that 're-use and recycling rates for construction, excavation and demolition (CE&D) waste in London are already high – estimated at 82 per cent for 2008. Nevertheless, the Mayor believes that there is room for improvement. Policy 5.16 sets a target of 95 per cent for recycling/ reuse of CE&D waste by 2020, and the Mayor supports more beneficial and higher order uses of this inert waste, for example, in conjunction with land reclamation or coastal defences. A combination of on-site mobile facilities on construction sites, effective use of existing waste processing sites and, where appropriate, safeguarded wharves, and the provision of recycling facilities at aggregate extraction sites, should be capable of meeting the anticipated future requirement within London to achieve a more beneficial re-use of this material.'
- 9.9. The NPPF outlines at Paragraph 146 that mineral extraction is not inappropriate in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land within it. Waste deposit however is not recognised either

in the NPPF or the Bromley Local Plan as being an exception to the general presumption against inappropriate development.

- 9.10. Such a use is inappropriate in the Green Belt and there must be 'very special circumstances' to warrant overriding the general presumption against it. In this instance the infilling of the site following extraction of the valued Thanet Sand was considered to be a suitable very special circumstance which justified such inappropriate activity. Given the current existence of a large quarried area, it is considered that the need to infill this area can also be regarded as very special circumstances since the benefits to the Green Belt (and consequences of not infilling the site) are obvious in this case and have been under the recent planning history.
- 9.11. With regard to the timescale, the Council raised concerns about this at the first public inquiry, stating that a marginally viable operation might be drawn out over many years with continuing impact upon the character and appearance of the wider locality. The Inspector recognised that there are uncertainties concerning the timescale of extraction and restoration, however he was satisfied that on the balance of probabilities that the Bournewood operation could be carried through in the envisaged 10-11 year timescale. The Inspector placed considerable weight upon the limited period over which the activity would take place. Notwithstanding the above points, regard must be given to the current situation in terms of the existence of a partially excavated quarry in the Green Belt. It would seem preferable to infill and restore this, even if this will take a longer time than that outlined in the 2011 permission, rather than being left with uncertainty about the land and how it might be restored. Planning conditions are recommended to secure the satisfactory restoration of the site and to prevent the potential abandonment of the land.
- 9.12. There have been concerns that vehicular access to the site has been gained via a widened public footpath from Hockenden Lane, and this was previously considered to be an ongoing matter. Following a recent officer visit to the site, this access is gated and the applicant has confirmed that it is not used by the extraction operation. Should this application be approved a condition specifically prohibiting the use of this access to the site and requiring the reinstatement of suitable boundary enclosures could be imposed.
- 9.13. The previous permission for the site is for the extraction of sand and infilling with inert materials, and any revised permission issued as a result of this application is for the infilling of the existing void with inert materials. Processing of materials does not form part of the permission. There have been concerns that recycling of materials has been ongoing at the site in breach of a previously issued enforcement notice, along with concrete batching, and indeed an Environment Agency permit issued to Bournewood Sand and Gravel excluded such activity. The applicant has confirmed that these uses have ceased. The current site occupier has also confirmed that some concrete products are brought into the site, however these are required to construct the temporary roads required to extract materials from the site using the necessary machinery and vehicles. The use of the site solely for the extraction of Thanet sand and the infilling/restoration with inert material can be conditioned to ensure that this can be suitably controlled should permission be granted.

- 9.14. It is clear that the activity subject of this application is harmful to the character and appearance of the area and the Green Belt given its scale and the nature of the activity. It also gives rise to concerns from local residents in terms of noise, dust, highway safety and other impacts, which is apparent from the correspondence received in response to local consultation. Whilst it is accepted that these concerns can be reduced through the imposition and enforcement of planning conditions, it is necessary to consider this impact in considering the extension of time requested, alongside the other pertinent issues such as the future for the quarry and how the land will be returned to open Green Belt.
- 9.15. In determining this application Members need to consider primarily whether the existence of Thanet sand and the commercial viability of the use justifies the requested extension to activities at the site. Works commenced in January 2000 at the site and have therefore been ongoing for almost twenty years, however infilling has apparently only been ongoing since 2007 following delays in issuing the environmental permit. It is questionable whether best endeavours have been made to comply with the proposed timescales throughout this period, and whilst the change in site occupier is a factor in this, it is clear that careful consideration must be given to all the issues discussed above.
- 9.16. However, given the current state of the site Members may consider it would be appropriate to grant an extension of time and accept that the very special circumstances exist to justify the completion of Thanet sand extraction and the infilling of the existing void and site restoration in this Green Belt location, given the likely consequences of refusal.

#### Neighbouring Amenity

##### **Acceptable**

- 9.17. The proposal would have little impact on the residential amenities of Bromley Residents, as there are no nearby residential properties. The closest dwellings within the Borough are sited to the northwest on Hockenden Lane and these are not affected provided that the second access to the north of the site remains disused.
- 9.18. To the south and east of the site, residential properties within the District of Sevenoaks would continue to be affected and this is acknowledged, however these properties are separated from the site by the A20 to the east and the railway line to the south. In each case, the separation provides some mitigation to the noise and disturbance generated by the use, however it is considered that the proposed operation at the site for a further period of time is required in order to achieve the desired outcome, with the short-term disturbance considered necessary to achieve the long-term appropriate Green Belt use of the site. It is also noted that Sevenoaks District Council has raised no objections.

## Flood Risk, Drainage and Environmental Impact

### **Acceptable**

- 9.19. The site is Located in Flood Zone 1 and therefore has a low probability of flood risk. Of greater significance to the site is the potential for contamination, pollution and the nature of the material being used to infill the quarry. Bearing in mind that Bournewood are the environmental permit holders, an Enforcement Notice was served on that Company in 2016 for failure to demonstrate appropriate basal engineering has been installed, as required by the Environmental Permit. This has yet to be complied with. Such works required by the Environment Agency to meet the terms of the Notice will require a significant excavation of already emplaced waste to demonstrate a clay liner is in place, or where this cannot be demonstrated, a retro placement of a liner to satisfy the permit condition. The applicant has stated in their Planning Statement that they are in dialogue with the Environment Agency to ensure that the requirements of the Environmental Permit are fulfilled however the Environment Agency has confirmed that the applicant has not yet provided satisfactory details of the necessary remedial works to comply with the Environmental Permit. The Environment Agency has no objection to a proposal for the completion and restoration of the quarry to meet the planning requirements, however they require the outstanding basal engineering works to be completed as required by the Environmental Permit to ensure the long term protection of the environment is maintained.

## Highways

### **Acceptable**

- 9.20. The application indicates that the level of traffic will not alter but does not give any details of the current trip generation from the site. It is known that there have been complaints that a second access to the site from Hockenden Lane has been used, however the applicant has confirmed that this access is no longer used. This area of the site, to the north western corner, is the route of a registered right of way (part Byway part Footpath 170). This should not be used by heavy vehicles and it is noted that the Inspector previously imposed a condition that only the A20 access should be used. This section of the A20 is part of the Trunk road network for which the Highways Agency would be responsible, although no objection had previously been raised by Highways England. The conditions suggested by the Inspector relating to highway safety should be repeated. The applicant is also advised of the need to make a new diversion order to divert part of Footpath 170.

## Ecology and Trees

### **Acceptable**

- 9.21. The proposed extension of time for continued sand extraction on this site would not appear to risk any further impact on trees or the neighbouring Site of Importance for Nature Conservation (SINC) at Bourne Wood. This neighbouring woodland to the west is not only subject to a TPO but also on Natural England's Priority Habitat Inventory (being deciduous woodland) and has Ancient woodland status. Given the

council's duty under the Natural Environment and Rural Communities Act 2006 to conserve biodiversity, the site represents a significant opportunity to enhance trees and biodiversity. Permission therefore provides the opportunity for the whole site to be prepared and planted in a suitable manner to provide a wildlife habitat. This may include woodland species and the potential to extend Bourne Wood and the area available for wildlife habitat. It is noted that the land was not wooded prior to the commencement of the extraction works and therefore it may not be considered reasonable to impose a condition that requires anything further than restoration to its original condition. That said, a condition can be imposed to secure details of landscaping and this may include trees, vegetation and other biodiversity enhancements to supplement the importance of Bourne Wood.

- 9.22. The site offers an opportunity for rewilding. The existing cliff face created by the quarrying activity has the potential to support sand martins and the existing water at the base of the quarry could also form an important wild feature. The potential for rewilding and a holistic approach to the restoration of the site may be considered as part of the wider restoration and landscaping condition which can be imposed to require the applicant to submit such details post-decision.

### Sustainability

#### **Acceptable**

- 9.23. 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.
- 9.24. Policy 5.3 Sustainable Design and Construction of the London Plan states that the highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new developments and to adapt to the effects of climate change over their lifetime. Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance with the hierarchy; Be Lean: use less energy; Be clean: supply energy efficiently and Be green: use renewable energy.

#### **Conclusion**

- 9.25. Having had regard to the above, it is considered that the development in the manner proposed is acceptable in that it would not impact detrimentally on the openness and visual amenity of the Green Belt. The proposal would provide an economically viable and satisfactory solution to the completion of mineral extraction at the site and its subsequent restoration. The development would have no significant impact on highway safety, local residential amenity, the ecological value of the neighbouring Site of Importance for Nature Conservation and trees.
- 9.26. Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

**RECOMMENDATION: PERMISSION**

**Subject to the following conditions:**

- 1. Cessation of extraction on 31<sup>st</sup> March 2020**
- 2. List of equipment for extraction and infilling**
- 3. List of equipment for restoration**
- 4. No topsoil, subsoil or overburden shall be removed from the site.**
- 5. Any floodlighting shall be in accordance with details that have first been submitted to and approved in writing by the local planning authority.**
- 6. The depth of working shall not be below 55m AOD.**
- 7. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls.**
- 8. Entry to and exit from the site for the extraction and infilling shall be solely via the existing access to the A20(T).**
- 9. All loaded lorries shall leave the site with their cargo area sheeted over.**
- 10. All mud shall be removed off the access road at the end of the working Day.**
- 11. Hours of operation.**
- 12. Only inert waste shall be imported to the site for restoration purposes.**
- 13. No vehicle used on the site in connection with the aftercare of the landscaping shall exceed 5 tonnes GVW, unless otherwise approved in writing by the local planning authority.**
- 14. Submission of restoration details within 3 months.**
- 15. Replacement of trees that die, are removed or become seriously damaged.**
- 16. Extraction, infilling, restoration and aftercare permitted or required by this permission to be carried out in accordance with condition 14.**
- 17. access to the site shall be the access identified in the scheme approved under paragraph b. of Part B of condition 14 only.**
- 18. Emissions from the activities shall be free from noise and vibration at levels likely to cause annoyance outside the site.**

**19. The site must be operated so as to ensure that no dust from it is received at neighbouring residential properties.**

**20. Ecological Appraisal**

**21. Retrospective examination of the basal liner**

**Any other planning condition(s) considered necessary by the Assistant Director of Planning**


**Informatives**


1. Diversion of Footpath 170
2. Environment Agency requirement for the provision of a basal engineering works.
3. Engagement with Connect Plus Services concerning the removal of the access and egress of the A20(T).





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 Ordnance Survey 100017661.


17/01564/RECON - Bournewood  
Sand and Gravel, Swanley Bypass



20 January 2020

1:5000



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# Agenda Item 7

<b>Committee Date</b>	28/01/20	
<b>Address</b>	Land Rear Of Tesco Stores Edgington Way Sidcup	
<b>Application number</b>	18/05599/FULL1	<b>Officer</b> Victoria Wood
<b>Ward</b>	Cray Valley East	
<b>Proposal (Summary)</b>	Construction of 13 units to be used for Use Classes B1(c), B2 and B8 together with access from Edgington Way, Sidcup and creation of access from the Fitzroy Business Park, car parking and associated works.	
<b>Applicant</b>	Chancerygate No. 5 Limited	<b>Agent</b> DWD
c/o Agent	6 New Bridge Street London EC4V 6AB United Kingdom	
<b>Reason for referral to committee</b>	Outside delegated authority	<b>Councillor call in</b> No

<b>RECOMMENDATION</b>	<b>PERMISSION SUBJECT TO LEGAL AGREEMENT</b>
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<p><b>KEY DESIGNATIONS</b></p> <p>Areas of Archeological Significance Biggin Hill Safeguarding Area Adjacent to Green Belt London City Airport Safeguarding Sites of Interest for Nat. Conservation Smoke Control SCA 20 Sites of Special Scientific Interest</p>
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<b>Land use Details</b>
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	Use Class or Use description	Floor space (GIA SQM)
Existing	None	None
Proposed	Classes B1(c), B2 and B8	10,383 m <sup>2</sup>

Vehicle parking	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	0	143	+143
Disabled car spaces	0	13	+13
Cycle	0	33	+33

<b>Electric car charging points</b>	32 (20% of total) with a passive provision for future electrification.
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<b>Representation summary</b>	Neighbour letters were sent 23.01.2019 and again on 09.05.2019 A site notice was displayed on 05.03.2019 A press advert was published on 30.01.2019
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Total number of responses	15
Number in support	1
Number of objections	14

Section 106 Heads of Term	Amount	Agreed in Principle
<ul style="list-style-type: none"> <li>£20,000 to upgrade the SCOOT traffic control system at Crittals Corner secured by s106</li> <li>A vehicle monitoring protocol to limit site traffic to be secured by s106</li> </ul>	£20,000	Yes

<ul style="list-style-type: none"> <li>Reviewing and revising the road markings for the A223 Edington Way/ Tesco Access secured by s106.</li> </ul>		
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**1. SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- The proposed development would create good quality B1(c), B2 and B8 units;
- The site is located within the Cray Business Corridor (Foots Cray), which is recognised as a Strategic Industrial Location (SIL) and as such the principle of development is policy compliant and appropriate in this designated employment area.
- In addition, the proposal would bring a long standing, underutilised site, back into an industrial/commercial use in accordance with NNPF, London Plan and local policy aspirations;
- No unacceptable impact would arise to neighbouring occupiers; and
- No unacceptable Highways impacts would arise

**2. LOCATION**

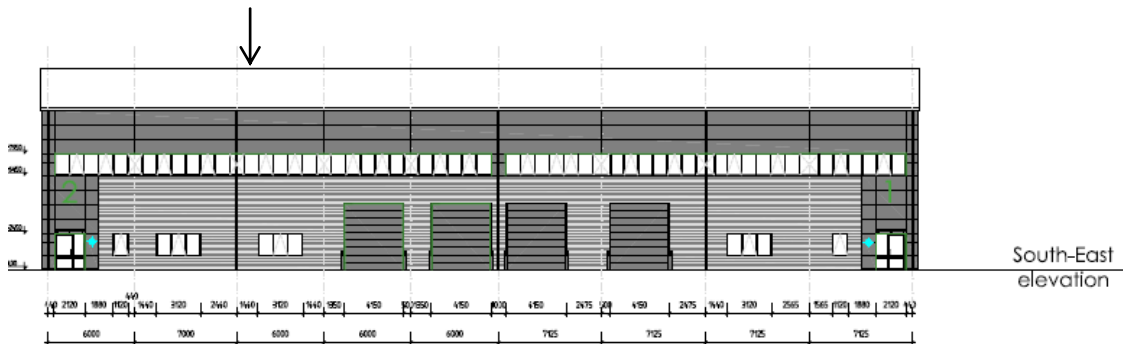
- 2.1 The proposed site is 2.06ha and located to the south of the Tesco Sidcup Superstore and Lancaster Sidcup Garage (Porsche), north of the A20 Sidcup By-Pass and is accessed from the existing site access road which serves Tesco and the Porsche Garage.
- 2.2 The area comprises of commercial buildings, mainly out-of-town retail, trade and industrial units.
- 2.3 The river Cray runs along the western boundary with the whole of the site within Flood Zone 1 (low risk of flooding) on the Environment Agency Flood Map and adjacent to Green Belt, a Site of Importance for Nature Conservation (SINC), a Site of Special Scientific Interest (SSSI). The site is within the Cray Business Corridor (Foots Cray), which is recognised as a Strategic Industrial Location (SIL).



### 3. PROPOSAL

3.1 The proposal is for the redevelopment of a 2.17ha site to accommodate 13 new B1c/B2/B8 units in 6 blocks with a total gross external area (GEA) of 11,190 m<sup>2</sup> with car parking and associated works with access from Fitzroy Business Park and Edgington Way, Sidcup.

Front elevation of Units 1 & 2





- 3.2 The proposed development will utilise an access from the Tesco superstore and from the Fitzroy Business Park, the traffic generated will be split between the two-accesses with pedestrian and cycle access again from both Fitzroy Business Park and Edgington Way.
- 3.3 The site is has a PTAL of 2, with areas surrounding the site between 1b and 2. The proposal would provide 156 onsite parking spaces including 13 disabled spaces, 32 with active electric vehicle charging points (20% of total) and 32 spaces with a passive provision for future electrification. The development proposes 33 cycle spaces.
- 3.4 The site is an undeveloped piece of land that was created by the construction of the Sidcup by-Pass in the late 80's/early 90's. The eastern part of the site (known as Fitzroy Business Park) was development in 2007.

**4. RELEVANT PLANNING HISTORY**

- 3.5 Under ref: 18/05600/FULL1 – Planning permission is also under consideration on this agenda for the construction of 13 units to be used for Use Classes B1(c), B2 and B8 together with car parking and associated works with access from Edgington Way, Sidcup.
- 3.6 The development at Fitzroy Business Park is also considered relevant to this application:
- 3.7 At the Fitzroy Business Park under ref. 06/03868 permission was granted for the construction of 11 units for Class B1/B2/B8 use, car parking/access road and road improvement works to Sandy Lane.

- 3.8 Under ref. 07/02131 permission was allowed at appeal for the variation of condition 14 attached to permission ref. 06/03868 to allow opening between 06.30 and 20.00 hours Monday to Saturday and between 08.00 and 14.00 hours Sunday and Bank Holidays. This application was refused on the following ground:
- 3.9 Under ref. 07/02471 permission was granted for external ventilation flues to Unit 1.
- 3.10 Under ref: 07/03525 permission was allowed at appeal for the variation of condition 14 attached to permission ref. 06/03868 to allow opening between 06.30 and 20.00 hours Monday to Saturday.

**5. CONSULTATION SUMMARY**

**A) Statutory**

**5.1 TFL – Objection**

- 5.2 TfL objects to this proposal as the proposed parking is in excess of, and therefore contrary to, both London Plan and LB Bromley policy relating to parking standards.
- 5.3 TfL also consider the proposals to be contrary to the NPPF and the delivery of sustainable development.

Summary of comments:

- 5.4 The applicants have presented clear evidence in their Transport Assessment (based on the TRICS database) which indicates a parking requirement of between 15 and 79 spaces depending on the land use.
- 5.5 Based on the applicant’s presented evidence our assessment is that even London Plan standards would be an overprovision and with this lower level of provision no overspill parking is likely to take place.
- 5.6 The daily trip generation profiles forecast the movement of vehicles into and out of the site during each hour of the day and give a good indication of onsite parking accumulation / requirements. A higher level of parking will in turn lead to higher activity and trip generation.
- 5.7 LB Bexley has proposed the use of a Vehicle Monitoring Protocol which seeks to limit site traffic to agreed levels with the landowners incurring a charge if the volume of vehicles associated with the site exceeds these. TfL is fully supportive of this proposal and would want to see these set as:

	Transport Assessment
AM Peak (2-Way)	35
PM Peak (2-Way)	27
All day total (2-Way)	374
Parking requirement	79



(as set out in the applicant's Transport Assessment)

- 5.8 With regards to the Travel Plan, it is noted that the applicant is advertising generous on site car parking in its sales brochure which combined with proposed provision well above London Plan standards would appear to undermine the objectives and targets of the Travel Plan.
- 5.9 It is not clear why the information contained in the transport assessment could not have been used to populate with relevant information for this site rather than using an example for a development in Farnborough.
- 5.10 TfL consider that the Car Parking Management Plan contains little actual detail. There are no proposed enforcement measures to ensure that the plan is actually and effectively implemented. We would strongly suggest that a condition is imposed to enable consideration of a detailed Plan related to the ultimate development and which is site specific and addresses these matters. The car parking management plan and the travel plan will be crucial in controlling impacts on the highways and supporting more sustainable development.
- 5.11 For these reasons we would request that the application is either refused on the grounds of excessive and unjustified parking provision, or that any approval is based on a reduction of car parking to Policy compliant levels.
- 5.12 In line with draft London Plan Policy T9 to mitigate the transport impacts of the development, necessary and proportionate obligations are required towards sustainable travel including:
- £20,000 to upgrade the SCOOT traffic control system at Crittalls Corner secured by s106
  - A vehicle monitoring protocol to limit site traffic to be secured by s106
  - Reviewing and revising the road markings for the A223 Edington Way/ Tesco Access to create additional capacity and prevent blocking back secured by s106.
- 5.13 **LB Bromley Highways – No Objection**
- 5.14 There is a similar application for the site with access from Edgington Way (18/05600) which is referred to as Option 1. This proposes a route for pedestrians from Sandy Lane to the Tesco's access and to Edgington Way but not for vehicles. This appears to be the case at present.
- 5.15 This proposal, Option 2, has 13 units which would all be accessed from both Edgington Way and via Fitzroy Business Park.
- 5.16 The units will have a combined area of 10383m<sup>2</sup> GIA with 143 parking spaces plus 13 disabled spaces. This equates to one space per 80m<sup>2</sup>. The spaces will be allocated to particular units. The site is within a low 1b / 2 PTAL area with poor accessibility to public transport and the on-street parking is also very limited. Consequently, although this is slightly higher than the London Plan standards, I would have no objection to the parking provision.

- 5.17 Junction modelling has been carried out to assess the impact of the development. Sandy Lane, the only arm within LB Bromley on the Ruxley roundabout, shows a minimal increase in delays in the peak hours. Crittalls Corner gyratory was also modelled and Sevenoaks Way, again the only arm within LB Bromley, showed a minimal increase in delays and queues. LB Bromley is not the highway authority for Edgington Way or the other arms of the junctions. LB Bexley is the Highway Authority and TfL are a consultee as Edgington Way is a strategic route and I would accept their views on the impact of the proposal on these roads / junctions.
- 5.18 There is a planning permission for amendments to the Tesco access road (17/01687) which is stated will be completed ahead of this proposed development but I am not sure if that can be conditioned.
- 5.19 Please include the conditions regarding parking layout, hardstanding wash down facilities, cycle parking and Construction Management Plan with any permission.
- 5.20 **LB Bexley Highways – No Objection**
- 5.21 I note TfL's comments and objection to the level of car parking promoted in both applications. However due to the low PTAL rating of the site (0-1a), cars are likely to be the primary mode of travel. Parking provision slightly above the London Plan maximum standard is therefore considered acceptable and will reduce the possibility of parking congestion within the site and overspill onto surrounding highways.
- 5.22 Having reviewed the junction modelling and noted TfL's comments I can confirm that Bexley as Highway Authority have no further objections to these proposals subject to the imposition of various planning conditions and S106 obligations referred to in TfL's letter. However the mitigation measure requiring a review and possible revision of the road markings for the A223 Edington Way/ Tesco Access to create additional capacity and prevent blocking back to be secured by s106 needs further discussion with Bexley and may be more expedient if the review and any subsequent alterations were secured by way of Grampian condition.
- 5.23 **Environment Agency – No Objection**
- 5.24 We have reviewed the document 'Foundation Works Risk Assessment' by Ramboll (reference 1700003212 V02 dated 18/07/2019). This document summarises the site's contamination status (low) and provides justification for the use of Vibro Stone Columns and Sheet Piling methodologies which we deem acceptable. In our previous response ref. SL/2019/119009/01-L01 we recommended a number of conditions, one of which was the submission of a piling risk assessment to identify any potential risk from piling activities on parts of a site where an unacceptable risk is posed to Controlled Waters.
- 5.25 From the submission of the risk assessment we wish to update our previous response to reflect the additional information submitted.
- 5.26 We consider that planning permission should only be granted to the proposed development as submitted if the following planning conditions are imposed relating to contamination, sustainable water drainage and piling.

## 5.27 **Thames Water – No Objection**

5.28 Thames Water would advise that they would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. No objections subject to inofrmatives to applicant regarding.

5.29 With regards to surface water, no objections are raised subject to the developer following the sequential approach to the disposal of surface water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

5.30 Thames Water would advise that with regard to waste water network and waste water process infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

5.31 In terms of using mains water for construction Thames Water must be notified before the start, to avoid potential fines for improper usage. Thames Water advise that more information and how to apply can be found online at [thameswater.co.uk/buildingwater](http://thameswater.co.uk/buildingwater).

5.32 On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, they would not have any objection to the above planning application. Thames Water have recommended informatives be attached to this planning permission which are included below.

## 5.33 **Drainage – No Objection**

5.34 The submitted information including "Flood Risk Assessment" carried out by Bradbrook Consulting Option1 with REF No. 18-083R\_001 Rev C dated 26/11/2018 revised 04/02/2019 to include 40% climate change to incorporate 3 Attenuation Tanks with 636m<sup>3</sup>, 144m<sup>3</sup> and 580m<sup>3</sup> capacity each to limit surface water run-off to 4l/s, 1.5l/s, 4.5 l/s and exceedance to be contained on site is acceptable subject to a compliance condition.

## 5.35 **Historic England (Archaeology) – No Objection**

5.36 Having considered the proposals with reference to information held in the Greater London Historic Environment Record and/or made available in connection with this application, I conclude that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

5.37 The site is located within a rich archaeological landscape and would therefore be likely to require staged site work to quantify the site specific archaeological potential. However, the submitted archaeological desk-based assessment report dated September 2018 by L-P Archaeology, in conjunction with the geotechnical evaluation report has shown that the whole site appears to have been quarried and thus reducing the archaeological potential to negligible.

5.38 No further assessment or conditions are therefore necessary.

**5.39 Natural England – No Objection**

5.40 Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on Ruxley Gravel Pits Site of Special Scientific Interest and has no objection.

5.41 Natural England entered into discussions through our Discretionary Advice Service to resolve potential issues with the SSSI which borders the development site. The plans for drainage, light control, SSSI buffer, code of conduct and the Biodiversity CEMP allay any potential issues.

5.42 Natural England's advice on other natural environment issues are contained within the informatives set out below.

**B) Local Group(s)**

5.43 Bromley Biodiversity Partnership:

5.44 Bromley Biodiversity Partnership fully supports all mitigation measures suggested by Natural England and Kent Wildlife Trust.

5.45 Old St Pauls Cray Residents Society:

- 24 hour usage of a development has been restricted on previous application for Sandy Lane so we would expect that this restriction to be maintained by any approval.
- Do not agree that the proposal would not have any impact on the local residents in terms of vehicle movements is an unjustified remark and requires more evidence. Sandy Lane is congested down to virtually a single line during working days as restricted parking has been applied to the east side of the lane for two thirds of its length the development will further increase congestion.
- Edgington Way is also highly congested the combination will result in a bottleneck along Bromley and Bexley roads.
- Full justification should be given to the impact on the SSSI buffer zone and associated landscaping scheme.
- Surface Water Drainage strategy and the impact on the lake which is part of the SSSI and as such a full environmental evaluation should be presented to justify such distribution from the development.

**C) Interested Parties**

5.46 Nearby owners/occupiers were notified of the application and representations were received, which can be summarised as follows:

## Objections:

- Concern that construction traffic will cause problems by obstructing access to the units in Fitzroy Business Park;
- Impact on business in the Fitzroy Business Park;
- Concern that Sandy Lane will be made worse by additional users;
- Construction traffic will be a health and safety issue to pedestrians;
- Do not think the wheel washing facility will be used properly and road will become covered in mud;
- Sandy Lane gets very congested, concern people will use this as a cut through;
- Tesco customers will use the access to avoid having to turn left as they have to do at the moment;
- Selco lorries might use this as an area to turn round and wait while they wait for a delivery slot;
- If access is granted for the Sandy Lane entrance the additional traffic would undoubtedly cause a maintenance issue regarding the road;
- Fitzroy Business Park is a private estate and that permission should be denied for the access;
- The security gate to Fitzroy Business Park will be used more and need repairing more frequently;
- Concern over increase in parking at Fitzroy Business Park;
- The single access application is much better and lead to less pressure on traffic/parking for the existing residents and users of Fitzroy Business Park;
- Security of Fitzroy Business Park will be effected though dual access and 24hrs;
- The public right of way with a high wall will create an ideal mugging spot;
- Building here will put pressure on building on the field opposite;
- Air quality in the area is already poor and this development will make it worse;
- Proposal will result in an increase in litter;
- Site is close to SSSI wouldn't it be more sustainable to just leave the area alone;
- Concern that users of the development would not adhere to the 10mph speed limit;
- When Fitzroy Business Park was developed they did not adhere to the conditions and subsequently the Council approved changes;
- Selco lorries park illegally on double yellow lines along Sandy Lane and nothing is done about it;
- Design appears to cover the majority of the land with little space and appears to be an overbearing impact on the environment;
- Site is close to SSSI and appears to harm the conservation of the area and impact on wildlife routes;
- The design does not appear to help enough with the noxious pollution and constant noise given off by the A20. A carbon sink (forest) is more effective;
- Think the Technical Note underestimates the trip generation and as such not convinced the external impacts of the scheme have been robustly assessed;
- No mitigation has been put forward by the applicant for the loss of two Fitzroy Business Park car spaces and would expect the application to make provision for this loss;
- The development at the former ski school will add to the traffic along Sandy Lane and in turn exacerbate the existing traffic/parking problems;

- Concerned traffic data collection was not done on a normal week day as parking in area is very bad;
- Believe that the Klinger Development will also have an impact on parking and congestion

*These objections have been considered and addressed in the assessment section 7 below.*

## **6. POLICIES AND GUIDANCE**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:
- the provisions of the development plan, so far as material to the application,
  - any local finance considerations, so far as material to the application, and
  - any other material considerations.
- 6.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.
- 6.3 The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.
- 6.4 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.

### Draft New London Plan

- 6.5 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application.
- 6.7 The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.
- 6.7 Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan, and the London Assembly can veto the plan. These factors affect the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.
- 6.8 The application falls to be determined in accordance with the following policies:

London Plan Policies:

2.6 Outer London: vision and strategy

- 2.7 Outer London: Economy
- 2.8 Outer London: Transport
- 2.17 Strategic Industrial Locations
- 4.1 Developing London's Economy
- 4.4 Managing Industrial Land and Premises
- 4.8 Supporting a successful and diverse retail sector and related facilities and services
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.6 Decentralised energy in development proposals
- 5.7 Renewable energy
- 5.8 Innovative energy technologies
- 5.0 Overheating and cooling
- 5.10 Urban Greening
- 5.11 Green roofs and development site environs
- 5.12 Flood Risk Management
- 5.13 Sustainable drainage
- 5.21 Contaminated Land
- 6.3 Assessing effects of Development on Transport Capacity
- 6.9 Cycling
- 6.10 Walking
- 6.12 Road Network Capacity
- 6.13 Parking
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local character
- 7.5 Public Realm
- 7.8 Heritage assets and archaeology
- 7.9 Heritage-Led Regeneration
- 7.20 Geological Conservation
- 8.2 Planning Obligations
- 8.3 Community Infrastructure Levy

Mayor Supplementary Guidance:

Mayor's SPG: "Accessible London: Achieving an Inclusive Environment" (2014)  
 Mayor's SPG: "London's Foundations: Protecting The Geodiversity of the Capital" (2012)

Bromley Local Plan 2019:

- 13 Renewal Areas
- 17 Cray Valley Renewal Area
- 30 Parking
- 31 Relieving congestion
- 33 Access to services for all
- 34 Highway infrastructure provision
- 37 General design of development
- 38 Statutory Listed Buildings
- 68 Development and SSSI
- 69 Development and Nature Conservation Sites
- 70 Wildlife Features

72 Protected Species  
73 Development and trees  
46 Archaeology  
80 Strategic Economic Growth  
81 Strategic Industrial Locations (SIL)  
84 Business Improvement Areas  
115 Reducing flood Risk  
116 Sustainable Urban Drainage Systems  
118 Contaminated Land  
122 Light Pollution  
120 Air Quality  
119 Noise Pollution  
123 Sustainable design and construction  
124 Carbon reduction, decentralised energy networks and renewable energy  
125 Delivery and implementation of the Local Plan

## **7. Assessment**

7.1 The main issues to be considered in respect of this application are:

- Principle of development
- Design – Layout, scale
- Transport
- Amenity Impact Environmental Health/ contamination/ noise /air quality
- Landscaping
- Ecology and Protected Species
- Drainage and flooding
- Sustainability and Energy
- Secure by Design
- Other Issues
  - Environmental Impact Assessment
  - Geological Value
- CIL
- Head of Terms

Principle of development:

### **Acceptable**

7.2 The NPPF states that significant weight should be placed on the need to support economic growth through the planning system and identify strategic sites for local and inward investment.

7.3 The London Plan identifies Foots Cray (Ruxley Corner) as a SIL (Industrial Business Park). The application site is located within this identified area. Planning decisions paragraph B of policy 2.17 states that ‘development proposals should be refused unless they fall within the broad industrial type activities outlined in paragraph 2.79.’



- 7.4 Paragraph 2.79 states that: London's strategic industrial locations (SILs) are London's main reservoir of industrial land comprising approximately 50 per cent of London's total supply. They have been identified following an assessment of future need
- 7.5 In addition, the Majors SPG: Land for Industry and Transport 2012, puts Bromley in the category of 'restricted transfer' commenting that this applies to Boroughs with typically low levels of industrial land relative to demand.... Boroughs in this category are encouraged to adopt a more restrictive approach to the transfer of industrial land to other uses. This approach is reflected in Policy 4.4 of the London Plan.
- 7.6 The site is identified in Policy 80 as the Cray Business Corridor – a strategic priority area for economic growth. The policy states that the focus within this area will be on bringing forward adequate development capacity, the co-ordination of public and private investment and the delivery of enabling infrastructure.
- 7.7 The Site is designated as a Strategic Industrial Location (SIL) in Policy 81, which states that within these areas, uses falling within Class B1(b) and B1(c), B2 and B8 will be permitted and safeguarded. The supporting text to the policy states that the Council will restrict further expansion of retail floorspace within the SIL to instances where the use is demonstrated to be ancillary to a primary B use.
- 7.8 The proposal is for 13 business units arranged in 5 blocks with a total gross external area (GEA) of 11,190m<sup>2</sup>. The units would vary in size from 379 sqm to 1,803 sqm. The subject site is the only entirely undeveloped site in the Cray Business Corridor SIL and represents an ideal opportunity to improve the borough's industrial offer and help to meet demand forecast over the Local Plan period. To this extent, the proposal is consistent with current and proposed business and employment policies.
- 7.9 In respect of the proposed mix of uses, the units are to be B1(c)/B2 and B8 units which all comply with planning policies. The applicant has expressed the intention to install ancillary trade counters throughout the scheme. However, in accordance with the policies outlined above, to protect the industrial character of the site, this can be restricted through condition. This can require details of the extent and scale of any trade counters to be submitted for approval prior to their installation. The provision of trade counters could change the nature of the use from storage and distribution to retail based business. The BLP Policy in relation to SIL's clearly states that "Proposals involving a portion of floorspace to be used for display and sales should demonstrate that the use is clearly ancillary to a primary Class B use." This form of development would be discouraged on site.
- 7.10 The principle of development is policy compliant and appropriate in this designated employment area. In addition, the proposal would bring a long standing, under used site, back into an industrial/commercial use in accordance with NPPF, London Plan and local policy aspirations.

Design – Layout, scale height and massing:

**Acceptable**

- 7.11 The site is located adjacent to Green Belt, a SINIC and SSSI and as such Policies 53, 68 and 69 of the BLP are considered relevant to any assessment
- 7.12 The plans provided show the buildings would be approximately 11.6m in height, which is similar to the Tesco Superstore at 10m, and the Fitzroy Business Park which is between 8-10m in height. The A20 to the rear of the site is on a raised embankment so the site is considerably lower.
- 7.13 The units will be of steel portal frame construction with the height to the underside of haunch of 8.4m and the external eaves height of approximately 10m. The units will have metal clad roofs at 6 degrees with rooflights to add daylight into the warehouse areas. PV panels will be located on the roofs, raised about 200mm and in line with the roof profile. They will not be visible from the pedestrian perspective.
- 7.14 Buildings will be clad in a combination of profiled built-up and Microrib composite cladding panels in predominantly light colours. The units have extensive high level glazing and feature cladding panels accentuate entrances and provide visual contrast to the warehouse elements. The rear elevation of units 1 and 2 will be clad in a green cladding which together with a 5m wide landscape buffer will help mitigate the visual impact of the building onto the adjoining Ruxley Gravel Pits Site of Special Scientific Interest. The image below has been submitted by the applicant to seek to demonstrate the visibility of the buildings from the SSSI.
- 7.15 The proposal is considered to respond to the site's natural features and topography. This in addition to the introduction of further landscaped areas and new tree planting along the southern and western elevations would ensure that the visual impact of the proposed buildings on the neighbouring sites is softened and reduced.



- 7.16 Whilst concerns have been raised from local residents regarding the SSSI, an extended Phase 1 Habitat Survey (June 2018); a desk-based study was undertaken and has been submitted with the application. This has looked and examined both flora and fauna on this site. This concluded that the potential presence of protected species was acknowledged; measures to safeguard these have been put forward and a series of provisions have been recommended to enhance the nature conservation interest of the

site which have been acknowledged and reviewed by Natural England. As such there would be no detrimental impact on the adjacent SSSI.

- 7.17 In terms of the adjacent Green Belt, this site is very different in character and is separated from open land to the south by the A20 which although is Green Belt itself acts as buffer to distinguish the two areas.
- 7.18 The proposed development incorporates Secured by Design principles as required by Policy to take account of crime prevention and community safety. Concerns have been raised over the 24 hour access and how this will impact on the security of the Fitzroy Business Park and also the pedestrian access itself linking the Edgington Way with Fitzroy Business Park. The proposal has been reviewed by the Designing Out Crime Officer who has not raised any objections subject to the conditions relating to Secure by Design be included in any permission.
- 7.19 In summary, the proposal would result in a high quality development that responds to the character of the area, and provides a functional, non-invasive wider provision to accommodate a policy compliant use of the site.
- 7.20 In accordance with NPPF policy, the proposed site would function well, add to the overall quality of the area, and establish a strong sense of place through the use of sensitive landscaping and boundary treatments. The proposal would optimise the potential of the site to accommodate development, and create an appropriate provision of use. The development would respond to the site and would reflect the identity of local surroundings and materials.

#### Transport:

#### **Acceptable**

- 7.21 It is acknowledged that TfL have raised an objection regarding the number of parking spaces. TfL are concerned that by providing a higher level of parking will in turn lead to higher activity and trip generation.
- 7.22 In response to the above the London Borough of Bexley who is the highway authority for the surrounding roads note TfL's comments and objection to the level of car parking, however due to the low PTAL rating of the site (0-1a), cars are likely to be the primary mode of travel. They acknowledge that the parking provision would be slightly above the London Plan maximum standard but nevertheless considered it to be acceptable and will reduce the possibility of parking congestion within the site and overspill onto surrounding highways.
- 7.23 Bromley highway officers have also considered this and that given the very low PTAL the London Plan standard would be 1 space per 100m<sup>2</sup>.
- 7.24 The proposal is for 10,419 m<sup>2</sup> GIA with 143 spaces (not including disabled spaces) giving one space per 72m<sup>2</sup> giving rise to the 38% "overprovision".

- 7.25 The adjacent Fitzroy Business Park, which gained permission in 2006, has 5478m<sup>2</sup> GFA with 58 spaces which gives a ratio of 1 space per 94m<sup>2</sup>. This is higher than the London Plan provision would be but clearly does not have enough parking with vehicles parked all over the site and going out into Sandy Lane which required the introduction of waiting restrictions.
- 7.26 Therefore on balance given the location of the site and PTAL the provision should be higher at this site and as such no objection in this regard is raised.
- 7.27 With regards to sustainability, to address concerns raised by TfL obligations are sought for Bexley Council as the Highway Authority in the S106 relating to:
- £20,000 to upgrade the SCOOT traffic control system at Crittals Corner secured by s106
  - A vehicle monitoring protocol to limit site traffic to be secured by s106
  - Reviewing and revising the road markings for the A223 Edington Way/ Tesco Access secured by s106.
- 7.28 Highway officers acknowledge that Fitzroy Business Park does not have enough parking and this has had an impact on Sandy Lane as a consequence. As such Bromley and Bexley Highway officers have supported the level of parking proposed as to ensure they is no increase in the parking demand on the local roads, especially Sandy Lane.
- 7.29 Given all of the above it is considered that the development is acceptable and the proposal would not impact detrimentally on the highway network.

Amenity Impact:

**Acceptable**

- 7.30 The application site is set within an established Business Area/SIL. The nearest noise sensitive properties are on Sandy Lane, with one property approximately 80m south east of the site (south of the A20) and another approximately 150m to the east, across roads and behind other industrial sites.
- 7.31 A Noise Impact Assessment has been submitted by the Applicant. This shows that the predicted noise levels for the development (showing a maximum of 9 HGV movements) using “worst case” scenarios. Concerns have been raised from local residents over the impact given the dual access (especially from Sandy Lane), however the report concludes that the residual operational noise impacts are of negligible magnitude and not significant (when compared against the existing baseline conditions).
- 7.32 Concerns have been raised over the 24hr operation proposed to the new development. Fitzroy Business Park has restricted operating hours, however given the distance the units are from the nearest residential buildings Environmental Health officers do not consider the use of the Fitzroy Business Park entrance to have any significant impact in terms of noise and disturbance over the existing background noise given the proximity to the A20 and Tesco’s.

- 7.33 The potential impacts as a result of the construction phase have also been assessed in relation to the impacts upon existing receptors. It is considered that with appropriate mitigation, the proposed development is acceptable with regard to both operational and construction noise impacts.
- 7.34 The potential for adverse noise impacts from construction vehicles and plant during the works can be minimised through a range of measures which can form part of a site specific Construction Management Plan within which all contractor activities would be undertaken and this can be secured by way of condition.
- 7.35 The proposed use itself is unlikely to generate significant levels of noise and, given the generous separation distances of the site from residential dwellings the proposal is unlikely to have a significant detrimental effect on neighbouring amenities.

Environmental Health/ contamination/ noise /air quality/external lighting:

**Acceptable**

*Contamination:*

- 7.36 A Phase II Environmental Site Assessment Report has been submitted with the application (April 2019). The report concludes that the site investigation has not identified significant contamination at the subject site with the exception of asbestos containing material (ACM) in Made Ground soils.
- 7.37 At the time of the investigation, asbestos containing material (ACM) was identified at surface level and this was considered to pose a potential risk to current site users (i.e. pedestrian footpath). Mitigation measures were recommended and have been implemented in this regard. A hand-picking exercise of ACM has been undertaken by a qualified contractor and a barrier fence has been erected to restrict site users entering areas of the site where ACM was previously identified. During the investigation, Ramboll implemented mitigation measures and also implemented air monitoring which did not detect any fibre release during the excavation activities.
- 7.38 In terms of visual evidence, with exception to the west of site, ACM was observed to be located in the Made Ground across site. Generally, ACM was visually observed in two notable layers across the site; a shallow layer consisting of fragments of ACM in soils of which a greater frequency of fragments was identified within the central and southern areas of site and a deeper layer consisting of 'bands' of ACM rather than fragments within soils. This layer was observed to be located within the central to southern central area of site. Laboratory analysis identified ACM in quantifiable concentrations in 22 locations. In all but two samples the ACM was identified as Chrysotile; one sample recorded the presence of Crocidolite (<0.001%) and Amosite was recorded with Chrysotile in the second sample (0.039%). The presence of asbestos is not considered to represent a significant risk to future users in the scenario where the material remains capped below hard surfacing or buildings where there is no pathway for exposure to human health.

- 7.39 However, in terms of developmental considerations there are risks associated with disturbing the Made Ground (and re-use, if proposed) which will require mitigation measures and the implementation of appropriate materials management protocols.
- 7.40 Ramboll's investigation also included the appropriate range of land contamination testing and assessment.
- 7.41 As such the documents have been reviewed by Environmental Health Officers and the Environment Agency and a condition should be attached to any planning permission securing these mitigation methods and adherence with the contaminated land assessment dated April 2019, which could address all these aspects appropriately in accordance with Policy 118 of the BLP.

*Noise:*

- 7.42 Noise modelling has been undertaken to predict the likely impact on nearby receptors with regards to construction and operation as set out above in the amenity section of this report.
- 7.43 In relation to plant noise, the acoustic report proposes to limit noise and as such a condition is proposed which would require this to be complied with.

*Air Quality:*

- 7.44 An Air Quality Screening Statement has been prepared. This assessment considers the air quality impacts associated with both the construction and operation of the development. Likely changes to air quality in the area, as a result of the proposed development have been considered in relation to the national Air Quality Objectives. Where required, the air quality assessment considers mitigation measures to reduce the effect of the proposed development upon local air quality.
- 7.45 The development site is not located within an AQMA; however, it is located close to London Borough of Bexley's AQMA. The AQMA is declared for exceedances of the national annual mean nitrogen dioxide (NO<sub>2</sub>) objective.
- 7.46 Review of air quality monitoring data from the nearest automatic monitoring stations indicate that roadside NO<sub>2</sub> concentrations exceed the national objective. However, background concentrations are within the objectives.
- 7.47 The impacts of construction activities on local air quality have been assessed in accordance with the IAQM best practice guidance. This assessment indicated that the risk of the different activities towards dust soiling is 'medium' and that for human health impact is 'medium'. Following implementation of the appropriate mitigation measures as outlined in the report, the residual impacts during construction would be insignificant. These mitigation measures make up part of a Construction Management Plan (CMP) that will be required to be implemented to minimise the potential of adverse construction dust impacts throughout all the relevant construction stages.
- 7.48 Traffic movements, generated by the proposed development during its operation, will give rise to NO<sub>x</sub> and PM<sub>10</sub> emissions. The impact of these emissions on local air quality

were assessed using an air dispersion model and the impacts significance was assessed in accordance with the relevant IAQM Guidance. Traffic-related pollutant concentrations (NO<sub>2</sub> and PM<sub>10</sub>) were predicted at sensitive residential properties located near roads likely to be affected by vehicle travelling to and from the Site. Results indicate that the impact of vehicle emissions on local air quality is negligible.

- 7.49 The total nitrogen oxides (NO<sub>x</sub>) and PM<sub>10</sub> emission from, vehicles movements generated by the development, have been considered in the Air Quality Neutral assessment. This assessment showed that emission are within the benchmarks set out in the GLA's Sustainable Design and Construction Guidance and no mitigation is required.
- 7.50 The development therefore meets the London Plan requirements that new developments are air neutral, and air quality impact in the local area as a result of this development is not expected to be significant. Conditions have been recommended to ensure and address any matters which could subsequently affect air quality and which could be attached to any approval.

*External Lighting:*

- 7.51 An External Lighting Assessment has been submitted with the application which reviews the proposed external lighting scheme at the site. This incorporates measures to prevent night time lighting pollution by restricting all luminaries to be fitted with suitable optics to limit excessive emission on the horizontal plan, horizontal cut off optics to minimise upward light spill and to incorporate a lighting design will comply with the relevant limits on lighting intensity. The scheme addresses the use of the site by bats and minimises light pollution to other parts of the site and the wider area addressing the requirements of para.125 of the NPPF.

Landscaping:

**Acceptable**

- 7.52 The existing site is overgrown with self-seeded low level shrubs and plants with some trees and more mature planting along the perimeter of the site.
- 7.53 The Arboricultural Implication Report concludes that no veteran or ancient trees, and no category 'A' trees are to be removed. A portion of the main Arboricultural features of the site comprising six individual poplars are to be removed on Arboricultural grounds, but this will represent only a partial alteration to the main Arboricultural features of the site and are not considered to have a permanent or significant adverse impact on the arboricultural character and appearance of the local landscape.
- 7.54 The incursions into the Root Protection Areas of trees to be retained are minor and within the tolerable limits of the species affected. Subject to implementation of the measures recommended on the Tree Protection Plan and set out at Appendix 1 of the Arboricultural Implication Report, no significant or long-term damage to their root systems or rooting environments will occur.
- 7.55 The landscaping scheme submitted with the application indicates that most of the perimeter planting, including the trees on the southern and eastern embankment will be

retained and enhanced. A high quality landscaping scheme is also proposed at the frontage of the site. It is considered that this would enhance the setting of the area.

- 7.56 Subject to implementation of the recommendations of the survey, the proposed development would not have a significant impact upon the existing arboricultural amenity of the area and therefore complies with Policy 73.

#### Ecology and Protected Species:

##### **Acceptable**

- 7.57 The application site lies immediately adjacent to the west of Ruxley Gravel Pits SSSI. An Extended Phase 1 Habitat Survey (June 2018); a desk-based study was undertaken and has been submitted with the application which considers all biodiversity and conservation aspects, including potential impacts on protected and other species, notably reptiles and bats.
- 7.58 The majority of the habitats present within the site are largely semi-natural but of limited intrinsic interest in terms of floristic composition, and their loss together with the buildings and hardstanding would be of little ecological significance. The semi-improved grassland is of some ecological interest within the context of the site and is proposed for removal but is of limited extent and is considered to be of limited significance in the wider local area.
- 7.59 The site contains some foraging interest for bats in the form of scrub and tall herbaceous vegetation. No evidence of Badgers was identified during the survey work and it is considered unlikely that this species would be reliant on the site for foraging or sett-building. The site may occasionally be used for dispersal as Badgers are present in the local area and an informative is suggested to ensure that checks be undertaken by an ecologist prior to the commencement of any works within the site to ensure Badgers have not excavated any setts.
- 7.60 In terms of birds a total of 27 bird species were recorded during three breeding bird surveys and an extended Phase 1 survey carried out in 2018; 15 of these were recorded as breeding or probably breeding. Birds recorded include a single Kingfisher at the western end of the site on the first visit. The site does not contain suitable Kingfisher nesting habitat. Wintering bird surveys of the adjacent Ruxley Gravel Pits SSSI conducted in 2008 recorded a total of 49 species respectively. Notable species observed include Peregrine, but it is not considered that this species is likely to rely on the proposed development site.
- 7.61 The site contains very limited areas of reptile active season habitat in the form of small patches of rough semi-improved grassland. The majority of the site does not provide sufficiently diverse habitat structure to support common reptile species. Scattered scrub provides shelter and hibernation opportunities. A common reptile presence / absence survey conducted in 2008 recorded a single adult Grass Snake in the east of the site. It is noted that the habitat opportunities have been reduced by vegetation succession in the intervening years. Surveys of the adjacent Klinger site conducted in 2016 did not find any presence of common reptile species despite this area containing comparable (and in



places more suitable) reptile habitat than the proposed development site. It is therefore considered that the common reptile population is likely to have been lost from the site.

- 7.62 No amphibians were observed within the site during the survey work undertaken. The semi-natural habitats present within the site provide dispersal opportunities and are considered to have some limited potential to support foraging amphibians. The scrub within the site offers habitat for shelter and hibernation but the site is unsuitable for breeding amphibians. The semi-natural habitats identified will be lost under the development proposals.
- 7.63 The protective measures required to avoid detrimental impacts are included in the prepared Construction Environmental Management Plan (CEMP) covering the identification of biodiversity protection zones, the siting and timing of activities and construction lighting to minimise disturbance to wildlife, the erection of appropriate protective fences and warning signage and the safe storage of materials and chemicals at appropriate locations.
- 7.64 Given all of the above it is considered that there are no overriding ecological constraints to the development of the site and there is good scope for the proposals to avoid any significant impacts on designated sites. Natural England have broadly agreed to the proposed mitigation and safeguard measures in respect of Ruxley Gravel Pits SSSI as detailed within this report, and also the accompanying CEMP. The potential presence of protected species is acknowledged; measures to safeguard these have been put forward and a series of provisions have been recommended to enhance the nature conservation interest of the site.
- 7.65 The proposed development is considered acceptable with regard to ecological and nature conservation impacts subject to conditions.

#### Drainage and flooding:

##### **Acceptable**

- 7.66 The proposed development site lies in an area designated by the Environment Agency as Flood Zone 1 and is outlined to have a chance of flooding of less than 1 in 1000 (<0.1%) in any year.
- 7.67 NPPF sets out a Sequential Test, which states that preference should be given to development located within Flood Zone 1. A flood risk assessment has been submitted which demonstrates that the requirements of the Sequential Test have been met, with the site's location within Flood Zone 1 and 'Less Vulnerable Infrastructure' classification of the development.
- 7.68 A sustainable drainage strategy, involving the implementation of SuDS, is proposed for managing the disposal of surface water runoff from the proposed development. The proposed drainage strategy would ensure that surface water arising from the developed site would be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development, while reducing the flood risk to the site itself and elsewhere, taking climate change into account.

7.69 The proposed surface water drainage measures would ensure the proposed development satisfies the peak flow control standards and volume control technical standards in the Government's 'Non-statutory technical standards for sustainable drainage systems'.

This flood risk assessment has concluded that:

- the location of the distribution facility is located within Flood Zone 1, and as such is at a very low risk of flooding from fluvial sources.
- the site is far enough inland not to be at risk of any tidal flooding event.
- flood risk from surface water is considered very low for the site following development.
- flood risk from other sources – groundwater, sewers, reservoirs and artificial sources – is demonstrated to be low.
- the development will have no impact on other forms of flooding.
- overall, taking into account the above points, the development of the site should not be precluded on flood risk grounds.

7.70 The Drainage Officer and Environment Agency have assessed the submission and advised that subject to appropriate conditions, the submission is considered to be acceptable in this respect.

#### Sustainability and Energy:

##### **Acceptable**

7.71 The application is supported by an Energy and Sustainability Statement which confirms that as a result of the sustainability features incorporated within the proposed development this allows for a 36.95% carbon saving against Part L 2013 requirements for the scheme which exceeds the 35% improvement requirement under the London Plan and demonstrates that the scheme is a sustainable development. This is shown to be achieved through passive design, energy efficient measures incorporating design features in accordance with London Plan and BLP planning policies.

7.72 The development shall include a variety of features which are regarded as having a good sustainable design. To provide as much natural light as possible within the office and warehouse areas glazing has been provided to the office and circulation areas and with 15% rooflight coverage over the warehouse areas. Building modelling of each unit has confirmed that no occupied space is at risk from excessive solar gains.

7.73 To further ensure that overheating will not occur during summer months and the building is suitably insulated, as well as allowing for adaptation due to the effects of climate change, it is anticipated that the development will use building fabrics with 'U' values with an improvement beyond the threshold requirements of Part L (2013)

7.74 To ensure the sustainability of the development the Energy and Sustainability Statement puts forward that water efficient fixtures will be incorporated into the design, such as low flow taps and dual flush toilets with reduced effective flush volumes.

7.75 To be further sustainable, it is expected that pulsed water meters will be installed on the mains water supply, to effectively monitor water consumption. The inclusion of the above

sustainability features allows for the development to be deemed sustainable with regard to water consumption.

- 7.76 Site Waste Management Plan has been produced, highlighting key materials and the correct waste streams for the recycling of any waste materials.
- 7.77 The proposed development is considered to comply with London Plan Policies 5.7 to 5.11, the Mayor's SPG and also Policy 37 (f) of the BLP.

Secure by Design:

**Acceptable**

- 7.78 The proposal needs to incorporate Secured by Design principles as required by Policy 37 to take account of crime prevention and community safety. Paragraphs 58 and 69 of the NPPF are relevant. Compliance with the guidance in Secured by Design and the adoption of these standards will help reduce the opportunity for crime, creating a safer, more secure and sustainable environment.
- 7.79 The Designing Out Crime Officer has recommended the principles and standards of 'Secured By Design' Commercial 2015v2' as a planning condition for the development noting the size and historical criminality at the site.

Other Issues:

*Environmental Impact Assessment:*

- 7.80 As the site has an area of over 1ha it was necessary to "screen" an application as to whether it requires to be accompanied by an Environmental Assessment under the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015. The screening process identified that an EIA was not required, and a formal opinion was issued on 01.10.2019.

*Geological Value:*

- 7.81 The area to the north of the site is identified as GLA41 Klinger Pit, Foots Cray, Potential Regionally Important Geological and Geomorphological Sites (RIGS) in the London Plan SPG 'Londons Foundations: Protecting the Geodiversity of the Capital'. The area is identified as an abandoned pit formerly owned by Klinger that was worked for Thanet Sand Formation. The lithology is predominantly fine yellow sand and is considered to be the best exposure of Thanet Sand in the London area.
- 7.82 However, the designation of the Thanet Sand formation lies outside of the developed area of the site.

CIL:

- 7.83 The Mayor of London's CIL is a material consideration. CIL is payable on this application and the applicant has completed the relevant form.

## Head of Terms:

7.84 In order to mitigate the transport impacts of the development, necessary and proportionate obligations are required towards sustainable travel which includes the following:

- £20,000 to upgrade the SCOOT traffic control system at Crittals Corner secured by s106
- A vehicle monitoring protocol to limit site traffic to be secured by s106
- Reviewing and revising the road markings for the A223 Edington Way/ Tesco Access to create additional capacity and prevent blocking back secured by s106.

## **8. CONCLUSION**

- 8.1 The proposed use of the site complies with planning policy and is acceptable in principle.
- 8.2 The application has been assessed against the adopted development plan and all other material considerations.
- 8.3 As set out in the preceding sections of the report, having regard to the relevant policies given the sites location within the Cray Business Corridor (Foods Cray), which is recognised as a Strategic Industrial Location (SIL) and taking into account the highways impacts of the proposal and the impact on occupiers of nearby occupiers, the development is considered acceptable.
- 8.4 Furthermore, provided the recommendations within the various technical reports are complied with, the proposal would not have a significant impact on the environment, including the bio-diversity value of the site of the adjacent SINC. The application is recommended for permission, subject to conditions.
- 8.5 Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

## **RECOMMENDATION – PERMISSION SUBJECT TO LEGAL AGREEMENT**

### **SUMMARY OF CONDITIONS AND INFORMATIVES**

#### **Standard Condition(s)**

- 1. Time limit of 3 years**
- 2. Drawing number**

#### **Compliance Condition(s)**

- 3. No trade counter**
- 4. Parking to be provided as approved**
- 5. During construction hardstanding shall be provided with wash-down facilities for cleaning the wheels of vehicles**

6. Finished surfaces of the access road and parking areas, and the external lighting installation to be carried out as approved
7. Development shall be completed in accordance with approved levels
8. Car parking area only to be used by customers and employees of the premises and for servicing of the development
9. Bicycle parking shall to be provided in accordance with the approved details
10. Construction and Environmental Management Plan shall be implemented in accordance with the agreed timescale and details
  
11. Surface water drainage scheme shall be implemented in full accordance with the approved details
12. Landscaping scheme as shown on the approved landscaping shall be implemented in full accordance with the approved details
13. Plant noise limitation
14. External materials of buildings shall be carried out as approved
15. The development shall be completed in accordance with the remediation strategy
16. Piling or any other activity using penetrative methods shall be carried out in accordance with the approved report 'Foundation Works Risk Assessment' by Ramboll, Issue 2 dated July 2019
17. Removal of permitted development rights
18. No additional floor space to the provided
19. Development shall be carried out in accordance with the contamination remediation strategy

#### **Prior to Occupation Condition(s)**

20. The boundary enclosures shall be completed
21. Sustainability measures as detailed in the approved Energy and Sustainability Statement (V 2 12/12/2018) shall be incorporated into the development
22. Electrical charging points
23. Delivery and Servicing Plan
24. Secure by Design

**Any other conditions considered necessary by the Assistant Director (Planning)**



#### **Informatives**

1. Mayoral CIL
2. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer
3. Thames Water will aim to provide customers with a minimum pressure
4. This application may present opportunities to enhance locally valued landscapes within the new landscaping

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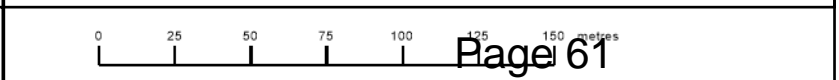


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 18/05599/FULL1 and  
 18/05600/FULL1 - Land R/O Tesco  
 Stores, Edgington Way
 

20 January 2020

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# Agenda Item 8

<b>Committee Date</b>	28/01/20	
<b>Address</b>	Land Rear Of Tesco Stores Edgington Way Sidcup	
<b>Application number</b>	18/05600/FULL1	<b>Officer</b> Victoria Wood
<b>Ward</b>	Cray Valley East	
<b>Proposal (Summary)</b>	Construction of 13 units to be used for Use Classes B1(c), B2 and B8 together with car parking and associated works with access from Edgington Way, Sidcup.	
<b>Applicant</b>	<b>Agent</b>	
Chancerygate No. 5 Limited	DWD	
c/o Agent	6 New Bridge Street London EC4V 6AB United Kingdom	
<b>Reason for referral to committee</b>	Outside delegated authority	<b>Councillor call in</b> No

<b>RECOMMENDATION</b>	<b>PERMISSION SUBJECT TO LEGAL AGREEMENT</b>
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<p><b>KEY DESIGNATIONS</b></p> <p>Areas of Archaeological Significance          Biggin Hill Safeguarding Area          Adjacent to Green Belt          London City Airport Safeguarding          Sites of Interest for Nat. Conservation          Smoke Control SCA 20          Sites of Special Scientific Interest</p>
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<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)
Existing	None	None
Proposed	Classes B1(c), B2 and B8	10,419 m <sup>2</sup>

<b>Vehicle parking</b>	Existing number of spaces	Total proposed including spaces retained	Difference in spaces (+ or -)
Standard car spaces	0	131	+131
Disabled car spaces	0	13	+13
Cycle	0	33	+33

<b>Electric car charging points</b>	32 (20% of total) with a passive provision for future electrification.
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<b>Representation summary</b>	Neighbour letters were sent 23.01.2019 and again on 09.05.2019 A site notice was displayed on 05.03.2019 A press advert was published on 30.01.2019
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Total number of responses	8
Number in support	1
Number of objections	6

<b>Section 106 Heads of Term</b>	<b>Amount</b>	<b>Agreed in Principle</b>
<ul style="list-style-type: none"> <li>£20,000 to upgrade the SCOOT traffic control system at Crittals Corner secured by s106</li> <li>A vehicle monitoring</li> </ul>	£20,000	Yes

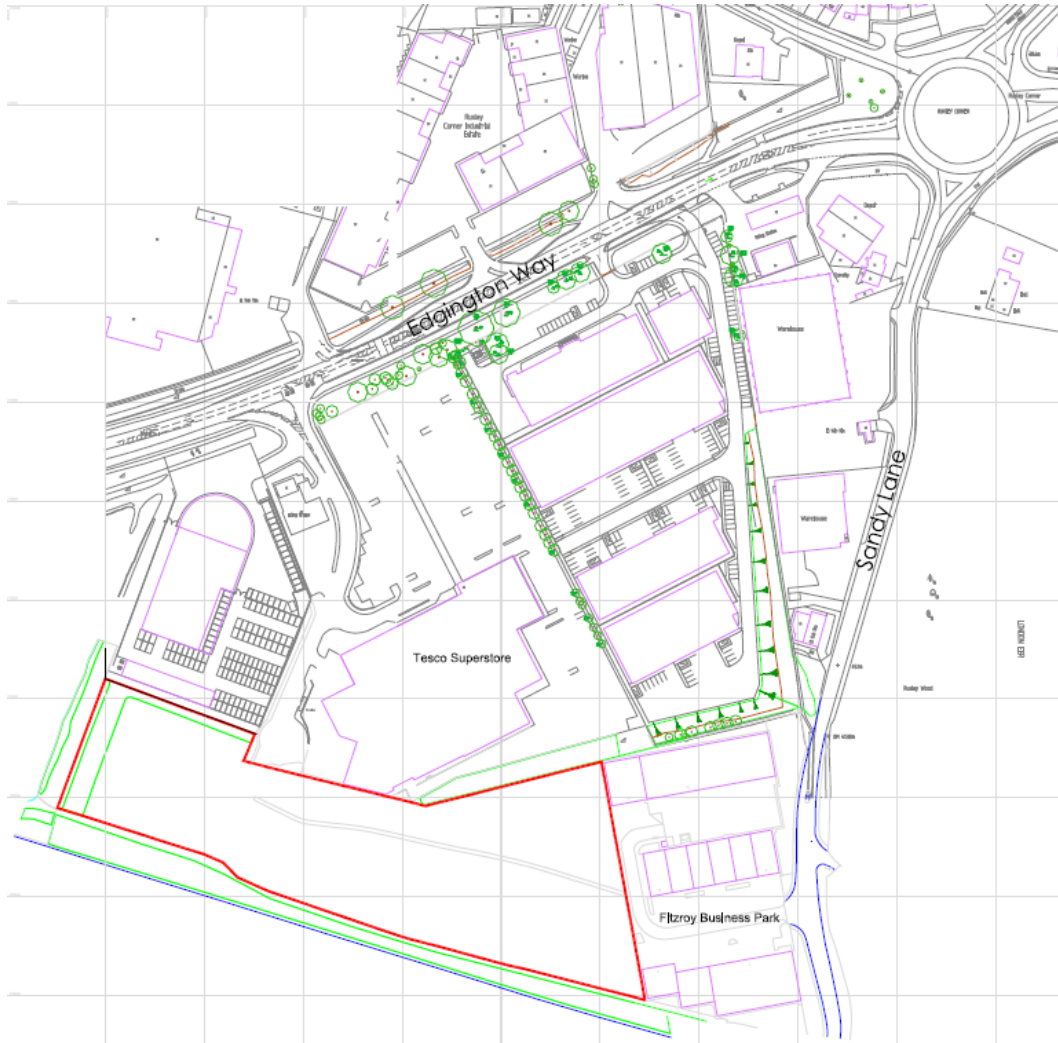
<p>protocol to limit site traffic to be secured by s106</p> <ul style="list-style-type: none"> <li>• Reviewing and revising the road markings for the A223 Edington Way/ Tesco Access secured by s106.</li> </ul>		
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**1. SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- The proposed development would create good quality B1(c), B2 and B8 units;
- The site is located within the Cray Business Corridor (Foots Cray), which is recognised as a Strategic Industrial Location (SIL) and as such the principle of development is policy compliant and appropriate in this designated employment area.
- In addition, the proposal would bring a long standing, underutilised site, back into an industrial/commercial use in accordance with NNPF, London Plan and local policy aspirations;
- No unacceptable impact would arise to neighbouring occupiers; and
- No unacceptable Highways impacts would arise

**2. LOCATION**

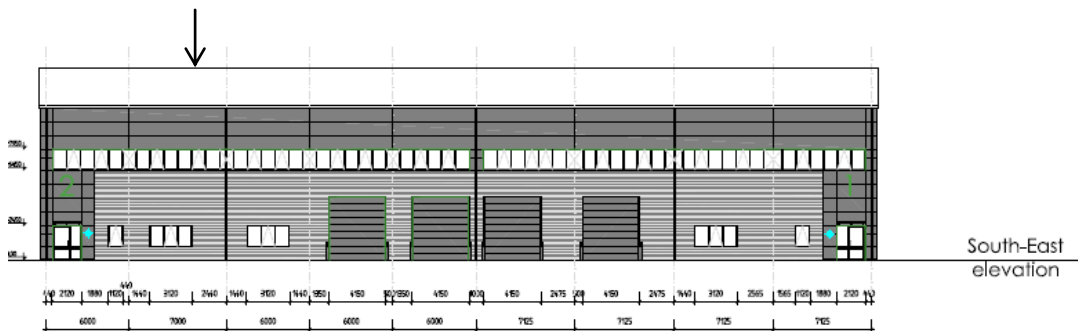
- 2.1 The proposed site is 2.06ha and located to the south of the Tesco Sidcup Superstore and Lancaster Sidcup Garage (Porsche), north of the A20 Sidcup By-Pass and is accessed from the existing site access road which serves Tesco and the Porsche Garage.
- 2.2 The area comprises of commercial buildings, mainly out-of-town retail, trade and industrial units.
- 2.3 The river Cray runs along the western boundary with the whole of the site within Flood Zone 1 (low risk of flooding) on the Environment Agency Flood Map and adjacent to Green Belt, a Site of Importance for Nature Conservation (SINC), a Site of Special Scientific Interest (SSSI). The site is located in the Cray Business Corridor (Foots Cray), which is recognised as a Strategic Industrial Location (SIL).

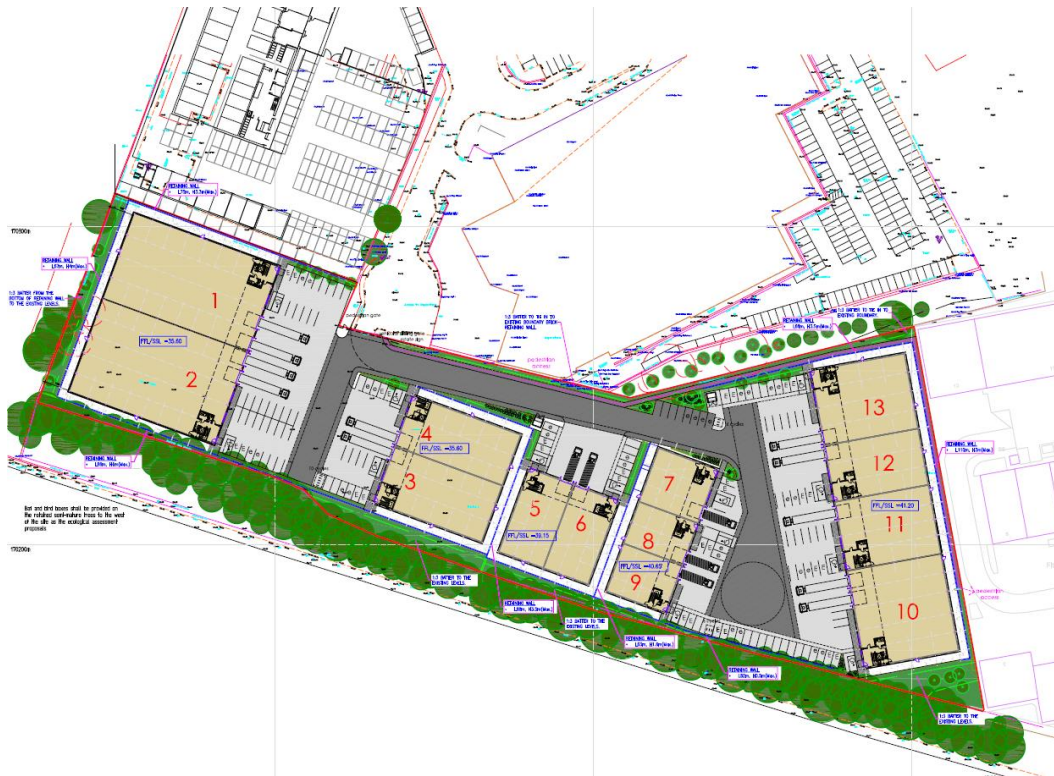


### 3. PROPOSAL

3.1 The proposal is for the redevelopment of a 2.17ha site to accommodate 13 new B1c/B2/B8 units in 5 blocks with a total gross external area (GEA) of 11,190 m<sup>2</sup> with car parking and associated works with access from Edgington Way, Sidcup.

Front elevation of Units 1 & 2





3.2 The proposal would utilise a single access point from the Tesco's Superstore onto Edgington Way with pedestrian access from Fitzroy Business Park and Edgington Way.

3.3 The site is has a PTAL of 2, with areas surrounding the site between 1b and 2. The proposal would provide 144 onsite parking spaces including 13 disabled spaces, 28 with active electric vehicle charging points (20% of total) and 28 spaces with a passive provision for future electrification. The development proposes 33 cycle spaces.

3.4 The site is an undeveloped piece of land that was created by the construction of the Sidcup by-Pass in the late 80's/early 90's. The eastern part of the site (known as Fitzroy Business Park) was development in 2007.

#### 4. RELEVANT PLANNING HISTORY

4.1 Under ref: 18/05599/FULL1 – Planning permission is also under construction of 13 units to be used for Use Classes B1(c), B2 and B8 together with access from Edgington Way, Sidcup and creation of access from the Fitzroy Business Park, car parking and associated works.

4.2 The development at Fitzroy Business Park is also considered relevant to this application:

4.3 At the Fitzroy Business Park under ref. 06/03868 permission was granted for the construction of 11 units for Class B1/B2/B8 use, car parking/access road and road improvement works to Sandy Lane.

4.4 Under ref. 07/02131 permission was allowed at appeal for the variation of condition 14 attached to permission ref. 06/03868 to allow opening between 06.30 and 20.00 hours

Monday to Saturday and between 08.00 and 14.00 hours Sunday and Bank Holidays. This application was refused on the following ground:

- 4.5 *The proposed variation in the hours of operation to include opening on Sundays and Bank Holidays would be detrimental to the character of the area and the amenities that the residents of Ruxley, Sandy Lane might reasonably expect to be able to continue to enjoy by reason of noise and disturbance associated with the use of the site and additional vehicular traffic entering and egressing to and from the site, thereby contrary to Policy ER8 of the Unitary Development Plan.*
- 4.6 Under ref. 07/02471 permission was granted for external ventilation flues to Unit 1.
- 4.7 Under ref: 07/03525 permission was allowed at appeal for the variation of condition 14 attached to permission ref. 06/03868 to allow opening between 06.30 and 20.00 hours Monday to Saturday.

## **5. CONSULTATION SUMMARY**

### **A) Statutory**

#### **5.1 TFL – Objection**

- 5.2 TfL objects to this proposal as the proposed parking is in excess of, and therefore contrary to, both London Plan and LB Bromley policy relating to parking standards.
- 5.3 TfL also considers the proposals to be contrary to the NPPF and the delivery of sustainable development.

#### Summary of comments:

- 5.4 The applicants have presented clear evidence in their Transport Assessment (based on the TRICS database) which indicates a parking requirement of between 15 and 79 spaces depending on the land use.
- 5.5 Based on the applicant's presented evidence our assessment is that even London Plan standards would be an overprovision and with this lower level of provision no overspill parking is likely to take place.
- 5.6 The daily trip generation profiles forecast the movement of vehicles into and out of the site during each hour of the day and give a good indication of onsite parking accumulation / requirements. A higher level of parking will in turn lead to higher activity and trip generation.
- 5.7 LB Bexley has proposed the use of a Vehicle Monitoring Protocol which seeks to limit site traffic to agreed levels with the landowners incurring a charge if the volume of vehicles associated with the site exceeds these. TfL is fully supportive of this proposal and would want to see these set as:

	Transport Assessment
AM Peak (2-Way)	35
PM Peak (2-Way)	27
All day total (2-Way)	374
Parking requirement	79

(as set out in the applicant's Transport Assessment)

- 5.8 With regards to the Travel Plan, it is noted that the applicant is advertising generous on site car parking in its sales brochure which combined with proposed provision well above London Plan standards would appear to undermine the objectives and targets of the Travel Plan.
- 5.9 It is not clear why the information contained in the transport assessment could not have been used to populate with relevant information for this site rather than using an example for a development in Farnborough.
- 5.10 TfL consider that the Car Parking Management Plan contains little actual detail. There are no proposed enforcement measures to ensure that the plan is actually and effectively implemented. We would strongly suggest that a condition is imposed to enable consideration of a detailed Plan related to the ultimate development and which is site specific and addresses these matters. The car parking management plan and the travel plan will be crucial in controlling impacts on the highways and supporting more sustainable development.
- 5.11 For these reasons we would request that the application is either refused on the grounds of excessive and unjustified parking provision, or that any approval is based on a reduction of car parking to Policy compliant levels.
- 5.12 In line with draft London Plan Policy T9 to mitigate the transport impacts of the development, necessary and proportionate obligations are required towards sustainable travel including:
- £20,000 to upgrade the SCOOT traffic control system at Crittals Corner secured by s106
  - A vehicle monitoring protocol to limit site traffic to be secured by s106
  - Reviewing and revising the road markings for the A223 Edington Way/ Tesco Access to create additional capacity and prevent blocking back secured by s106.

### 5.13 LB Bromley Highways – No Objection

- 5.14 There is a similar application for the site with access from both Edington Way and via Fitzroy Business Park (18/05599) which is referred to as Option 2.
- 5.15 This proposal, Option 1, has 13 units which would all be accessed from Edington Way. There will be a route for pedestrians from Sandy Lane to the Tescos access and to Edington Way but not for vehicles. This appears to be the case at present.
- 5.15 The units will have a combined area of 10419m<sup>2</sup> GIA with 131 parking spaces plus 13 disabled spaces. This equates to one space per 80m<sup>2</sup>. The spaces will be allocated to

particular units. The site is within a low 1b / 2 PTAL area with poor accessibility to public transport and the on-street parking is also very limited. Consequently, although this is slightly higher than the London Plan standards, I would have no objection to the parking provision.

5.16 Junction modelling has been carried out to assess the impact of the development. Sandy Lane, the only arm within LB Bromley on the Ruxley roundabout, shows a minimal increase in delays in the peak hours. Crittalls Corner gyratory was also modelled and Sevenoaks Way, again the only arm within LB Bromley, showed a minimal increase in delays and queues. LB Bromley is not the highway authority for Edgington Way or the other arms of the junctions. LB Bexley is the Highway Authority and TfL are a consultee as Edgington Way is a strategic route and I would accept their views on the impact of the proposal on these roads / junctions.

5.17 There is a planning permission for amendments to the Tesco access road (17/01687) which is stated will be completed ahead of this proposed development but I am not sure if that can be conditioned.

5.18 Please include the conditions regarding parking layout, hardstanding wash down facilities, cycle parking and Construction Management Plan with any permission.

#### **5.19 LB Bexley Highways – No Objection**

5.20 I note TfL's comments and objection to the level of car parking promoted in both applications. However due to the low PTAL rating of the site (0-1a), cars are likely to be the primary mode of travel. Parking provision slightly above the London Plan maximum standard is therefore considered acceptable and will reduce the possibility of parking congestion within the site and overspill onto surrounding highways.

5.21 Having reviewed the junction modelling and noted TfL's comments I can confirm that Bexley as Highway Authority have no further objections to these proposals subject to the imposition of various planning conditions and S106 obligations referred to in TfL's letter. However the mitigation measure requiring a review and possible revision of the road markings for the A223 Edington Way/ Tesco Access to create additional capacity and prevent blocking back to be secured by s106 needs further discussion with Bexley and may be more expedient if the review and any subsequent alterations were secured by way of Grampian condition.

#### **5.22 Environment Agency – No Objection**

5.23 We have reviewed the document 'Foundation Works Risk Assessment' by Ramboll (reference 1700003212 V02 dated 18/07/2019). This document summarises the site's contamination status (low) and provides justification for the use of Vibro Stone Columns and Sheet Piling methodologies which we deem acceptable. In our previous response ref. SL/2019/119009/01-L01 we recommended a number of conditions, one of which was the submission of a piling risk assessment to identify any potential risk from piling activities on parts of a site where an unacceptable risk is posed to Controlled Waters.

5.24 From the submission of the risk assessment we wish to update our previous response to reflect the additional information submitted.



5.25 We consider that planning permission should only be granted to the proposed development as submitted if the following planning conditions are imposed relating to contamination, sustainable water drainage and piling.

### **5.26 Thames Water – No Objection**

5.27 Thames Water would advise that they would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. No objections subject to informatives to applicant regarding.

5.28 With regards to surface water, no objections are raised subject to the developer following the sequential approach to the disposal of surface water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

5.29 Thames Water would advise that with regard to waste water network and waste water process infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

5.30 In terms of using mains water for construction Thames Water must be notified before the start, to avoid potential fines for improper usage. Thames Water advise that more information and how to apply can be found online at [thameswater.co.uk/buildingwater](http://thameswater.co.uk/buildingwater).

5.31 On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, they would not have any objection to the above planning application. Thames Water have recommended informatives be attached to this planning permission which are included below.

### **5.32 Drainage – No Objection**

5.33 The submitted information including "Flood Risk Assessment" carried out by Bradbrook Consulting Option1 with REF No. 18-083R\_001 Rev C dated 26/11/2018 revised 04/02/2019 to include 40% climate change to incorporate 3 Attenuation Tanks with 636m<sup>3</sup>, 144m<sup>3</sup> and 580m<sup>3</sup> capacity each to limit surface water run-off to 4l/s, 1.5l/s, 4.5 l/s and exceedance to be contained on site is acceptable subject to a compliance condition.

### **5.34 Historic England (Archaeology) – No Objection**

5.35 Having considered the proposals with reference to information held in the Greater London Historic Environment Record and/or made available in connection with this application, I conclude that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

5.36 The site is located within a rich archaeological landscape and would therefore be likely to require staged site work to quantify the site specific archaeological potential. However,

the submitted archaeological desk-based assessment report dated September 2018 by L-P Archaeology, in conjunction with the geotechnical evaluation report has shown that the whole site appears to have been quarried and thus reducing the archaeological potential to negligible.

5.37 No further assessment or conditions are therefore necessary.

### **5.38 Natural England – No Objection**

5.39 Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on Ruxley Gravel Pits Site of Special Scientific Interest and has no objection.

5.40 Natural England entered into discussions through our Discretionary Advice Service to resolve potential issues with the SSSI which borders the development site. The plans for drainage, light control, SSSI buffer, code of conduct and the Biodiversity CEMP allay any potential issues.

5.41 Natural England's advice on other natural environment issues are contained within the informatives set out below.

### **B) Local Group(s)**

5.42 Bromley Biodiversity Partnership

5.43 Bromley Biodiversity Partnership fully supports all mitigation measures suggested by Natural England and Kent Wildlife Trust.

### **C) Interested Parties**

5.44 Nearby owners/occupiers were notified of the application and representations were received, which can be summarised as follows:

#### Objections:

- Concern that the development will increase traffic and congestion;
- Concerns over air quality in the area;
- There needs to be management of the increased traffic;
- The access road within the business park is not wide enough for two way traffic;
- Since the building of Fitzroy Business Park Sandy Lane has turned into a disaster zone with HGV's blocking the road and now the car parking has resulted in the lane being almost one-way;
- Fitzroy have broken every planning restriction and over the years have had them overturned;
- The noise will be excessive;
- The increase in vehicles will increase pollution to unacceptable levels;
- This is a better option than having the access via Fitzroy Business Park;
- Was the traffic trip movement analysis carried out on a Sunday or Bank Holiday?
- Concern that once the Klinger site is up and running it will add to the problems;

*These objections have been considered and addressed in the assessment section 7 below.*

5.45 Other objections were received relating to the dual access schemes have also been summarised below:

- Access to the Fitzroy site though Sandy Lane has become a problem over the recent years with added units on the road;
- More traffic will make it more difficult for staff and customers access the unit which will impact on business;
- Many times of the day the road is impassable due to large vehicles parked up waiting for unloading;
- Access though Fitzroy Business Park will have a negative impact on business in the park

Support:

- Support the application

*Please note the above is a summary and full text is available on the Council's website.*

## **6. POLICIES AND GUIDANCE**

6.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:

- the provisions of the development plan, so far as material to the application,
- any local finance considerations, so far as material to the application, and
- any other material considerations.

6.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

6.3 The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.

6.4 The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.

6.5 The application falls to be determined in accordance with the following policies:

Draft New London Plan:

6.6 The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application.

- 6.7 The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.
- 6.8 Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan, and the London Assembly can veto the plan. These factors affect the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.

#### London Plan Policies:

- 2.6 Outer London: vision and strategy
- 2.7 Outer London: Economy
- 2.8 Outer London: Transport
- 2.17 Strategic Industrial Locations
- 4.1 Developing London's Economy
- 4.4 Managing Industrial Land and Premises
- 4.8 Supporting a successful and diverse retail sector and related facilities and services
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.6 Decentralised energy in development proposals
- 5.7 Renewable energy
- 5.8 Innovative energy technologies
- 5.0 Overheating and cooling
- 5.10 Urban Greening
- 5.11 Green roofs and development site environs
- 5.12 Flood Risk Management
- 5.13 Sustainable drainage
- 5.21 Contaminated Land
- 6.3 Assessing effects of Development on Transport Capacity
- 6.9 Cycling
- 6.10 Walking
- 6.12 Road Network Capacity
- 6.13 Parking
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local character
- 7.5 Public Realm
- 7.8 Heritage assets and archaeology
- 7.9 Heritage-Led Regeneration
- 7.20 Geological Conservation
- 8.2 Planning Obligations
- 8.3 Community Infrastructure Levy

#### Mayor Supplementary Guidance:

- Mayor's SPG: "Accessible London: Achieving an Inclusive Environment" (2014)
- Mayor's SPG: "London's Foundations: Protecting The Geodiversity of the Capital" (2012)

Bromley Local Plan 2019:

13 Renewal Areas  
17 Cray Valley Renewal Area  
30 Parking  
31 Relieving congestion  
33 Access to services for all  
34 Highway infrastructure provision  
37 General design of development  
38 Statutory Listed Buildings  
68 Development and SSSI  
69 Development and Nature Conservation Sites  
70 Wildlife Features  
72 Protected Species  
73 Development and trees  
46 Archaeology  
80 Strategic Economic Growth  
81 Strategic Industrial Locations (SIL)  
84 Business Improvement Areas  
115 Reducing flood Risk  
116 Sustainable Urban Drainage Systems  
118 Contaminated Land  
122 Light Pollution  
120 Air Quality  
119 Noise Pollution  
123 Sustainable design and construction  
124 Carbon reduction, decentralised energy networks and renewable energy  
125 Delivery and implementation of the Local Plan

## **7. ASSESSMENT**

7.1 The main issues to be considered in respect of this application are:

- Principle of development
- Design – Layout, scale
- Transport
- Amenity Impact
- Environmental Health/ contamination/ noise /air quality
- Landscaping
- Ecology and Protected Species
- Drainage and flooding
- Sustainability and Energy
- Secure by Design
- Other Issues
  - Environmental Impact Assessment
  - Geological Value
- CIL
- Head of Terms

Principle of development:

**Acceptable**

- 7.2 The NPPF states that significant weight should be placed on the need to support economic growth through the planning system and identify strategic sites for local and inward investment.
- 7.3 The London Plan identifies Foots Cray (Ruxley Corner) as a SIL (Industrial Business Park). The application site is located within this identified area. Planning decisions paragraph B of policy 2.17 states that 'development proposals should be refused unless they fall within the broad industrial type activities outlined in paragraph 2.79.'
- 7.4 Paragraph 2.79 states that: London's strategic industrial locations (SILs) are London's main reservoir of industrial land comprising approximately 50 per cent of London's total supply. They have been identified following an assessment of future need
- 7.5 In addition, the Majors SPG: Land for Industry and Transport 2012, puts Bromley in the category of 'restricted transfer' commenting that this applies to Boroughs with typically low levels of industrial land relative to demand.... Boroughs in this category are encouraged to adopt a more restrictive approach to the transfer of industrial land to other uses. This approach is reflected in Policy 4.4 of the London Plan.
- 7.6 The site is identified in Policy 80 as the Cray Business Corridor – a strategic priority area for economic growth. The policy states that the focus within this area will be on bringing forward adequate development capacity, the co-ordination of public and private investment and the delivery of enabling infrastructure.
- 7.7 The Site is designated as a Strategic Industrial Location (SIL) in Policy 81, which states that within these areas, uses falling within Class B1(b) and B1(c), B2 and B8 will be permitted and safeguarded. The supporting text to the policy states that the Council will restrict further expansion of retail floorspace within the SIL to instances where the use is demonstrated to be ancillary to a primary B use.
- 7.8 The proposal is for 13 business units arranged in 5 blocks with a total gross external area (GEA) of 11,190m<sup>2</sup>. The units would vary in size from 379 sqm to 1,803 sqm. The subject site is the only entirely undeveloped site in the Cray Business Corridor SIL and represents an ideal opportunity to improve the borough's industrial offer and help to meet demand forecast over the Local Plan period. To this extent, the proposal is consistent with current and proposed business and employment policies.
- 7.9 The proposal will help meet forecast demand for industrial and related employment floorspace over the plan period and should be encouraged (subject to meeting other policy requirements relating to transport, parking and nearby sensitive environments to the west of the site).
- 7.10 In respect of the proposed mix of uses, the units are to be B1(c)/B2 and B8 units which all comply with planning policies. The applicant has expressed the intention to install ancillary trade counters throughout the scheme. However, in accordance with the policies outlined above, to protect the industrial character of the site, this can be restricted

through condition. This can require details of the extent and scale of any trade counters to be submitted for approval prior to their installation. The provision of trade counters could change the nature of the use from storage and distribution to retail based business. The BLP Policy in relation to SIL's clearly states that "Proposals involving a portion of floorspace to be used for display and sales should demonstrate that the use is clearly ancillary to a primary Class B use." This form of development would be discouraged on site.

7.11 The principle of development is policy compliant and appropriate in this designated employment area. In addition, the proposal would bring a long standing, under used site, back into an industrial/commercial use in accordance with NPPF, London Plan and local policy aspirations.

#### Design – Layout, scale height and massing:

##### **Acceptable**

7.12 The site is located adjacent to Green Belt, a SINC and SSSI and as such Policies 53, 68 and 69 of the BLP are considered relevant to any assessment

7.13 The plans provided show the buildings would be approximately 11.6m in height, which is similar to the Tesco Superstore at 10m, and the Fitzroy Business Park which is between 8-10m in height. The A20 to the rear of the site is on a raised embankment so the site is considerably lower.

7.14 The units will be of steel portal frame construction with the height to the underside of haunch of 8.4m and the external eaves height of approximately 10m. The units will have metal clad roofs at 6 degrees with rooflights to add daylight into the warehouse areas. PV panels will be located on the roofs, raised about 200mm and in line with the roof profile. They will not be visible from the pedestrian perspective.

7.15 Buildings will be clad in a combination of profiled built-up and Microrib composite cladding panels in predominantly light colours. The units have extensive high level glazing and feature cladding panels accentuate entrances and provide visual contrast to the warehouse elements. The rear elevation of units 1 and 2 will be clad in a green cladding which together with a 5m wide landscape buffer will help mitigate the visual impact of the building onto the adjoining Ruxley Gravel Pits Site of Special Scientific Interest. The image below has been submitted by the applicant to seek to demonstrate the visibility of the buildings from the SSSI.

7.16 The proposal is considered to respond to the site's natural features and topography. This in addition to the introduction of further landscaped areas and new tree planting along the southern and western elevations would ensure that the visual impact of the proposed buildings on the neighbouring sites is softened and reduced.



- 7.17 The proposed development incorporates Secured by Design principles, as required by Policy to take account of crime prevention and community safety.
- 7.18 This site is located adjacent to a SSSI, an extended Phase 1 Habitat Survey (June 2018); a desk-based study was undertaken and has been submitted with the application. This has looked and examined both flora and fauna on this site. This concluded that the potential presence of protected species was acknowledged; measures to safeguard these have been put forward and a series of provisions have been recommended to enhance the nature conservation interest of the site which have been acknowledged and reviewed by Natural England. As such there would be no detrimental impact on the adjacent SSSI.
- 7.19 In terms of the adjacent Green Belt, this is site is very different in character and is separated from open land to the south by the A20 which although is Green Belt itself acts as buffer to distinguish the two areas.
- 7.20 In summary, the proposal would result in a high quality development that responds to the character of the area, and provides a functional, non-invasive wider provision to accommodate a policy compliant use of the site.
- 7.21 In accordance with NPPF policy, the proposed site would function well, add to the overall quality of the area, and establish a strong sense of place through the use of sensitive landscaping and boundary treatments. The proposal would optimise the potential of the site to accommodate development, and create an appropriate provision of use. The development would respond to the site and would reflect the identity of local surroundings and materials.

Transport:

**Acceptable**

- 7.22 It is acknowledged that TfL have raised an objection regarding the number of parking spaces. TfL are concerned that by providing a higher level of parking will in turn lead to higher activity and trip generation.



- 7.23 In response to the above the London Borough of Bexley who is the highway authority for the surrounding roads note TfL's comments and objection to the level of car parking , however due to the low PTAL rating of the site (0-1a), cars are likely to be the primary mode of travel. They acknowledge that the parking provision would be slightly above the London Plan maximum standard but nevertheless considered it to be acceptable and will reduce the possibility of parking congestion within the site and overspill onto surrounding highways.
- 7.24 Bromley highway officers have also considered this and that given the very low PTAL the London Plan standard would be 1 space per 100m<sup>2</sup>.
- 7.25 The proposal is for 10,419 m<sup>2</sup> GIA with 131 spaces (not including disabled spaces) giving one space per 80m<sup>2</sup> giving rise to the 27% "overprovision".
- 7.26 The adjacent Fitzroy Business Park, which gained permission in 2006, has 5478m<sup>2</sup> GFA with 58 spaces which gives a ratio of 1 space per 94m<sup>2</sup>. This is higher than the London Plan provision would be but clearly does not have enough parking with vehicles parked all over the site and going out into Sandy Lane which required the introduction of waiting restrictions.
- 7.27 Therefore on balance given the location of the site and PTAL the provision should be higher at this site and as such no objection in this regard is raised.
- 7.28 With regards to sustainability, to address concerns raised by TfL obligations are sought for Bexley Council as the Highway Authority in the S106 relating to:
- £20,000 to upgrade the SCOOT traffic control system at Crittalls Corner secured by s106
  - A vehicle monitoring protocol to limit site traffic to be secured by s106
  - Reviewing and revising the road markings for the A223 Edington Way/ Tesco Access secured by s106.
- 7.29 Highway officers acknowledge that Fitzroy Business Park does not have enough parking and this has had an impact on Sandy Lane as a consequence. As such Bromley and Bexley Highway officers have supported the level of parking proposed as to ensure they is no increase in the parking demand on the local roads, especially Sandy Lane.
- 7.30 Given all of the above it is considered that the development is acceptable and the proposal would not impact detrimentally on the highway network.

Amenity Impact:

**Acceptable**

- 7.31 The application site is set within an established Business Area/SIL. The nearest noise sensitive properties are on Sandy Lane, with one property approximately 80m south east of the site (south of the A20) and another approximately 150m to the east, across roads and behind other industrial sites.

- 7.32 A Noise Impact Assessment has been submitted by the Applicant. This shows that the predicted noise levels for the development (showing a maximum of 9 HGV movements) using “worst case” scenarios. It concludes that the residual operational noise impacts are of negligible magnitude and not significant (when compared against the existing baseline conditions).
- 7.33 The potential impacts as a result of the construction phase have also been assessed in relation to the impacts upon existing receptors. It is considered that with appropriate mitigation, the proposed development is acceptable with regard to both operational and construction noise impacts.
- 7.34 The potential for adverse noise impacts from construction vehicles and plant during the works can be minimised through a range of measures which can form part of a site specific Construction Management Plan within which all contractor activities would be undertaken and this can be secured by way of condition.
- 7.35 The proposed use itself is unlikely to generate significant levels of noise and, given the generous separation distances of the site from residential dwellings the proposal is unlikely to have a significant detrimental effect on neighbouring amenities.

Environmental Health/ contamination/ noise /air quality/external lighting: -

**Acceptable**

*Contamination:*

- 7.36 A Phase II Environmental Site Assessment Report has been submitted with the application (April 2019). The report concludes that the site investigation has not identified significant contamination at the subject site with the exception of asbestos containing material (ACM) in Made Ground soils.
- 7.37 At the time of the investigation, asbestos containing material (ACM) was identified at surface level and this was considered to pose a potential risk to current site users (i.e. pedestrian footpath). Mitigation measures were recommended and have been implemented in this regard. A hand-picking exercise of ACM has been undertaken by a qualified contractor and a barrier fence has been erected to restrict site users entering areas of the site where ACM was previously identified. During the investigation, Ramboll implemented mitigation measures and also implemented air monitoring which did not detect any fibre release during the excavation activities.
- 7.38 In terms of visual evidence, with exception to the west of site, ACM was observed to be located in the Made Ground across site. Generally, ACM was visually observed in two notable layers across the site; a shallow layer consisting of fragments of ACM in soils of which a greater frequency of fragments was identified within the central and southern areas of site and a deeper layer consisting of ‘bands’ of ACM rather than fragments within soils. This layer was observed to be located within the central to southern central area of site. Laboratory analysis identified ACM in quantifiable concentrations in 22 locations. In all but two samples the ACM was identified as Chrysotile; one sample recorded the presence of Crocidolite (<0.001%) and Amosite was recorded with Chrysotile in the second sample (0.039%). The presence of asbestos is not considered to

represent a significant risk to future users in the scenario where the material remains capped below hard surfacing or buildings where there is no pathway for exposure to human health.

- 7.39 As such the documents have been reviewed by Environmental Health Officers and the Environment Agency and a condition should be attached to any planning permission securing these mitigation methods and adherence with the contaminated land assessment dated April 2019, which could address all these aspects appropriately in accordance with Policy 118 of the BLP.

*Noise:*

- 7.40 Noise modelling has been undertaken to predict the likely impact on nearby receptors with regards to construction and operation as set out above in the amenity section of this report.
- 7.41 In relation to plant noise, the acoustic report proposes to limit noise and as such a condition is proposed which would require this to be complied with.

*Air Quality:*

- 7.42 An Air Quality Screening Statement has been prepared. This assessment considers the air quality impacts associated with both the construction and operation of the development. Likely changes to air quality in the area, as a result of the proposed development have been considered in relation to the national Air Quality Objectives. Where required, the air quality assessment considers mitigation measures to reduce the effect of the proposed development upon local air quality.
- 7.43 The development site is not located within an AQMA; however, it is located close to London Borough of Bexley's AQMA. The AQMA is declared for exceedances of the national annual mean nitrogen dioxide (NO<sub>2</sub>) objective.
- 7.44 Review of air quality monitoring data from the nearest automatic monitoring stations indicate that roadside NO<sub>2</sub> concentrations exceed the national objective. However, background concentrations are within the objectives.
- 7.45 The impacts of construction activities on local air quality have been assessed in accordance with the IAQM best practice guidance. This assessment indicated that the risk of the different activities towards dust soiling is 'medium' and that for human health impact is 'medium'. Following implementation of the appropriate mitigation measures as outlined in the report, the residual impacts during construction would be insignificant. These mitigation measures make up part of a Construction Management Plan (CMP) that will be required to be implemented to minimise the potential of adverse construction dust impacts throughout all the relevant construction stages.
- 7.46 Traffic movements, generated by the proposed development during its operation, will give rise to NO<sub>x</sub> and PM<sub>10</sub> emissions. The impact of these emissions on local air quality were assessed using an air dispersion model and the impacts significance was assessed in accordance with the relevant IAQM Guidance. Traffic-related pollutant concentrations (NO<sub>2</sub> and PM<sub>10</sub>) were predicted at sensitive residential properties located near roads

likely to be affected by vehicle travelling to and from the Site. Results indicate that the impact of vehicle emissions on local air quality is negligible.

- 7.47 The total nitrogen oxides (NOx) and PM10 emission from, vehicles movements generated by the development, have been considered in the Air Quality Neutral assessment. This assessment showed that emission are within the benchmarks set out in the GLA's Sustainable Design and Construction Guidance and no mitigation is required.
- 7.48 The development therefore meets the current London Plan requirements that new developments are air quality neutral, and air quality impact in the local area as a result of this development is not expected to be significant. Conditions have been recommended to ensure and address any matters which could subsequently affect air quality and which could be attached to any approval.

#### *External Lighting:*

- 7.49 An External Lighting Assessment has been submitted with the application which reviews the proposed external lighting scheme at the site. This incorporates measures to prevent night time lighting pollution by restricting all luminaries to be fitted with suitable optics to limit excessive emission on the horizontal plan, horizontal cut off optics to minimise upward light spill and to incorporate a lighting design will comply with the relevant limits on lighting intensity. The scheme addresses the use of the site by bats and minimises light pollution to other parts of the site and the wider area addressing the requirements of para.125 of the NPPF.

#### Landscaping:

##### **Acceptable**

- 7.50 The existing site is overgrown with self-seeded low level shrubs and plants with some trees and more mature planting along the perimeter of the site.
- 7.51 The Arboricultural Implication Report concludes that no veteran or ancient trees, and no category 'A' trees are to be removed. A portion of the main Arboricultural features of the site comprising six individual poplars are to be removed on Arboricultural grounds, but this will represent only a partial alteration to the main Arboricultural features of the site and are not considered to have a permanent or significant adverse impact on the arboricultural character and appearance of the local landscape.
- 7.52 The incursions into the Root Protection Areas of trees to be retained are minor and within the tolerable limits of the species affected. Subject to implementation of the measures recommended on the Tree Protection Plan and set out at Appendix 1 of the Arboricultural Implication Report, no significant or long-term damage to their root systems or rooting environments will occur.
- 7.53 The landscaping scheme submitted with the application indicates that most of the perimeter planting, including the trees on the southern and eastern embankment will be retained and enhanced. A high quality landscaping scheme is also proposed at the frontage of the site. It is considered that this would enhance the setting of the area.

7.54 Subject to implementation of the recommendations of the survey, the proposed development would not have a significant impact upon the existing arboricultural amenity of the area and therefore complies with Policy 73.

Ecology and Protected Species:

**Acceptable**

7.55 The application site lies immediately adjacent to the west of Ruxley Gravel Pits SSSI. An Extended Phase 1 Habitat Survey (June 2018); a desk-based study was undertaken and has been submitted with the application which considers all biodiversity and conservation aspects, including potential impacts on protected and other species, notably reptiles and bats.

7.56 The majority of the habitats present within the site are largely semi-natural but of limited intrinsic interest in terms of floristic composition, and their loss together with the buildings and hardstanding would be of little ecological significance. The semi-improved grassland is of some ecological interest within the context of the site and is proposed for removal but is of limited extent and is considered to be of limited significance in the wider local area.

7.57 The site contains some foraging interest for bats in the form of scrub and tall herbaceous vegetation. No evidence of Badgers was identified during the survey work and it is considered unlikely that this species would be reliant on the site for foraging or sett-building. The site may occasionally be used for dispersal as Badgers are present in the local area and an informative is suggested to ensure that checks be undertaken by an ecologist prior to the commencement of any works within the site to ensure Badgers have not excavated any setts.

7.58 In terms of birds a total of 27 bird species were recorded during three breeding bird surveys and an extended Phase 1 survey carried out in 2018; 15 of these were recorded as breeding or probably breeding. Birds recorded include a single Kingfisher at the western end of the site on the first visit. The site does not contain suitable Kingfisher nesting habitat. Wintering bird surveys of the adjacent Ruxley Gravel Pits SSSI conducted in 2008 recorded a total of 49 species respectively. Notable species observed include Peregrine, but it is not considered that this species is likely to rely on the proposed development site.

7.59 The site contains very limited areas of reptile active season habitat in the form of small patches of rough semi-improved grassland. The majority of the site does not provide sufficiently diverse habitat structure to support common reptile species. Scattered scrub provides shelter and hibernation opportunities. A common reptile presence / absence survey conducted in 2008 recorded a single adult Grass Snake in the east of the site. It is noted that the habitat opportunities have been reduced by vegetation succession in the intervening years. Surveys of the adjacent Klinger site conducted in 2016 did not find any presence of common reptile species despite this area containing comparable (and in places more suitable) reptile habitat than the proposed development site. It is therefore considered that the common reptile population is likely to have been lost from the site.

- 7.60 No amphibians were observed within the site during the survey work undertaken. The semi-natural habitats present within the site provide dispersal opportunities and are considered to have some limited potential to support foraging amphibians. The scrub within the site offers habitat for shelter and hibernation but the site is unsuitable for breeding amphibians. The semi-natural habitats identified will be lost under the development proposals.
- 7.61 The protective measures required to avoid detrimental impacts are included in the prepared Construction Environmental Management Plan (CEMP) covering the identification of biodiversity protection zones, the siting and timing of activities and construction lighting to minimise disturbance to wildlife, the erection of appropriate protective fences and warning signage and the safe storage of materials and chemicals at appropriate locations.
- 7.62 Given all of the above it is considered that there are no overriding ecological constraints to the development of the site and there is good scope for the proposals to avoid any significant impacts on designated sites. Natural England have broadly agreed to the proposed mitigation and safeguard measures in respect of Ruxley Gravel Pits SSSI as detailed within this report, and also the accompanying CEMP. The potential presence of protected species is acknowledged; measures to safeguard these have been put forward and a series of provisions have been recommended to enhance the nature conservation interest of the site.
- 7.63 The proposed development is considered acceptable with regard to ecological and nature conservation impacts subject to conditions.

Drainage and flooding:

**Acceptable**

- 7.64 The proposed development site lies in an area designated by the Environment Agency as Flood Zone 1 and is outlined to have a chance of flooding of less than 1 in 1000 (<0.1%) in any year.
- 7.65 NPPF sets out a Sequential Test, which states that preference should be given to development located within Flood Zone 1. A flood risk assessment has been submitted which demonstrates that the requirements of the Sequential Test have been met, with the site's location within Flood Zone 1 and 'Less Vulnerable Infrastructure' classification of the development.
- 7.66 A sustainable drainage strategy, involving the implementation of SuDS, is proposed for managing the disposal of surface water runoff from the proposed development. The proposed drainage strategy would ensure that surface water arising from the developed site would be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development, while reducing the flood risk to the site itself and elsewhere, taking climate change into account.
- 7.67 The proposed surface water drainage measures would ensure the proposed development satisfies the peak flow control standards and volume control technical

standards in the Government's 'Non-statutory technical standards for sustainable drainage systems'.

7.68 This flood risk assessment has concluded that:

- the location of the distribution facility is located within Flood Zone 1, and as such is at a very low risk of flooding from fluvial sources.
- the site is far enough inland not to be at risk of any tidal flooding event.
- flood risk from surface water is considered very low for the site following development.
- flood risk from other sources – groundwater, sewers, reservoirs and artificial sources – is demonstrated to be low.
- the development will have no impact on other forms of flooding.
- overall, taking into account the above points, the development of the site should not be precluded on flood risk grounds.

7.69 The Drainage Officer and Environment Agency have assessed the submission and advised that subject to appropriate conditions, the submission is considered to be acceptable in this respect.

#### Sustainability and Energy:

##### **Acceptable**

7.70 The application is supported by an Energy and Sustainability Statement which confirms that as a result of the sustainability features incorporated within the proposed development this allows for a 36.95% carbon saving against Part L 2013 requirements for the scheme which exceeds the 35% improvement requirement under the London Plan and demonstrates that the scheme is a sustainable development. This is shown to be achieved through passive design, energy efficient measures incorporating design features in accordance with London Plan and BLP planning policies.

7.71 The development shall include a variety of features which are regarded as having a good sustainable design. To provide as much natural light as possible within the office and warehouse areas glazing has been provided to the office and circulation areas and with 15% rooflight coverage over the warehouse areas. Building modelling of each unit has confirmed that no occupied space is at risk from excessive solar gains.

7.72 To further ensure that overheating will not occur during summer months and the building is suitably insulated, as well as allowing for adaptation due to the effects of climate change, it is anticipated that the development will use building fabrics with 'U' values with an improvement beyond the threshold requirements of Part L (2013)

7.73 To ensure the sustainability of the development the Energy and Sustainability Statement puts forward that water efficient fixtures will be incorporated into the design, such as low flow taps and dual flush toilets with reduced effective flush volumes.

7.74 To be further sustainable, it is expected that pulsed water meters will be installed on the mains water supply, to effectively monitor water consumption. The inclusion of the above

sustainability features allows for the development to be deemed sustainable with regard to water consumption.

7.75 Site Waste Management Plan has been produced, highlighting key materials and the correct waste streams for the recycling of any waste materials.

7.76 The proposed development is considered to comply with London Plan Policies 5.7 to 5.11, the Mayor's SPG and also Policy 37 (f) of the BLP.

Secure by Design:

**Acceptable**

7.77 The proposal needs to incorporate Secured by Design principles as required by Policy 37 to take account of crime prevention and community safety. Paragraphs 58 and 69 of the NPPF are relevant. Compliance with the guidance in Secured by Design and the adoption of these standards will help reduce the opportunity for crime, creating a safer, more secure and sustainable environment.

7.78 The Designing Out Crime Officer has recommended the principles and standards of 'Secured By Design' Commercial 2015v2' as a planning condition for the development noting the size and historical criminality at the site.

Other Issues:

*Environmental Impact Assessment:*

7.79 As the site has an area of over 1ha it was necessary to "screen" an application as to whether it requires to be accompanied by an Environmental Assessment under the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015. The screening process identified that an EIA was not required, and a formal opinion was issued on 01.10.2019.

*Geological Value:*

7.80 The area to the north of the site is identified as GLA41 Klinger Pit, Foots Cray, Potential Regionally Important Geological and Geomorphological Sites (RIGS) in the London Plan SPG 'London's Foundations: Protecting the Geodiversity of the Capital'. The area is identified as an abandoned pit formerly owned by Klinger that was worked for Thanet Sand Formation. The lithology is predominantly fine yellow sand and is considered to be the best exposure of Thanet Sand in the London area.

7.81 However, the designation of the Thanet Sand formation lies outside of the developed area of the site.

CIL:

7.82 The Mayor of London's CIL is a material consideration. CIL is payable on this application and the applicant has completed the relevant form.



## Heads of Terms:

7.83 In order to mitigate the transport impacts of the development, necessary and proportionate obligations are required towards sustainable travel which includes the following:

- £20,000 to upgrade the SCOOT traffic control system at Crittals Corner secured by s106
- A vehicle monitoring protocol to limit site traffic to be secured by s106
- Reviewing and revising the road markings for the A223 Edington Way/ Tesco Access to create additional capacity and prevent blocking back secured by s106.

## **8. Conclusion**

- 8.1 The proposed use of the site complies with planning policy and is acceptable in principle.
- 8.2 The application has been assessed against the adopted development plan and all other material considerations.
- 8.3 As set out in the preceding sections of the report, having regard to the relevant policies given the sites location within the Cray Business Corridor (Foots Cray), which is recognised as a Strategic Industrial Location (SIL) and taking into account the highways impacts of the proposal and the impact on occupiers of nearby occupiers, the development is considered acceptable.
- 8.4 Furthermore, provided the recommendations within the various technical reports are complied with, the proposal would not have a significant impact on the environment, including the bio-diversity value of the site of the adjacent SINC. The application is recommended for permission, subject to conditions.
- 8.5 Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

## **RECOMMENDATION – PERMISSION SUBJECT TO LEGAL AGREEMENT**

### **SUMMARY OF CONDITIONS AND INFORMATIVES**

#### **Standard Condition(s)**

- 1. Time limit of 3 years**
- 2. Drawing number**

#### **Compliance Condition(s)**

- 3. No trade counter**
- 4. Parking to be provided as approved**
- 5. During construction hardstanding shall be provided with wash-down facilities for cleaning the wheels of vehicles**

6. **Finished surfaces of the access road and parking areas, and the external lighting installation to be carried out as approved**
7. **Development shall be completed in accordance with approved levels**
8. **Car parking area only to be used by customers and employees of the premises and for servicing of the development**
9. **Bicycle parking shall to be provided in accordance with the approved details**
10. **Construction and Environmental Management Plan shall be implemented in accordance with the agreed timescale and details**
11. **Surface water drainage scheme shall be implemented in full accordance with the approved details**
12. **Landscaping scheme as shown on the approved landscaping shall be implemented in full accordance with the approved details**
13. **Plant noise limitation**
14. **External materials of buildings shall be carried out as approved**
15. **The development shall be completed in accordance with the remediation strategy**
16. **Piling or any other activity using penetrative methods shall be carried out in accordance with the approved report 'Foundation Works Risk Assessment' by Ramboll, Issue 2 dated July 2019**
17. **Removal of permitted development rights**
18. **No additional floor space to be provided**
19. **Development shall be carried out in accordance with the contamination remediation strategy**

**Prior to Occupation Condition(s)**

20. **The boundary enclosures shall be completed**
21. **Sustainability measures as detailed in the approved Energy and Sustainability Statement (V 2 12/12/2018) shall be incorporated into the development**
22. **Electrical charging points**
23. **Delivery and Servicing Plan**
24. **Secure by Design**


**Any other conditions considered necessary by the Assistant Director (Planning)**


**Informatives**

1. **Mayoral CIL.**
2. **A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer.**
3. **Thames Water will aim to provide customers with a minimum pressure.**
4. **This application may present opportunities to enhance locally valued landscapes within the new landscaping.**



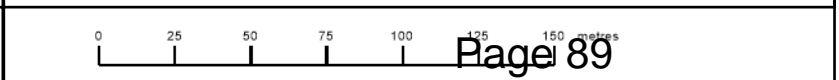
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 18/05599/FULL1 and  
18/05600/FULL1 - Land R/O Tesco  
Stores, Edgington Way



20 January 2020

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## **SECTION '2' – Applications meriting special consideration**

**Application No :** 19/01345/FULL1

**Ward:**  
Orpington

**Address :** 146 Charterhouse Road, Orpington,  
BR6 9EU

**Objections:** Yes

**OS Grid Ref:** E: 547061 N: 164849

**Applicant :** RAA Ventures Ltd. & Regent Land Ltd.

### **Description of Development:**

Demolition of 5 existing houses and associated structures and erection of 28 residential units comprising an apartment block with 9x1 bed and 11x2 bed units and 8x 3 bed houses together with basement car parking with access from Saltwood Close, surface level car parking, cycle parking, refuse and recycling facilities and associated landscaping.

Key designations:

Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
Smoke Control SCA 29

### **Update following deferral from Plans Sub Committee 4.**

On December 5th 2019, this application was submitted to Plans Sub Committee 4 for consideration. The committee was unable to reach a resolution to determine the application and the applicant was requested to provide further information (without prejudice) for Members to consider relating to density, design, on-site affordable housing and electric vehicle charging points matters.

In response to this request the applicant has made the following submissions. The officers' response to each item is set out under the heading 'Officer comments'.

1. Applicant submission relating to electric vehicle changing points and HMO.

"The applicant has been carefully considering options for progressing this application, having regard to the discussion had by members of the panel and the issues raised.

In response to comments made by members of the Plans Panel in their discussion of the scheme, the applicant is happy to agree to further conditions requiring the development to provide passive electric vehicle charging provision for all of the proposed parking spaces, alongside the 20% of spaces which are already identified to be provided with active charging point provision in accordance with local planning policy, in order to ensure the development is suitably 'future

proofed' to meet growing demand for electric vehicle charging going forwards. In addition, the applicant confirms agreement to a suggested additional condition to prevent the future use of the proposed dwellings as Houses in Multiple Occupation (HMOs)."

Officer comment:

(a) Recommended condition 16 has been amended to provide 80% passive EVCP provision which will result in all car parking spaces fitted with either active or passive charging facilities.

(b) A condition to prevent the future use of the proposed dwellings as Houses in Multiple Occupation has been added as new condition 33 which states:

"33. The dwellings hereby approved shall only be used as single family dwellings as defined in Class C3 of the Use Classes Order and shall, at no time, be used as Houses in Multiple Occupation as defined in Class C4 of the use Classes Order except with the express consent in writing of the Local Planning Authority.

Reason: In order to protect the amenities of future occupants and existing residents and to comply with Policy 37 of the Local Plan."

2. Applicant submission relating to future buyers.

"Furthermore, members of the Panel expressed an interest in the proposed development providing opportunities for first time buyers, young professionals and young families to benefit from the Help to Buy scheme and the applicant is pleased to confirm it is the intention that such opportunities would be made available as part of the proposed development, should permission be granted."

Officer comment:

As discussed in the report below, the proposed development is unable to support the provision of formal affordable housing in the form of affordable rented units or shared ownership units. While to applicant has expressed the intention to offer opportunities for first time buyers, young professionals and young families to benefit from the Help to Buy scheme, there is no planning policy provision to formally secure this offer through the use of conditions or a S106 legal agreement.

3. Applicant submission relating to reduction in density and design.

"The panel members also discussed matters of design and density which are addressed in detail in the comprehensive officer's report which was prepared for the meeting. Whilst some members suggested a reduction in density could be viewed more favourably, following detailed and careful consideration, this has not been possible due to the marginal viability of the scheme and the impact of the loss in value of the proposed development that would result from any reduction in the quantum of development currently proposed.

The officers report to Panel acknowledges, "that the assessment of the financial viability of this particular scheme demonstrates that there is a deficit in the value of the scheme in planning terms, leaving little room to further reduce the scale of the

proposed development". A detailed financial appraisal for the development was prepared and submitted in support of the application and has been assessed and verified by the Council's independent professional advisors. This confirms the scheme is economically marginal. The Existing Use Value of the land upon which it is to be built is more than twice the highest value the Council envisaged when it was drawing up its affordable housing policy.

Moreover, the nature of the development - and its basement car parking in particular - is expensive. These factors result in a site and scheme of marginal viability which, through pre-application discussions has already been significantly reduced from an original proposal of 41 dwellings to the scheme as presented now of 28 dwellings, so the applicant is unable to further reduce the number of homes or density whilst maintaining a viable scheme.

With regard to design matters, the development as you know is the result of extensive pre-application engagement and negotiations with officers resulting in a design which officers (in their report to Panel) consider to be "acceptable in terms of its impact on the character and appearance of the area and the streetscene". There was no clear steer from Panel members on any specific changes sought.

The proposal is considered to be a well designed scheme of appropriate scale, design and character to integrate into the existing surrounding development and provide an appropriate response to the surrounding context of the site which forms a transition between commercial and more densely planned residential areas and the suburban areas beyond. Accordingly, we do not feel that a late change to the design is necessary."

Officer Comments:

There are no further officer comments in response to the submission above.

### **Other additional matters**

The following updates to the report below were provided to Members at the meeting on Dec 5th:

#### 1. Scheme Value

The report states that there is a deficit in the value of the scheme which would leave little scope to further reduce the scale of the development.

However, according to the independent consultant appointed by the Council, the scheme would generate a surplus of £99,000 (p.31 of report).

This is enough to support a payment in-lieu (PIL) of affordable housing on the site however would still leave little scope to reduce the scale of the development.

The Council's consultant has confirmed that this sum would not be sufficient for an onsite affordable housing unit and a PIL would be the most appropriate as a result.

## 2. Contamination

The Environment Agency were consulted in respect of contamination of controlled waters. No objections have been raised subject to conditions as set out below. A copy of the EAs comments has been circulated.

34. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

Reason: To protect the underlying groundwater from the risk of pollution, to prevent harm to human health and pollution of the environment and to comply with Policy 118 of the Bromley Local Plan

35. Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.

Reason: To protect the underlying groundwater from the risk of pollution, to prevent harm to human health and pollution of the environment and to comply with Policy 118 of the Bromley Local Plan

36. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. Where soil contamination is present, a risk assessment should be carried out in accordance with the Environment Agency's guidance 'Piling into Contaminated Sites'. We will not permit piling activities on parts of a site where an unacceptable risk is posed to Controlled Waters. The development shall be carried out in accordance with the approved details.

Reason: To protect the underlying groundwater from the risk of pollution, to prevent harm to human health and pollution of the environment and to comply with Policy 118 of the Bromley Local Plan

Note that these proposed conditions have been added as new conditions 34, 35 and 36



### 3. Bats

Further survey work was recommended in the Preliminary Ecological Appraisal. The following condition is recommended accordingly:

37(i) No demolition of buildings shall take place until a survey has been carried out to ascertain if any bats are roosting or hibernating in the buildings concerned. If any bats are discovered, details shall be submitted to and approved in writing by the Local Planning Authority of the timing of the works and any necessary mitigation measures.

(ii) In order to comply with part (i) the applicant must use an appropriately qualified surveyor and ensure that surveys are undertaken at an appropriate time of year. The person undertaking the survey should consult with Local Record Centres and NBN Atlas.

(iii) The works shall be carried out in accordance with the approved timing and mitigation measures.

Reason: In order to comply with Policy 72 of the Bromley Local Plan and in order to safeguard the interests and well-being of bats on the site which are specifically protected by the Wildlife and Countryside Act 1981 (as amended).

### 4. Children's Play Space

The report refers to a condition to secure the provision of on-site children's play equipment. The following wording is therefore recommended:

37. Prior to occupation of the apartment block, details of the type, appearance and siting of children's play equipment and features to enable safe and secure play on the site shall be submitted to and approved in writing by or on behalf of the Local Planning Authority. The approved details shall be installed in full prior to the first occupation of the apartment block and permanently maintained thereafter.

Reason: In order to comply with Policies 4 and 37 of the Bromley Local Plan and policy 3.6 of the London Plan and to secure the provision of appropriate play space in the interests of the amenities of future occupiers and in accordance with the Mayor's Play and Informal Recreation SPG.

**ORIGINAL REPORT UNALTERED with the exception of changes to the wording of Condition 16 and the addition of new Conditions 33, 34, 35, 36, 37 and 38**

### Proposal

- Demolition of a total of 5 existing detached and semi-detached houses.
- Erection of a 3 storey block of 20 flats (9x1 bedroom and 11x2 bedroom) located at the junction of Winchester Road/Charterhouse Road and Saltwood Close.

- Erection of a terrace of 3 bedroom houses comprising 4x3 storey units and 1x2 storey unit facing Saltwood Close.
- Erection of a terrace of 3 x 2 storey houses facing Winchester Road
- A total of 28 residential units.
- Basement car parking for 23 cars, including 3 disabled spaces, for the flats with an access ramp from Saltwood Close.
- Five frontage car parking spaces for the 3 units facing Winchester Road.
- Five car parking spaces for the 5 units facing Saltwood Close with 1 frontage space and 4 spaces provided adjacent to 2 Saltwood Close.
- A total of 33 car parking spaces provided.
- A communal landscaped area located between the southern elevation of the block of flats and the first proposed house facing Winchester Road for use by residents of the development.
- A cycle store for 36 cycles will be provided within the block of flats using a two tier stacking system of storage.
- A refuse and recycling store for the flats will be provided within the block of flats with external doors leading directly to Saltwood Close. All houses are provided with separate refuse stores.
- A small triangle of highway land next to 2 Saltwood Close that is currently a small landscaped area will need to be purchased from the Council by the applicant to facilitate this development.

The following documents have been submitted by the applicant in support of the application and are referred to in the relevant sections below:

- Accessible and Adaptable Housing Statement by wyg dated April 2019
- Affordable Housing/Economic Viability Report by Bailey Venning Associates dated April 2019
- Affordable Housing Statement by wyg dated April 2019
- Arboricultural Report by Tim Moya Associates dated April 2019
- Archaeological Desk Based Assessment by CgMs dated March 2019
- Construction Logistics Plan by YES dated April 2019
- Daylight and Sunlight Report and Addendum dated 4th July 2019
- Design and Access Statement dated 5th April 2019
- Designing Out Crime Statement by Formation Architects dated May 2019
- Drainage Strategy by Hydrock dated April 5th 2019 (C-11718-RP-001\_2
- Energy Statement by Ensphere dated June 2019

- Environmental Risk Assessment Phases 1 and 2 by Constructive Evaluation dated October 2018
- Preliminary Ecological Appraisal by Syntegra Consulting ref 18-4733 dated 18.12.2018
- Planning Statement by wyg dated April 2019
- Statement of Community Involvement by Your Shout dated April 2019
- Sustainability Statement by Ensphere Group Ltd dated March 2019
- Transport Assessment by YES dated April 2019 and Parking Stress Survey dated 18.7.2019

### **Location and Key Constraints**

This corner site is located at the junction of Charterhouse Road, Winchester Road and Saltwood Close. The A224 Orpington By-Pass lies beyond the buildings in Saltwood Close.

The site is within a suburban mixed use area with primarily single and 2 storey semi-detached residential properties to the south and west. To the north are semi-detached houses and a petrol filling station with retail shops beyond. To the east are retail shops facing the Orpington By-Pass with 2 and 3 storeys of residential flats above. There is also a row of single storey houses to the south of the site which front Saltwood Close.

There are no protected trees on the site and there are no heritage, drainage or nature conservation constraints.

The site is located with the Cray Valley Renewal Area identified in Policy 17 of the Local Plan, Flood Zone 1 and within an Area of Archaeological Interest. The site has a PTAL of 1b

### **Consultations**

Comments from Local Residents

Nearby properties were notified and a considerable number of representations objecting to the proposal, and a petition with 141 signatures objecting to the development have been received at the time of writing this report.

The comments received are summarised below:

#### Design matters

- Out of keeping with pattern of development in the local area which is low rise bungalows and houses.

- Design and appearance of houses and flats is not in-keeping with the area - elevation of flat block is too long and set forward of the building line and would be more suitable in a city setting.
- Intensification of development is too great.
- Number of units should be reduced.
- The high density scheme will set a precedent for more such schemes in the area.
- Prominent corner location will result in overbearing building.
- Overlooking to habitable rooms opposite in Winchester Road.
- Lack of ground floor active frontages for the block of flats.
- Flats are fully 3 storeys not 2.5.
- Density calculation is wrong and should be 361 units per hectare.
- The Planning Statement says the Council has a housing land supply plus 12% so this development is not needed.
- Communal garden inadequate and will attract encourage litter and anti-social behaviour.
- CGI makes flat block look very imposing.
- Existing windows blocked by new buildings.
- The building will encroach on sight lines leaving Winchester Road.
- Chelsfield Pub application refused for the same issues that could apply to this development

### Highways

- Historic increase in traffic movements between Charterhouse Road and Court Road will be added to and create a more dangerous junction for pedestrians and cars.
- History of accidents at Charterhouse Road and Court Road junction, including a fatality at the junction of Goddington Lane and Court Rd in April 2019.
- Lack of crossing points on Court Road will make it more dangerous to cross this busy road for more people.
- Crashmap shows 7 RTA over last 5 years plus 2 recent accidents not recorded.
- No mitigation to reduce traffic accidents offered.
- Leads to increase accidents around Saltwood Close and Charterhouse Road.
- Visibility when turning right out of Charterhouse Road is insufficient.
- Loss of existing parking spaces in Saltwood Close and other surrounding roads for competing local uses.
- Lack of parking spaces in surrounding roads and more pressure on existing spaces with new development.
- Insufficient number of parking spaces provided by the development .
- Underground car park not suitable in residential area and may be underused due to safety concerns.
- Noise and pollution from construction site traffic.
- Buses routes quoted in Planning Statement don't serve Charterhouse Road or neighbouring roads.

- Methodology for parking survey not correct and additional surveys should be carried out at different times of the day.
- Information from TfL incorrect.
- TA is incorrect as follows: TRICS data incorrect, there is a train station nearby, disabled spaces are too small, visibility from parking spaces next to 2 Saltwood Close is inadequate and can't get car out of the space or get out of cars, cars will scrape walls of car park, only 18 cycle parking spaces shown out of 54 required.
- On street car parking during construction is not acceptable.

#### Other matters

- Area already busy with BP garage.
- Increase noise from traffic.
- Relating site to Cray Valley Renewal Area is clutching at straws.
- Underground car park and communal area will attract anti-social behaviour.
- Lack of secondary school places locally.
- Lack of affordable housing not acceptable.
- Developer should invest in local services.
- Local infrastructure cannot cope with the extra people proposed.
- TA refers to a health and education payment but not included in the application.
- Waste bin information is not correct.
- Sale of Council land to allow development is not acceptable.
- The site notice was placed on a lamppost opposite the site and not enough residents were notified directly.
- Concerns about the financial stability of the applicant company.

Please note the above is a summary of objections received and full text is available on the Council's website.

#### Comments from Consultees

- LBB Highways

A Transport Assessment was provided with the application. The site has a low (1b) PTAL assessment so residents are likely to make a good proportion of trips by vehicle.

There is a block of 20 flats proposed which have 23 car parking spaces in the basement. Swept paths are shown for some of the spaces. The parking spaces have now been adjusted so there is more manoeuvring space for those adjacent to the walls.

I note the crime figures for the area are high and a number of public comments raised the subject of safety of parking / anti- social behaviour in the basement. If residents do not feel safe parking in the basement they will park on street. There are gates proposed on the access to the underground parking area. The ramp is probably only wide enough for one way working so there needs to be a system in place, mirrors at either end would be acceptable, to alleviate most of the conflicts.

Two of the 3 houses fronting Winchester Road have 2 parking spaces and the other has one space. One of five houses fronting Saltwood Close has a parking space within its curtilage and there are 4 spaces provided away from the properties also fronting Saltwood Close. The standards in the Local Plan indicate a minimum of 1.5 spaces per unit so there is a shortfall of at least 3 spaces. Also the 4 spaces are somewhat remote from the houses and the likelihood is that residents will try and park on street nearer the properties while reducing the available on-street spaces. It would be better to have the spaces within the curtilages of the properties.

The triangular section of grass adjacent to no. 2 Saltwood Close where the 4 parking spaces are shown is owned by the Council and is highway land. The land does not appear to be required for highway purposes but if it is sold for redevelopment the highway rights would need to be stopped up. As part of that process the Ward Members agreement would be needed.

Parking stress surveys have been carried out using the Lambeth methodology. This is a guide to surveys and has flexibility within it particularly if the area has other demands for parking. A further daytime survey was carried out and, although close to the school holidays, showed there were spaces available on street. The surveys show that should there be overspill parking there is enough on street capacity for it not to be a significant issue.

Waste services will need to agree the refuse storage and collection arrangements.

The one of the bus routes shown in the TA may be wrong but is unlikely to affect the assessments. There should be 31 cycle spaces provided within the block of flats, double stackers would be acceptable subject to the detailed design.

Please include the following conditions in any permission.

OC02 parking  
ND16 hardstanding for wash down facilities  
AG12 cycle parking  
OC04 stopping up of accesses  
PC17 construction management plan  
Ag24 Highway drainage

Non-standard condition

Prior to the first occupation, details of a scheme to ensure the safe and convenient movement of vehicles in to and out of the basement car park without detriment to highway safety shall be submitted to and approved in writing by the LPA.

Informative

The proposed parking area adjacent to 2 Saltwood Close will need to have the highway rights stopped up. The applicant should contact the Highway Planning section ([highway.planning@bromley.gov.uk](mailto:highway.planning@bromley.gov.uk)) for advice.

We would seek a contribution via a s106 agreement of £10k towards the Orpington to Green Street Green Cycle route.

- LBB Policy - Energy

The Revised Energy Statement dated June 2019 is considered to be acceptable.

A Payment-in-lieu amount has been calculated as 21.19 (tCO<sub>2</sub>) x £60 (per tCO<sub>2</sub>) x 30 (years) = £38,148

- LBB Drainage

The submitted information including "Drainage Strategy" report carried out by Hydrock to incorporate 3 cellular tanks, porous paving and rain gardens to restrict the discharge rate to 2l/s for Block A and 1 l/s for Blocks B & C are in principle acceptable. Please impose a condition requiring the submission and approval of a detailed Surface Water Drainage Strategy.

- LBB Environmental Health

The report concludes that the risk associated with contaminants and pollutant linkages are negligible to low or low and as such remedial measures are not required. Therefore the standard wording for the contaminated land planning condition is not really applicable.

I have considered the above and have no objections within the grounds of consideration.

I recommend a relevant condition and informative in the event that the application is permitted. :

- LBB Trees

Further to consultation on the above application, I make the following comments:

The application is as expected and proposes to remove trees and start again. This is in line with my earlier feedback associated with reference PREAPP/18/00152. The benefits in re-designing the plot give rise to opportunities to plant feature trees. This is supported in the arboricultural submission. It would be useful to keep the arboricultural consultant involved to specify species selection in the landscape scheme.

Landscaping will be a key consideration and should be to a high standard for this area of the borough.

I would recommend a condition requiring the submission of details of hard and soft landscaping is applied in the event that planning permission is granted:

- Thames Water (TW)

#### Waste Comments

With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection.

#### Water Comments

On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application.

- Historic England (Archaeology)

The submitted archaeological desk-based assessment report dated March 2019 by CgMS Consulting Ltd has identified that the site holds archaeological potential even though it is situated outside of an Archaeological Priority Area as defined by borough policy.

I have looked at this proposal and at the Greater London Historic Environment Record. I advise that the development could cause harm to archaeological remains. However the significance of the asset and scale of harm to it is such that the effect can be managed using a planning condition. I therefore recommend a condition requiring the submission of a written scheme of investigation (WSI).

- Secure by Design

The Metropolitan Police Crime Prevention Design Adviser has reviewed the design and access statement and other documents submitted, and advises that from the inspection of the proposal documents, there are a number of concerns regarding the development, which need to be addressed, for both the residents, and the building safety and security.

I have reviewed the crime figures, for a better understanding of the crime in this area, and I can confirm within 500m of the location Between March 2018 and February 2019 the following offences reported: 61 reports of anti social behaviour (ASB), 27 burglaries and 55 violent or sexual offences committed.

These figures rise to 323 ASB, 189 burglaries, 184 vehicle crimes and 291 violent or sexual offences within a mile radius of the location.

As can be seen the area has regular occurrences of burglary, robbery, violent offences, anti-social behaviour and motor vehicle crime.

I feel that should this application proceed, it may be able to achieve the security requirements of Secured by Design, with the guidance of Secured by Design officers and the New Homes 2019 guidance document, and I would therefore request a Secured by Design condition be attached.



## Planning Context

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of these applications must be made in accordance with the plan unless material considerations indicate otherwise.

In determining planning applications, the starting point is the development plan and any other material considerations that are relevant. The adopted development plan in for this proposal includes the Bromley Local Plan (2019) and the London Plan (March 2015). Relevant policies and guidance in the form of the National Planning Policy Framework (NPPF), National Planning Policy Guidance (NPPG) as well as other guidance and relevant legislation, must also be taken into account.

The list below is not an exhaustive list of policies; it contains some of the most relevant policies to the application:

### 1. Local Plan

Current Policies relevant to this application include:

Policy 1 Housing Supply

Policy 2 Affordable Housing

Policy 4 Housing Design

Policy 8 Side Space

Policy 30 Parking

Policy 31 Relieving Congestion

Policy 32 Road Safety

Policy 33 Access for all

Policy 34 Highway Infrastructure Provision

Policy 37 General Design of Development

Policy 73 Development and Trees

Policy 79 Biodiversity and Access to Nature

Policy 113 Waste Management in New Development

Policy 116 Sustainable Urban Drainage Systems

Policy 118 Contaminated Land

Policy 123 Sustainable Design and Construction

Policy 124 Carbon reduction, decentralised energy networks and renewable energy

Policy 125 Delivery and Implementation of the Local Plan

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

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

2. In strategic terms the most relevant London Plan 2015 policies include:

2.6 Outer London: vision and strategy

3.1 Ensuring equal life chances for all

- 3.3 Increasing housing supply
- 3.4 Optimising housing potential
- 3.5 Quality and design of housing developments
- 3.8 Housing choice
- 3.9 Mixed and balanced communities
- 3.12 Negotiating affordable housing
- 3.16 Protection and enhancement of social facilities
- 3.17 Health and social care facilities
- 3.18 Education facilities
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.7 Renewable energy
- 5.8 Innovative energy technologies
- 5.9 Overheating and cooling
- 5.10 Urban Greening
- 5.11 Green roofs and development site environs
- 5.13 Sustainable drainage
- 6.3 Assessing effects of Development on Transport Capacity
- 6.9 Cycling
- 6.10 Walking
- 6.12 Road Network Capacity
- 6.13 Parking
- 7.1 Lifetime neighbourhoods
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public realm
- 7.6 Architecture
- 7.19 Biodiversity and access to nature
- 8.2 Planning Obligations
- 8.3 Community Infrastructure Levy

Mayors Housing Supplementary Planning Guidance 2016

Housing Standards: Minor Alterations to the London Plan 2016

Parking Standards: Minor Alterations to the London Plan 2016

Mayors Affordable Housing and Viability Supplementary Guidance SPG 2017

Please note that the Draft London Plan has been issued for consultation. The policies have been subject to examination and the weight attached to the draft policies increases as the Local Plan process advances as set out in the NPPF paragraph 216.

### 3. National Policy

The National Planning Policy Framework 2019 (NPPF) is relevant, particularly the paragraphs listed below

Paras 7-14: Achieving sustainable development

Para 34 and 54-57: Developer contributions and Planning obligations

Paras 39-46: Pre-application engagement

Paras 38-55: Decision Making

Paras 54-57: Planning conditions and obligations  
Paras 59-77: Delivering a wide choice of high quality homes  
Paras 102-111: Promoting sustainable transport  
Paras 117-123: Making effective use of land  
Paras 124-132: Requiring Good Design  
Paras 148-165: Meeting the challenge of climate change & flooding  
Paras 170-183: Conserving and enhancing the natural environment  
Paras 212-217 Annex 1: Implementation

4. National Planning Practice Guidance (NPPG) is also relevant

## **Planning History**

There is no relevant planning application history for any of the buildings on the site.

## **Planning Considerations**

It is considered that the main planning issues relating to the proposed scheme are as follows:

- Principle of Development including land use, density, affordable housing and planning obligations.
- Design - layout, scale, massing and appearance.
- Standard of Accommodation and Amenity Space.
- Impact on Neighbour Amenity.
- Highways and Traffic Matters ((including Cycle Parking and Refuse).
- Trees, Landscaping and Ecology
- Other technical matters

### Principle of Development including land use, density, affordable housing and planning obligations.

The NPPF, at paragraph 11, sets out a presumption in favour of sustainable development and states that for decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The weight to be afforded to individual policies, alongside other material considerations, falls to the decision-maker to consider within the balance of paragraph 11.

Housing is a priority use for all London Boroughs. Policy 3.3 Increasing housing supply, Policy 3.4 Optimising housing potential and Policy 3.8 Housing choice in

the London Plan generally encourage the provision of redevelopment in previously developed residential areas provided that it is designed to complement the character of surrounding developments, the design and layout make suitable residential accommodation, and it provides for garden and amenity space.

Policies including 3.3 of The London Plan 2016 and Policy 1 of the Local Plan have the same objectives. The London Plan's minimum target for Bromley is to deliver 641 new homes per year until 2025.

The application site is currently occupied by 5 houses and is within an area of mixed uses and styles of residential units. It is considered that the proposed increase in the number of residential units to 28, a net gain of 23 units, and continued residential use of the site is acceptable in principle, subject to the development having regard to the context of its surroundings, standard of accommodation and detailed design and amenity considerations.

The site lies within the defined Cray Valley Renewal Area identified in Policy 17 of the Local Plan. Bromley has identified 5 'renewal areas' in the borough, one of which is Cray Valley based on indices of deprivation. Policy 13 of the Local Plan seeks to maximise opportunities for enhancement and improvement in these renewal areas including economic, social and environmental benefits.

In the case of this scheme, the proposed development involves a scheme to increase the level of housing in the area and provides an increase in the number and mix of unit sizes. The increase in the number of residents has been accompanied by contributions to health and education to accommodate future residents and a chance to provide some dedicated playspace for future residents. Additional residents will also contribute to the vitality of the local centre.

As such, it is considered that the proposed development would make a meaningful net contribution of 23 units towards the housing supply in the borough.

- Density

As existing residential land, an increased density and housing provision could make a valuable contribution to the Boroughs housing supply. However, it is necessary to demonstrate that an appropriate density can be achieved having regard to the context of the surroundings, standard of accommodation to be provided and detailed design considerations. It is noted that this proposal could potentially represent a significant contribution of the Council's required Housing Land Supply.

Density standards based on the number of habitable rooms, the Public Transport Accessibility Level of the site and the setting of the site are set out in London Plan Policy 3.4.

The site is within PTAL zone 1b (where the 1 is the lowest and 6a is the highest) and with a site area of 0.23ha. The development results in a density of 121 units per hectare and 360 habitable rooms per hectare. The density threshold ranges in the London Plan density matrix indicates a range of 35-75 units per hectare and

150-200 habitable rooms per hectare. As such the development will exceed the policy guidelines

In their Planning Statement the applicant provides the following supporting commentary:

Through Policy 3.4 optimising housing density is sought, having regard to local context, design principles and public transport accessibility. The site delivers an average of 121 dwellings per hectare, although this is above the density range specified in the matrix, the development is making the best use of previously developed land, is sustainably located with local services adjacent to the site and relates well to the density of development located along Saltwood Close in particular.

In addition the following information is provided by the applicant:

Of particular note is the proximity to both Chelsfield and Orpington train stations, the Town Centre and the cluster of shops and services at the corner of Charterhouse Road and Court Road. We also note the relative density in relation to the existing adjacent development of Saltwood Close. It also highlights the importance and 'presumption in favour' placed on 'small sites' in the delivery of new homes as set out in the draft London Plan and the London Plan Housing SPG, within which it is acknowledged "that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites". As discussed previously, there is also the matter of viability evidenced by our submitted appraisal which necessitates a development of this quantum to make the scheme viable to deliver.

It is useful to note the advice provided in the London Plan relating to the application of the Density Matrix which states that 'a rigorous appreciation of housing density is crucial to realising the optimum potential of sites, but it is only the start of planning housing development, not the end. It is not appropriate to apply Table 3.2 mechanistically. Its density ranges are broad, enabling account to be taken of other factors to optimise potential - local context, design and transport capacity are particularly important as well as social infrastructure.'

A detailed assessment of the impact of the proposed building in terms of its design, relationship with neighbours, impact on the street scene and the character of the area is provided in the following section of this report entitled 'Design - layout, scale, massing and appearance.'

- Affordable Housing

Local Plan Policy 2 states that the Council should seek the provision of 35% affordable housing units on development capable of providing 11 or more units; 60% of provision should be for affordable rent housing and 40% should be for intermediate/shared ownership provision where priority should be accorded to the provision of affordable family housing.

Where a development is not able to provide on-site affordable housing, Policy 2 also makes provision for payments in lieu for off-site works. Where a development

cannot meet the criteria of Policy 2, the Council will require evidence through the submission of a Financial Viability Assessment.

In this case a Viability Assessment Report has been submitted by the applicant that assesses the viability of the development in order to identify the level of planning obligations that the development can sustain.

The report compares the resulting Residual Land Value to the applicants Site Value Benchmark to ascertain whether there is a deficit or surplus against the Benchmark. In this case the Site Value Benchmark has been determined by giving consideration to the Existing Use Value plus 15%.

The report has been assessed by an independent consultant appointed by the Council who advises that there is a surplus of £99,000 against the Benchmark and concludes that the scheme is viable in planning terms and can support a financial contribution in lieu of on-site affordable housing.

On the basis of the above advice, it is considered that the policy requirements of Policy 2 of the Local Plan are met.

- 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 (paragraph 56) 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.

Local Plan Policy 125 states that the Council will, where appropriate, enter into legal agreements with developers, and seek the attainment of planning obligations in accordance with Government Guidance.

The applicant has agreed to pay contributions for affordable housing, health, education, a carbon offset payment and improvement to a cycle route as follows should the application be considered acceptable:

- Affordable Housing £99,000
- o Health £32,078
- o Education £127,469.91
- o Carbon Offset £38,148
- £10k towards the Orpington to Green Street Green Cycle route

## **Design - layout, scale, massing and appearance.**

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.

Local Plan Policies 4 and 37 requires that new development is of a high standard of design and layout. It should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings and areas and should respect the amenity of the occupiers of neighbouring buildings

Consistent with Policy 37 of the Local Plan, the London Plan Policy 7.1 requires developments to be designed so that the layout, tenure and mix of uses interface with the surrounding land and improve people's access to infrastructure, commercial services and public transport. The design of new buildings and the spaces they create should help reinforce or enhance the character, legibility, permeability, and accessibility of the neighbourhood.

Local Plan Policy 4 goes on to require that new development is of a high standard of design and layout. It should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings and areas and should respect the amenity of the occupiers of neighbouring buildings.

The proposed development involves the redevelopment of a site currently occupied by 5 houses on a prominent corner formed by Charterhouse Road, Winchester Road and Saltwood Close. The existing buildings on the site are single and 2 storey detached and semi-detached houses with no particular design merit and the loss of the existing building is considered to be acceptable.

In terms of the existing character of the area, the site is located between two areas of quite differing character.

The area to the south, west and north-west is characterised by lower density housing on this part of Winchester Road and Charterhouse Road. These are all residential dwellings comprising single and 2 storey buildings resulting in a relatively an open and spacious in character but the area is also characterised by a reasonable level of pedestrian and vehicle activity.

To the north-east and east of the site the character of the area is defined by its mixed use including flats, a petrol filling station and shops fronting Court Road. There is a significant size resident's car park accessed from Saltwood Close. The buildings fronting Court Road and backing on to Saltwood Close are all 3 storeys in height with pitched roofs with the exception of a small row of bungalows at 2-10 Saltwood Close. This area is also busier with pedestrian and traffic movements to access the retail, residential and other commercial uses nearby.

The proposed development seeks to respect both elements of the character of the area in the design form that is being proposed. The Design and Access Statement sets out the design approach which considers the various elements of the proposal such as site layout, scale and massing and appearance.

In terms of site layout, the proposal provides underground car parking for the proposed flats which significantly reduces the amount of ground floor area required for car parking. As a result the site coverage of building is perhaps more extensive than schemes where surface car parking is required.

The buildings are located away from the boundary edge on all sides; the flatted block follows the curve of the road at this point and is set back from the corner to provide space between the elevation and the pavement for both future occupants of the flats and for existing residents. The actual separation ranges from 1.8m-3.6m thereby meeting the requirements of Policy 8 of the Local Plan which requires a full 1m clearance between the building and the site boundary at ground and upper floor levels.

For the proposed houses facing Winchester Road, the front elevation is set approximately 1m forward of the forward elevation of 7 Winchester Close. This means that the new houses will have a driveway with car parking and landscaping which emulates the existing site layout in this part of Winchester Road.

The house next to 7 Winchester Close is separated from the boundary by a gap of approximately 2m. In addition the internal separation between the first house of this new terrace and the new block of flats is the communal amenity area and the distance is 6.2m

Turning to the site layout of the housing facing Saltwood Close, these houses are closer to the boundary than those fronting Winchester Road but there is a minimum 1m clearance between the front elevation and adjacent boundary in all instances. The space between the first of these houses and the block of flats includes the entrance to the underground car park and the separation distance between these 2 elements is approximately 6.6m.

There is a pinch point relating to this row of houses and their adjacent boundary at the rear of the most southerly new house and the garden fence of 7 Winchester Close at a point approximately 20m from the back of No 7. The new building is closer to the mutual boundary with a 0.4m separation. Whilst this does not technically meet the side space requirements there are no new buildings adjacent to this terrace and there is the garden space of No 7 plus the proposed parking spaces before the red line site adjoins No 2 Saltwood Close. On this basis it is considered that the new development meets the requirements of the policy which seeks the retention of space around residential buildings to ensure adequate separation and to safeguard the privacy and amenity of adjoining residents. It should be noted that there are no windows in the upper floor rear elevation of the 2 storey house in this location.

In order to further assess the impact of the development, it is necessary to consider the height, scale and massing of the proposed buildings and then the development as a whole.



In order to try and minimise the impact of the bulk of the building the applicant engaged in the pre-application process that the Council offers and has significantly reduced the scale and massing of the proposed building.

The scheme now proposes to bridge the gap between Saltwood Close and Winchester Road by providing development that is mostly taller on the Saltwood Close elevation and less bulky and lower of the Winchester Road side.

The height of the flats facing Saltwood Close are a full 3 storeys to a flat roof that is broken up with an articulated elevation treatment and has both inset and open top balconies. For the houses these are two storeys with a mansard 3rd floor and dormer windows at this roof height with a vertical set back separating the 2 taller pairs of houses. The house closest to the bungalow at No 2 Saltwood Close is single storey with a full mansard roof and, again, front dormer windows.

These buildings will be seen in the context of Saltwood Close rather than in the context of Winchester Road. As such, it is considered that the design, scale, massing and height is not out of keeping with this part of the immediate area. In addition the space between the adjacent buildings in Saltwood Close is considerable and the scale in this context would not seem excessive.

As the new building extends around the corner of Charterhouse Road and into Winchester Road, the overall height of the block of flats does not reduce but the bulk is minimised by providing a more detailed, more articulated elevation facing Winchester Road. At this point the closest houses are over 25m away from the new building leaving reasonable room around and between the buildings for them to not overpower the existing houses. The building will form a prominent corner feature at this point but with the flat roof, the use of traditional brick materials and the set back into the site it is considered that the open aspect of the site can accommodate a building of this height without it becoming an overdominant feature in the street scene.

Within the site the flats and the houses are separated from each other by over 6m and a communal garden will provide an interesting and green gap between these 2 elements of the site here.

Moving to the proposed houses facing Winchester Road, these have been stepped down in height to single storey with full mansard to a flat roof. The submitted street elevation plan shows that the top of the new houses will be the same height as the ridge height of the existing house at 7 Winchester Road. So the juxtaposition of the new house and 7 Winchester Road will be better than that of the existing house at 1a Winchester Road to its neighbour at No 3.

As such it is considered that there will be a minimal change in scale at this point in Winchester Road compared to the existing appearance of the street.

To fully understand the impact of the proposed buildings the D&A provides details of the proposed materials. The applicant has provided a palette of materials that do not try to contrast with the local materials but picks up on local cues. A London red stock brick is proposed for all of the buildings matching them to the colour of the

existing buildings on all sides. This is equally the case for the materials for the mansards with the use of dark grey roof slates. Brown and grey coloured metal will be used for the balconies and windows respectively.

In summary, the demolition of 5 houses and replacement with a block and flats and 8 houses is inevitably going to have an impact on the character and appearance of this area. And it is considered that the proposed block of flats particularly as it turns the corner from Saltwood Close into Winchester Road is likely to be where this development will have the most impact.

The applicant has considered this relationship and designed a building that is considered to minimise the extent of the adverse impact on the lower density side in Winchester Road while providing a building which picks up in the local palette of materials and reflects the wider character of the area that is to the north-west of the site in Saltwood Close. It should also be noted that the assessment of the financial viability of this particular scheme demonstrates that there is a deficit in the value of the scheme in planning terms, leaving little room to further reduce the scale of the proposed development.

Furthermore it is considered that the internal relationship of the elements of the scheme to each other will not result in a development that is significantly out of keeping with the area. In addition, the separation between the new building and the its site boundary and the separation of the new buildings to immediate existing buildings is not likely to have a significantly adverse impact on the locality.

Having considered all the factors individually and collectively, it is considered that the development is acceptable in terms of its impact on the character and appearance of the area and the streetscene subject to a condition requiring the submission of details of external materials for the building and soft and hard landscaping including replacement tree planting landscaping.

### **Standard of Accommodation and Amenity Space**

In terms of the provision of housing, Local Plan Policy 4 requires development to meet minimum standards for dwellings set out in London Plan Policy 3.5, Table 3.3 and the London Plan Housing SPG.

The London Plan Policy 3.9 seeks communities that are be mixed and balanced by tenure and household income, supported by effective design, adequate infrastructure and an enhanced environment. Policy 3.4 encourages the optimising of housing potential and provides guidance as to the density of development through the density matrix. Policies 3.5 seeks to achieve the highest quality of design internally, externally and in relation to the context of the site to protect and enhance the residential environment and attractiveness as a place to live while Policy 3.8 seeks to provide a genuine choice of homes that they can afford and meet their requirements in terms of size and type of dwelling of the highest quality.

- Mix and Unit Size

The proposed mix of 1, 2 and 3 bed flats and houses is characteristic of the existing mix and unit types in this area and is considered to be acceptable. It should be noted that the units will all be market units and the acceptability of the lack of affordable housing has been discussed elsewhere in this report.

- Dual Aspect

The floor plans show that the flats will all be dual aspect with windows facing north east and south west. While this is not ideal, the Energy Statement advises that windows have now been upgraded to triple glazing and a condition requiring the assessment of the impact of external noise sources with associated mitigation measures is recommended.

- Private outdoor space and Outdoor playspace

Standards for the provision of amenity space area are set out in the Mayors Housing SPG and for playspace in the Mayors SPG Shaping Neighbourhoods: Play and Informal Recreation.

Each of the proposed flats has access to a private patio area or a balcony which are acceptable in terms of size in proportion to the number of unit occupants.

In addition, a dedicated communal amenity area of approximately 135 sqm will be provided for use by all residents of this scheme. This will also provide a small playspace area for resident children in the development.. The requirement for the provision of playspace in a development is set out in the Mayors SPG Shaping Neighbourhoods: Play and Informal Recreation, including the calculation of child yield to determine the amount of playspace required on the site.

In this instance a child yield of is calculated for the flats only which requires 54 sqm of playspace. Children of the houses are excluded as they have access to rear gardens. The proposed communal space provides this space in a setting that is safe and secure for children's play. A condition requiring the submission of details of children's play equipment is recommended.

- Daylight for future residents

In terms of the impact of the development on the future residents an Addendum (dated July 2019) to the Daylight and Sunlight Report dated April 2019 has been submitted and assesses the adequacy of daylight in the proposed new habitable rooms to ensure that future occupants of the scheme will enjoy reasonable levels of daylight.

The numerical results set out are based on an assessment of the proposed habitable rooms against British Standards Code of Practice for Daylight and they show that all of the tested rooms are in excess of the target required.

On this basis it is considered that the development is acceptable in terms of the daylight provision for new occupants.

- Accessible housing

All new housing will be required to meet the standards set out in Policy 3.8 which seeks 90% of all new housing to meet Building Regulations 2010 M4(2) and 10% to achieve Building Regulations 2010 M4(3)(2)(a) for wheelchair accessible market dwellings.

The applicant has submitted an Accessible and Adaptable Housing Statement which sets out requirements and provision for wheelchair accessible units.

The floor plans show that 3 units will be provided out of a total of 28 units. This meets the 10% threshold for wheelchair accessible units. The allocated units (Units A.G.5, A.1.5 and A.2.5) are all 2 bedroom flats in the Saltwood Close elevation of the block of flats and all have level access to a DDA compliant lift.

A total of 3 disabled car parking spaces are shown in the basement. The applicant had advised that all of the units can meet the minimum size standard to enable the units to achieve Part M4(3)(2a) and a condition requiring the provision of 3 units to this standard is recommended. A condition securing the permanent availability of dedicated disabled car parking spaces is also recommended.

- Waste and recycling provision

Local Plan Policy 113 requires new development to provide adequate space to support recycling and efficient waste collection level of provision and access for collections.

The block of flats has a refuse and recycling store within the building which has direct access from Saltwood Close for bin collection.

Each house has a separate dedicated binstore within its curtilage with the exception of 2 houses in Saltwood Close where the bin store is located to the side of one of the houses.

The bin capacity for all units is provided in accordance with the Council's requirements. Details of the design of the household binstores is not fully provided and a condition requiring submission of these details is recommended.

### **Impact on Neighbour Amenity**

Policy 37 of the Local Plan 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 loss of light, overlooking and loss of privacy and general noise and disturbance. Other aspects of the impact of the development on neighbours are discussed elsewhere in this report.

- Loss of privacy for neighbours and future residents

The site is directly overlooked by properties in Saltwood Close, Charterhouse Road and Winchester Road. The separation distances between the front elevations of

the development and the closest nearby properties is a minimum of approximately 23m between Nos 2 and 4 Charterhouse Road and the blocks of flats. It is considered that this distance will not result in unacceptable harm to the amenity of nearby properties.

The property most affected by the rear elevations of the new units is 7 Winchester Road which is a bungalow with habitable rooms at ground floor level. The closest property is the 2 storey house identified as BG5 and this has been designed so that there are no windows at first floor level. The adjacent 3 storey houses will have habitable room windows obliquely facing No 7 but the separation distance between habitable room windows above ground level is approximately 20m which is considered to be acceptable.

- Loss of Daylight and Sunlight for existing neighbours

The submitted Daylight and Sunlight Report dated April 2019 assesses the impact of the development on existing neighbouring residents.

The report considers the impact on properties at 2, 4, 6 and 8 Winchester Road and 203, 204 and 205 Charterhouse Road. Analysis shows that all the habitable rooms in these properties will be fully compliant with BRE Guidelines in terms of daylight and sunlight.

Any loss of light is within the permissible margin of reduction. The occupants of these dwellings will not experience any noticeable or material change on perceived daylight conditions and levels of daylight post development will remain very good.

In terms of sunlight the report shows that all windows facing within 90 degrees of due south will satisfy the BRE sunlight criteria and will continue to receive good levels of annual and winter sunlight. There will be no material impact on sunlight.

Based on the information provided in the report, it is considered that the proposed development will not have a materially adverse impact on the amenity of adjoining residents in terms of daylight and sunlight.

- General noise and disturbance

The proposed development will introduce a greater level of activity to this area as a result of this development. However it is necessary to consider the impact of the different aspects on existing neighbours.

With regard to activity relating to the flats, residents will enter the flats via 2 entrances; one at the junction of Charterhouse Road and one off Saltwood Close. In addition the vehicle access from Saltwood Close will generate some additional noise and activity. Some of the new houses will also take their vehicle and pedestrian access via Saltwood Close.

These points of new activity are located in areas that already experience significant activity from both existing pedestrian and vehicular sources relating to the residential flats, the adjacent car park and the commercial uses fronting Court

Road, particularly the petrol filling station and the retail use in this building, . It is considered that the additional disturbance and noise generated by the development would not be of such significance as to result in an unacceptable impact on the amenity of existing neighbours.

With regard to the proposed houses, it is considered that the houses that will be facing Winchester Road will not generate more noise and disturbance than the existing houses in this location. The houses facing Saltwood Close are new units added to this part of the close but, as previously mentioned, this area already experiences significant activity from both existing pedestrian and vehicular sources. As such it is considered that the increased level of activity will not have a significantly harmful impact on existing residents.

### **Highways and Traffic Matters (including Cycle Parking)**

In policy terms, the relevant Local Plan policies include 31 (relieving congestion) and 32 (road safety). Local Plan Policy 30 sets out car parking standards for residential development and all other development is required to be provided at levels set out in London Plan Tables 6.2 and 6.3.

The applicant has submitted a Transport Assessment (TA) setting out details of the trip generation for car journeys and assesses the impact of additional trips on the existing highway network and on the demand for on-street car parking and the provision for car and cycle parking.

To consider the impact of on-street car parking the applicant has also carried out a daytime and night time survey of car parking levels on local roads.

- Trip generation and impact on the local highway network

The TA considers the impact of the additional units generated by the redevelopment of this site using the TRICS database which is a recognised method of identifying trip generation for, in this case, new residential development.

The assessment advises that the predicted peak trip rates for additional units amounts to 4 additional traffic movements in the morning peak hour and 4 extra traffic movements in the evening peak hour.

Based on this assessment it is considered that the increase in the predicated number of units proposed will not have an adverse impact on the local highway network.

Residents have raised significant concerns about the adverse impact of the development on the number of accidents along Court Road and point out that there have been 7 incidents over the last 5 years including a fatality in April 2019. Also the speed of vehicles on Court Road and the visibility for vehicles leaving Charterhouse Road into Court Road. Suggestions have also been made to provide a crossing in Court Road.

With these concerns in mind, the current application can only consider the impact from the additional vehicle movements predicted for the proposal. In this instance the predicted additional vehicles is not sufficient for the Council to require mitigation measures from this particular development. In the immediate vicinity there is a pedestrian safety refuge at the junction of Charterhouse Road and Court Road and 2 pedestrian safety refuges in Court Road to allow pedestrians to cross both of these roads safely. There are also sufficient vehicle sightlines to see traffic approaching the Charterhouse Road junction from both directions along Court Road.

In conclusion it is considered that the proposed development will not introduce such a high level of additional vehicles as to have an adverse impact on the local highways network or lead to unsafe highway conditions in the area.

- On- street car parking availability

As there are no waiting restrictions in the vicinity, a night time on-street parking survey in accordance with the Lambeth Methodology was carried out on Tuesday 11th and Wednesday 27th February 2019 at 2am and 1am respectively. It should be noted that roadworks were being carried out during the time of the survey so six on-street parking spaces in the vicinity of the development site frontage on Saltwood Close were unavailable for use.

This parking survey shows that 194 parking spaces are accessible in the vicinity and at least 100 parking spaces were available for use, giving a parking stress of 47.4%. It is clear that there is ample spare capacity for on-street parking in the vicinity of the site.

Following concerns raised by the Council's Highways Officer a daytime survey has also been carried out on July 18th to assess the current parking demand. The results show that of the 192 spaces that are available in the vicinity 95 were available giving a parking stress of 50.5% which demonstrates that there is enough on street capacity should there be overspill from the development.

The Council's Highways Officer has reviewed the surveys and provides the following advice:

'Parking stress surveys have been carried out using the Lambeth methodology. This is a guide to surveys and has flexibility within it particularly if the area has other demands for parking. A further daytime survey was carried out and, although close to the school holidays, showed there were spaces available on street. The surveys show that should there be overspill parking there is enough on street capacity for it not to be a significant issue.'

From this evidence there appears to be significant availability of on-street car parking spaces if there is overspill parking from the proposed development. In the section below it is noted that the proposed level of car parking exceeds the Council's minimum standards so there is no requirement for the development to provide any further residents car parking.'

- Car Parking provision for future residents

A total 33 car parking spaces will be provided for this development. This level of parking provision exceeds the minimum standard of 30 spaces that are required by the Local Plan

For the proposed flats an underground car park with access from Saltwood Close will provide 23 car parking spaces for 20 flats. Three of these spaces will be dedicated disabled parking bays for the 3 flats that will provide wheelchair units.

The Highways Officer raised concern about the width of the two way access ramp. It meets the minimum width required for 2 cars to pass but the separation distance between cars is minimal. In order to avoid instances where cars have to reverse up or down the ramp to let approaching traffic pass, suggestions to warn incoming and outgoing drivers of likely movement on the ramp have been explored and there are measures that can be put in place to avoid this scenario. To finalise the approach a condition requiring details of a scheme to ensure safe access to the underground car park is recommended.

For the 8 proposed houses a total of 10 car parking spaces will be provided with frontage parking for 4 of the units and nearby remote spaces directly off Saltwood Close for 4 units.

In terms of the impact on the existing informal on-street parking, the development is likely to result in a loss of 4 car parking spaces but the limited frontage parking proposed for units in Saltwood Close does allow for the retention of the rest of the informal on-street car parking spaces in Saltwood Close. In light of the results of the daytime and night-time parking stress surveys it is considered that the loss of these parking spaces is acceptable.

- Car Park security

The submitted plans show an inward opening gate at the top of the access ramp to ensure that the parking spaces are only used by residents. The gate will be set back from the highway to ensure that cars will only have to queue on Saltwood Close in exceptional circumstances

The applicant has advised that they will be providing CCTV security for the car park which will provide an additional level of security for residents.

- Cycle parking

The applicant shows cycle parking provision for the occupants of the flats in a lockable internal space on the ground floor using a two tier stacking system. The plans show 18 racks but with a two tier system this provides 36 cycle parking spaces which meets the requirements of Policy 6.9 of the London Plan.

Cycle parking for the houses will be within their own grounds and a condition requiring the submission of details relating to cycle stores is recommended.



- Electric Vehicle Charging Points (EVCP)

The London Plan requires 20% of car parking spaces will be provided with active electric vehicle charging points and a minimum of 20% car parking spaces will be provided with passive electric vehicle charging points. A condition to secure this provision is recommended.

- Construction Logistics Plan

A CLP setting out details of the measures relating to the demolition and construction process for this site has been submitted for consideration. The document cannot be fully signed off as there is information not provided so a condition requiring a complete document prior to commencement of development is recommended.

In conclusion, it is considered that the additional vehicle activity relating to this proposal will not significantly increase the amount of vehicular traffic so as to have an adverse impact on the local highway network or highway safety.

The submitted parking stress surveys indicate significant on-street parking availability should there be overspill from the new development but it should be noted that the proposed car parking provision exceeds the Council's policy requirements in terms of car parking spaces. The applicant has also considered security measures to maximise the use of the basement car parking spaces.

Cycle parking provision and EVCP will be provided in accordance with policy requirements.

In summary and on the basis of the submitted information it is considered that the development is acceptable from a highways point of view subject to recommended conditions.

### **Trees, Ecology and Landscaping**

- Trees

Local Plan Policy 73 requires new development to take particular account of existing trees on the site and on adjoining land which, in the interest of visual amenity and/or wildlife habitat, are considered desirable to be retained. When trees have to be felled, the Council will seek suitable replanting of native species.

The Arboricultural Report submitted by the applicant identifies the existing trees and groups of trees on the site, and advises that all of the individual trees and groups of trees will be removed to facilitate development. The existing trees and groups of trees are all Category C with the exception of 1 Category B tree which is a mature beech tree located in the rear garden of 5 Winchester Road.

The Category C trees are mostly in fair condition but do not have significant amenity value. The Category B beech tree is of moderate amenity value.

The Arboricultural Report submitted by the applicant concludes that the loss of the trees will have a minor impact in the short term but high quality replacement tree planting is proposed and this will result in wider benefits in the longer term. This creates a neutral impact in the medium term and positive impact in the longer term.

The Council's Tree Officer raises no objection to the loss of the existing trees and considers the development will present an opportunity to plant feature trees and provide landscaping on the site.

Detailed landscape proposals have not yet been formulated but the ground floor plan shows where trees and hedges could be planted along internal boundaries and along the southern boundary with 7 Winchester Road to provide a landscaped and tree buffer. The communal amenity area will also provide an opportunity for planting shrubs and trees and provide a small children's playspace on the site.

A condition is recommended requiring the submission of details of the treatment of the site not covered by buildings prior to the commencement of any above ground works to include details of hard and soft landscaping, trees, boundary treatment and proposed play equipment.

- Ecology

Local Plan Policy 79 requires the Council to enhance biodiversity across the borough, assist ecological restoration and address spatial deficiencies by using procedures in the Mayor's Biodiversity Strategy.

London Plan Policy 7.9 (Biodiversity and access to nature) states development proposals should wherever possible make a positive contribution to the protection, enhancement, creation and management of biodiversity.

The applicant has submitted a Preliminary Ecological Appraisal Report which assesses the ecological value of the existing habitat on site and considers that there is some ecological value and the presence of protected species is of moderate potential.

The report finds that there is no evidence of badger activity or Great Crested Newts and concludes that reptile species will not be impacted by the development. No further surveys relating to these species is recommended by the report.

The boundary habitats provide limited potential and foraging grounds for local bats. Gaps are noted in the roof of existing houses that provide low potential for local bat roosts. The trees and hedgerows provide potential for nesting birds and the gardens for foraging for local invertebrates. The gardens are not considered suitable for hedgehogs, reptiles or amphibians given the access road to the west, north and south.

The activity associated with the redevelopment of the site will combine to result in a minor impact on surrounding habitats. Clearance will need to be mindful of possible presence of hedgehogs and invertebrates and carried out outside the nesting season.

One further survey is recommended to confirm the absence of bats. Mitigation measures proposed in the report include wildlife friendly plant species, gravel boards for fencing, nest boxes and crevice roosting spaces.

It is considered that the conclusion of the report is acceptable and a condition requiring the submission of an additional report to ensure there are no bat roosts in the existing houses and proposed mitigation measures is recommended.

### **Other Technical Matters**

- Archaeology

The site lies within an Area of Archaeological Importance and the applicant has submitted an Archaeological Desk-Based Assessment which identifies that the site holds low to moderate archaeological potential for the prehistoric, Roman and Medieval periods even though the site is located outside an Archaeological Priority Area.

The Historic England Archaeological Advisor has reviewed the report and advises that the development could cause harm to archaeological remains and the scale and significance of the asset will need further examination. A condition recommending the submission of a written scheme of investigation (WSI) prior to the commencement of development is recommended.

- Sustainability and Energy

The applicant has submitted an Energy Statement which sets out measures to meet Local Plan Policy 124 and London Plan policies 5.2: Minimising carbon dioxide emissions and Policy 7.7: Renewable energy.

These policies require residential development to provide a zero carbon dioxide emissions beyond Building Regulations Part L 2013 on site.

The report outlines how energy efficiency, low carbon and renewable technologies have been considered as part of the energy strategy. The Energy Statement is based on the energy hierarchy set out in policies in Chapter 5 of the London Plan where priority is given to energy reduction and efficiency through the use of renewables and low carbon technologies.

In order to meet the London Plan target of zero carbon emissions when compared to the existing baseline emissions, the following measures are proposed:

- High performance construction methods to reduce energy demand for space heating, cooling, ventilation and lighting
- The provision of air source heat pumps to provide space heating and hot water.

The outcome of the analysis demonstrates that the development will have a carbon reduction of greater than 35% relative to the Building Regulations Part L (2013).

However there is a shortfall to meet the zero carbon target and a carbon off-setting payment of £38,148 is required to be secured by legal agreement towards off-site projects to reduce carbon emissions. The applicant has agreed this contribution.

The Councils' Policy Officer advises that the improvements in energy efficiency in the revised Energy Statement are acceptable and a condition requiring compliance with the Energy Statement (June 2019) plus securing carbon offset payment through a legal agreement is recommended.

- Drainage and Sustainable Urban Drainage Systems

In terms of policy context the relevant Local Plan policies relating to drainage include Policy 115 Flood Risk, Policy 116 Sustainable Urban Drainage Systems (SUDS) and Policy 117 Water and Wastewater Infrastructure Capacity.

The site lies within Flood Zone 1. The applicant has submitted a Drainage Report which confirms that the surface water drainage has been designed in accordance with the requirements of the London Plan.

Sustainable Urban Drainage (SUDS) features include porous surfacing to external areas and provision of gardens and communal areas to allow some infiltration. This will be used in conjunction with below ground attenuation crates. In total the scheme is designed to accommodate a 1 in 100 (+40% climate change) event without flooding occurring.

Thames Water advise that they raise no objection with regard to the impact on water network and water treatment infrastructure capacity and request an informative relating to water pressure. They also raise no objection to the use of Thames Water sewers for the disposal of foul waste. Informatives are recommended relating to prior approval to access TW sewers and filters for potential car related pollution.

The Council's Drainage Officer raises no objection to the proposed method of dealing with SUDS and recommends a condition requiring the submission of a detailed design of the measures proposed.

- Contaminated Land

Local Plan Policy 118 requires the submission of desktop and detailed site investigation reports to include a proposed remediation strategy and closure report. Land should be remediated to a standard such that there is no appreciable risk to end users or other receptors once the development is complete.

The applicant has submitted two relevant reports; a Phase I Environmental Risk Assessment and a Phase 2: Investigation Report.

'Following a site reconnaissance, review of historical maps and information on public record, potential sources of contamination have been identified as follows:

1. Garage located approximately 30m north and associated fuel infrastructure, including associated tanks and pipework. Contaminants of concern include, but are not exclusive to, petroleum hydrocarbons.
2. Electricity substation located 10m northeast and potential PCBs.

As a worst case scenario, Low to Moderate risks have been identified to end users through the inhalation, ingestion and dermal contact and volatilisation of hydrocarbons from exposure to impacted soils associated with the off-site petrol station/garage. Furthermore, a Low to Moderate risk has been identified to services from exposure to impacted soils associated with the garage.

A Moderate risk has been identified to the underlying groundwater associated with the Principal Aquifer as a result of any spillages and leakages associated with the off-site garage.

Based on the above it will be necessary to conduct a Site Investigation to further refine the identified pollutant linkages.'

The applicant has submitted the Site Investigation report which advises that the refinement of the Preliminary CSM and subsequent Risk Assessment, the risks associated with the outlined pollutant linkages are currently deemed to be Negligible to Low or Low. Therefore, specific remedial measures will not be required. However, development/construction works must still include measures to ensure end users and site workers are adequately protected; by use of PPE and wash/mess facilities etc.

The Council's Environmental Health Officer advises that the report concludes that the risk associated with contaminants and pollutant linkages are negligible to low or low and as such remedial measures are not required. Therefore the standard wording for the contaminated land planning condition is not really applicable. A bespoke condition requiring that the development complies with the submitted reports and the submission of a closure report post development is recommended.

- Secured by Design

The proposal should incorporate Secured by Design principles (as required by Local Plan 4) to take account of crime prevention and community safety.

The Metropolitan Police Designing Out Crime Officer has reviewed the submission and following concerns raised in initial comments, the applicant has submitted a Designing Out Crime Report which sets out measures to reduce the opportunities for crime from the external perimeter to the security of the residential accommodation and the underground car park. Together with physical measures such as fencing, gates, window and door locks, CCTV will be provided for the communal area plus surveillance lighting.

The details have been reviewed and the Metropolitan Police Designing Out Crime Officer is of the view that the proposed development should be able to achieve the security requirements of Secured by Design. A condition is recommended to secure the relevant submissions to achieve the Certificate.

- Community Infrastructure Levy and Mayoral Community Infrastructure Levy

The Council does not have its own CIL. The development will be liable for the payment of the Mayoral CIL.

## **Conclusion**

The application has been assessed against the adopted development plan and all other material considerations.

As set out in the preceding sections of the report, having regard to the relevant policies of the development plan and all other material considerations the layout, form, scale and appearance of the development is acceptable and would not have a significantly adverse impact on the local character of the area or the street scene.

Details of the standard and quality of accommodation including mix, unit size, accessible units, daylight and sunlight and noise are considered to be acceptable and together with the form of development

The impact on the amenities of existing residents close to the site and representations received have also been taken into account and it is not considered that the development would lead to a significant loss of residential amenity.

In addition the development will provide health, education and affordable housing financial contributions and a contribution towards the Orpington to Green Street Green Cycle route.

The development in the form proposed is considered appropriate in highway and transport terms and would not lead to significant risk to road safety or the free flow of traffic in the area from traffic numbers or pressure for off-site car parking.

In addition the provision of amenity space and children's playspace has been reviewed and is considered acceptable.

Consequently, there are no material planning considerations which signify that the application should be refused. On balance the positive impacts of the development are considered of sufficient weight to approve the application with regard to the presumption in favour of sustainable development to increase housing supply. The application is recommended for permission, subject to conditions and the prior completion of a S106 legal agreement.

Background papers referred to during the production of this report comprise all correspondence on file ref: 19/01345/FULL, excluding exempt information.

## **RECOMMENDATION: PERMISSION SUBJECT TO THE PRIOR COMPLETION OF A LEGAL AGREEMENT**

**and the following conditions:**

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

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

- 2 The development hereby permitted shall only be carried out in complete accordance with the details shown on the submitted plans and documents, as follows:

**Plans**

6643 D1000 Location Plan Existing  
6643 D7199 Rev 04 Basement Plan Proposed  
6643 D7100 Rev 02 Ground Floor Plan Proposed  
6643 D7101 Rev 01 First Floor Plan Proposed  
6643 D7102 Rev 02 Second Floor Plan Proposed  
6643 D7103 Rev 02 Roof Plan Proposed  
6643 D7700 Rev 01 Apartment Block (Block A) Elevations Proposed  
6643 D7701 Rev 01 Saltwood Close Houses (Block B) Elevations Proposed  
6643 D7702 Rev 01 Winchester Road Houses (Block C) Elevations Proposed  
6643 D7703 Rev 01 Street Elevations Proposed  
6643 D7500 Rev 01 Long Sections AA & BB Proposed  
6643 D7501 Short Sections CC, DD & EE Proposed  
6643/D1700 Rev 01 Street Elevations Existing  
6643 D1100 Ground Floor Plan Existing  
6643 D1101 Roof Plan Existing

**Documents**

Design and Access Statement dated 5.4.2019  
Planning Statement dated 5.4.2019  
Energy Statement by Ensphere dated June 2019

Reason: For the avoidance of doubt and to ensure the satisfactory implementation of the development in accordance with Policy 37 of the Bromley Local Plan

- 3 No development shall commence on site (including demolition) until such time as a Construction and Environmental Management Plan has been submitted to and approved in writing by the local planning authority. As a minimum the plan shall cover:-

- (a) Dust mitigation and management measures.
- b) The location and operation of plant and wheel washing facilities
- (c) Measure to reduce demolition and construction noise
- (d) Details of construction traffic movements including cumulative impacts which shall demonstrate the following:-

- (i) Rationalise travel and traffic routes to and from the site as well as within the site.
- (ii) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction related activity.
- (iii) Measures to deal with safe pedestrian movement.
- (iv) Full contact details of the site and project manager responsible for day-to-day management of the works
- (v) Parking for operatives during construction period
- (vi) A swept path drawings for any tight manoeuvres on vehicle routes to and from the site including proposed access and egress arrangements at the site boundary.

(e) Hours of operation

(f) Other site specific Highways and Environmental Protection issues as requested on a case by case basis

(g) The development shall be undertaken in full accordance with the details approved under Parts a-f

Reason: Required prior to commencement of development to ensure sufficient measures can be secured throughout the whole build programme in the interests of pedestrian and vehicular safety and the amenities of the area. In order to comply with Policies 30, 31, 32 and 37 of the Local Plan and in the interest of the amenities of the adjacent properties.

4 (a) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition) a scheme for the provision of detailed surface water drainage shall be submitted and approved in writing by the local planning authority.

(b) Before the details required to satisfy Part (a) are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) to ground, watercourse or sewer in accordance with drainage hierarchy contained within the London Plan Policy 5.13 and the advice contained within the National SuDS Standards.

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

i. provide information about the design storm period and intensity, the method employed to delay (attenuate) and control the rate of surface water discharged from the site as close to greenfield runoff rates (21/s/ha) as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water

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



**(e) details of the measures to prevent the discharge of surface water from private land on to the highway shall be submitted to and approved in writing by the Local Planning Authority.**

**Reason: Details are required prior to the commencement of any new operational development in order to ensure that a satisfactory means of surface water drainage, to reduce the risk of flooding can be achieved before development intensifies on site and to comply with the Policy 5.13 of the London Plan and Policy 116 of the Local Plan.**

**5 No demolition or development shall take place until an archaeological written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and**

**A. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.**

**B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.**

**Reason: To comply with the requirements of Policy 46 of the Local Plan and to protect heritage assets in the borough**

**6 (a) Prior to commencement of above ground works, details (including samples) of the materials to be used for the external surfaces of the building which shall include roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods and paving where appropriate shall be submitted to and approved in writing by the Local Planning Authority.  
(b) The development shall be carried out in accordance with the approved details.**

**Reason: In order to comply with Policy 37 of the Local Plan and in the interest of the appearance of the building and the visual amenities of the area**

**7 (i) Prior to commencement of above ground works details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:**

**1) A scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home grown stock (where possible) and no invasive species;**

2) location, type and materials to be used for hard landscaping including specifications, where applicable for:

- a) permeable paving
- b) tree pit design
- c) underground modular systems
- d) Sustainable urban drainage integration
- e) use within tree Root Protection Areas (RPAs);
- f) details of the provision of play equipment in the communal amenity area

3) A schedule detailing sizes and numbers/densities of all proposed trees/plants;

4) Specifications for operations associated with plant establishment and maintenance that are compliant with best practice; and

5) Full details of retained and proposed boundary treatments, including gates, walls and fences and any proposed treatment associated with the enclosure of the vehicle access ramp for the block of flats.

(ii) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.

(iii) Unless required by a separate landscape management condition, all soft landscaping shall have a written five year maintenance programme following planting.

(iiii) Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details

Reason: In order to comply with Policies 37 and 73 of the Local Plan to secure a visually satisfactory setting for the development and to protect neighbouring amenity.

8 i) The development hereby permitted shall incorporate measures to minimise the risk of crime and to meet the specific needs of the application site and development. No above ground construction shall take place until details of such measures have been submitted to and approved in writing by the Local Planning Authority.

(ii) The approved measures shall be implemented before the development is occupied and the security measures to be implemented in compliance with this condition shall achieve the Secured by Design accreditation awarded by the Metropolitan Police.

Reason: In the interest of security and crime prevention and to accord with Policy 37 of the Local Plan.

9 Prior to the commencement of above ground works, details of the refuse and recycling stores for all of the proposed houses shall be submitted to and approved by the Local Planning Authority and shall be implemented prior to 1st occupation of any of the units.

**Reason: To comply with Policy 37 and in the interest of the amenity of residents and the wider area.**

- 10 (i) A scheme for protecting the proposed dwellings from traffic noise, including glazing and ventilation requirements shall be submitted to and approved in writing by or on behalf of the Local Planning Authority prior to construction of above ground works.**

**(ii) The scheme shall be fully implemented before any of the dwellings are occupied and permanently retained as such thereafter.**

**Reason: In order to comply with Policy 37 and 119 of the Local Plan and to ensure a satisfactory standard of accommodation.**

- 11 Prior to the commencement of above ground works details of the location and desing of all external lighting shall be submitted to and approved by the Local Planning Authority and the approved lighting shall be installed prior to the first occupation of any of the units.**

**Reason: To comply with Policy 70 and 122 and to protect the amenities of residents and to encourage wildlife to the site.**

- 12 Prior to the commencement of any above ground works, details of a scheme for the mechanical ventilation of the basement car park, including details of measures to protect the amenities of future residents shall be submitted to and approved by the Local Planning Authority and approved measures shall be implemented prior to first occupation of any of the units and permanently retained in working order in accordance with the technical specification.**

**Reason: Required prior to any commencement in order to prevent harm to human health and pollution of the environment and comply with Policies 37 and 121 of the Local Plan.**

- 13 The development shall be carried out in accordance with the Energy Statement by Ensphere dated June 2019 and fully implemented prior to the first occupation of any of the units. Details of the location and technical details of the air source heat pumps shall be submitted to and approved by the Local Planning Authority prior to the commencement of above ground works and the approved equipment shall be installed prior to the first occupation of any of the dwellings.**

**Reason: In order to seek to achieve compliance with the Mayor of London's Energy Strategy and to comply with Policies 5.1, 5.2, 5.3, 5.4A and 5.7 of The London Plan and Policy 124 of the Local Plan.**

- 14 Prior to the first occupation of any of the units, details of a scheme to ensure the safe and convenient movement of vehicles in to and out of the basement car park without detriment to highway safety shall be submitted to and approved in writing by the Local Planning Authority and the approved measures shall be implemented prior to the first occupation of any of the units and retained permanently thereafter.**

**Reason: In the interest of highways and pedestrian safety and to accord with the requirement of Policy 30 of the Local Plan.**

**15 (a) Prior to the first occupation of any of the units, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan should include as a minimum:**

- o Measures to promote and encourage the use of alternative modes of transport to the car;**
- o A timetable for the implementation of the proposed measures and details of the mechanisms for implementation and for annual monitoring and updating.**

**(b) The Travel Plan shall be implemented in accordance with the agreed timescale and details.**

**Reason: In order to ensure appropriate management of transport implications of the development and to accord with Policy 31 of the Local Plan.**

**16 Prior to first occupation of the development a minimum of 20% of car parking spaces will be provided with active electric vehicle charging points and a minimum of 80% car parking spaces will be provided with passive electric vehicle charging points and these shall be permanently retained thereafter. Details of the charging units and the location of the spaces fitted with EVCP shall be submitted to and approved prior to the installation of the EVCP units.**

**Reason: To minimise the effect of the development on local air quality in the vicinity of an Air Quality Management Area and to accord with Policies 6.13 and 7.14 of the London Plan 2015 and Policy 120 of the Local Plan.**

**17 Prior to the first occupation of the development, details of measures to encourage wildlife to the site, including bats and birds, shall be submitted to and approved by the Local Planning Authority and installed prior to the first use of any of the approved dwellings.**

**Reason: To comply with Policy 70 of the Local Plan and in order to safeguard the interests and wellbeing of wildlife in the area.**

**18 The development shall be undertaken in full compliance with all measures recommended in section 11 of the Phase 2: Site Investigation Report (Constructive Evaluation Ref: 18.1077, November 2018). Should any suspected contamination be encountered, Environmental Health shall be contacted immediately. The contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Authority for approval in writing.**

**Upon completion of the works, a closure report shall be submitted to and approved in writing by the Authority. The closure report shall include details of any remediation works carried out, (including of waste materials removed from the site), the quality assurance certificates and details of any post-remediation sampling.**

**The remediation works and closure report shall all be carried out by contractor(s) approved in writing by the Local Planning Authority.**

**Reason: Required prior to any commencement in order to prevent harm to human health and pollution of the environment and comply with Policies 37 and 121 of the Local Plan.**

- 19 Prior to first occupation of any of the houses details of the location and design of covered and secure cycle parking provision for the houses shall be submitted to and approved by the Local Planning Authority and implemented prior to first occupation.**

**Reason: To comply with Policy 6.9 of the London Plan and to encourage to the use of sustainable forms of travel.**

- 20 Prior to first occupation of any of the dwellings details of the location and design of CCTV including the garage and communal amenity area shall be submitted to and approved by the Local Planning Authority and implemented prior to first occupation.**

**Reason: To comply with Policy 37 and in the interest of the amenity of residents and the wider area.**

- 21 Before commencement of the use of the development hereby permitted parking spaces and/or garages and turning space shall be completed in accordance with the details as set out in this planning permission and thereafter shall be kept available for such use and no permitted development whether permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.**

**Reason: In order to comply with Policy 30 of the Local Plan and to avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety.**

- 22 Prior to first occupation of the development the 3 disabled car parking spaces for units A.G.5, A.1.5 and A.2.5 shown on the approved plans shall be marked out as such and permanently retained as dedicated disabled parking.**

**Reason: In order to comply with Policy 30 of the Local Plan and in the interest of pedestrian and vehicular safety.**

- 23 (i) The development hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(2): Accessible and Adaptable Dwellings for the residential phase (with the exception of wheelchair units for market,) and shall be permanently retained thereafter.**

**(ii) The market wheelchair units A.G.5, A.1.5 and A.2.5 hereby approved shall be built in accordance with the criteria set out in Building Regulations M4(3)(2a): Wheelchair user dwellings.**

**Reason: To comply with Policy 3.8 of the London Plan 2015 and the Mayors Housing Supplementary Planning Guidance 2016 and to ensure**

that the development provides a high standard of accommodation in the interests of the amenities of future occupants.

- 24 The development shall be carried out and completed strictly in accordance with the details of the proposed slab levels shown on the approved plans.

Reason: In order to comply with Policy 37 of the Local Plan and in the interest of the visual and residential amenities of the area.

- 25 The development shall be carried out in accordance with the Daylight and Sunlight Report by Hydrock dated April 2019 and Addendum dated 4th July 2019.

Reason: To comply with Policy 37 of the Local Plan and in the interests of the amenities of existing and future residents.

- 26 The cycle parking details for the flats shown on the approved plans and in the technical details for the Cycle -Works Josta 2-tier system submitted on 9.10.2019 shall be implemented prior to the first occupation of any of the units and retained permanently thereafter.

Reason: To comply with Policy 6.9 of the London Plan and to encourage the use of sustainable forms of travel.

- 27 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no building, structure, extension, enlargement or alteration permitted by Class A, B, C, or E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be erected or made within the curtilage(s) of the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of protecting the character of the area and residential amenity of neighbouring properties in accordance with Policy 37 of the Local Plan.

- 28 No windows or doors (other than those shown on the plans hereby approved) shall at any time be inserted in the southern elevation of any of the buildings hereby permitted.

Reason: In the interest of the amenities of the adjacent properties and to comply with Policy 37 of the Local Plan.

- 29 No structure, plant, equipment or machinery shall be placed erected or installed on or above the roof or on external walls without the prior approval in writing by the Local Planning Authority.

Reason: In order to comply with Policy 37 of the Local Plan and in the interest of the appearance of the building and the visual amenities of the area.

- 30 While the development hereby permitted is being carried out a suitable hardstanding shall be provided with wash-down facilities for cleaning the wheels of vehicles and any accidental accumulation of mud of the highway

caused by such vehicles shall be removed without delay and in no circumstances be left behind at the end of the working day.

Reason: In the interest of pedestrian and vehicular safety and in order to comply with Policy 32 of the Local Plan.

- 31 The existing accesses shall be stopped up at the back edge of the highway before any part of the development hereby permitted is first occupied in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved enclosure shall be permanently retained as such and the footway/verge reinstated as appropriate.

Reason: In order to comply with Policy 32 of the Local Plan and in the interest of pedestrian and vehicular safety.

- 32 The existing accesses shall be stopped up at the back edge of the highway before any part of the development hereby permitted is first occupied in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved enclosure shall be permanently retained as such and the footway/verge reinstated as appropriate.

Reason: In order to comply with Policy 32 of the Local Plan and in the interest of pedestrian and vehicular safety.

- 32 At any time the combined plant noise rating level shall not exceed the measured typical background L90 level at any noise sensitive location. For the purposes of this condition the rating and background levels shall be calculated fully in accordance with the methodology BS4142:2014. Furthermore, at any time the measured or calculated absolute plant noise level shall not exceed 10dB below the typical background noise level (LA90 15 minute) in this location. All constituent parts of the new plant shall be maintained and replaced in whole or in part as often is required to ensure compliance with the noise levels.

Before any mechanical plant is used on the premises it shall be mounted in a way which will minimise transmission of structure borne sound or vibration to any other part of the building in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to comply with Policy 37 of the Local Plan and in the interests of the amenities of existing and future residents.

- 33 The dwellings hereby approved shall only be used as single family dwellings as defined in Class C3 of the Use Classes Order and shall, at no time, be used as Houses in Multiple Occupation as defined in Class C4 of the use Classes Order except with the express consent in writing of the Local Planning Authority.

Reason: In order to protect the amenities of future occupants and existing residents and to comply with Policy 37 of the Local Plan

- 34 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise

agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

Reason: To protect the underlying groundwater from the risk of pollution, to prevent harm to human health and pollution of the environment and to comply with Policy 118 of the Bromley Local Plan

- 35 Whilst the principles and installation of sustainable drainage schemes are to be encouraged, no drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.

Reason: To protect the underlying groundwater from the risk of pollution, to prevent harm to human health and pollution of the environment and to comply with Policy 118 of the Bromley Local Plan

- 36 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. Where soil contamination is present, a risk assessment should be carried out in accordance with the Environment Agency's guidance 'Piling into Contaminated Sites'. We will not permit piling activities on parts of a site where an unacceptable risk is posed to Controlled Waters. The development shall be carried out in accordance with the approved details.

Reason: To protect the underlying groundwater from the risk of pollution, to prevent harm to human health and pollution of the environment and to comply with Policy 118 of the Bromley Local Plan

- 37 (i) No demolition of buildings shall take place until a survey has been carried out to ascertain if any bats are roosting or hibernating in the buildings concerned. If any bats are discovered, details shall be submitted to and approved in writing by the Local Planning Authority of the timing of the works and any necessary mitigation measures.

(ii) In order to comply with part (i) the applicant must use an appropriately qualified surveyor and ensure that surveys are undertaken at an appropriate time of year. The person undertaking the survey should consult with Local Record Centres and NBN Atlas.

(iii) The works shall be carried out in accordance with the approved timing and mitigation measures.

Reason: In order to comply with Policy 72 of the Bromley Local Plan and in order to safeguard the interests and well-being of bats on the site which



are specifically protected by the Wildlife and Countryside Act 1981 (as amended).

- 38 Prior to occupation of the apartment block, details of the type, appearance and siting of children's play equipment and features to enable safe and secure play on the site shall be submitted to and approved in writing by or on behalf of the Local Planning Authority. The approved details shall be installed in full prior to the first occupation of the apartment block and permanently maintained thereafter.

Reason: In order to comply with Policies 4 and 37 of the Bromley Local Plan and policy 3.6 of the London Plan and to secure the provision of appropriate play space in the interests of the amenities of future occupiers and in accordance with the Mayor's Play and Informal Recreation SPG.

You are further informed that :

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

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

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

- 2 You should consult Street Naming and Numbering/Address Management at the Civic Centre on 020 8313 4742, email [address.management@bromley.gov.uk](mailto:address.management@bromley.gov.uk) regarding Street Naming and Numbering.

- 3 Street furniture/ Statutory Undertaker's apparatus "Any repositioning, alteration and/ or adjustment to street furniture or Statutory Undertaker's apparatus, considered necessary and practical to help with the modification of vehicular crossover hereby permitted, shall be undertaken at the cost of the applicant.

- 4 Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point

- 5 The written scheme of investigation will need to be prepared and implemented by a suitably qualified professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt


**from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.**

- 6 The proposed parking area adjacent to 2 Saltwood Close will need to have the highway rights stopped up. The applicant should contact the Highway Planning section ([highway.planning@bromley.gov.uk](mailto:highway.planning@bromley.gov.uk)) for advice.**
- 7 Before works commence, the Applicant is advised to contact the Pollution Team of Environmental Health & Trading Standards regarding compliance with the Control of Pollution Act 1974 and/or the Environmental Protection Act 1990. The Applicant should also ensure compliance with the Control of Pollution and Noise from Demolition and Construction Sites Code of Practice 2017 which is available on the Bromley web site.**

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



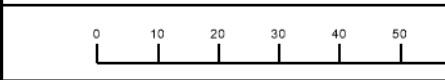
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26 November 2019

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# Agenda Item 10

<b>Committee Date</b>	28/01/20	
<b>Address</b>	The Porcupine 24 Mottingham Road Mottingham London SE9 4QW	
<b>Application number</b>	19/01670	<b>Officer</b> Jessica Lai
<b>Ward</b>	Mottingham and Chislehurst North	
<b>Proposal</b>	Full planning permission for the demolition of the existing public house and erection of an A1 retail foodstore, with associated car parking, reconfigured site access, landscaping, servicing and other associated works.	
<b>Applicant</b>	Lidl Great Britain	<b>Agent</b> Ms Laura Beech
<b>C/O Agent</b>		Ms Laura Beech Walsingham Planning Brandon House King Street Knutsford WA16 6DX
<b>Reason for referral to committee</b>	Call-in	<b>Councillor call in</b> Yes

<b>RECOMMENDATION</b>	<b>PERMISSION</b>
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<p><b>KEY DESIGNATIONS</b></p> <p>Biggin Hill Safeguarding Area London City Airport Safeguarding Open Space Deficiency Smoke Control SCA 28 Mottingham Local Centre</p>
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<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Class AA – Drinking establishments with expanded food provision	Total floor area: 620
Proposed	Class A1 – Retail	Retail floor area: 749 Total floor area: 1,380

<b>Vehicle parking</b>	Existing number of spaces	Proposed number of spaces	Difference in spaces (+ or -)
Standard car spaces	16	33 (Total including disabled and parent and children priority spaces)	+17
Disabled car spaces	0	2	+ 2
Parent and children priority spaces	0	2	+ 2
Cycle	0	26	+26

<b>Representation summary</b>	298 neighbouring properties were consulted on the 5 <sup>th</sup> June 2019. A site notice was placed at the site and the proposal was advertised in the press dated the 19 <sup>th</sup> June 2019.	
Total number of responses	305	
Number in support	56	
Number of objections	247	
Number of comment	2	

## 1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

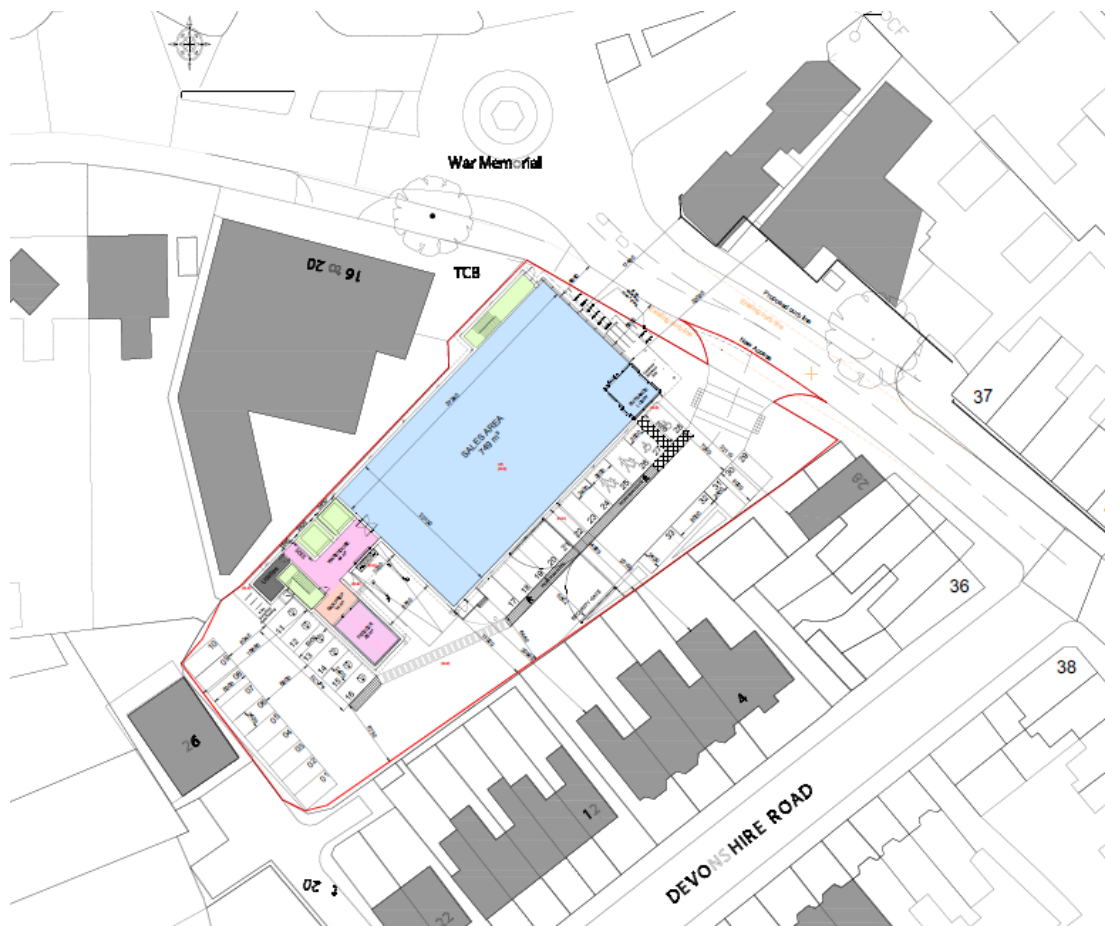
- The proposed development would positively contribute to the vitality and viability of Nottingham Local Centre bringing a derelict site back into active use without causing any significant harm on the residential amenities enjoyed by the neighbouring properties.
- The site was included on the Council's Assets of Community Value list between 2013 and 2018 and this listing has been removed in 2018.
- The site has been marketed since 2016 and local community groups were provided with opportunities to acquire the site. A six month moratorium period commenced in June 2016 and expired in December 2016 and the procedures set out under Section

88 (2) of the Localism Act 2011 were followed. No offers for the existing public house to be retained were materialised.

- The viability assessment has been assessed and agreed by an independent viability consultant who has confirmed that the site is not viable as a public house.
- Detailed access arrangement and footway dimensions are provided and these address the visibility issue raised by the previous Planning Inspector within their appeal decision in December 2014. Subject to the improvement works to the existing pedestrian crossing, a planning obligation to review and amend the waiting restriction in the area and the planning conditions suggested, it is considered that the proposal would be acceptable.

## **2. LOCATION**

- 2.1. The site (The former Porcupine Inn) measures approximately 2,581sq.m in area and is located on the eastern side of Mottingham Road near to the War Memorial roundabout. The site was first opened in 1688 as a village pub in the hamlet of Mottingham. The existing building is a part single and part two storey building with a former beer garden to the rear and an off-street parking area in the forecourt. The building was constructed in the 1920s after the First World War.
- 2.2. Trading ceased in 2013 and the site has been vacant for 6 years. The property was registered as an Asset of Community Value (ACV) in 2013 for a period of 5 years and this status expired in 2018. At present, the site is secured by wooden panels and it was illegally occupied by travellers in August 2016.
- 2.3. The site is adjoining a motorcycle car show room to the north and residential properties to the south and east. Opposite the site is Mottingham Library. The application property is not a listed building and the site is not located within a conservation area. The War Memorial at the roundabout is Grade II listed.
- 2.4. The site forms part of the Mottingham Local Centre in the Proposal Map. The site is located in a suburban area and surrounded by low rise buildings which range between single to three storeys in height. The site is also surrounded by a mixture of residential and commercial buildings.
- 2.5. Mottingham Road is a classified road (A208/B226) which runs between Orpington and Mottingham connecting the Borough north to the Royal Borough of Greenwich. The public transport accessibility of the site is rated at 2 on a scale between 0 to 6b, where 0 is worst and 6b is Best. The application site is located within Flood Zone 1 and is not subject to surface water flooding. Mottingham Road is subject to surface water flooding. There are two TPO trees in the former beer garden.



### 3. PROPOSAL

- 3.1. Full planning permission is sought for the demolition of the former Porcupine Inn and erection of a part single and part two storey building to provide a retail unit (Use Class Order Class A1), to be occupied by Lidl.
- 3.2. The proposed retail unit would comprise the following:

#### *Ground floor*

- Sales area measuring approximately 749sq.m;
- Internal stair, lifts, utility, freezer area and bakery area measuring 179sq.m

#### *First Floor*

- Managers office, toilets, welfare, stairs, lift and warehouse measuring 452sq.m

'The extraction hereby permitted shall cease on or before 31 March 2017, and the associated infilling shall cease on or before 14 January 2018. All associated buildings, structures, plant and machinery, including the bund formed along the boundary with the A20(T), and the access to the A20(T) shall be removed from the site on or before 14 January 2018 and the signage on the A20(T) shall be removed on or before 14 January 2018.'



- 3.3. The proposed operating hours will be 08:00 to 22:00 Monday to Saturday, 10:00 to 16:00 on Sunday. The proposed delivery hours will be 08:00 to 21:00 Monday to Saturday, 10:00 – 16:00 on Sunday.
- 3.4. Improvement works to the existing pedestrian island. Realignment of the vehicular access and public pavement on Mottingham Road near to the access.
- 3.5. A total of 33 parking spaces including 6 electric charging points (3 active and 3 passive), 2 disabled spaces and 2 parents with children priority spaces would be provided. The parking spaces would be available for the customers for a maximum period of 90 minutes with no return in one hour. 26 cycle storage spaces (6 long stay and 20 short stay) would also be provided.
- 3.6. 6 x 6 metre high lighting columns would be installed in the car park. 8 wall lights and 4 down lighters would be attached on the proposed building. Removal of existing TPO trees with replacement planting and landscaping is also proposed.



#### **4. RELEVANT PLANNING HISTORY**

- 4.1. 87/01716/FUL – granted on 20.07.1987.  
Single storey rear extension.
- 4.2. 89/02541/FUL – refused on 30.010.1989.  
Retrospective full planning application for the use of public house forecourt for stationing of flower stall.

- 4.3. 07/03543/FULL1 – granted on 26.11.2007.  
Erection of a jumbrella and a megasol in outside drinking area at rear.
- 4.4. 13/01377/DEMCON – refused on 24.06.2013.  
Prior approval for the demolition of public house.
- 4.5. 13/04160/FULL1– refused on 20.02.2014 and subsequent planning appeal was dismissed on the 16.12.2014.  
Demolition of the Porcupine public house and erection of a two storey building to provide a retail foodstore comprising 800sqm sales area with ancillary storage, office, servicing area and 35 car parking spaces.

## 5. CONSULTATION SUMMARY

### A) Statutory

- 5.1. Historic England – (Listed building): **No objection**  
Historic England do not consider that it is necessary to be notified about this application.
- 5.2. Historic England – (Archaeology): **No objection**  
The proposal is unlikely to have a significant effect on heritage assets of archaeological interest. No further assessment or conditions are required.
- 5.3. LB Bromley – Highway: **No objection**  
Mottingham Road is part of the B226 and a London Distributor Route. The previous application was dismissed at appeal due to the sub-standard sightlines at the proposed access.

#### *New access*

It is proposed to close up the existing accesses to the site and replaced with a single more central access. In order to achieve the required sightline of 2.4m x 43m to the right of the access, it is proposed to adjust the road alignment by building out the footway in front of the proposed store and reducing the footway on the opposite site of the road. Detailed dimension have been provided which indicates that a minimum 2 metres footway will remain in front of the library as recommended width for a footway in Manual for Streets. This is in additional to the private open space in front of the library. The road marking details have also been updated, There do not seem to be any technical reasons why the road alignment cannot be amended. Should planning permission be approved, the development should be subject to a Stage 2 Road Safety Audit and the applicant will need to enter into a S278 agreement for the highway works to be carried out.

The Stage 1 Road Safety Audit raised a number of issues mostly relate to the detailed design issues, missing information and the crossing of the site access which can be dealt with during the detailed design process. A zebra crossing was initially proposed to replace the existing pedestrian crossing. This has not been superseded and the applicant has put forward the option to widen the pedestrian refuge to 1.8 m deep and 2.25 metres wide which will significantly enhance pedestrian safety.

### *Servicing*

Servicing and deliveries will take place during opening hours of the site. A Delivery, serving and Waste Management Plan condition should be attached should permission be recommended. The swept path for the delivery vehicles shows vehicles would occupy both carriageways of Mottingham Road. This was considered acceptable in the previous appeal decision and there were large vehicles serving the former pub.

### *Parking*

The parking ratio in the current application is identical to the previous appeal scheme which was considered acceptable. The site is within a low PTAL area with 3 bus routes. The TRICS data indicates that the highest traffic flow occurs on Saturday of 34 vehicles. It is noted that the car park is subject to a maximum stay of 90 minutes. There is a high demand for on-street parking and there is no public carpark in the area. The parking stress survey has been carried out within 500m from the site and a further survey within 200m during the 2 peak periods (17:00- 18:00 Thursday and 12:00 to 13:00 Saturday) was carried out which indicates the availability of on-street parking spaces are low. There is no mention if people are making linked trips. The waiting restrictions in the vicinity of the site are in force on Monday to Saturday 8:30am – 6:30pm. Should permission be recommended, the waiting restriction in the area will need to be reviewed and the cost (£5,000) should be met by the applicant.

## **B) Local Groups**

### 6. Royal Borough of Greenwich (planning) – no objection

The Royal Borough has formally considered the matter and raises no objection. The Council has no further observations to make.

### 6.1. Royal Borough of Greenwich (Councillors John Hills, Matt Hartley and Roger Tester) – Objection

Objection is raised to the proposal on the following grounds:-

- A significant and unacceptable increase in traffic congestion
- Increased danger to pedestrians from lorries and cars turning in to and out of the proposed store – and in particular, a risk to pedestrians using the Library.
- Loss of amenity to local residents from increased parking difficulties – owing to the provision of only 33 parking spaces which the applicant themselves acknowledge is insufficient
- The removal of two protected trees
- An unreasonable loss of business to several local independent businesses who sell food and other products, and the consequent damage to the local economy

### 6.2. Member of Parliament – Bob Neil

Objection is raised to the proposal. A similar proposal was refused in and dismissed in 2014 and the pub was considered as a valued community facility. There are more

residents whom object to the proposal than support it. Many within this local community believe that the applicant has cynically and deliberately allow the site to fall into disrepair in order to make the redevelopment more appealing. The viability assessment indicates that the applicant have received offers in the past 5 years as well as interest registered by the Porcupine Development Committee. The applicant has refused to positively engage with local residents. The proposal would have an impact on local businesses and result in the removal of two protected trees. The proposal would fail to demonstrate a safe and suitable access can be achieved. The proposal would result in a considerable increase in the volume and character of traffic and the changes of footway would be to the detriment of pedestrian safety. 33 parking spaces would be insufficient. The proposal would have an impact on the neighbouring residents in terms of noise from the car park early in the morning and late at night. The proposal would threaten the character of Mottingham Village and viability of local independent business. Planning permission should be refused.

### **6.3. Bromley Councillor – David Cartwright**

Objection is raised to the proposal on grounds of road safety, traffic congestion, lack of local parking, need for retail unit, loss of local history, noise and light pollution to the residential in the late evening. There are utilities under the public pavement and it is not suitable for heavy vehicles to traverse this area without causing damage to the service main. There has been significant and regular flooding in the area of Mottingham Road stretching from the War Memorial roundabout to Devonshire Road.

### **6.4. Bromley Councillor – Will Rowlands**

Traffic in Mottingham Village is already a problem, in particular during rush hours and school pick up/drop off times. There are often traffic queues from Eltham College to the west of the War Memorial and to the A20 traffic lights at the eastern end of Court Road. Any increase in either parking or delivery will significantly increase these problems. The width of Mottingham Road is not considered suitable to accommodate large delivery lorries. The site is located near to the library and changes in footways are not considered appropriate for local residents and visitors to the shops and library. There are retail stores within 200m from the site. The proposal would have an adverse impact on the existing high street business and small trader. The proposal would also have an adverse impact on noise and light during late evening hours. Policy 23 resists the loss of a local pub and there are no alternative within 500m from the site. The proposal would cause irreparable damage to the community and the village.

### **6.5. Mottingham Resident association**

Object to the proposal on the following grounds: (1)Transport and Safety of all road users (2) Accessibility; (3) Servicing arrangements; (4) Parking; (5) Vitality and community wellbeing - the need for a night time economy; (6) Environmental issues, and (7) Loss of amenity to residents.

The proposal to reduce the width of pavement outside Mottingham library would be detrimental to the needs of all users including parent, baby and toddler groups and all other age groups. The flower bed is not indicated on the plan. The HGVs will occupy the full width of the carriageway. The reduction of width is not considered acceptable.

The minimum width for a parent with a child or people with a pushchair should be 2.7 metres. The depth and width of the existing pedestrian refuge is too small and would not accommodate the multiple shoppers crossing to the entrance to the proposed store. The siting of the entrance and trolley store will also increase the risk of an accident.

The assumption of pedestrian accessibility within 2km is a reasonable distance to walk is not realistic. The site has a low PTAL rating and shoppers are more likely to visit Eltham and Chislehurst or visit the site by car. The delivery arrangement for Porcupine was a one way system and vehicles leave the site near the entrance nearest to the roundabout. The proposed servicing and delivery arrangement is not considered appropriate and the suggested delivery time would be between 6 to 7 am and 10 to 11pm. The proposal would also cause damage to the existing utilities. The proposal would fail to achieve the required visibility splay. The parking spaces do not provide enough allowance for driver error. HGVs are clearly far too large for the car park. Impact on highway safety should be fully addressed. The proposal would provide inadequate parking spaces and there is a lack of on-street parking in the area. The only free local on-street parking is approximately 200m away on Court Farm Road, mostly occupied by Eltham College sixth formers. The site is too small to accommodate the size of the proposed store and would represent gross overdevelopment. The submitted travel plan focuses on travel for staff members rather than shoppers.

The Mottingham Community has been well served by the support of CAMRA and the Porcupine Development Committee to ensure the future of the Porcupine Inn. There are no public houses within 500m from the site. The site was considered as a community facility and there were local meetings held at this site. Mottingham needs a night time economy to thrive and retain a future as a community.

The CGI indicates the proposal would appear as an intrusive development. The existing building is set in from the road and would result in the loss of 2 protected trees and impact on the wildlife and character of the area. The existing building should be reinstated. The proposal would have an adverse impact on residential amenities in the area, in terms of noise, outlook and traffic and disturbance during demolition and construction.

The proposal to increase the width on the southern footway has no meaningful contribution to highway safety as the width of northern footway would be reduced. The delivery vehicles would have an adverse impact on the roundabout capacity. The wooden bollard are often damaged or demolished by vehicles leaving the roundabout. The assumption delivery vehicle would not block the roundabout is unrealistic. The scales of the drawings are different and cannot be accurate. A lights controlled pelican crossing should be investigated, including a safety audit. Delivery should not be close to residential area. Minor accidents are unlikely report unless they result in major damage or injury. Bromley has a high car ownership. However, Mottingham, Coldharbour, Chinbrook and Downham in the top 10% of deprived household nationally with low car ownership. The parking survey was carried out during bank holiday. There were 21 free spaces on 5<sup>th</sup> September 2019 in the area. The proposal to review parking arrangement after 3 months of operation has not scope to increase parking provision.

## 6.6. Campaign For Real Ale

Objection is raised on the grounds of loss of the public house which has the potential to be a value community asset. The proposal would be contrary to the Bromley Local Plan, draft London Plan and the NPPG. The site has been closed and neglected by the owner for more than 5 years. There are no public houses within 500m from the site and the site should have been marketed for at least 24 months as stated in the draft London Plan. Bromley Local plan requires a 12 month marketing activities. There is a general lack of evidence to substantiate the assumption in the viability assessment. This assessment accepts that the pub has been stripped of fixture and fittings and has been damaged in the process. There was no evidence provided relates to the trading history of the pub before it was closed. The asking price of the pub provided. It can only be concluded that the main reasons the pub is described as unviable is the sale price is unrealistic. The Porcupine Inn has been a valuable community asset and could become so again.

### C) Adjoining Occupiers

7. Nearby owners/occupiers were notified of the application and representations received are summarised as follows:

7.1. Objections:

#### 1. Transportation and Highway

- Existing roads are not wide enough for current traffic and there is already considerable congestion from Eltham College school;
- Inadequate junction and pavement width;
- Narrow junction and delivery vehicles could cause considerable problems;
- Whilst part of the footway would be widened, the junction is very narrow and increased traffic flow will cause major traffic jams with people turning in and out of Lidl all the time;
- Unsuitable site to have parking and servicing from the rear. Lidl belongs on a high street not a busy junction in a residential area;
- The existing local road infrastructure is not suitable for the size and nature of the proposed development;
- Loss of pavement outside the library is a safety hazard, especially for young children, elderly, people with pushchairs and wheelchairs;
- Increase traffic accident and roads are unsuitable for HGV delivery lorries. There are already a number of road traffic accidents on this roundabout;
- Increased risk of flooding if pavement is narrowed;
- Inadequate car park and would overspill to neighbouring road;
- Site is located near to a busy and dangerous roundabout and is close to local school, Eltham College and a Petrol Station;
- The local road including West Park are already very busy due to its being a main road to A20 and other towns with a petrol station nearby;
- The single road on Mottingham Road would not be able to cope with the servicing and delivery. Orangery Lane is an example where drivers would

block the road whilst waiting for space and is a much larger retail unit and car park;

- Increase traffic, congestion, noise and pollution in the area;
- Roads are already dangerous for children to cross as there are no precautions, eg zebra crossings;
- Traffic jam caused by servicing and delivery;
- Impact on highway and pedestrian safety;
- Reduction in pavement width is contrary to Local Plan policy 102;
- The roads of Mottingham were not designed for the amount of traffic that now passes through there on a daily basis so it is dangerous to actively encourage more traffic to the area – unnecessary risk for a supermarket that is not really needed;
- Inadequate parking and people will use the neighbouring streets which already have lots of parked cars for the station;
- There is no suggestion that local people would be employed. This would increase the traffic in the area;
- The site is very small and poorly accessible. The bus stop closest to the site is only served by school buses in certain periods;
- Might require re-routing of services (gas, water and electricity) due to reduction in pavement width;
- No difference from previous application and has not addressed concerns regarding traffic safety and congestion in Mottingham;
- Will not attract local people who will walk to the store, but rather people who will drive long distances so increasing traffic to the area;
- Traffic was monitored during school holidays so is not a true reflection of how busy and congested it gets;
- Increase demand for kerb side parking and reduce parking for small businesses;
- The single road on Mottingham Road would not be able to cope with the servicing and delivery. Orangery Lane is an example where drivers would block the road whilst waiting for space and is a much larger retail unit and car park;
- The proposal would further reduce the availability of on-street parking spaces;
- Vehicles turning into and out of the site will cause issues (especially large delivery lorries) as the roads are narrow;
- Impractical to suggest people will cycle or walk to Lidl carrying bags of shopping;
- The area is already used as a shortcut to avoid traffic on the A20 so already suffers with bad congestion;
- BP garage already causes a lot of congestion when petrol tankers arrive to deliver petrol;
- Proposed store junction is near to the library and two schools;
- Lorries will struggle to turn safely and risk damaging the war memorial
- Proposed delivery hours are during school drop off/pick up times so the area will be heavily congested;
- Cars already mount the pavement to try and get through at rush hour Mottingham Lane and the proposal would worsen this;
- The car park could be used by people not visiting the store;
- People may use the car park even when they are not using the Lidl store;

## 2. Design

- The proposed building is intrusive and out of keeping with the War Memorial and neighbouring properties. The bright yellow and blue Lidl hoardings and illuminated adverts will not fit into the street scene and will spoil the look of the village and War Memorial;
- Loss of community feel of the village;
- Site is just in front of the war memorial so a supermarket is inappropriate and dignity should be maintained;
- Overdevelopment of the site. The site is not a brownfield site suitable for development but primarily green space in a residential area;

## 3. Loss of community asset

- No evidence to confirm the pub was unviable when it was closed in 2013 and acquired by the applicant in 2013;
- Loss of pub which was highly valued by people in the area and there is no other pub in the vicinity that can serve the local community. Building was a pub registered as an assets of community value providing good services to the local people;
- There is a lack of community facilities in the area. The building could be used as a health centre, doctor surgery library café, social services, a community centre or for infant school expansion;
- Contrary to Policy 23 of the Local Plan as there is no alternative public house within 500m of the site and Lidl have not demonstrated that the existing pub was not viable. The village needs a pub. The proposal would not be an asset for the village;
- There is no information to demonstrate there are no prospective purchasers willing to maintain the existing use. There are many other pubs in the area that have been refurbished and modernised;
- The building is a local, traditional and landmark building and should be protected, renovated and not destroyed. The building is very old and has historical links to Mottingham. The site should be as a pub;
- Contrary to Policy 20 of the Local Plan as Lidl have failed to demonstrate that the demolition of The Porcupine is of benefit to the community; they will provide an alternative facility for the community or that there is no longer a need for the pub;
- Demolition of the pub is contrary to Policy 40 as the pub should be regarded as a non-designated heritage asset. The site could again become a focal point of Mottingham;
- Lidl have allowed the existing pub to become derelict so the proposal is seen as the only viable solution but could still be possible to turn it into something else;
- The proposal could place the adjacent war memorial at risk and would result in loss the of village character;
- Alternative pubs suggested are much further away so would not serve the Mottingham area as a local pub;



#### 4. Need for a new store

- The council should consider a total regeneration of Mottingham village whereby it can facilitate the supermarket plus small local shops rather than allowing the area to deteriorate further with congestion, parking issues etc;
- There is a Lidl in Eltham High Street and people should visit Eltham High Street instead of Mottingham Village. All buses that serve Mottingham come via Eltham where there is already a Lidl store;
- Many people choose to have their shopping delivered from supermarket. This is more environmentally friendly for people to shop
- Impact on local trade and wrong location for a busy supermarket. There are already many shops in the area offering 'top up' food items offered by this proposal. If local businesses are forced to close, there will be yet more empty shops;
- The village already has 5 food outlets so this could cause competition and closure of existing stores leaving premises vacant. No need for a new store of its size in the village;
- The building could be used as a restaurant;
- Impact on the vitality and viability of the local centre;
- Any new jobs created will be cancelled out by those lost from local shops which will be forced to close due to the competition from Lidl;
- Site is not suitable for a retail store, contrary to Bromley SPG2 and not in keeping with the character and appearance of the area, the iconic War Memorial and will ruin the amenity of Mottingham Village;

#### 5. Loss of trees

- Removal of TPO trees and green space will impact upon wildlife in the area;
- The proposal would result in environmental degradation;
- Increase flooding due to loss of trees;
- No suggestion of planting around the site to mitigate the loss of existing planting and habitats;

#### 6. Residential amenities

- Air quality assessment highlights that there will be a reduction in air quality resulting from this proposal;
- noise due to late night shopping, deliveries and construction works;
- Increase anti-social behaviour and crime. The car park will make it easy for burglars to access the back gardens of residents to the rear of the site;
- not comply with the London Plan policies in terms of air quality, waste and noise;
- Court Road displays a sign banning 5 ton lorries between 6.30pm-8am, but Lidl propose to deliver 6-7am and/or 10-11pm;
- The stated delivery times are not binding so deliveries could be at any time, which is not suitable for a residential area;
- The proposal would destroy a community asset. The local area does not have the capacity and level infrastructure need to support a large supermarket. There are 3 Lidl stores in the area , Eltham, Bromley and Footscray;

- Increased likelihood of flooding resulting from inadequate management of surface water drainage as more of the local soil and plant cover is replaced by impermeable tarmac and brick, especially with the increase in more extreme weather due to climate change;
- Acoustic fence will not substantially attenuate noise;
- Impact on residential amenities in terms of lighting, privacy, noise and visual impact
- Increase pollution through litter and traffic which will negatively impact upon the two local schools
- The store will be open and receive deliveries at unsociable hours, including Sundays
- Vibrations from delivery lorries would destroy houses in the area with no foundations

## 7. Other

- Housing should be the priority for the empty site;
- No mention of energy saving measures or sustainability in the application. The proposal would only negatively impact the environment.

7.2. Please note the above is a summary of objections received and full text is available on the Council's website.

## 7.3. Support

### 1. Is there still a need for public house/ community use

- The residents association have had more than enough time to find an alternative use for the site and have failed. The pub has been closed for years and is an eyesore in the village. The current empty building is no use to the community. Nobody has come up with a suitable alternative. Before the pub was closed, it had become unpopular and needed refurbishing. It is time to demolish the building and people should move on;
- The pub has been closed for a number of years and there are a number of public houses in Eltham and Chislehurst area ( The Banker Draft, The Rising Sun, The GPO, The Queens Head, The Bulls head, Rambler Rest, Prince of Wales, Imperial Aram, The Bickley, the Gordon Area, The Crown Tavern etc). There are no larger retail shops in the area and the proposal is needed;
- Most objectors who want the pub to remain never went in there when it was open;
- There is a lack of demand for a pub in this area as existing local ones are not that popular. The proposal will serve as a community hub and make the neighbourhood more lively;
- The pub was closed down as it was not popular and not viable to be kept open. People did not support the pub before should not to support it now;
- In the latter period, The Porcupine was never a thriving pub and was not an asset to the community. It has not proved possible to reopen it as a pub since its closure;
- The reuse of this building as a pub would attract undesirable people in the village;

- The idea of a pub on the site is out of date. No one has suggested a viable alternative so why not make the site a store that will be used rather than retaining it as a derelict eyesore. The proposal would improve the visual appearance of the area;
- The current pub site is an eyesore and could be dangerous. The proposal will improve amenities for the local area;

## 2. Need for a retail shop

- The local shops not sufficient for residents needs as residents have to travel out of the local area to shop. The proposal will reduce carbon footprint because people will be able to shop nearer to home;
- A store selling fresh, affordable produce would be welcomed. High cost convenience stores are of no use to the community who need low cost, high quality good that Lidl can provide. The proposal would be useful for local people who currently have to travel to Eltham or Chislehurst for a large supermarket with reasonably priced food;
- The local shops sell goods for high prices so a Lidl would be more affordable;
- There is no decent local shop in the area. The Co-op and M&S are expensive. Mottingham village should have a decent supermarket;
- The pricing of goods are unreasonable. The proposal would help people on a low wage and not able to drive to the shops;
- There is a need for affordable groceries as many elderly and vulnerable people are non-motorist and are held to local expensive shops;
- This proposal will benefit the young and old, unlike the previous pub;
- The proposal would be great not only for Mottingham but for Bromley as well;
- The proposal will lift the town and contribute to employment with healthy valuable food, fresh baker and convenience good;
- Makes use of a derelict site and more job
- The existing pub has not been used and is run down. The proposal would be a brilliant idea to the area. As a former resident with family ties in the area, I support proposal;

## 3. Provision of parking and improvement to highway

- A number of objection refer to parking, there are 33 parking spaces proposed and this may actually help with the congestion in the village;
- Congestion would only be minor and there will be a car park so only minimal impact on roads;
- The pub had a car park that was used by shoppers so there was always traffic in the vicinity;
- The applicant has a track record of making parking and access issues work;
- The proposal will be used mostly by local people who will walk there. If it has longer opening hours, customer visits will be spread out to alleviate some of the parking concerns;
- Smaller delivery vehicles could be used;
- The pavement outside the library is more than what is needed so can afford to be narrowed to allow for this proposal;

- Roads currently cope with deliveries to M&S and BP garage so this will be no different;
- Site is close to several bus routes;

#### 4. Improvement and regeneration to the Local Centre and job provision

- The proposal would provide more shopping choice and job opportunities in the area. The proposal would also bring more customers to the small shops in the area;
- As a resident, I will shop locally instead of visiting Eltham. Mottingham is in need of investment such as this proposal;
- The proposal will help older people to shop locally as they cannot manage their heavy bags from Eltham High Street. The proposal will also bring benefits to other closed shops in the village;
- The proposal will increase footfall to other local businesses and help to regenerate the village;
- Other local non-food shops will benefit from increased footfall due to the new Lidl;
- People more likely to shop in the local area than online if the store is available which means more money stays in the borough generating employment and boosting the economy;
- The proposal will encourage more regeneration of Mottingham, which at the moment is quite run down and behind other areas such as Lee and Hither Green;
- The proposal will modernise the area and would provide good opportunity for Mottingham to be improved and invested in;

#### 5. Others

- Good for residents with children to have an affordable supermarket nearby selling healthy foods, otherwise they will grow up eating unhealthy/fast foods that are more readily available
- Lidl is a great company with high standards and the proposal would improve local amenity;
- Will help older people to shop locally as they cannot manage their heavy bags from Eltham High Street.

## 8. POLICIES AND GUIDANCE

8.1. Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:

- the provisions of the development plan, so far as material to the application,
- any local finance considerations, so far as material to the application, and
- any other material considerations.

8.2. Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

- 8.3. The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.
- 8.4. The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.
- 8.5. The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application.
- 8.6. The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.
- 8.7. Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan, and the London Assembly can veto the plan. These factors affect the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.
- 8.8. The application falls to be determined in accordance with the following policies:

London Plan Policies:

- 2.6 Outer London: vision and strategy
- 2.15 Town Centres
- 3.1 Ensuring equal life chances for all
- 3.16 Protection and enhancement of social infrastructure
- 5.1 Climate change mitigation
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.6 Decentralised energy in development proposals
- 5.7 Renewable energy
- 5.8 Innovative energy technologies
- 5.0 Overheating and cooling
- 5.10 Urban Greening
- 5.11 Green roofs and development site environs
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 5.16 Waste net self- sufficiency
- 5.18 Construction, Excavation and Demolition Waste
- 5.21 Contaminated Land
- 6.3 Assessing effects of Development on Transport Capacity
- 6.9 Cycling
- 6.10 Walking
- 6.12 Road Network Capacity
- 6.13 Parking

- 7.1 Lifetime neighbourhoods
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public realm
- 7.6 Architecture
- 7.13 Safety, security and resilience to emergency
- 7.19 Biodiversity and access to nature
- 7.21 Trees and woodland
- 8.2 Planning Obligations
- 8.3 Community Infrastructure Levy

Draft London Plan:

- GG1 Building strong and inclusive communities
- HC7 Protecting public house
- SD6 Town centres
- SD7 Town centre network
- SD8 Town Centres: development principles and development plan documents
- D1 London's form and characteristics
- D2 Delivering good design
- D3 Inclusive design
- D10 Safety, security and resilience to emergency
- D11 Fire safety
- S1 Developing London's Social Infrastructure
- E11 Skills and opportunities for all
- G5 Urban greening
- G6 Biodiversity and access to nature
- SI1 Improving air quality
- SI2 Minimising greenhouse gas emissions
- SI3 Energy infrastructure
- SI8 Waste capacity and net waste self-sufficiency
- SI13 Sustainable drainage
- T3 Transport capacity, connectivity and safeguarding
- T4 Assessing and mitigating transport impacts
- T5 Cycling
- T6 Car parking
- DF1 Delivering of the Plan and Planning obligations

Bromley Local Plan 2019:

- 20 - Community Facilities
- 23 – Public Houses
- 30 - Parking
- 31 - Relieving Congestion
- 32 - Road Safety
- 33 - Access for All
- 34 - Highway Infrastructure Provision
- 37 - General Design of Development
- 73 - Development and Trees

95 – Local Centres  
113 - Waste Management in new Development  
115 Reducing Flood Risk  
116 - Sustainable Urban Drainage Systems  
118 – Contaminated Land  
119 - Noise Pollution  
120 - Air Quality  
122 - Light Pollution  
123 - Sustainable Design and Construction  
124 - Carbon Dioxide Reduction, Decentralised Energy Networks and renewable energy

### **Mayor of London Supplementary Guidance**

Accessible London: Achieving an inclusive environment (October 2014)  
The control of dust and emissions during construction and demolition (July 2014)  
Character and Context (June 2014)  
Sustainable Design and Construction (April 2014)  
Planning for Equality and Diversity in London (October 2007)

### **Bromley Supplementary Guidance**

Planning obligation SPD

## **9. ASSESSMENT**

9.1. The main issues to be considered in respect of this application are:

- Background and key differences between the appeal and current scheme
- Land use/Principle of Development
- Impact on non-designated heritage
- Design, layout and massing
- Residential Amenity
- Transportation and Highway
- Sustainability
- Design Out Crime
- CIL
- Head of Terms

### Background and key differences between the appeal and current scheme

9.2. An earlier planning application to redevelop the site and provide a new retail unit (800 square metres of retail sales floorspace with associated facilities and 35 parking spaces) was refused in February 2014 and the following reasons were contested at appeal:-

1. Highway safety (access, serving and parking arrangement);
2. Loss of TPO trees and impact on the character and appearance of the area;
3. Security and crime prevention measures;

4. Impact on character and appearance and residential amenities;
5. Loss of public house and community facility;

9.3. The third reason (security and crime) of this refusal was removed prior to the planning inquiry which was held in September 2014 and this was based on the additional information submitted at appeal stage.

9.4. In December 2014, the subsequent planning appeal was dismissed. The main issues and grounds in dismissing the appeal can be summarised as follows:-

Issue 1: The character and appearance of the area having regard to the loss of protected trees.

It was considered by the Planning Inspector that the loss of protected trees and open space to the rear of the existing building would have a limited degree of adverse effect on the character, appearance and amenity of the area. The impact and harm would be limited and would not be sufficient to bring the proposal into conflict with the London Plan policy and UDP policies and would not weigh against the appeal scheme.

Issue 2: The living conditions of adjoining occupiers with particular reference to visual impact, noise and disturbance.

The proposed building considered at the appeal was set back from the neighbouring properties. The site is located within a Local Centre. The operating and delivery hours were considered by the Inspector as controllable through the imposition of an appropriate planning condition should the appeal be allowed. As such the Inspector afforded this matter very limited weight in the appeal scheme and did not dismiss the scheme on residential amenities.

Issue 3: The provision of community facilities:

The former Porcupine Inn was considered as an Asset of Community Value and the proposal would result in the loss of valued community facilities. An open marketing exercise would enable all considerations including viability of the site to be taken into consideration. As this was not done as part of the appeal the Inspector considered the proposal to lack evidence of marketing and dismissed the proposal for this reason.

Issue 4: The vitality and viability of the local centre

The Inspector considered that the proposed retail use would benefit the local economy and would enhance the vitality and viability of Mottingham Local Centre and this was a consideration that weighed significantly in favour of allowing the appeal. However, as stated above due to the lack of evidence to demonstrate that the loss of this asset of community value was acceptable the appeal was dismissed.



## Issue 5 Highway safety

The provision of 35 parking spaces (1 parking space per 22.9sq.m sales area) was considered acceptable. The access arrangement and junction details including the dimensions of the road, turning area and dimensions of visibility splays were considered as something which should have been provided as part of the application. The Inspector considered that this could not be provided as part of any planning condition if the appeal were allowed. In the absence of these details, the appeal scheme was also considered by the Appeal Inspector to be in conflict with the provisions in the Framework concerning highway safety. The appeal was therefore dismissed for this reason.

9.5. The key differences are as follows:-

1. Reduction in sales floor area from 800sq.m to 749sq.m;
2. Reduction of parking spaces from 35 spaces to 33 spaces;
3. Realignment of Mottingham Road with detailed dimensions of the access arrangement, junction details, turning area and dimensions of visibility splays; and,
4. Proposed building would be sited 2.5m closer to the road and there will be a minimum of 4.94 metres distance between the front of the building and the back edge of the pavement.
5. Improvement works to the existing pedestrian crossing/refuge and road marking on Mottingham Road.

### Land use/Principle of Development

#### **Acceptable**

- 9.6. The NPPF indicates that a Local Centre forms part of the Town Centre *hierarchy*. *Paragraph 86 of the NPPF states that main town centre uses* should be located in town centres and this is supported by the London Plan and Bromley Local Plan (BLP) which aim to maintain the viability and vitality of Town Centres. For new town centre uses with a floor area below 2,500sq.m, a retail sequential test and impact assessment would not be required.
- 9.7. The principle to introduce a retail use within Mottingham Local Centre is considered acceptable and would comply with the NPPF, London Plan and Local Plan which seeks to promote town centre uses within town centres. The former Porcupine Inn forms part of the Mottingham Local Centre and there is a range of shops and services (26 units) within this local centre. However, the existing range of convenience shops including comparison shops is very limited due to the number of existing retail shops being low and a high number of catering/takeaways within the Centre. The site is located near to the adjoining borough and is close to a major town centre (Eltham) in the neighbouring borough with extensive ranges of goods and services including catering and drinking establishments. The provision of an additional retail shop would provide a wider range of convenience and comparison goods and choices in Mottingham Local Centre and would potentially attract shoppers here, instead of the neighbouring borough. The proposal would also

provide 40 full time and part time jobs in the Borough and assist to regenerate the derelict site. As such, it is considered that the proposal would improve the attractiveness of the Local Centre and positively contribute to the shopping function of Mottingham Centre. It is considered that the proposal would also comply with the objectives of Bromley Local Plan Policy 95 which promotes an adequate range of shops and services to meet the needs of local communities.

- 9.8. Furthermore, it should be noted that the previous appeal decision stated that “*the proposed retail use would benefit the local economy and would change the vitality and viability of Mottingham local centre...This is a consideration which weighs significantly in favour of allowing the appeal*”. The provision of a wider range of retail choice is therefore considered acceptable.

*Whether adequate marketing has been carried out and whether the proposal would result in a loss of public house/ community facilities*

- 9.9. Bromley Local Plan Policy 23 (Public House) resists the loss of a public house except where:-
- a. there is an alternative public house within a 500 metre walking distance of the site and if the public house is located within a local parade or shopping centre, the diverse offer of that parade or centre is not significantly affected by the loss; and,
  - b. where it can be demonstrated that the business is no longer financially viable as a public house, including the submission of evidence of active marketing as a pub for a substantial period of time.
- 9.10. Where the above criteria are met any change of use must be sympathetic to the design, character and heritage value of the original building if it is considered to be a positive contribution to local area.
- 9.11. In addition, Bromley Local Plan Policy 20 (Community Facilities) and supporting Paragraph 3.1.24 state that redundant pubs will also be required to comply with the community facilities policy. Planning permission will not be granted for a proposal that would lead to the loss of community facilities unless alternative enhanced provision is to be made in an equally accessible location for the community it serves or it can be demonstrated that there is no longer a need and 6 months marketing has been provided.
- 9.12. A public house does form part of a community facility, however this is more apparent in rural and less urbanised parts of the Borough. It is noted that the former Porcupine Inn was the only public house within the Local Centre before the last operator vacated the site in March 2013. The site was also registered on the Council’s Assets of Community Value (ACV) list in July 2013. It should be noted that this 5 year period lapsed in July 2018 and the site has remained vacant in the past 6 years without any positive contribution to the Local Centre, community or the area. The proposal would result in the loss of a public house and was highly valued by the local community. In assessing the acceptability of new development, consideration should be given to the current planning policy requirements and Paragraph 24 of the previous planning appeal decision (December 2014) which states that “*An open marketing excise would enable all considerations such as land acquisition costs, repairs and*

*refurbishment cost, operating cost and profiles, along with any development potential of the land to the rear of the existing building, to be factored into the assessment. Without providing such an opportunity for the market to have a say about the prospects of a public house on this site, I am not satisfied that the evidence before the Inquiry established whether such a use would be viable or not”.*

- 9.13. Paragraph 3 of the planning appeal decision also states that “*The Porcupine Inn closed down in March 2013. The site was acquired by Lidl in the same month for £1.1m, without being put on the open market”.*
- 9.14. Since planning permission was dismissed in 2014, the applicant has considered a range of options for the site. In 2016, the applicant decided to dispose of the site and commenced marketing the site. The Council was notified of the applicant’s intention to dispose of the site. A 6 month moratorium period (commenced in June 2016 and expired in December 2016) and the procedures set out under Section 88 (2) of the Localism Act 2011 were followed. This provided local community groups with the opportunities to acquire the site for re-occupation as a public house, or other community uses. However, the acquisition bid for the site from the local community (The Porcupine Inn Development Committee which operates under the name of Greenwich Co-operative Development Agency) did not materialise. There were no successful undertakers.
- 9.15. The applicant has continued to market the site after the expiry of the moratorium period in December 2016. The applicant has advised that there were no offers received from pub operators. The majority of the offers received were for housing or commercial development.
- 9.16. Following a review of marketing results, the applicant has instructed a leisure property specialist Davis Coffey Lyons to commence a further open marketing exercise in November 2018. The property was advertised by Davis Coffey Lyons, advertisements were placed in the Morning Advertiser and a sales board was erected at the site. The applicant received an offer to rent by a pub operator. However, the offer did not materialise after viewing the property. The applicant has also received offers for a care home and supermarket development. There were no other offers for pub uses received.
- 9.17. This application is accompanied by a viability assessment which includes an appraisal of refurbishment costs and the condition of the former public house site and viability tests. This viability assessment has been assessed and endorsed by an independent viability consultant appointed by the Council. It is considered that the refurbishment cost and business modelling assessment made by Davis Coffey Lyons are not unreasonable. The independent viability consultant has also advised that the property has been marketed for 12 months which reflects the demand of its land use. In the absence of any interest from potential occupiers, the site would not be in a position to be reinstated as a public house.
- 9.18. Overall, it is considered that the site has been marketed for a prolonged period of time since 2016 and there were no firm and successful offers received to bring the site back into its former use. In view of the viability assessment which has been reviewed by an agreed independent viability consultant, it is considered that the

property has been extensively marketed and the site would not be viable for its former use. As such, it is considered that the loss of public house would be justified in this instance.

- 9.19. Furthermore, the Prince of Wales Public House (154 Mottingham Road) remains as the nearest alternative public house located approximately 508 metres south from the site. This is marginally over the 500 metres requirement set in Bromley Local Plan Policy 23. The Royal Tavern is located approximately 650 metres from the site and both alternative public houses are considered to be located within a walkable distance from the site. On balance, it is considered that there are alternative choices of public houses in the local area and this is considered acceptable.

#### Impact on non-designated heritage

#### **Acceptable**

- 9.20. NPPF Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets. This is consistent with Bromley Local Plan Policy 40 which states that where non-designated heritage assets are highlighted as at risk of harm from a planning application, clear demonstrable reasons or evidence of their significance will be required. Where the Council agrees that such assets are worthy of protection, proposals to replace such a building will be assessed against the NPPF, taking into account the scale of harm or loss and the significance of the heritage asset.
- 9.21. The site is not located within a Conservation Area and the building is not listed. The site is located approximately 14 metres south from the Grade II Listed War Memorial. Mottingham was originally a hamlet in Eltham Parish, in Blackheath, Kent. The County of London was created in 1889 and Mottingham was excluded from the new county and the area transferred from Kent to Greater London in 1965, which now forms part of the London Borough of Bromley. The site has a history of public house use. However, the original building was demolished and rebuilt due to bomb damage in the First World War. The design of the existing public house mimics the post war houses on West Park and does not pose any significant architectural value.
- 9.22. The principle to demolish the building with a replacement building was considered acceptable by the Planning Inspectorate. Paragraph 10 of the previous appeal decision states that, "*I have no reason to find that it would not be an appropriate replacement building in terms of its effect on the street scene*". The Council's conservation officer has reviewed the planning appeal decision, heritage statement and condition of the existing building, it is considered that the existing building does not pose any special architectural merits or have any significant heritage value. The Council's conservation officer has also considered that the proposal would not have an adverse impact in the area and the setting of the listed memorial. Historic England has advised that there is no requirement to be consulted.

- 9.23. The applicant has acknowledged the historic use of this site as a public house. A commemorative information board in recognition of the site history is proposed. It is considered that the details of commemorative information board should be secured by a planning condition.

#### Design, layout and massing

##### **Acceptable**

- 9.24. The proposed building is contemporary and is designed with a pitched roof. The proposed building would comprise of two floors with storage area and manger office above the sales area on the ground floor with a maximum height measuring 9.4 metres. The external finishes of the building would consist of clear glazing, bricks and tiles to match the surrounding properties.
- 9.25. The proposed building would be sited away from the residential properties on Devonshire Road to ensure adequate distance between the proposed building and the neighbouring properties can be maintained without causing any adverse impact on residential amenities.
- 9.26. The proposed site layout plan indicates that the vehicular access to the site would be sited away from the War Memorial roundabout. The northern vehicular access would be removed and new replacement planting would be provided near to the new access. The disabled and parent and child parking spaces would be located near to the building door.
- 9.27. Overall, it is considered that the design, layout and massing of the proposal would be acceptable and would not appear out of keeping with its surrounding area.

#### Residential Amenity

##### **Acceptable**

- 9.28. Paragraph 170 (e) of the NPPF states planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans. This is consistent with Bromley Local Plan Policy 4 which 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.
- 9.29. No. 4 to No. 26 Devonshire Road, No. 28A Mottingham and the residential flats located on the northern side of Mottingham Road would be the nearest residential properties impacted by the proposal.

### *Air quality*

- 9.30. The application is accompanied by an Air Quality Assessment which has been reviewed by the Council's Environment Health department. The site is located outside the Council's Air Quality Management Area. There are no sensitive ecological receptors identified. Key pollutants associated to the proposal have been identified as dust generated by construction activities, and nitrogen dioxide (NO<sub>2</sub> and NO<sub>x</sub>) and fine particulate matter (PM<sub>10</sub>) predominantly associated to the road traffic during construction and operational phase. Air quality monitoring data has been collected as part of this assessment which indicates that the impact of the proposal is low and the receptors is negligible. The proposed development would not require any on-site combustion plant such as gas/fuel boilers or Combined Heat and Power (CHP) units and power would be supplied by the National Grid or solar panel.
- 9.31. The Air quality Assessment concludes that overall the air quality assessment has considered the likely impact of the proposed development on local air quality and on the proposed receptors being introduced into the area. Their assessment concludes that with the implementation of the recommended on-site mitigation measures, it is considered that air quality would not pose a constraint to the redevelopment of the site. The Council's Environment Health has considered that the submitted details are adequate and acceptable.

### *Noise and vibration (plant and car park)*

- 9.32. A revised Noise Survey and Impact Assessment in line with the NPPF, NPPG and British Standard 4142:2014 (BS4142) was submitted with the application and has been reviewed by the Council's Environmental Health. The noise baseline data was collected at 13:15 hours on 1<sup>st</sup> April 2019 and finished at 10:15 hours on the 3<sup>rd</sup> April 2019. The details of parking layout, specification and details of the proposed external plants and 2.4 metres high acoustic fence are provided in assessing the impact of the proposal. The proposed operating hours would be limited between Monday – Saturday, 08:00 – 22:00, Sunday 10:00 – 16:00 and delivery hours be limited between Monday – Saturday, 08:00 – 21:00, Sunday 10:00 – 16:00. It is demonstrated that the noise associated to the external plants and traffic of the proposed store would be within the environmental limit and would not have an adverse impact on the neighbouring residential properties on Devonshire Road.
- 9.33. The Council's Environmental Health Officer is satisfied with the assessment and is recommending planning conditions to restrict (1) the use of the site as retail (Class A1), (2) installation and maintenance of acoustic fence prior to the first occupation of the unit, (3) opening hours be limited between Monday – Saturday, 08:00 – 22:00, Sunday 10:00 – 16:00 and (4) delivery hours be limited between Monday – Saturday, 08:00 – 21:00, Sunday 10:00 – 16:00 should be secured by planning conditions.
- 9.34. Noise and vibration during construction would be controlled through the implementation of measures to be set out within a Construction Management Plan (CMP) secured through condition.

### *External lighting*

9.35. External lighting is considered to be essential for the car park and servicing delivery in particular, during evening hours and the winter season. 6 x 6 metres high lighting columns would be installed in the car park and would not be facing the neighbouring properties. 4 recessed down lighters and 8 wall mounted lights would be installed on the building. The lighting layout plan including the Lux value is provided which confirms the lighting levels at the site boundary will not exceed 5 Lux, except on the site access road. The proposed lighting will not cause excessive glare to the neighbouring residential properties

*Outlook, sense of enclosure and privacy*

9.36. The proposed building would be visible from the rear and side of the neighbouring properties on Devonshire Road and Mottingham Road. However, the back to side distances between the proposed building and the neighbouring properties on Devonshire Road ranges between 16.7m and 23.1m. As such, it is considered that adequate distances between the buildings can be maintained.

9.37. The impact on residential amenities was considered acceptable when the previous scheme was considered at appeal. Paragraph 17 of the appeal decision states that *“The foodstore and its parking and servicing would change views of the appeal site from neighbouring properties. However, given the setback distances of the proposed building from residential properties and taking into account that this is a designated local centre, where some development could be expected to take place. I do not consider that any harm to the outlook from nearby residential dwellings would be a consideration that would weigh against the proposal. Similarly, with appropriate boundary treatment, reasonable standards of privacy for this area could be maintained”*.

### Transportation and Highway

9.38. The Draft London Plan sets a maximum parking standard for retail use in outer London at a ratio of 1 parking space for every 50sq.m retail floor area (GIA). The proposed gross internal floor area measures 1,380sq.m and a maximum of 28 parking spaces should be provided to accord with this. The proposal would provide 33 parking spaces and would be above the maximum standards set in the draft London Plan. There is no parking standard set for non-residential development in the Bromley Local Plan. The Council’s highway officers have advised that the site is within a low (rated at 2) Public Transport Accessibility Area with 3 bus routes serving the area. The proposed parking ratio in the current application would be 1 parking space per 23sq.m and would be the same as the appeal scheme, which was considered acceptable by the Planning Inspectorate.

9.39. The Transport Statement indicates that the average dwell time/ turnover of parking spaces is 25 minutes. Parking stress surveys have been carried out in roads up to 500m from the site and a further analysis of parking availability within 200m of the site during the peak periods (17:00 – 18:00 Thursday and 12:00 – 13:00 Saturday) which indicates that there is a high demand for on-street parking in the area. The

provision of 90 minutes free parking may attract visitors making linked trips in the area and could undermine the dwell time of the parking spaces.

- 9.40. A car park management strategy is submitted which indicates that the parking spaces are provided for their customers only and appropriate signage will be placed at the entrance and within the car park. The customer free parking period is on a maximum basis and no vehicles can return to the site within a one hour period. A number plate recognition system will be used to monitor the use of the car park. The usage and management of the car park is subject to review following an initial 3 to 6 months monitoring period. Given that the car park will be monitored and the usage will be managed and reviewed by the applicant, it is considered that adequate levels of parking spaces can be provided. The Council's highway officers consider that the waiting restriction and the amendment of the traffic order in the area should be monitored and reviewed prior to its first occupation. The cost for this review shall be met by the developer and the final decision on the need for amendments should be made by the highway authority.

#### *Access and highway improvement works*

- 9.41. Adequate visibility is essential to ensure highway safety. There are two existing vehicular accesses to the site and it is proposed to remove the existing accesses and replace these by a single and central access. Table 7.1 and Figures 7.18 in the Manual for streets set out the recommended values for junction distances (X and Y values) and in line with the road speed limit. A visibility of 2.4m x 43m should be provided at the access junction.
- 9.42. The sightline to the right (east) is restricted by the existing building line with restricted visibility. This was highlighted by the Planning Inspectorate in dismissing the previous scheme. The previous appeal scheme indicates the visibility splay would achieve 2.4m x 30m to the east and was not considered adequate and would not be appropriate for the access details to be considered at planning condition stage. Paragraph 37 of the previous appeal decision states *"I do not consider that the access arrangements shown on the proposed site plan 4974 PL 02 G would be acceptable....the details would need to be determined as part of any permitted development proposal.*
- 9.43. The current proposal would achieve the required visibility splay of 2.4m x 43m and this is supported by detailed footway dimensions confirming its size, position and distance. The sightline to the right is restricted by the existing building line and in order to achieve the required visibility, the footway near the entrance of the site on both side of the road will need to be adjusted.
- 9.44. The width of the existing southern footway measures between 1.88m and 3.05m. It is proposed to increase the width of the southern footway by between 0.6 and 1.35. The width of the proposed southern footway would measure between 2.89 and 3.59m. The average width would be increase from 2.47m to 3.27m.
- 9.45. The width of the existing northern footway measures between 2.81m and 3.76m. It is proposed to reduce the width of the northern footway by between 0.53m and 1.29m.



The width of the proposed northern footway would measure between 2.02m and 3.23m. The average width would be decrease from 3.16m to 2.78m;

- 9.46. Footway provision is an essential factor in encouraging or hindering walking. The proposed realignment works would have an impact on the pedestrian walking environment due to the proposed changes. However, the width reduction on the northern footway is not considered to be significant. It should be noted that the existing flower bed adjacent to the library would be retained. The distance between the front door of the library and back edge of the footway would measure approximately 5 metres. Furthermore, it should be noted that the pedestrian flow is varied during the day. Mottingham Library is closed on Tuesday, Thursday and Sunday. The library opens on Monday 930 to 1300 and 1400 to 17.30, Wednesday 9:30 to 15:00 and Friday between 930 to 1300 and 14:00 to 20.00. As such, it is considered that adequate distance can be maintained.
- 9.47. As part of this application, it is proposed to improve the existing pedestrian facility in line with the recommendation of the Stage 1 Road safety report. The Council's highway officers were consulted and there was no objection to the proposed access, realignment of the footway and improvement of the existing pedestrian crossing. The Council's highway officers have also advised that the store shall not be occupied until the required works are completed. The development shall be subject to a Stage 2 Road Safety Audit prior to commencement of work and a Stage 3 Road Safety Audit prior to the first occupation. The waiting restriction in the area should be monitor and review as an amendment of traffic order to include Sunday may be required.

#### *Servicing and roundabout capacity*

- 9.48. The servicing and delivery will be carried out during the operating hours. It is noted that the swept path for the delivery vehicle will occupy both carriage ways of Mottingham Road and this was considered acceptable in the previous appeal. Should planning permission be agreed, a delivery, servicing and waste management plan should be secured by a planning condition.
- 9.49. A roundabout capacity assessment at the junction of West Park and Mottingham Road has been carried out. This assessment indicates that the junction would operate within its capacity with minimal queues during the period hours. The Council's highway officers have reviewed this assessment and have advised that there is no information to contradict this finding.

#### Trees

- 9.50. A Hawthorn tree (Category U) and an Oak tree (Category B/C) located to the rear of the building are the subject of a Tree Preservation Order (TPO), which has been in place since November 2013.
- 9.51. The site and the TPO trees were inspected by an arboricultural consultant in 2018. The Hawthorn tree has been subject to decay since 2013 and this was documented in the previous appeal decision (Paragraph 12) which states "*it was evident from my site inspection that the part of the tree close to the ground where its two main limbs*

*divided is decaying, which could limit how long it could be retained, particularly as part of its limbs overhang the boundary fence of the adjoining residential property”.*

- 9.52. The oak tree is located close to the boundary with the motorcycle showroom building and with the branches overhanging the neighbouring properties it has been lopped in an unprofessional manner resulting in splits and decay. The condition of the oak tree was also documented in the previous appeal decision (Paragraph 13) which states *“It is located close to the boundary with the motorcycle showroom property, and it appears that the adjoining occupier has in the past removed limbs that overhang the boundary. This has not been done sensitively, which has damaged some branches, and give the tree a misshapen crown”.*
- 9.53. The principle to remove the TPO trees and the provision of adequate replacement planting along the frontage of the site was established, when the previous scheme was dismissed. Paragraph 14 of the previous appeal decision states *“the loss of protected trees is a consideration which at least to some degree, weighs against the appeal. But this would not be sufficient to bring the proposal into significant conflict with the UPD policy NE7 or London Plan 7.21 which seeks to retain existing trees of value, but also provides for replacement following the principle of right place, right tree.”*
- 9.54. Paragraph 15 of the previous appeal decision also states *“the loss of protected trees and open space to the rear of the existing building would, to some extent, have an adverse effect on the character, appearance and amenity of the area. However, this would not be sufficient to bring the proposal into any conflict with the aim of the London Plan policies 7.4 and 7.5 and UDP policies BE (i) (ii) or (iii). I do not consider that any harm to the character and appearance of the area resulting from the appeal scheme would weigh much against the proposal”.*
- 9.55. The proposed landscaping plan indicates that 4 replacement trees (*Crataegus monogyna stricta*) and new shrub (*Viburnum tinus*, *Choisyya ternate*, *Ilex aquifolium*, *Symphoricarpus albus*, *Laurus nobilis* and *Mahonia aquifolium*) would be provided within the site.
- 9.56. The Council’s tree officer has advised that 10 replacement trees were provided in the previous appeal scheme. It is recommended that a minimum of 12 replacement trees should be provided and at least 50% of the replacement trees should be planted at a location visible from the road. It is considered that the details of the replacement trees of sufficient quantity and quality can be provided within the site and these details can be secured by a planning condition.

## Sustainability

### *Carbon emission*

- 9.57. Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance with the hierarchy; Be Lean: use less energy; Be clean: supply energy efficiently and Be green: use renewable energy.

- 9.58. The anticipated on-site regulated carbon dioxide emission (Building Regs 2013 Compliant Development) is 59.27tCO<sub>2</sub> per annum. A range of renewable technologies have been investigated and solar photovoltaic (PV) array is considered to be the most appropriate. The proposed sustainability measures would achieve a 36% carbon saving on site. The Council energy officers are satisfied with the proposed sustainability measures and the proposal would comply with the policy requirement achieving over 35% carbon saving.

#### *Drainage*

- 9.59. The proposed sustainable urban drainage strategy for the site will include the provision of a modular storage and a permeable paving system to be located within the car park with a peak flow restricted to 5.6 litres per second. Permeable paving will provide approximately 17sq.m storage. The proposed attenuation tank will provide approximately a further 101sq.m of storage required to retain the 1 in 100 plus 20% climate change event. A by-pass petrol interceptor is proposed to treat pollutants which arise from car park run-off prior to discharge.
- 9.60. The Council's Sustainable Drainage officer has reviewed the proposed measures set out in the submitted drainage assessment and surface water drainage strategy. It is recommended that the detailed designs should be secured by a planning condition, prior to any work commencing on site. Thames Water has advised that the site is located within 15 metres from their waste water assets and there are public sewers crossing or close to the site. An informative should be attached advising the presence of their assets. Development would be expected to demonstrate what measures will be undertaken to minimise ground water discharges in the public sewer. Any discharge of groundwater into a public sewer will require consent from Thames water and an informative should be attached. It is recommended that a petrol /oil interceptors be fitted in the car park

#### Design Out Crime

- 9.61. Bromley Council Policy 37 and London Plan Policy 7.3 are relevant with regards to secure by design. The policy notes that the Council will require developments to demonstrate that they have incorporated design principals which contribute to community safety and security, particularly in an area with a relatively high level of crime.
- 9.62. A security gate will be installed in the car park and attached on the flank wall of the proposed building. The security gate will be used outside the operating hours. The Metropolitan Police was consulted in respect of the current application and recommended that a standard planning condition requiring the development to achieve Secured by Design accreditation be attached.
- 9.63. It should be noted that this part of the proposal is identical to the previous appeal scheme which was endorsed by the Metropolitan Police's Design Out Crime Officer and did not form a planning reason at appeal stage in 2014. Paragraph 2 of the planning appeal decision states "*LBB advised by email dated 1<sup>st</sup> August 2014 that its Plans Sub Committee agreed not to contest the appeal on its third reason for refusal, which concerned crime prevention. This was on the basis of revised drawings*

*showing a proposed gate and potential security measures agreed between the appellant and the Metropolitan Police's Design Out Crime Officer".*

- 9.64. Subject to the secured by design planning condition, it is considered that this part of the proposal would be acceptable.

#### CIL

- 9.65. The proposal will be liable for the Mayor of London's Community Infrastructure Levy (CIL). Based on the Mayor's CIL charging schedule and the information provided as part of the application, the Mayoral CIL is based at £60 per square metres at the present time.

#### Head of Terms

- 9.66. S106 Legal Agreement: - £5,000 financial contribution to review and amend traffic waiting restriction in the area.
- 9.67. S278 Highway works: - (1) Improvement to the pedestrian crossing; and (2) Realignment of footway.

#### **Conclusion**

- 9.68. Subject to the planning obligations and planning conditions, it is considered that the proposal is acceptable would not impact detrimentally on character of the area, retail function, highway safety or residential amenities. Marketing details and a viability assessment have been provided and confirm the lack of market demand for public house at this site. As such, it is considered that the proposal would be acceptable and planning permission be granted.

**RECOMMENDATION: PERMISSION** subject to a S106 Legal Agreement, S278 highway works and planning conditions.

#### **Subject to the following conditions:**

##### **Standard condition**

- 1. Time limit of 3 years**
- 2. Drawing number**

##### **Pre- commencement**

- 3. Construction management plan**
- 4. Prior to above ground works**
- 5. Details of materials**
- 6. Stage 2 Road Safety Audit**
- 7. Review of waiting restriction in the area and amendment of traffic order.**

##### **Prior to occupation**

- 8. Installation of security gate**
- 9. Stage 3 Road Safety Audit**
- 10. Replacement planting and trees**

11. Car park management plan
12. Servicing and delivery plan
13. Sustainable water drainage
14. Details of replacement trees
15. Carbon emission measures

**Compliance conditions**

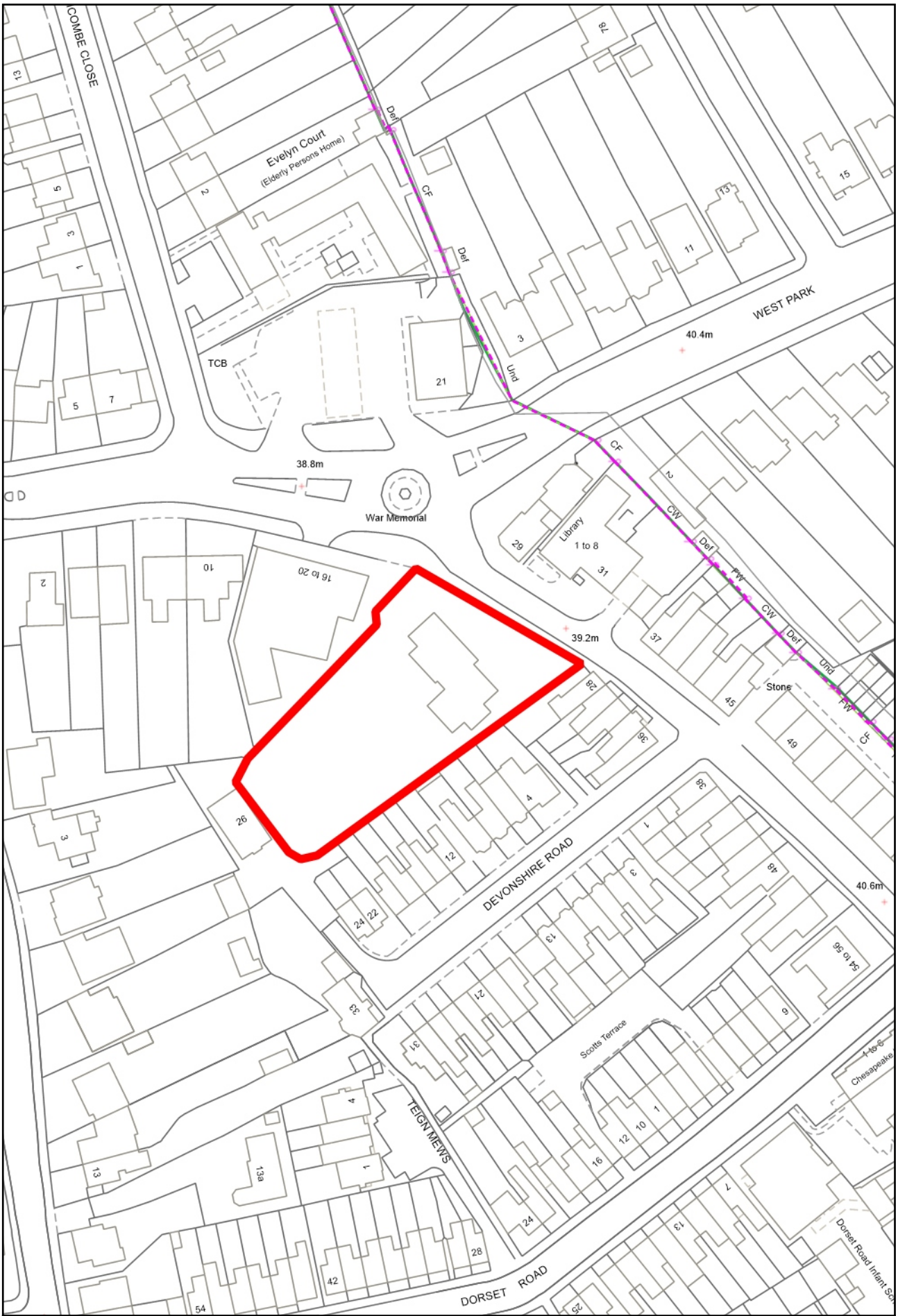
16. Operating hours: - 08:00 to 22:00 Monday to Saturday and 10:00to 16:00 on Sunday
17. Delivery hours: - 08:00 to 21:00 Monday to Saturday and 10:00to 16:00 on Sunday
18. Parking to be provided as approved

**Any other planning condition(s) considered necessary by the Assistant Director of Planning**

- **Informative**

1. Road safety Audit shared by prepared and in agreement with the Council's Highway.
2. Code of practise for Construction Sites
3. Fire Brigade
4. Thames Water


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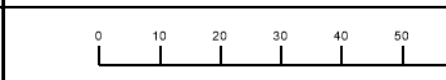


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Mottingham Road



20 January 2020

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Report No.  
DRR000000

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Tuesday 28<sup>th</sup> January 2020

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

**Title:** PLANNING SERVICE IMPROVEMENTS

**Contact Officer:** Tim Horsman, Assistant Director (Planning)  
Tel: 020 8313 4956    E-mail: Tim.Horsman@bromley.gov.uk

**Chief Officer:** Director of Housing, Planning and Regeneration

**Ward:** (All Wards)

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1. Reason for report

This report sets out the current position in respect of continuous service improvements to the Planning Service.

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2. **RECOMMENDATION(S)**

**1. Members are asked to approve the new committee report template used in this agenda for planning applications to be used for all DCC and PSC reports**

**2. Members are asked to agree the draft Local Planning Protocol for referral on to General Purposes and Licensing Committee, Executive and Full Council for adoption as part of the Council's Constitution**

**3. Members are asked to ensure that full planning reasons are given when call in is requested for planning applications**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
- 

### Corporate Policy

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

### Financial

1. Cost of proposal: Not Applicable:
  2. Ongoing costs: Non-Recurring Cost:
  3. Budget head/performance centre: Planning Department
  4. Total current budget for this head: £1.615m
  5. Source of funding: Existing revenue budget 2019/20
- 

### Personnel

1. Number of staff (current and additional): 52.19ftes
  2. If from existing staff resources, number of staff hours:
- 

### Legal

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

### Procurement

1. Summary of Procurement Implications: N/A
- 

### Customer Impact

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

### Ward Councillor Views

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

### 3. COMMENTARY

3.1 The previously considered recommendations for service improvements are set out below with the latest update information

<b>Recommendation</b>	<b>Proposed Action</b>	<b>Update / Timescale</b>
1. New Local Planning Protocol for Members	Planning Officers to liaise with Legal and Democratic Services to produce draft	See para 3.2 below – draft Protocol attached for consideration
2. Reduce number of Members on DCC	Not agreed there are necessarily any strong benefits to this	No action at present
3. Criteria for applications to be considered at DCC	Planning Officers to draft criteria	Criteria agreed at DCC in October 2019
4. Scheme of delegation to be broadened	Planning Officers to provide draft changes	Changes agreed at DCC in October 2019
5. 'Call ins' to be in writing with clear planning reasons	Councillors to note - to take immediate effect – reasons to be planning or strong public interest reasons	Ongoing – some requests still being received without reasons – Members are reminded of the agreed approach
6. 'Call in' monitoring to be reported to DCC	Planning Officers to report every six months to DCC with first report to September DCC for the previous year	First report came to DCC in October 2019 – next report to March DCC
7. Format of committee agenda to be reviewed including 'Lists'	Planning Officers to liaise with Legal and Democratic Services to review and produce draft revised report template	Planning application reports on this agenda in new format for final approval
8. Officer role at committee to be reviewed including presentations	Trial presentation of major cases at DCC by Officers	Expected to be trialled at DCC. Also see recommendation below
9. Quality of committee reports to be improved	Planning Officers to liaise with Legal and Democratic Services to review and produce draft revised report template	Planning application reports on this agenda in new format for final approval
10. Review of appeal decisions and costs to be reported to DCC	Planning Officers to provide six monthly report to DCC	Reported on this agenda
11. Less emphasis on 'local view' at committee	Councillors to note – both local and strategic views to be considered to ensure balanced decision is reached	Ongoing
12. Substitutions at committee should not be related to Ward interest	This could impact on the ability to provide substitutes and may not be necessary as long as other recommendations are followed in respect of Member training and approach	No action at present
13. Where motion goes against Officer recommendation, clear	Councillors to note and action	Ongoing

reasons for refusal or conditions to be agreed before vote is taken		
14. Deferral of items where there is a risk of losing appeal and / or costs	This is potentially too onerous and would create unnecessary delay and additional committee time. This could be dealt with by a combination of better discussions with Ward Councillors during the planning application process and legal and planning officer advice at and before the meeting where appropriate.	Ongoing
15. Review of site visit procedures for committee members	This is already a feature with some cases and also that it can be difficult for Members to attend visits although visits can be arranged wherever possible. The inclusion of more information in the report and presentations at DCC will assist visualisation of impact where Members are unable to attend site visits.	Ongoing
16. Consideration of use of different room for committee meetings	This would cause practical difficulties in room booking (which takes place months in advance) as some meetings may require a larger space and this may not be known until close to the meeting. As an alternative, improvements to Council Chamber can be considered along with improvements to information available to attendees. Planning and Legal and Democratic Services Officers to action.	Ongoing
17. More pro-active approach to major pre-application discussions including early Member involvement such as presentations to committee and improved communication between Officers and Members	Planning Officers to action	Ongoing
18. Committee should include at least one Executive Member	Not agreed there are necessarily any strong benefits to this – strategic considerations can be represented by other committee Members and in the committee report	No action at present
19. Effective compulsory training should be provided	In person and online training (at least quarterly) to be offered by	In progress

for all committee members including substitutes and a list of trained Members retained	Planning, Legal and Democratic Services Officers but does not need to be compulsory (although strongly encouraged for committee members). List of trained Members not required as Members will be aware of available training and any gaps in their knowledge, as well as benefitting from a new Local Planning Protocol.	
20. Regular reports on performance of planning and appeals team	Previously agreed for quarterly reports to DCC, however now meetings are every 2 months, to be reported to each meeting	Report on this agenda

### **Recommendation #1 – New Local Planning Protocol**

- 3.2 The Planning Advisory Service report put considerable weight on the importance of a Local Planning Protocol for Bromley to help improve knowledge and decision making. This protocol would allow members and officers have a clear reference for procedures and approaches which are specific to Bromley as well as incorporating guidance from the PAS publication ‘Probity in Planning’ which strongly encourages the adoption of a local code.
- 3.3 A Draft Local Protocol is appended to this report for consideration. It is intended that once approved by Development Control Committee, the Protocol will then be considered by General Purposes and Licensing Committee, Executive and the Full Council, to ultimately be adopted as part of the Council’s Constitution.
- 3.4 The PAS publication ‘Probity in Planning’, which is the key advice document for Local Planning Authorities for both Councillors and Officers, was updated and republished in December 2019 and is also appended to this report.
- 3.5 The advice in ‘Probity in Planning’ has been updated throughout and it is recommended that any Member or Officer involved in the planning process should read the entire document. To highlight particular changes, the 2019 version includes the following updated sections:
- Page 7 – expanded section on Councillor and Officer conduct following the publication of the Local Government Ethical Standards Report in 2019 ([www.legislation.gov.uk/ukpga/1989/42/contents](http://www.legislation.gov.uk/ukpga/1989/42/contents)) and increased emphasis on Councils adopting their own code of conduct.
- Pages 8 – expanded text on interests
- Page 14 – a new section on gifts and hospitality
- Page 17 – expanded section on Officer reports
- Page 19 – expanded section on decisions which differ from the recommendation
- Attention is also drawn to the section on Councillor site visits on Page 21

**Recommendation #5 - 'Call ins' to be in writing with clear planning reasons**

- 3.6 Some 'call in' requests are still being submitted without clear planning reasons and Members are reminded of the agreed approach as set out above.

**Recommendation #7 & 9 – Improvements to Committee Reports**

- 3.7 The planning application reports on this agenda are in the new format for Members to approve the format for all future planning application reports to Development Control and Plans Sub Committee.

**4. FINANCIAL IMPLICATIONS**

- 4.1 Initial recommendations are likely to be absorbed within existing workload and there should be no substantial additional cost at this stage, however additional staff and / or financial resources may be required for training, evening meetings and other commitments involving greater staff input or external support. This will need to be assessed.
- 4.2 Better decision making may result in a reduction of costs awarded against the Council at appeal and some changes may reduce the cost of processing applications, for example those determined under delegated powers as opposed to committee decisions.
- 4.3 As a result, if these recommendations are approved and implemented, the impact on workloads and costs be need to be monitored, with a view to manage these changes within existing resources.

**5. LEGAL IMPLICATIONS**

- 5.1 Suggested measures should reduce the likelihood of successful legal challenge against planning decisions

**6. PERSONNEL IMPLICATIONS**

- 6.1 See financial implications above

<b>Non-Applicable Sections:</b>	Policy Implications Impact on Vulnerable Adults and Children Procurement Implications
Background Documents: (Access via Contact Officer)	Planning Advisory Service Report May 2019 Probity in Planning (PAS) December 2019 Bromley Council Constitution

# Probity in planning

Advice for councillors  
and officers making  
planning decisions

This advice was first published in 1992. This version has been prepared by CITIESMODE Planning. It updates and expands the April 2013 document prepared by Trevor Roberts Associates for the Planning Advisory Service.



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# 1. Introduction

## Background

Probity in planning is about ensuring that decisions on plan making and planning applications are undertaken, on behalf of communities, in a fair, impartial and transparent way. This guide has been written for officers and councillors involved in making planning decisions in their local authority. It is informed by contributions from councillors and officers and includes:

- a brief overview of the planning system and the role of decision makers
- councillor and officer conduct
- registration and disclosure of interests
- predisposition, predetermination or bias
- lobbying of and by councillors
- discussions before a decision is taken
- officer reports
- public speaking at planning committees
- decisions which differ from an officer's recommendation
- committee site visits
- reviewing past planning decisions and the outcomes
- complaints and record keeping.

Councillors and officers should be familiar with, and adhere to, their own local authority codes of conduct and guidance. This advice is not intended to be prescriptive. Local circumstances may necessitate local variations of policy and practice. Every council should regularly review the way in which it conducts its planning business.

The Local Government Association (LGA) endorses the good practice of many councils who ensure their councillors receive training on planning when first appointed to the planning committee or local plan steering group. It is recommended that councillors receive regular ongoing training on probity in decision making and the local code of conduct as well as on planning matters. The Planning Advisory Service (PAS) can provide training to councillors.<sup>1</sup>

**“To new committee members... Get as much training as you can, and not just the standard ‘in house’ two hour session with your own planning officers – but also from other bodies like PAS, Urban Design London<sup>2</sup> and the Royal Town Planning Institute (RTPI), and look at how colleagues in other authorities do things.”**

**Councillor Sue Vincent, Camden**

This guide does not constitute legal advice. Councillors and officers will need to obtain their own legal advice on any matters of a legal nature concerning matters of probity. Where there are any doubts or queries, advice should always be sought from the council's monitoring officer.

<sup>1</sup> [contact\\_pas@local.gov.uk](mailto:contact_pas@local.gov.uk)

<sup>2</sup> [www.urbandesignlondon.com/library/sourcebooks/councillors-companion-design-planning-2018](http://www.urbandesignlondon.com/library/sourcebooks/councillors-companion-design-planning-2018)

# 2. The planning system and the role of decision makers

The National Planning Policy Framework 2019 (NPPF)<sup>3</sup> states that the purpose of the ‘planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.’ Planning has a positive and proactive role to play at the heart of local government and local communities. It can:

- help councils stimulate growth and translate goals into action
- balance social, economic and environmental needs to achieve sustainable development
- deliver important public benefits such as new housing, infrastructure and local employment opportunities.

“Everything starts with planning! The way our neighbourhoods develop to meet the challenges of a growing population is determined by the placemaking that is done through the planning policy process, which in turn informs the development management process. It is important for the planning committee members to give careful consideration to the impact that all applications will have on an area, as they will (hopefully) be in place for many

<sup>3</sup> [www.gov.uk/government/publications/national-planning-policy-framework--2](http://www.gov.uk/government/publications/national-planning-policy-framework--2)

years to come.”

**Councillor Adele Morris, Southwark**

Planning law requires that applications for planning permission be determined in accordance with the development plan (the ‘local plan’ document(s) and if relevant spatial development strategy), unless ‘material considerations’ indicate otherwise. National planning practice guidance<sup>4</sup> (NPPG) explains that a material planning consideration is one which is relevant to making a planning decision to grant or refuse an application for planning permission. It states that the ‘scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration.’<sup>5</sup> However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.’

Local planning authorities are tasked with both preparing the development plan that applications will be assessed against and making planning decisions. In England the NPPF must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect other relevant international obligations and statutory requirements. Local planning decisions are made in this wider national and international context.

<sup>4</sup> [www.gov.uk/government/collections/planning-practice-guidance](http://www.gov.uk/government/collections/planning-practice-guidance)

<sup>5</sup> However, for a recent judicial interrogation of material consideration, see the recent case of R (Wright) v Resilient Energy Severndale Ltd and Forest of Dean District Council [2019] UKSC 53

The determination of a planning application is a formal administrative process involving:

- the application of national and local planning policies
- reference to legislation, case law and rules of procedure
- rights of appeal and an expectation that local planning authority will act transparently, reasonably and fairly.

Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework in the wider public interest. Planning affects people's lives and land and property interests, particularly the financial value of landholdings, and the quality of their settings. Opposing views are often strongly held by those involved. Whilst councillors must take account of these views, they should not favour any person, company, group or locality, or appear to be doing so. Decisions need to be taken in the wider public interest on what can be controversial proposals.

Because planning decisions can be controversial, it is particularly important that the process is open and transparent. The risk of controversy and conflict is heightened by a system which invites public opinion before taking decisions. The legal and procedural nature of the planning system means there is a risk of complaints to the Ombudsman for maladministration or a breach of the authority's code. There may also be a legal challenge, in the form of a judicial review in which a judge reviews the lawfulness of a decision or action made by a public body.

Councillors and officers have different but complementary roles within this system, and effective communication and a positive working relationship between officers and councillors is essential to delivering a good planning service.

Officers prepare the development plan (the local plan document or documents) which must conform to the policies set out in the NPPF and be adopted by a meeting of the full council. Applications for planning permission submitted to the local planning authority are assessed by planning officers who will, based on the development plan and any material planning considerations, make recommendations to planning committees who then resolve to grant or refuse the application. Councillors can be involved in decisions on planning enforcement action or compulsory purchase orders.

Most councils also delegate powers to senior officers to determine a large proportion of planning applications – the advice in this document and the council's code of conduct as it relates to planning decisions will apply to these officers too. The applications that go to committee, or are determined by an officer, will be set out in the local authority's scheme of delegation. Effective delegation can help ensure that decisions on planning applications that raise no significant planning issues are made quickly, and that resources are appropriately concentrated on the applications of greatest significance to the local area. These will typically be larger or more complex applications and potentially controversial – and are defined locally through authority schemes of delegation.

Therefore, whilst councillors are ultimately responsible for decision making in local planning authorities, officers who have delegated authority to make decisions need to be aware of the issues covered in this document – and the advice and principles discussed apply to them too.

# 3. Councillor and officer conduct

The seven principles of public life apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, both nationally and locally, and as such applies to councillors and officers. The overarching principles were first set out by Lord Nolan in 1995 in the Government's First Report on Standards in Public Life. They were reasserted and refined in subsequent reports of the Committee on Standards in Public Life, most recently the Local Government Ethical Standards Report published in 2019.<sup>6</sup> These principles are:

- **Selflessness:** holders of public office should act solely in terms of the public interest.
- **Integrity:** holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity:** holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** holders of public office should act and take decisions in an open and transparent manner. Information should not

be withheld from the public unless there are clear and lawful reasons for so doing.

- **Honesty:** holders of public office should be truthful.
- **Leadership:** holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Section 27 of the Localism Act 2011 (as amended)<sup>7</sup> requires local planning authorities to promote and maintain high standards of conduct and adopt a local code of conduct, which should reflect these principles. It must cover:

- the registration of pecuniary interests (explained in Section 4)
- the role of an 'independent person' to investigate alleged breaches
- sanctions, to be imposed on any councillors who breach the code.

Parish and town councils are covered by the requirements to have a code of conduct and to register interests. They can choose to 'opt in' to the code of conduct adopted by their principal authority (the local district or unitary council).

The Local Government Ethical Standards Report published in 2019 suggests that many codes of conduct fail to adequately address important areas of behaviour, such as social media use and bullying and harassment.

<sup>6</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/777315/6.4896\\_CO\\_CSPL\\_Command\\_Paper\\_on\\_Local\\_Government\\_Standards\\_v4\\_WEB.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF)

<sup>7</sup> [www.gov.uk/government/collections/planning-practice-guidance](http://www.gov.uk/government/collections/planning-practice-guidance)

It includes a number of recommendations for codes of conduct – some of which will require changes to primary or secondary legislation. It also includes a series of best practice recommendations, which they recommend are addressed in codes.

Many local planning authorities have also adopted their own codes relating specifically to planning, which should be read alongside the substantive code of conduct for the council. In addition to these codes, a council's standing orders also set down rules which govern the conduct of council business.

Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct,<sup>8</sup> breaches of which may be subject to disciplinary action by the Institute. The RTPI provides advice for planning professionals on matters of probity aimed at supporting planners in exercising their independent professional judgement, and promoting public confidence in the planning system.

Officers and serving councillors must not act as agents for people pursuing planning matters within their authority, even if they are not involved in the decision making on them.

In addition, officers must always act impartially and in a politically neutral manner. The Local Government and Housing Act 1989 (as amended)<sup>9</sup> enables restrictions to be set on the outside activities of senior officers, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.

Care needs to be taken in the use of social media, such as Twitter, Facebook or Instagram, by officers and councillors, where it relates to decision making functions (see Section 5 on predetermination and bias). The Local Government Ethical Standards Report 2019 also addresses issues related to social media use.

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8 [www.rtpi.org.uk/media/1736907/rtpi\\_code\\_of\\_professional\\_conduct\\_-\\_feb\\_2016.pdf](http://www.rtpi.org.uk/media/1736907/rtpi_code_of_professional_conduct_-_feb_2016.pdf)

9 [www.legislation.gov.uk/ukpga/1989/42/contents](http://www.legislation.gov.uk/ukpga/1989/42/contents)

# 4. Registration and disclosure of interests

## Pecuniary interests

Decision makers must make known any pecuniary interests – that is any business or wider financial interests – and other personal interests their code requires them to disclose.

Councillors must provide the monitoring officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must also be registered with the monitoring officer within 28 days of the councillor becoming aware of them.

Each council's code of conduct should establish what interests need to be disclosed. The council's monitoring officer should maintain a register of these disclosable interests, which should be made available to the public. Councillors should also disclose any interest orally at a committee meeting if it relates to an item under discussion.

Chapter 7 of the Localism Act 2011 (as amended)<sup>10</sup> places explicit requirements on councillors to register and disclose their pecuniary interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.<sup>11</sup> It is a criminal offence to:

- Fail to register a disclosable pecuniary interest within 28 days of election or co-option
- Give false or misleading information on registration
- Participate in discussion or vote in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest.

<sup>10</sup> [www.legislation.gov.uk/all?title=Localism%20Act](http://www.legislation.gov.uk/all?title=Localism%20Act)

<sup>11</sup> [www.legislation.gov.uk/uksi/2012/1464/made](http://www.legislation.gov.uk/uksi/2012/1464/made)

## Personal Interests

The Localism Act also includes the need to register and disclose personal interests with other councillors, officers, and the public.

A councillor with a disclosable pecuniary interest relating to an item under discussion must withdraw from the committee (or other decision forum) and not participate in discussions and debate, nor vote. This applies to all planning decisions and not just on individual planning applications. For example, a development plan document might cover sites or property where a councillor has an interest in the land. Officers involved in making recommendations and decisions should adopt the same approach, and seek advice from the authority's monitoring officer.

If a councillor has a non-pecuniary personal interest, including being a member of an outside body, they should disclose that interest, but then may still speak and vote on that particular item. However, the Local Government Ethical Standards Report (2019) highlights the potential for conflicts and potential need to withdraw from committee in relation to non-pecuniary interests as well.

## Dispensation and handling relevant interests

In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business. A dispensation may be granted for any reason, but the Act specifies a number of scenarios where this might apply.

This includes the number of councillors having an interest being so great that the meeting cannot proceed, with the political balance of the meeting being substantially affected.

It is always best to identify a potential interest in a planning decision early on and raise this with the monitoring officer as soon as possible. Advice should always be sought from the council's monitoring officer. Ultimately, responsibility for fulfilling the requirements rests with each councillor.

Appendix 1 on page 25 includes a flowchart of how councillors' interests should be handled. For comprehensive guidance on interests, see Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013.<sup>12</sup>

The provisions of the Localism Act 2011 (as amended) seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate or not.

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<sup>12</sup> [www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors](http://www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors)



# 5. Predisposition, predetermination or bias

## Predetermination

Members of a planning committee, local plan steering group or full council (when the local plan is being considered) need to avoid any appearance of bias or having 'predetermined' views when making a decision on a planning application or policy.

Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is indicative of a 'closed mind' approach and may leave the grant of planning permission vulnerable to challenge by Judicial Review.

## Predisposition

Predisposition is where a councillor may have a pre-existing opinion or attitude about the matter under discussion, but remains open to listening to all the arguments and changing their mind in light of the information presented at the meeting. Section 25 of the Localism Act 2011 (as amended) clarifies that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicates what view they might take in relation to any particular matter.

A councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased. For example, a councillor who says or 'tweets' from their Twitter account: 'Wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before the committee' will be perceived very differently from a councillor who states: 'Many people

find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area'.

## Impartiality and avoiding bias

Planning issues must be assessed fairly and on their planning merits, even when there is a predisposition in favour of one side of the argument or the other. Avoiding predetermination and the impression of it is essential. The decision making process must be seen to be fair and impartial from the perspective of an external observer.

If a decision maker has predetermined their position, they should withdraw from being a member of the decision making body for that matter. This applies to any member of the planning committee who wants to speak for or against a proposal as a campaigner (for example on a proposal within their ward).

Local planning authorities will usually have a cabinet or executive member responsible for development and planning (sometimes known as the portfolio holder). PAS advise that the leader and portfolio holder of a local authority, who play an important role driving planning policies and proposals, should normally exclude themselves from decision making committees. This is to avoid the perception of a conflict of interests and predisposition.

In smaller councils it may be necessary for a portfolio holder to be on a planning committee. PAS suggest that in these situations they will need to be extremely careful and will need to withdraw when the committee is considering the council's own schemes or other applications that they have been seen to support previously.

# 6. Development proposals

Planning applications or proposals for changes to a local plan submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local guidance should address the following points in relation to proposals submitted by councillors and planning officers:

- if they submit their own proposal to their authority they should play no part in its consideration
- a system should be devised to identify and manage such proposals and ensure probity in decision making
- the council's monitoring officer should be informed of such proposals.

A councillor would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as an applicant, should also not seek to improperly influence the decision.

Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers.

# 7. Lobbying of and by councillors

## Reporting on local concerns

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.

As the Nolan Committee's 1997 report<sup>13</sup> states: 'It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves'.

Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, and so care and common sense must be exercised by all parties involved.

## Expressing opinions

As noted earlier in this guidance note, the common law permits predisposition. However it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have considered all the application materials and arguments for and against the development proposal.

In such situations, a councillor could restrict themselves to giving advice about the process and what can and can't be taken into account. Councillors can raise issues which have been raised by their constituents with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after they have heard all the relevant arguments, and have taken into account all relevant material and planning considerations at committee.

## Conduct at committee

If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision making committee, they would be well advised to withdraw from the meeting once any public or ward member speaking opportunities have been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence. This should be set out in the authority's code of conduct for planning matters.

It is very difficult to convey every nuance of these situations and get the balance right between the duty to be an active local representative, and the need to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor. Again, where there are concerns, advice should immediately be sought from the local authority's Monitoring Officer.

<sup>13</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336864/3rdInquiryReport.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336864/3rdInquiryReport.pdf)

## Local codes

A local code on planning should also address the following more specific issues about lobbying:

- planning decisions cannot be made on a party political basis in response to lobbying - the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration
- planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors
- councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

Call-in procedures, whereby councillors can require a proposal that would normally be determined under the delegated authority to be called in for determination by the planning committee, should require the reasons for call-in to be recorded in writing and to refer solely to matters of material planning concern. As previously outlined, councillors must always be mindful of their responsibilities and duties under their local codes of conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this guidance.

## Gifts and hospitality

Councillors and officers should be cautious about accepting gifts and hospitality in general and especially where offered by lobbyists. It is not enough to register such gifts. Any councillor or officer receiving offers over an agreed value should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined. Councillors and officers involved in planning decisions should not accept over-frequent or over-generous hospitality, especially where from the same organisation. They should always ensure that acceptance of such hospitality does not constitute a conflict of interest. Guidance on these issues should be included in the local code of conduct, and the Local Government Ethical Standards Report suggests adherence to consideration be given to the purpose of the hospitality, proportionality and the avoidance of any conflict of interest.

# 8. Discussions before a decision is taken

## Early engagement and pre-application discussions

Early councillor engagement is encouraged to ensure that proposals for sustainable development will lead to settlements that communities need. This guidance is intended to reinforce councillors' community engagement role whilst maintaining good standards of probity to minimise the risk of legal challenges. It is also important to encourage good decision-making that is transparent and upholds public confidence in the planning system. Ultimately, the public are a critical part of the planning process and the role of councillors provides democratic legitimacy for decisions.

Pre-application discussions between a potential applicant and a council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

## Avoiding predetermination

Some councils have been concerned about probity issues raised by involving councillors in pre-application discussions, worried that councillors would be accused of predetermination when the subsequent application came in for consideration. The Localism Act 2011 (as amended) acknowledges that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise along with an understanding of community views.

There is a difference between being predisposed to the planning policies set out in the NPPF or adopted development plan principles such as delivering housing, sustainable transport or good design and expressing views on this – and being predetermined in relation to a specific case.

Some local planning authorities have, or encourage, public planning forums to explore major pre-application proposals, with the developer outlining their ideas and inviting speakers to represent differing interests and consultees. As well as being transparent, these forums allow councillors and consultees to seek information and identify important issues for the proposal to address, although such discussions still need to avoid pre-determination.

Councillor involvement can help identify issues early on, help councillors lead on community issues, and help to make sure that issues don't come to light for the first time at committee. PAS recommends a 'no shocks' at committee approach.

## Meetings and discussions before a decision

The Localism Act, particularly Section 25, which establishes prior indications of view of a matter not to amount to predetermination, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid the perception that councillors might have fettered their discretion, such discussions should take place within clear, published guidelines.

Discussions before a decision is taken should ensure:

- Clarity at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- Consistent advice is given by officers based upon the development plan and material planning considerations.
- That councillors avoid giving separate advice on the development plan or other material planning considerations, as they may not be aware of all the issues at an early stage. Councillors should not become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.
- A commitment is made that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.

Officers should arrange any meetings, attend these with councillors and make a written record of the meeting placing this note on the case file. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.

Councillors also talk regularly to constituents to gauge their views on matters of local concern – which can include planning applications. The Nolan Committee acknowledged that keeping a register of these conversations would be impractical and unnecessary; however, local planning authorities should think about when discussions should be registered and notes written.

## Other approaches to early engagement

Local planning authorities have other mechanisms to involve councillors in pre-application discussions including:

- committee information reports by officers
- discussions to enable councillors to raise issues, identify items of interest and seek further information
- developer presentations to committees which have the advantage of transparency if held in public as a committee would normally be (with notes taken).
- ward councillor briefing by officers on pre-application discussions.

Similar arrangements can also be used when local planning authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.

# 9. Officer reports

Officer reports are a critical part of the decision-making process. They can also be difficult to write, as officers have to grapple with complex and technical information such as viability and daylight and sunlight analysis along with matters such as any equalities impacts of the proposed development. Conclusions can be finely balanced, having exercised planning judgement as to the merits of a scheme.

Sometimes, the local planning authority will engage external consultants to interrogate the applicant's material on specialist areas of expertise, and advise the officer accordingly. The presentation of this information in the report is particularly important – along with the availability of any background papers. Whilst the Courts are generally reluctant to interfere in the exercise of planning judgement, officer reports can nonetheless be fertile ground for judicial review challenges. This is particularly so where there is a risk that the officer may have inadvertently misled the committee, therefore tainting the resulting decision.

Careful reviews of draft reports, which may involve consultation with the council's legal team, is always recommended. Similarly, appropriate interventions by the legal officer at the committee meeting itself might be needed in order to correct any misconceptions on specific issues.

As a result of decisions made by the courts and Ombudsman, officer reports on planning applications must have regard to the following:

- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the NPPF, any local finance considerations, and any other material planning considerations.
- Reports should have a written recommendation for a decision to be made.
- Reports should contain, where relevant, technical appraisals which clearly justify the recommendation.
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but failure to do so may constitute maladministration or give rise to a Judicial Review on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990.
- Any oral updates or changes to the report should be recorded.

# 10. Public speaking at planning committees

Whether to allow public speaking at a planning committee or not is up to each local authority. Most local planning authorities do allow it and some authorities film and broadcast committee meetings. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage.

Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.

In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the local planning authority in writing.

New documents should not be circulated to the committee as councillors may not be able to give proper consideration to the new information, and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. Late information might lead to a deferral. This should be made clear to those who intend to speak.

Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.



# 11. Decisions which differ from a recommendation

The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990).

This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.

The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other non material considerations which might cause local controversy, will rarely satisfy the relevant tests.

Planning committees can, and do, make decisions which are different from the officer recommendation. Sometimes this will relate to conditions attached to the permission or planning obligations secured through a legal agreement pursuant to Section 106 (S106) of the Town and Country Planning Act 1990 (as amended).<sup>14</sup> A S106 legal agreement, or undertaking, includes obligations entered into by the developer, landowner and other relevant parties to mitigate the impacts of a development proposal.

Sometimes the committee's decision will change the outcome from an approval to a refusal, or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

<sup>14</sup> [www.legislation.gov.uk/ukpga/1990/8/contents](http://www.legislation.gov.uk/ukpga/1990/8/contents)

Planning committees are advised to take the following steps before making a decision which differs from the officer recommendation:

- If a councillor is concerned about an officer's recommendation they should discuss their areas of difference and the reasons for that with officers in advance of the committee meeting. Care should be taken however to ensure that this does not lead to predetermination of a decision.
- Recording the detailed reasons as part of the mover's motion.
- Adjourning for a few minutes for those reasons to be discussed and then agreed by the committee.
- Where there is concern about the validity of reasons, considering deferring to another meeting to have the reasons tested and discussed.

If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 planning obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation, which should be set in the context of the development plan or the NPPF. The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome based on policies set out in the development plan and the NPPF, and chances of a successful award of costs against the local authority, should one be made.

The decision is ultimately the committee's; however, it is imperative that the decision is made with regard to relevant planning considerations.

All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departures' from the development plan. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.

The application may then have to be referred to the relevant secretary of state, and/or the Mayor, depending upon the type and scale of the development proposed (Section 77 of the Town and Country Planning Act 1990).<sup>15</sup> If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

The common law on giving a statement of reasons for decisions has developed significantly in the last few years. It is important that the report that supports planning decisions clearly shows how that decision has been reached – whether for the grant or refusal of permission.

Whilst a committee giving reasons for refusing an application might be common, it may also be sensible to give reasons for resolving to grant permission, and having those accurately captured in minutes of the meeting. This may be particularly so where there is an overturn of an officer recommendation and/or where the application is particularly controversial due to planning policy protections and/or weight of objections. Where the development is EIA development, there is, in any event, a separate statutory requirement to give reasons for the grant of permission.

It should always be remembered that the public have a stake in the planning process and are entitled to understand how decisions are reached.

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<sup>15</sup> [www.legislation.gov.uk/ukpga/1990/8/section/77](http://www.legislation.gov.uk/ukpga/1990/8/section/77)

# 12. Committee site visits

National standards and local codes also apply to site visits. Local planning authorities should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The following points may be helpful:

- visits should only be used where the benefit is clear and substantial. Officers will have visited the site and assessed the scheme against policies and material considerations already
- the purpose, format and conduct should be clear at the outset and adhered to throughout the visit
- where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply
- a record should be kept of the reasons why a site visit is called.

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing
- the proposal is particularly contentious.

Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.

Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

# 13. Reviewing past planning decisions and the outcomes

It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development, ideally on an annual or more frequent basis. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

Reviews should include visits to a range of developments such as major and minor schemes, upheld appeals, listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

Scrutiny or standards committees may be able to assist in this process but the essential purpose of these reviews is to assist planning committee members to refine their understanding of the impact of their decisions. Planning committee members should be fully engaged in such reviews.

# 14. Complaints and record keeping

All local planning authorities should have a complaints procedure which may apply to all of its activities. Local planning authorities should also consider how planning related complaints will be handled, in relation to the code of conduct adopted by the authority.

So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

# List of references

## **The Localism Act 2011**

[www.legislation.gov.uk/all?title=Localism%20Act](http://www.legislation.gov.uk/all?title=Localism%20Act)

## **National Planning Policy Framework Department for Communities and Local Government, March 2019**

[www.gov.uk/government/publications/national-planning-policy-framework--2](http://www.gov.uk/government/publications/national-planning-policy-framework--2)

## **Committee on Standards in Public Life (1995) First Report: Standards of Conduct in Local Government in England, Scotland and Wales, Volume 1 Report**

<https://webarchive.nationalarchives.gov.uk/20131205113448/http://www.archive.official-documents.co.uk/document/cm28/2850/285002.pdf>

## **Committee on Standards in Public Life (1997) Third Report: Standards of Conduct in Local Government in England, Scotland and Wales, Volume 1 Report**

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336864/3rdInquiryReport.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336864/3rdInquiryReport.pdf)

## **Royal Town Planning Institute Code of Professional Conduct**

[www.rtpi.org.uk/media/1736907/rtpi\\_code\\_of\\_professional\\_conduct\\_-\\_feb\\_2016.pdf](http://www.rtpi.org.uk/media/1736907/rtpi_code_of_professional_conduct_-_feb_2016.pdf)

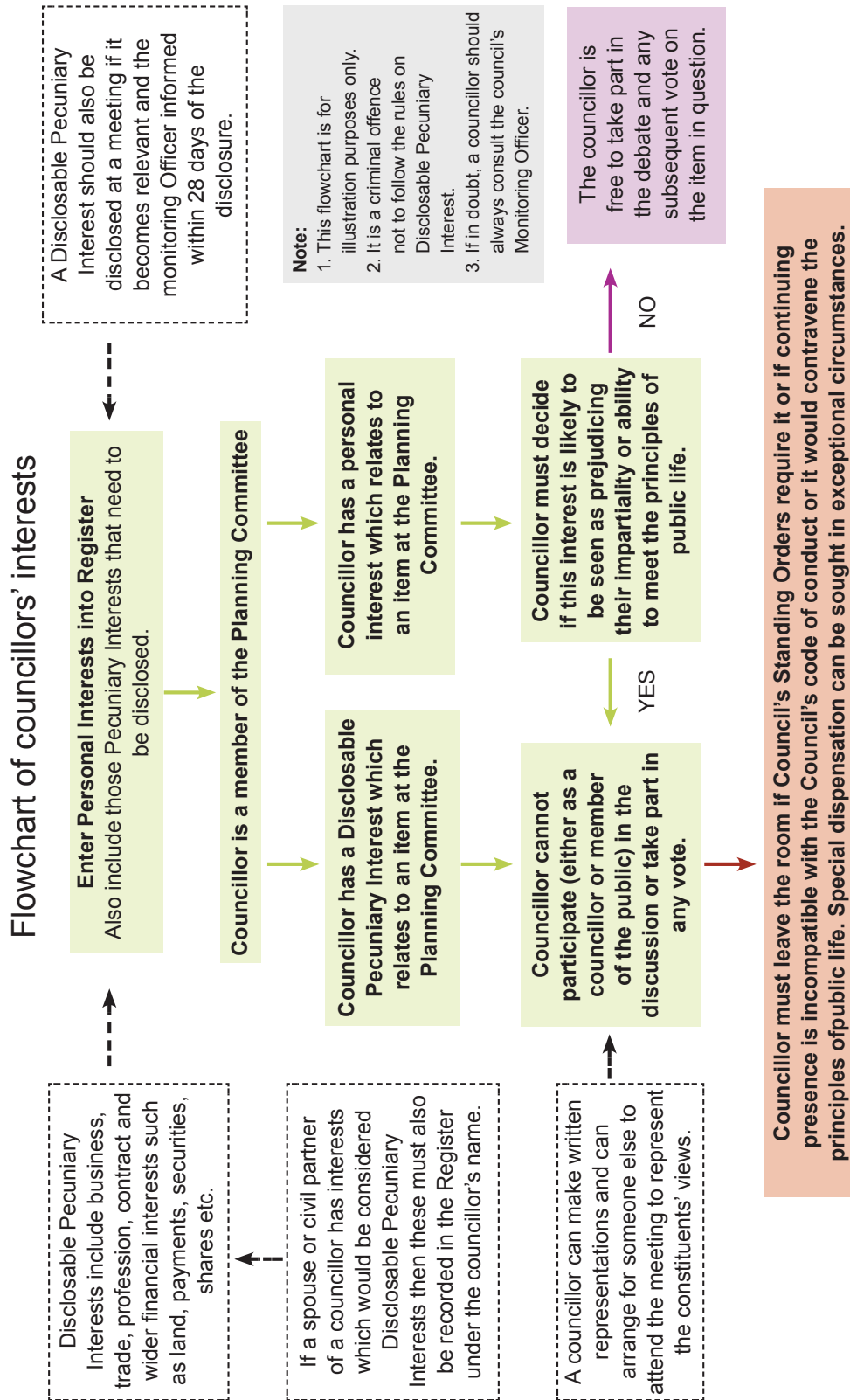
## **RTPI Guidance on Probity for Professional Planners**

[www.rtpi.org.uk/probity](http://www.rtpi.org.uk/probity)

## **Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013**

[www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors](http://www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors)

# Appendix 1 Flowchart of councillors' interests











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please contact us on 020 7664 3000.  
We consider requests on an individual basis.

# DRAFT

London Borough of Bromley  
Local Planning Protocol and Code of Conduct



## Contents:

1. Introduction
2. Referral of Applications to Committee
3. Agenda and Reports
4. Site Visits
5. Late Representations
6. Public Speaking Procedure
7. Order of Proceedings
8. Decision Making and Voting
9. Councillor and Officer Roles

## 1 Introduction

1.1 Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.

1.2 The planning system works best when officers and councillors involved in planning understand their roles and responsibilities, and the context and constraints in which they operate. Planning decisions are based on balancing competing interests and making an informed judgement against a local, regional and national policy framework.

1.3 This protocol and code of conduct applies to all planning committee meetings, currently known as Development Control Committee and Plans Sub Committees, and to all Officers and Councillors attending committee meetings. Reference to planning committee is to either of these meetings. Planning committee is a formal meeting of elected Members who make statutory decisions as the Local Planning Authority.

1.4 The purpose of this document is to help all those involved with planning committees, and in particular those making decisions, be consistent in their behaviour and approach and to ensure that the meetings are conducted fairly, transparently and in accordance with the relevant legislation.

1.5 In addition, where permission is refused, applicants can appeal against planning decisions to the independent Planning Inspectorate, with a possibility of costs being awarded against the Local Planning Authority if unreasonable behaviour by the Authority can be demonstrated. Appeals can also be submitted against the imposition of planning conditions.

1.6 Planning decisions can be the subject of judicial review, and aggrieved parties can go to the Local Government and Social Care Ombudsman with complaints about maladministration. Adherence to this protocol will minimise the risk of appeals being lost, successful costs claims, lost court cases and upheld complaints.

## **2. Referral of Applications to Committee**

2.1 Applications can be included on a committee agenda for any of the following reasons:

1. They are subject to a written 'call in' by a Councillor
2. They fall outside of the powers delegated to Planning Officers
3. Planning Officers decide to refer the application to committee

2.2 This is a summary and reference should be made to the Scheme of Delegation (Appendix 10 of the London Borough of Bromley Constitution [https://www.bromley.gov.uk/downloads/download/211/constitution\\_of\\_the\\_london\\_borough\\_of\\_bromley](https://www.bromley.gov.uk/downloads/download/211/constitution_of_the_london_borough_of_bromley)) which provides the constitutional framework for powers of delegation to Officers and sets out the arrangements for 'call in'.

2.3 Planning applications, tree matters and contravention reports can be considered by either Plans Sub Committee or Development Control Committee. Matters of policy and strategic reports are only considered by Development Control Committee.

2.4 If an application is to be considered at planning committee (see 2.1 above), the following procedures apply to determining which committee to report it to:

- 'Non-major' applications are considered by Plans Sub Committee unless the Assistant Director (Planning) determines that the application is of strategic importance and refers it to Development Control Committee.
- 'Major' applications - Officers recommend a decision route and this is agreed by the Chairman and/or the Vice Chairman of Development Control Committee within 3 working days of receiving the Officer recommended decision route in writing. This will normally be via a monthly recommendation list.

### **3. Agenda and Reports**

3.1 The planning committee agenda will include planning applications in numerical order based on the application reference number.

3.2 Application reports are normally presented in a standard format provided by the Assistant Director (Planning). Reports will identify and analyse the material considerations, of which the committee will need to take account when considering the application on its planning merits. The presentation of reports for matters other than applications may vary according to their content but will present a clear recommendation where appropriate.

3.3 Planning committee agendas must be published on the Council's website a minimum of 5 working days prior to the committee meeting.

3.4 Planning application reports will always include an officer recommendation for approval or refusal. Non application reports will include a recommendation where appropriate.

### **4. Site Visits**

4.1 Planning Officers will normally visit each application site and these visits are used to inform the committee report and recommendation. Photographs from these visits are often used within reports to illustrate particular important points.

4.2 For formally arranged Councillor site visits, the Chairman of the relevant committee in consultation with the Assistant Director (Planning) will decide whether a site visit for committee members is necessary in advance of any particular application being determined at committee. Such visits will not be publicised.

4.3 A site visit for committee members is only likely to be necessary if either:

- I. the impact of the proposed development is particularly difficult to visualise from the plans and any supporting material, including photographs taken by officers; or
- II. the proposal is particularly contentious

4.4 Formally arranged site visits are for observing the site and gaining a better understanding of the issues. They should not be used as a lobbying opportunity by applicants or their agents, local residents, objectors or supporters or for debating any aspect of the proposal or for making any decision. Councillors will usually be accompanied by a Planning Officer.

4.5 It may be useful for committee members to visit a site to familiarise themselves with it prior to consideration of an application at committee. Any informal visit should be carried out discreetly and Members should not make themselves known to or engage with the applicant or neighbours.

4.6 Doing so could be misinterpreted as lobbying and may create a suspicion of bias. If such contact is made this should be declared in Committee, but this should not prevent that Member from taking part in the consideration of that application provided they have acted in accordance with the advice in this Protocol.

## **5. Late Representations**

5.1 Planning applications involve public consultation which has to comply with a legal statutory minimum requirement. In many cases we consult over and above the statutory minimum and our approach to this is set out in Section 4 of our published

## Statement of Community Involvement

[https://www.bromley.gov.uk/info/1004/planning\\_policy/154/statement\\_of\\_community\\_involvement](https://www.bromley.gov.uk/info/1004/planning_policy/154/statement_of_community_involvement).

5.2 Public consultation on planning applications includes a formal period for representations to be submitted, and representations are accepted only on a discretionary basis after the expiry of the formal consultation period. Representations received after formal consultation has closed are not guaranteed to be considered in the determination of an application.

5.3 To ensure that all representations can be assessed and presented to planning committee as appropriate, it is necessary to have a cut off time for receiving representations on applications to be considered at committee and this is 12 noon on the day of the meeting. The Assistant Director (Planning) has the final decision on whether to accept late representations.

5.4 As committee reports are prepared and published some time in advance of committee meetings, any representations (including those from consultees) received after publication of the report will be uploaded to our website and may be verbally summarised by the Officer attending the meeting.

5.5 If late representations affect the conclusions of the report or recommendation this will be reported verbally to the committee.

5.6 Documents must not be distributed to committee members at the committee meeting (including by public speakers) to ensure that the material considered in the determination of the application is available to all.



## 6. Public and Visiting Councillor Speaking Procedure

6.1 Members of the public making written comments on planning applications which are to be considered by a planning committee have the opportunity to verbally address Councillors at committee if they wish. Anyone wishing to speak must have already written in expressing their views on the application. Speakers are not normally permitted on items other than planning applications.

6.2 Members of the public wishing to speak at planning committee must give notice to the Democratic Services Team of their intention to speak by calling 020 8313 4745 or 020 8461 7566 no later than 10:00 am on the working day before the meeting. Requests to speak will only be registered once the relevant agenda has been published.

6.3 Should speakers wish to table any correspondence or photographs to supplement their speech to the committee, all documents must be submitted to the Democratic Services Team by 5.00 p.m. on the working day before the meeting. A permanent copy of any item must be provided and it is not acceptable to refer to online maps, photographs on phones/ipads or similar. The Chairman's agreement must be sought at the meeting for any items to be considered.

6.4 Order of public speakers: if the recommendation is 'permission' then it will normally be the opponent first, supporter second. If the recommendation is 'refusal', the reverse order will apply.

6.5 Normally one person is permitted to speak for an application and one person permitted to speak against it. If there are more than two requests to speak for or against, people with similar views should get together and agree spokespersons. , If

there is no agreement, the first person to notify Democratic Services of their intention to speak will be called. Among supporters, the applicant (or if the applicant wishes, the agent) takes precedence, and if the applicant or agent do not wish to speak, the first supporters will be called.

6.6 Residents' Associations or other organisations wishing to make use of these arrangements must appoint a single spokesperson to represent their views.

6.7 Speakers are reminded that only material planning considerations are relevant to the determination of planning applications.

6.8 Each speaker will normally be given up to three minutes and this will be indicated by the warning light system in front of the speaker: - an amber light will show the passing of two-and-a-half minutes and a red light will show the completion of the three minute period. At the red light the Chairman will normally ask the speaker to cease their presentation.

6.9 Members of the Committee (but not visiting Ward Members) may ask speakers to clarify points raised. Otherwise, once members of the public have spoken, no further intervention will be permitted. Visiting Members must not sit with members of the committee or sub-committee.

6.10 Visiting Ward Councillors should notify the Democratic Services Team of their intention to speak at committee prior to 5:00pm the day before the meeting. Visiting Councillors do not have a formal time constraint but should aim to keep their presentation to within 3 minutes. Any representations must be limited to material planning considerations

## 7. Order of Proceedings

7.1 Whilst the order of consideration of items at planning committee is ultimately a matter for the Chairman, planning applications will normally be heard first, followed by other items.

7.2 The Chairman will normally vary the order of the agenda taking items with visiting Councillors and public speakers first. Speakers and visiting Councillors should leave the table once they have spoken, prior to the debate on the item commencing.

7.3 Matters will proceed for each item as follows, skipping items where there is nothing to report or no speaker present:

1. Update from Planning Officer and presentation for major applications
2. Public speaker(s) (see 6.7 above)
3. Visiting Ward Councillor (see 6.13 above)
4. Committee debate
5. Chairman summarises motions put and seconded
6. Chairman to clarify reasons for refusal or permission if different to that recommended or if additional reasons / conditions are to be added
7. Planning Officer opportunity to advise committee prior to motion being considered
8. Vote taken
9. Chairman to summarise and confirm the decision

Planning, legal and other professional officers have a right to be heard and to give advice within their area of professional expertise at any point in the consideration of an application.

7.4 The Chairman should be careful to ensure that additional conditions or reasons for refusal are clearly identified prior to going to the vote and not afterwards to ensure that the committee is clear what it is voting on. The Chairman can take advice from legal planning or other professional officers present.

7.5 Should there be differing views about the content of reasons for refusal or conditions, the Chairman may take a separate vote following the main vote to clarify the outcome.

7.6 Committee members are given the opportunity to record their vote against whatever motion is put if they wish.

7.7 It is important for the quality of decision making that the Planning Officer is provided with an opportunity to update Members and make any final comment immediately prior to the vote being taken to help ensure that the committee is fully aware of any further advice pursuant to the debate / motion.

7.8 Meetings will normally finish by 10:00pm.

## **8. Decision Making and Voting**

8.1 The Chairman should take the motion that is proposed and seconded first and only if that motion fails move to the next motion that is proposed and seconded.

8.2 Should votes for or against a recommendation both fail it is still open to the committee to consider whether they might defer the application for possible changes

to make it acceptable to the majority of the committee. The Chairman can use her or his casting vote to decide if voting is equal for and against a motion.

8.3 Councillors should state motions they put clearly and include any specific changes they propose to the officer recommendation so that the committee understand the extent of the motion being proposed (see also 7.5 above).

8.4 When voting, committee members should raise their hands clearly to ensure an accurate count for the vote.

#### Motions and Votes Against Officer Recommendation:

8.5 If a motion is proposed that contradicts that in the Officer report the Planning Officer should be given the opportunity to give the committee advice on that motion prior to any vote. That advice will be based upon the material considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge. The solicitor advising the Committee will be called upon as necessary to give advice on legal matters.

8.6 If the officer considers that he/she is unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the officer can bring a report to the next available committee setting out his/her advice.

## **9. Councillor and Officer Roles**

9.1 The PAS publication 'Probity in Planning' 2019 states: "*Councillors and officers have different but complementary roles within this system, and effective*

*communication and a positive working relationship between officers and councillors is essential to delivering a good planning service..”*

9.2 The 7 Standards of Public Life identified in the Localism Act 2011 are:

- Selflessness – public interest
- Integrity – not open to inappropriate influence/private gain
- Honesty – truthful; declaration of interests and gifts
- Objectivity – use best evidence; impartial; non-discriminatory
- Accountability – open to scrutiny
- Openness – open and transparent decisions in public
- Leadership – uphold and exhibit standards and behaviours

9.3 The Planning Advisory Service Report for Bromley (May 2019) states: *“The role of Councillors on the Committees presents a challenge to the individual. It is often considered to be a quasi-judicial role, but has been described as*

*“A formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly.”*

*(Local Government Association/Planning Advisory Service: Probity in Planning for Councillors and Officers 2013.)*

*In this role Councillors are expressly being asked to place to one side any party political interests, and their role as the representatives of a particular ward, and assess, debate, and then determine often controversial planning proposals in the wider public interest of the whole Council area, and in line with national and local*

*planning policy. They must do so in a way which demonstrates they have understood their role and have approached the decision point open to considering and weighing the merits of all the material issues.”*

Members must never consider applications submitted by themselves, a family member or a close personal associate, and must comply with the Members Code of Conduct at all times when such applications are submitted,

If on consideration of a planning application a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that a Member was biased the Member must recuse themselves from consideration of that application,9.4

The role of the committee Chairman is to lead and manage the committee and in particular:

- determine the order in which questions may be addressed from the committee members following the officers presentation;
- ensuring that the public speaking procedure is followed;
- managing the committee debate about applications including the order in which Councillors who wish to address the committee may speak;
- determining when the debate has come to a close and votes should be cast in the order in which the motions were first completed (i.e. where the motion has been moved and seconded by Members of the Committee).
- ensuring that debate and decisions made are suitably focused on relevant planning considerations.

9.5 Councillors sitting on the planning committee should:

- make planning decisions on applications presented to the Committee openly, impartially, with sound judgement and for sound planning reasons.
- exercise their responsibilities with regard to the interests of the London Borough of Bromley as a whole rather than with regard to their particular Ward's interest and issues;
- Come to meetings with an open mind.
- Not allow anyone (except officers, other committee Members and public speakers when they are addressing the committee) to communicate with them during the meeting (orally or in writing) as this may give the appearance of bias. For the same reason, it is best to avoid such contact immediately before the meeting starts.
- Consider the advice that planning, legal or other officers give the committee in respect of the recommendation or any proposed amendment to it.
- Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires the Local Planning Authority to make decisions in accordance with the development plan unless there are good planning reasons to come to a different decision.
- Come to their decision only after due consideration of all of the information available to them, including the local information that Members are uniquely placed to access, but always remembering to take decisions on planning grounds alone. If Members feel there is insufficient time to digest new information or that there is insufficient information before them, then they should seek an adjournment to address these concerns.



- Not vote on a proposal unless they have been present to hear the entire debate, including the officer update and any public speaking.
- Make sure that if they are proposing, seconding or supporting a decision contrary to the officer's recommendation or the development plan, that they clearly identify and understand the planning reasons leading to this conclusion and that they take into account any advice planning, legal or other officers give them. Their reasons must be given prior to the vote and be recorded. Be aware that they may have to justify the resulting decision by giving evidence in the event of challenge.
- Members should avoid requests for officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.
- seek to attend relevant training and briefing sessions organised from time to time for them.

9.6 The role of Planning Officers at committee is:

- to use professional judgement when recommending decisions on applications and other planning matters.
- to provide professional advice to the committee on planning applications and other matters at any point in the meeting.

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Report No.  
DRR000000

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Tuesday 28<sup>th</sup> January 2020

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

**Title:** DEVELOPMENT MANAGEMENT TEAM PERFORMANCE

**Contact Officer:** Tim Horsman, Assistant Director Planning  
Tel: 020 8313 4956    E-mail: Tim.Horsman@bromley.gov.uk

**Chief Officer:** Assistant Director Planning

**Ward:** (All Wards)

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1. Reason for report

This report provides a quarterly update on the performance of the Development Management (Planning Applications) team.

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2. **RECOMMENDATION(S)**

**Members note the report.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
- 

### Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Excellent Council:
- 

### Financial

1. Cost of proposal: No Cost:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Planning
  4. Total current budget for this head: £1.7m
  5. Source of funding: Existing
- 

### Personnel

1. Number of staff (current and additional): 0
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: Statutory Requirement: Statistics provided as quarterly returns to the government on planning performance
  2. Call-in: Not Applicable:
- 

### Procurement

1. Summary of Procurement Implications: None
- 

### Customer Impact

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

### Ward Councillor Views

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

### 3. COMMENTARY

3.1 The Local Planning Authority is subject to quarterly statistical returns to the government based on application types, decisions and performance. This report highlights some of the key data for Members' information. The report has been updated since last reported (October 2019) to include additional tables with enhanced information about decisions made.

**Table 1 – Number of applications received and determined**

	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4	2019 Q1	2019 Q2
Number of applications on hand at the beginning of the quarter	731	688	684	703	716	666	659	702	757
Number of applications received during the quarter	879	811	801	799	750	701	726	829	728
Number of applications withdrawn, called in or turned away during the quarter	18	23	15	24	19	20	23	23	21
Number of planning and related decisions made during quarter	907	792	770	759	781	690	702	749	784
Of the decisions made, the number of delegated decisions	827	728	695	701	708	631	649	697	742
Percentage delegated decisions	91%	92%	90%	92%	91%	91%	92%	93%	95%

**Table 2 – Speed of decisions**

	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4	2019 Q1	2019 Q2
Percentage of Major Applications determined within target (overall target is 60%)	75%	70%	75%	100%	100%	66%	64%	66%	80%
Percentage of Minor Applications determined within target (overall target is 70%)	80%	80%	82%	83%	77%	75%	71%	73%	76%

**Table 3 – Applications received by category**

	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4	2019 Q1	2019 Q2
Number of Major Applications Determined	4	10	8	7	6	6	11	15	5
Number of Non-Major Applications Determined	213	222	221	177	193	205	158	151	181
Number of Householder Applications Determined	648	504	497	526	527	439	480	538	550
Number of Lawful Development Certificate Applications Determined	184	181	175	239	183	176	146	173	170
Number of Advertisement Applications Determined	14	26	26	29	20	18	30	15	20

**Table 4 – Major Applications determined**

	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4	2019 Q1	2019 Q2
<b>Number of Major Applications Determined</b>	4	10	8	7	6	6	11	15	5
<b>Of which were granted / approved</b>	4	6	6	4	3	2	6	10	3
<b>Of which were refused</b>	0	4	2	3	3	4	5	5	2
<b>Of which were allowed at appeal</b>	0	0	2	1	1	0	0	0	0
<b>Of which were dismissed at appeal</b>	0	3	0	2	2	1	2	1	0
<b>Of which an appeal is in progress</b>	0	0	0	0	0	1	1	2	1

**4. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

None.

**5. POLICY IMPLICATIONS**

Existing Development Plan policies.

**6. FINANCIAL IMPLICATIONS**

None at this time.

**7. PERSONNEL IMPLICATIONS**

None at this time.

**8. LEGAL IMPLICATIONS**

None at this time.

**9. PROCUREMENT IMPLICATIONS**

None at this time

<b>Non-Applicable Sections:</b>	None
Background Documents: (Access via Contact Officer)	None

Report No.  
DRR20/005

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Tuesday 28 January 2020

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

**Title:** PLANNING APPEALS QUARTERLY MONITORING REPORT -  
APRIL 2019 TO DECEMBER 2019

**Contact Officer:** John Stephenson, Head of Planning and Development Support Team  
Tel: 0208 461 7887    E-mail: John.Stephenson@bromley.gov.uk

**Chief Officer:** Tim Horsman, Assistant Director (Planning)

**Ward:** (All Wards);

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1. Reason for report

This report provides an update on planning appeals received and decided by quarter in the year 2019-2020.

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2. RECOMMENDATION(S)

Members to consider the report

### Impact on Vulnerable Adults and Children

1. Summary of Impact: none directly in this 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: Central Contingency
  4. Total current budget for this head: £60k
  5. Source of funding: Central Contingency for 2019/20
- 

### Personnel

1. Number of staff (current and additional): 50.06ftes
  2. If from existing staff resources, number of staff hours: n/a
- 

### Legal

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

### Procurement

1. Summary of Procurement Implications: n/a
- 

### Customer Impact

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

### Ward Councillor Views

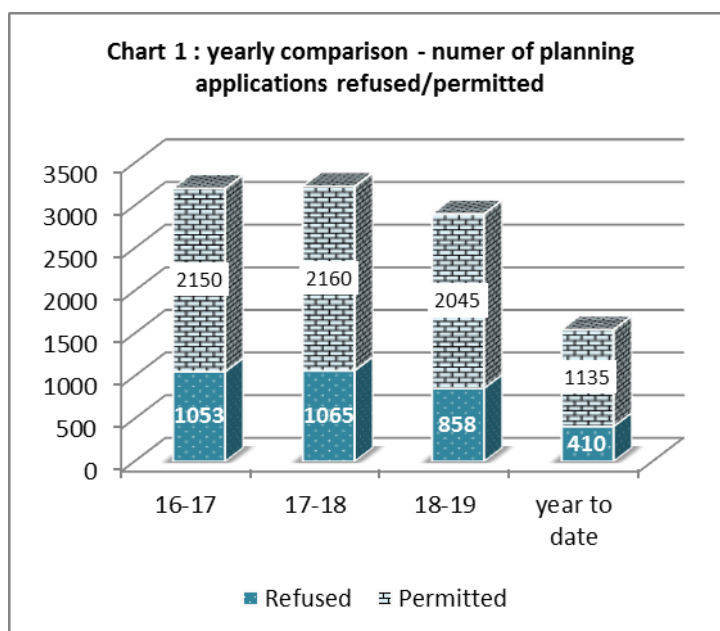
1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: n/a



### 3. COMMENTARY

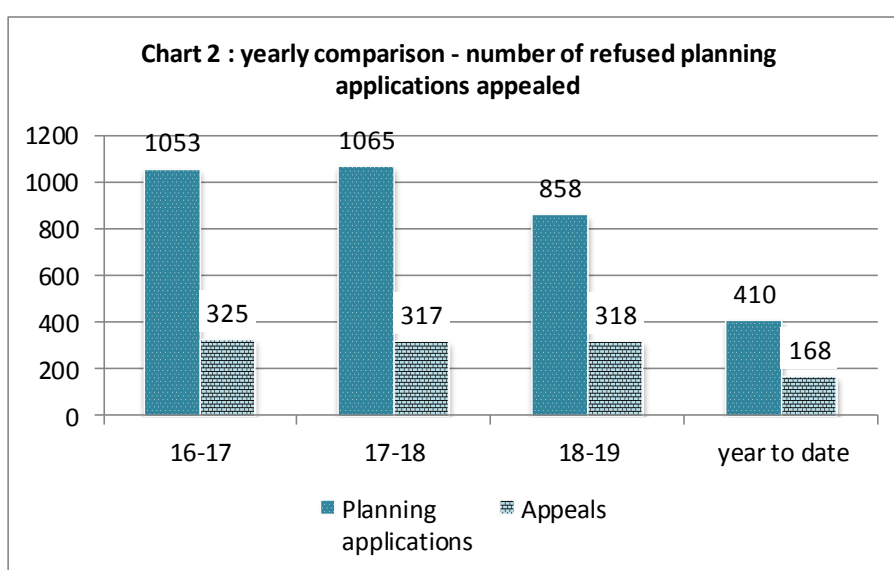
3.1 This report gives Members an overview of planning appeal decisions since 2016 together with a more detailed analysis of the period between 1 April 2019 to December 2019.

### 3.2



**Chart 1** shows a comparison of the number of planning applications received<sup>1</sup> in the financial years 2016-2017, 2017-2018, 2018-2019 and 2019 to end of December, indicating the split between allowed and refused. Analysis of what figures are showing (previous: it is evident that the number of planning applications received has historically been relatively consistent, as are the percentage of applications refused at around 30%. There was however a small decline in 2018 in the total number and it appears that this trend may be continuing into 2019.

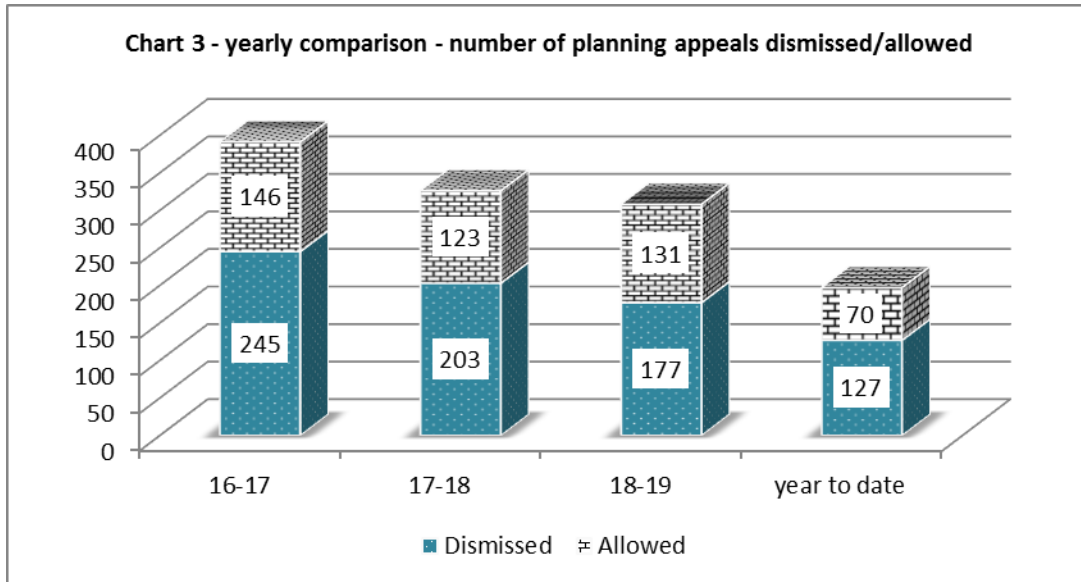
### 3.3



<sup>1</sup> Please note the data for Charts 1 and 2 relates only to applications where the decision status is "refused" or "permitted". There are a number of different determination status' such as 'approved', 'prior approval not required', 'advertisement consent granted', 'existing use/development lawful' etc. which due to the complexity of retrieving the data have not been included in these charts.

**Chart 2** shows the number of refused planning applications appealed and decided in the financial years 2016-2017, 2017-2018, 2018-2019 and 2019 to end of December. Again a declining trend is observed since 2018.

3.4



**Chart 3** shows the number of appeals allowed/dismissed in the financial years 2016-2017, 2017-2018, 2018-2019 and 2019 to end of December 2019. The percentage of appeals allowed in 2016-2017 is 37%, 2017-2018 is 38%, 2018-2019 is 43% and 36% for 2019 to date. Again a declining trend is observed since 2018.

3.5

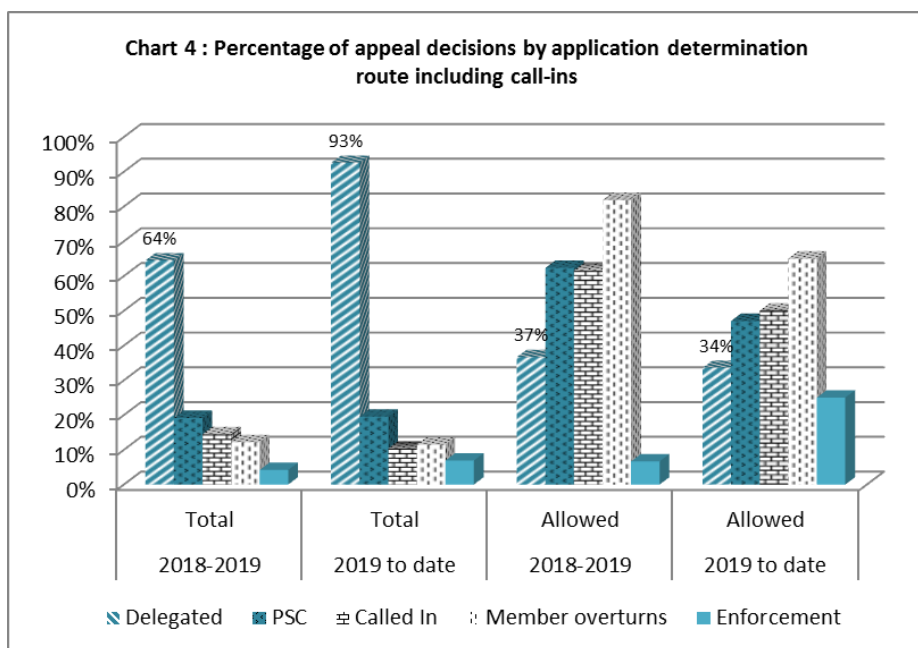


Chart 4 : Values	2018-2019 Total	2018-2019 Allowed	% Allowed	2019 to date Total	2019 to date Allowed	% Allowed
Delegated	232	85	37%	161	54	34%
PSC	69	43	62%	34	16	47%
Called In	52	32	62%	18	9	50%
Member overturns	44	36	82%	20	13	65%
Enforcement	15	1	7%	12	3	25%
	<b>360</b>	<b>129</b>		<b>174</b>	<b>73</b>	

**Chart 4** shows a percentage comparison of the breakdown of the number of planning appeals by planning application deciding route and includes the percentage allowed in the financial year 2018-2019 and 2019 to date by each route.

In 2018-2019 64% of appeals decided were as a result of refused planning applications determined under delegated authority, 37% of those appeals were allowed.

To date 34% of appeals have been allowed which were refused under delegated, a decline in the percentage of appeals allowed is emerging.

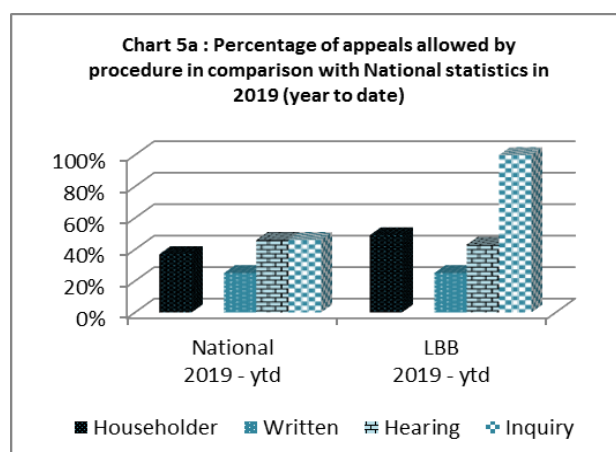
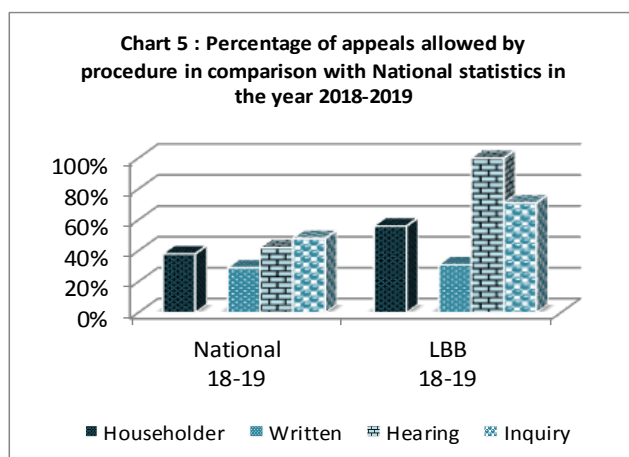
In comparison 62% of appeals against decisions made by PSC were allowed in 2018-2019 and in 2019 to date, there has been a decline of 47% being allowed.

Those applications determined at Plans Sub Committee can be further broken down into Member overturns and those '*called in*'. Member overturn decisions at Plans Sub Committee have resulted in the highest rate of appeals allowed. In 2018-2019 82% of appeals against such decisions were allowed and in 2019 to date of which 65% have been allowed. Applications that are "*called in*" for determination at Plans Sub Committee that are allowed at appeal are also relatively high, in 2018-2019 62% of '*called in*' applications were allowed and in 2019 to date 50% have been allowed.

The Planning Advisory Service considered that too many reasons for refusal are not capable of support at appeal and officers are having to seek committee approval not to defend them. Both '*call ins*' and Member overturns are showing a declining trend in 2019.

Appeals against enforcement notices are relatively low as often the enforcement notices are complied with. The success rate of those that go to appeal is relatively high as in 2018-2019 only 7% were allowed however in 2019 to date 25% have been allowed. This indicates that the Council's reasons for issuing enforcement notices are sound and it was expedient to take enforcement action. The three appeals which were allowed are: 16 Romney Drive – boundary, Summer Shaw – boundary and 48 Wickham Rd – extension/use. See **Appendix 1**.

### 3.6



**Charts 5 and 5a** show the percentage of appeals allowed by appeal procedure in comparison with national statistics for the year 2018-2019 and April 2019 to date respectively.

There are four procedures that an appeal can follow, householder, written representations, a hearing or an inquiry.

**Householder** appeals relate to refused householder applications (minor residential development proposals) in which the applicant has 12 weeks in which to appeal. The LPA’s case will be its reasons for refusal and the documentation supplied with the questionnaire. The LPA will not normally be able to send any further material after the questionnaire stage.

**Written Representation** cases, the Inspector will decide the appeal on the basis of the written material (full statement of case) provided by all parties and following a visit to the appeal site.

**The Hearing** is an inquisitorial process led by the Inspector who identifies the issues for discussion based on the evidence received and any representations made. The hearing may include a discussion at the site or the site may be visited, on an accompanied (without any discussion), or unaccompanied basis. Statutory parties and other interested people can attend and may participate in the discussion at the discretion of the Inspector.

**The Inquiry** is open to the public and provides for the investigation into, and formal testing of, evidence, usually through the questioning (cross examination) of expert witnesses and other witnesses. Parties may be formally represented by advocates. The site may be visited before, during or after the inquiry. Statutory parties are entitled to participate in an inquiry. Interested people can attend and may participate in an inquiry at the discretion of the Inspector.

It is evident that LBB have a much higher percentage of householder appeals allowed compared to nationally both in 2018-2019 and the current year.

However, the percentage of written appeals allowed is relatively low where approximately 31% were allowed in 2018-2019 which is consistent with the national average for that period. Currently written appeals allowed this year remain relatively low with just 25% having been allowed to date, which compares with the national average.

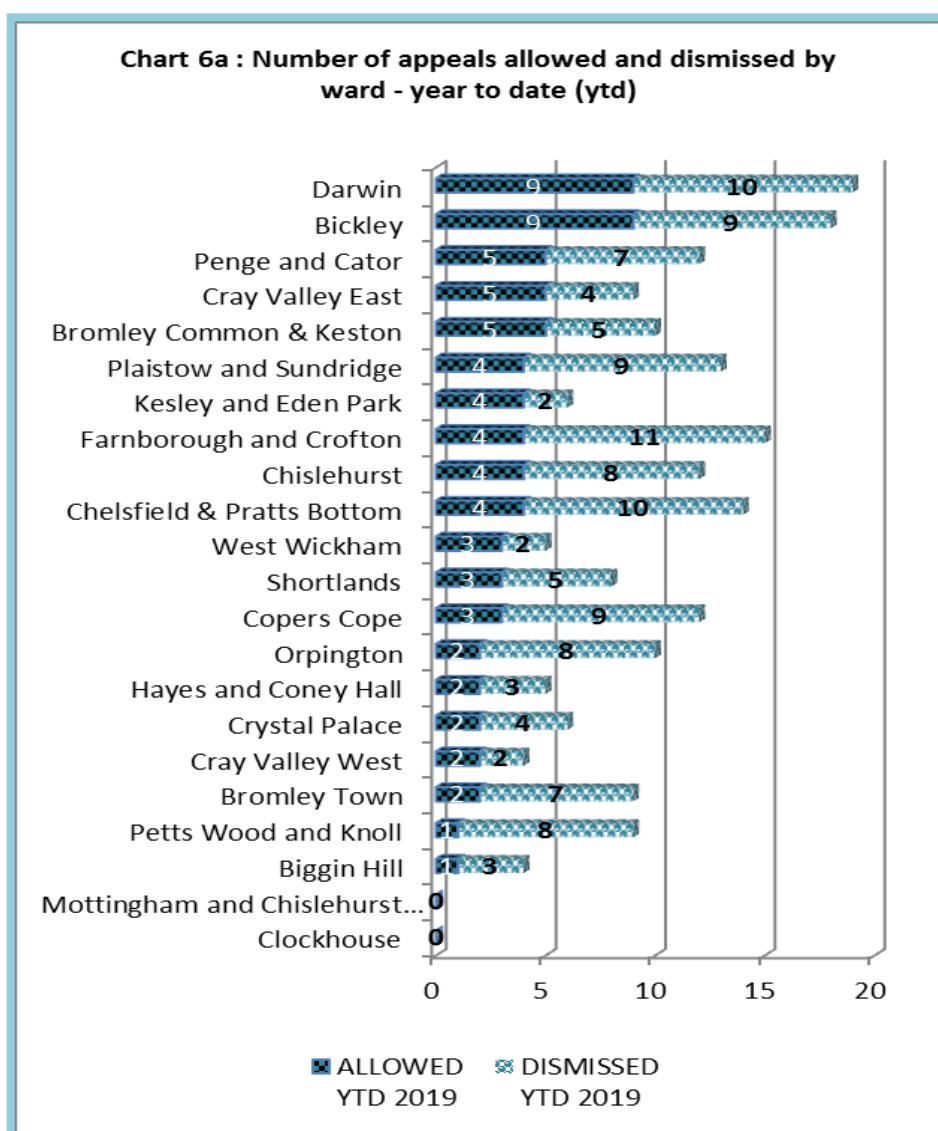
Appeals that follow the Hearing and Inquiry procedures only make up a small percentage of the overall appeals decided in 2018-2019 where one hearing decision was received which was allowed, hence the 100% allowed, 7 inquiry decisions were received, in which 5 were allowed, hence the 71% allowed. Similarly in 2019 to date, 7 hearing decisions were received 3 of which were allowed, a percentage of 43%, 3 inquiry decisions were received and all allowed, hence 100% allowed.

National Planning Performance Statistics – successful appeals as a percentage of total applications received, as previously reported, currently awaiting an update for 2017-2019 to be published.

	2016-18
Major Nat/Bromley	2.2/14.7
Non Major Nat/Bromley	1.2/3.5

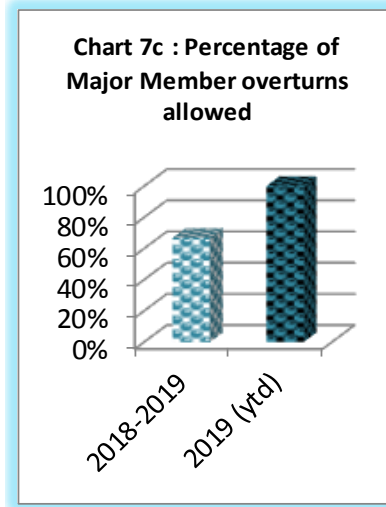
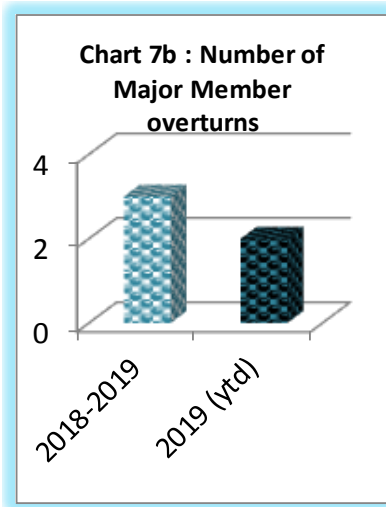
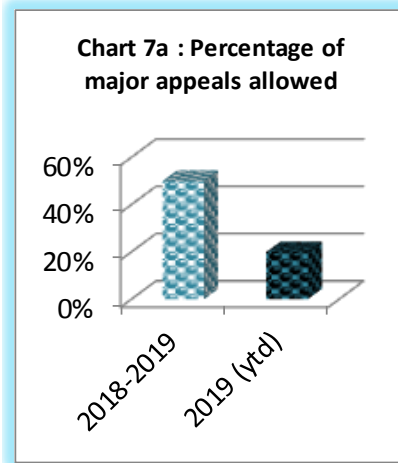
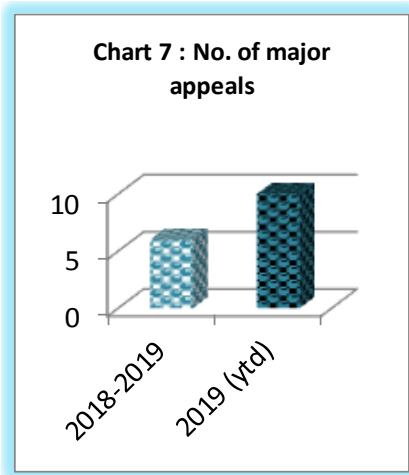
<https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics>

3.7



**Chart 6a** shows the number of appeals decided in each ward and whether allowed or dismissed in 2019 to date. The three wards with the most appeals against them are Darwin, Bickley and Farnborough & Crofton. The two wards with the most appeal allowed are Darwin and Bickley. A large proportion of the appeals allowed are in Conservation Areas and Green Belt locations in which the Planning Inspectorate have considered the proposals not to harm the design and character of the Conservation Areas and would not have an impact on the openness of the Green Belt.

3.8

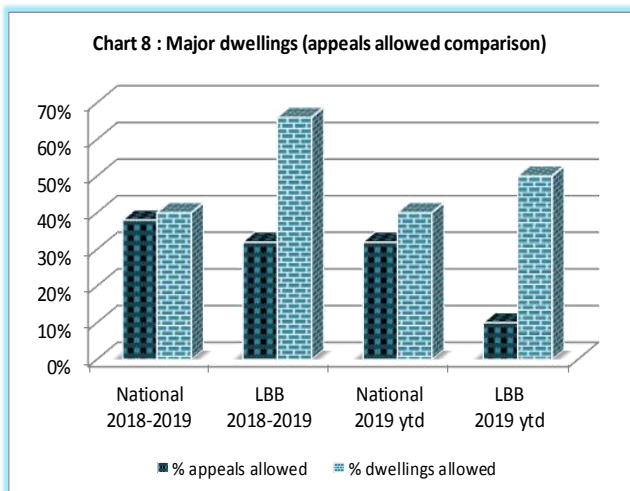


**Chart 7, 7a, 7b and 7c** relates to **Major** appeals only and shows the number of major appeals decided and the percentage allowed and the number of member overturns decided and the percentage allowed in 2018-2019 and 2019 to date.

50% of major appeals were allowed in 2018-2019, to date 20% have been allowed.

In 2018-2019 3 major appeals were the result of member overturns two of which were allowed resulting in 67% being allowed So far in 2019 one major appeal resulted from a member overturn which was allowed, hence 100%.

3.9



	National 2018-2019	National 2019 ytd	LBB 2018-2019	LBB 2019 ytd
Appeal decided	682	380	6	10
No. of dwellings decided	28011	19823	257	300
appeals allowed	257	121	3	1
No. of dwellings allowed	11273	7972	169	151

**Chart 8** relates to **Major dwellings (10 residential units or more)** appeals only and shows the percentage of appeals allowed against refused applications new residential units, nationally and in Bromley.

In 2018-2019 the percentage of **major** appeals allowed in relation to **new dwellings** nationally was 38% and for Bromley 50% resulting in 169 additional new dwellings being approved by the Planning Inspectorate. In 2019 to date, nationally 32% of major appeals were allowed and for Bromley 10% resulting in 151 additional new dwellings being approved by the Planning Inspectorate in Bromley, in this instance it was considered that it would go towards Bromley’s housing supply target and that the previous grounds of refusal had been addressed. Also, in this specific appeal the Inspector concluded that Very Special Circumstances were demonstrated by the appellant.

3.10

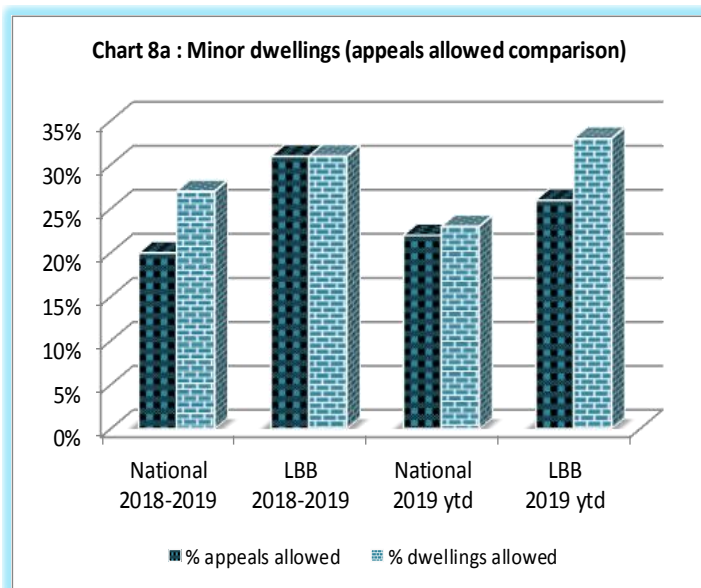
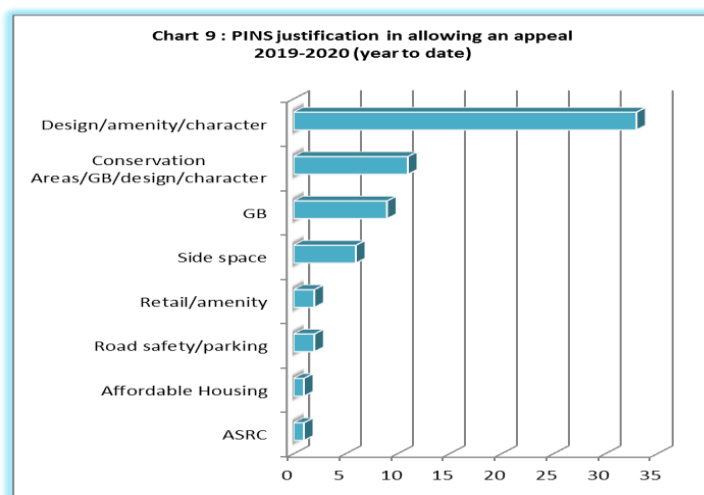


Chart 8a : Values	National 2018-2019	National 2019 ytd	LBB 2018-2019	LBB 2019 ytd
Appeal decided	5093	3557	106	68
No. of dwellings decided	3799	5869	336	159
appeals allowed	996	772	33	18
No. of dwellings allowed	1032	1330	105	52

**Chart 8a** relates to **Minor dwellings (up to 9 residential units)** appeals only and shows the percentage of appeals allowed against refused applications for new residential units, nationally and in Bromley.

In 2018-2019 the percentage of **minor** appeals allowed in relation to **new dwellings** nationally was 20% and 31% for Bromley. In 2019 to date the gap has decreased, nationally 22% and 26% for Bromley.

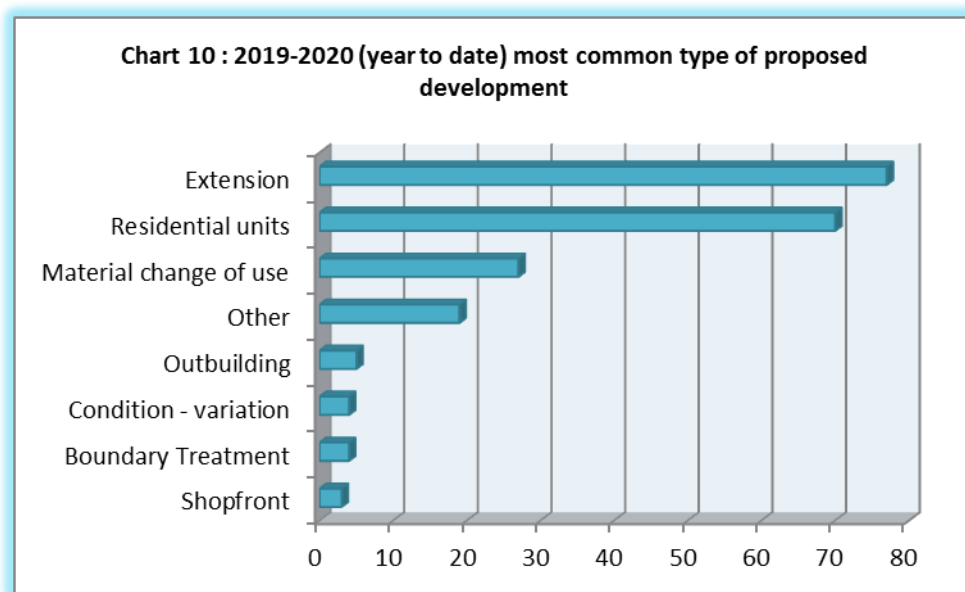
3.11



**Chart 9** shows the majority of appeals which are allowed by the Planning Inspectorate are considered to be policy compliant with design, residential amenity and character of the area. A large proportion of appeals are also allowed in Conservation Areas and Green Belt locations in which the Planning Inspectorate have considered them not to harm the design and character of the Conservation Areas and would not have an impact on the openness of the Green Belt.

A number of appeal decisions have concluded that the Council’s side space policy has been applied too rigidly. The Council’s policy states that a 1 metre side space is ‘**normally**’ required, allowing for the location and characteristics of the site and wider area to be taken into consideration.

### 3.12



**Chart 10** shows the number of appeal decisions by development type in 2019 to 2020 (year to date). The top two development types are extensions and residential units. Residential units include the sub-division of existing dwellings to create additional units.

### Conclusion

- 3.13 The analysis in this report provides some interesting insights into the Council’s appeal performance. It is evident that Bromley is losing a higher percentage of appeals than the national average specifically in relation to Householder appeals. As a result, officers have set up an internal working group to specifically look at these issues for continued improvements around delegated decisions as the majority of householder decisions are made under delegated powers. It is anticipated that improvements will be seen in decisions in the next quarter.
- 3.14 The analysis in this report provides evidence, of the 207 appeals decided in 2019 to date, in which 37% followed the householder procedure, 4% followed the hearing and inquiry procedure and the remaining 58% followed the written representation procedure. The appeals that follow the written representation procedure are dealt with specifically by the appeals team and it should be noted that currently they have a 75% success rate which is in line with the national average, also at 75%, and this shows an increase from 69% in 2018-2019.



- 3.15 It is proposed that planning appeal surgeries are to be held quarterly for Councillors as part of our ongoing commitment for continuous improvements at which a selection of minor appeals that have been allowed are reviewed in depth to see what can be learnt. It is also proposed that from 2020 all major appeals that are allowed will be the subject of an individual report to Development Control Committee exploring the decision and reasons.

#### 4. FINANCIAL IMPLICATIONS

- 4.1 Six cost claims have been allowed in 2019/20 to date. The Council have received four claims, the total amount claimed is **£45,912.80**, the Council have scrutinised three claims and negotiated a realistic amount considered to represent the costs incurred. One claim is currently being scrutinised by an external cost advocate, as the amount being claimed exceeds £10k. Two are awaiting submission of a claim. The total sum paid to date for the three negotiated claims agreed and settled is **£19,500**, a reduction of approximately **£11,712k**. A full cost report is reported annually and the next report will in **November 2020**. The claims are as follows:

##### Outstanding claims

Bluebell Farm	Still awaiting claim from appellant
47 Tubbenden Lane, Orpington	Still awaiting claim from appellant
48 Wickham Road	£14,700 - Currently being assessed by a cost advocate

##### Claims – settled

Hawthorns, Lawrie Park Crescent	£2,000 – paid <b>£500</b>
9 Princes Avenue	£6,720 – paid <b>£2,000</b>
8 Austin Avenue	£22,492 – paid <b>£17,000</b>
<b>Total settled in full</b>	<b>£19,500</b>

<b>Non-Applicable Sections:</b>	LEGAL , POLICY AND PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	NATIONAL PLANNING PRACTICE GUIDANCE PLANNING APPEALS MONITORING REPORT – APRIL 2018 TO MARCH 2019- UPDATE 26 NOVEMBER 2019.

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## Appeal Decision

Site visit made on 8 October 2019

**by D Fleming BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 October 2019**

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**Appeal Ref: APP/G5180/C/18/3218808**

**16 Romney Drive, Bromley BR1 2TE**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Ms Renfei Li against an enforcement notice issued by the Council of the London Borough of Bromley.
  - The enforcement notice was issued on 30 November 2018.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a fence and associated concrete gravel boards extending to a maximum height of 1.9m, together with the installation of a double wooden gate (following the green line on the plan attached to the notice).
  - The requirements of the notice are to remove from the Land the unauthorised fence, including the gate and posts and leave the Land in a neat and tidy condition.
  - The period for compliance with the requirements is one month.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
- 

### Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out, namely the erection of a fence and associated concrete gravel boards, together with the installation of a double wooden gate on land at 16 Romney Drive, Bromley BR1 2TE, referred to in the notice.

### Procedural Matter

2. The notice was issued in November 2018 and the reasons referred to Policies BE1 and BE7 of the Council's Unitary Development Plan (UDP). Since then, the Council have adopted the Bromley Local Plan (LP) on 16 January 2019 and Policy 37 replaces the previous policy requirements. As the UDP has now been superseded I shall therefore have regard to the new policy in the determination of this appeal.

### The ground (a) appeal and the deemed planning application

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

## Reasons

4. The appeal concerns a detached house situated on the corner of Romney Drive and Newing Green. The entrance to the property is five steps down from Romney Drive. Habitable room windows overlook both Newing Green and the rear garden, which is sited parallel to Romney Drive. A detached garage building is also situated in the rear garden with vehicular access from Romney Drive. The garage door has been removed by the appellant and replaced with a glazed door.
5. The surrounding area comprises a modern residential estate situated on rising ground with a variety of house types. A key feature of the appearance of the estate is the combination of open plan front gardens and extensive landscaping, which has now matured. This has produced a very attractive street scene, which the Council have sought to protect by the removal of permitted development rights for the erection of fences and other means of enclosure.
6. The appellant has removed the fence that formerly enclosed her rear garden, which comprised fence panels supported by concrete posts, and erected a new fence of a similar appearance. This now encloses the adjacent grass verge and the forecourt to the garage, which has the effect of enlarging the rear garden. The new fence is situated next to and level with the back edge of the pavement and returns to meet the outside wall of the garage whereas previously it was sited below the level of the pavement as the grass verge slopes down to the rear garden.
7. The Council are concerned that the new position of the fence results in a loss of openness and harms what is a principal feature of the area. In addition, the grass verge with its three trees contributed to the pleasant appearance of the area.
8. The enclosure of the grass verge and the garage forecourt has resulted in a loss of openness. Policy 37 of the LP requires all development proposals to positively contribute to the existing street scene and respect important views or landscape features. In this case it is the grass verge with the three trees that contribute to the verdant setting of the estate. Whilst the forecourt was open, it was not planted and clearly was used for off street parking. It is my view that cars parked in front of dwellings on the estate interrupt the flow and views of the landscaping, which has been carefully laid out, having regard to the sweeping curve of the principal road, the layout of the houses and changes in levels.
9. The grass verge was narrow in width and short in length. Its contribution to the pleasant appearance of the area was therefore small. Furthermore, the trees planted in the verge have been retained by the appellant, notwithstanding the fact that they are protected by a Tree Preservation Order, and their canopies are clearly visible above the fence. As such, they continue to add to the verdant setting of the estate.
10. Having regard to important views, on entering Romney Drive it is the dwellings set back from the road at Nos 8-14 that form a prominent vista which is probably why there are groups of trees planted in front of Nos 12-14. These immediately soften the appearance of these dwellings and maintain the original woodland setting of the estate described by a third party. On turning the

corner, it is the group of trees planted in front of Nos 9-17 that take the eye forward. The harm caused by the enclosure of the grass verge is therefore modest and I find that the new fence line is not particularly prominent in the street scene. Although the new position of the fence results in a slightly longer run of fence panels, overall the fence has been well designed and is of a sturdy construction. It is also of a similar appearance to the previous fence.

11. The appellant submits that the level of the back garden is about one metre below the level of the road and the new position of the fence improves her privacy and security. Although her submissions on this matter are not elaborated any further, having viewed corner properties elsewhere on the estate, it would appear No 16 is the only one with a back garden that is below the level of the road. Where other houses have a rear garden parallel to the road, the side boundary has been planted with shrubs and residents have allowed them to grow into thick high hedges, thus preserving their privacy and aiding security without repositioning their fencing. At another property, where the same house type as the appeal property has been built, the rear garden is actually higher than the road. Levels of privacy are therefore well preserved even though the fence does not include the grass verge.
12. The Council have submitted before and after photographs of the works and it appears that previously it was possible to see over the top of the fence into the lounge windows of the appeal property when walking along the road. The new fence, although it is of a similar height to that which existed previously, due to its new position, prevents this.
13. The Council and some third parties have expressed concern that the enclosure of the former garage forecourt has resulted in a loss of two off street parking spaces. Other third parties also raise concerns about a new hardstanding, loss of light to No 14, that the fence line includes double gates, precedent and estate covenants.
14. The appellant maintains that the garage could still be used and this is why she has included double gates in the fence line, although I note the previous hard standing has now been turfed. However, I am not aware that the Highway Authority has raised any objection to this arrangement. The new hard standing area that has been created on the corner of the plot is not attacked by the notice and is therefore not before me. Any loss of light to the ground floor habitable rooms at No 14 is considered to be negligible given the front of No 14 generally faces south and given the position of the garage at No 16.
15. I have considered the arguments that the enclosure of the grass verge would set a precedent for similar developments on the rest of the estate. However, no directly similar or compatible sites to which this might apply have been put forward. Each application and appeal must be determined on their individual merits and a generalised concern of this nature does not justify withholding planning permission in this case.
16. Furthermore, I can see no reason why a grant of planning permission would negate or supersede any covenants on the land. Accordingly, issues relating to title and covenants have not had any material bearing on my assessment of the planning issues in this appeal.
17. I have found that the development is contrary to the development plan. However, in terms of the effect of the development on the character and

appearance of the area, the loss of openness is modest, the trees are retained and the design of the fence is acceptable. In addition, the development improves the privacy enjoyed by the occupiers of the property. These are material considerations which, on balance, outweigh my findings in respect of the development plan. For these reasons and in these particular circumstances, I conclude that the development does not harm the objectives of Policy 37. As such, the appeal succeeds on ground (a) and planning permission will be granted. No conditions are necessary as the development was substantially complete when the notice was issued.

**Conclusion**

18. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

*D Fleming*

INSPECTOR



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## Appeal Decision

Site visit made on 28 January 2019

**by Susan Wraith Dip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 June 2019**

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**Appeal Ref: APP/G5180/C/18/3195986**

**Land at Summer Shaw, 156 Cudham Lane North<sup>1</sup>, Cudham, Sevenoaks TN14 7QR**

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Chetna Osman [hereafter "the appellant"] against an enforcement notice issued by the Council of the London Borough of Bromley [hereafter "the Council"].
- The notice ref: 16/00344/OPDEV was issued on 15 January 2018.
- The breach of planning control alleged is: Without planning permission the construction of walls, piers and a pair of wooden gates adjacent to the entrance fronting Cudham Lane North, together with associated hardstanding by this entrance.
- The requirements of the notice are:
  1. Remove the wooden gates and piers
  2. Remove the additional piers, walls and associated hardstanding by the entrance
  3. Remove all items associated with (1) and (2) above from the land and restore the Land to its previous condition.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in s174(2)(a), (f) and (g) of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.

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### Decision

1. It is directed that the enforcement notice be corrected in paragraph 2 by the deletion of "156 Cudham Lane, North Cudham" and the substitution of "156 Cudham Lane North, Cudham". Subject to this correction the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under s177(5) of the Act for the development already carried out, namely the construction of walls, piers and a pair of wooden gates adjacent to the entrance fronting Cudham Lane North, together with associated hardstanding by this entrance on land at Summer Shaw, 156 Cudham Lane North, Cudham, Sevenoaks TN14 7QR referred to in the notice.

### Matter concerning the enforcement notice

2. In paragraph 2 of the notice the apostrophe after "Cudham Lane" is in the wrong place as the property address is "Cudham Lane North". This is a typographical error which I shall correct under s176(1)(a) of the Act. No injustice will be caused to either party in me so doing.

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<sup>1</sup> I have corrected the address from that given in the enforcement notice.

### **Other preliminary matters**

3. There are differences between the parties regarding the extent to which land levels have been changed to accommodate the hardstanding (a matter to which I shall return). Notwithstanding these differences I am satisfied that some works (to a lesser or greater extent) amounting to "formation" and "laying out" have been involved such that the formation of the hardstanding amounts to an "engineering operation". I shall deal with the appeal accordingly.
4. Whilst the term "engineering operation" is not explicitly stated in the notice, the notice clearly targets the "hardstanding" and, thus, encompasses the totality of the works involved in its formation. I do not regard there to be any inconsistency between the notice as drafted and the case now being argued by the Council.
5. I am told that some of the piers, when first built, exceeded the "permitted development" height of 2.0 metres and 1.0 metre where adjacent to the highway. These have since been reduced to the "permitted development" heights. The appeal, however, concerns the circumstances at the time that the notice was issued. I shall proceed on that basis.

### **The appeal on ground (a) and the deemed application**

#### *Planning policies*

6. Since issuing the enforcement notice the Council has adopted its new Local Plan – the London Borough of Bromley Local Plan January 2019 [hereafter "BLP"]. Thus the development plan policies relevant to this appeal are policies 37 and 49<sup>2</sup> BLP and policy 7.16 of the London Plan. The policies of the Unitary Development Plan, referred to in the notice, are superseded.
7. Policy 37 BLP seeks to ensure that new development is of a high standard of design and layout and that (amongst other things) it contributes to the existing street scene and landscape.
8. Policy 49 BLP and policy 7.16 of the London Plan together presume against inappropriate development in the Green Belt unless very special circumstances are demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.
9. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise<sup>3</sup>.
10. National planning policy is set out in the National Planning Policy Framework [hereafter "the Framework"]. Chapter 12 advises on achieving well-designed places. Paragraphs 143 – 146 advise on the approach to determining applications for proposals in the Green Belt.
11. Policies 37 and 49 BLP are from an up-to-date development plan and are in conformity with the Framework. London Plan policy 7.16 pre-dates the Framework but is in general conformity with it. This is not a case where the

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<sup>2</sup> At the time that the notice was issued these policies were at proposed submission draft stage and were referred to as such in the notice.

<sup>3</sup> S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.



Framework indicates a decision other than in accordance with the development plan.

*Main issues*

12. When having regard to the relevant planning policies and submissions made by the parties I consider the main issues to be:-

In respect of the hardstanding:

- (i) Whether the development is inappropriate development in the Green Belt; and
- (ii) Effect of the development upon the character and appearance of the area.

In respect of the walls, piers and gates:

- (iii) Whether the development is inappropriate development in the Green Belt;
- (iv) Effect of the development upon the openness of the Green Belt;
- (v) Effect of the development upon the character and appearance of the area; and
- (vi) Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

*Whether inappropriate development in the Green Belt – the hardstanding*

13. Policy 49, which is entirely consistent with the Framework, states that engineering operations are not inappropriate in the Green Belt subject to the proviso that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.
14. It is common ground that there has always been an access at the point where the subject works have now been undertaken. The landform, generally, slopes downwards from the road into the site. The Council says that, in forming the hardstanding, the ground level has been substantially raised. The appellant, on the other hand, says that no significant alterations to the level of the land were made.
15. I am not aware of any survey having been undertaken that records precisely the extent of any change in levels. Neither has any other technical information been given, such as height measurements before and after the works were carried out.
16. Amongst the evidence is a photograph, said to be dated April 2012, which shows the pre-existing access and an unmade track sweeping into the site framed by a hedge. The land at this part appears to be similar in level to much of the hardstanding as it now exists. Any necessary raising of the land would most probably have been within the north west part of the area where the hedge is seen, and a little beyond, in the 2012 photograph.
17. It is, however, possible that such an alteration to land levels could have been achieved by simply re-profiling the land. There is no evidence that material was brought to the land to "fill" the area such that there would have been an effect upon openness.

18. I bear in mind that, according to the appellant, any levelling of land has not been significant. The appellant is well placed to know the extent to which land levels have changed. In the absence of any evidence to the contrary I therefore place weight upon the appellant's description.
19. In all these circumstances I find that the works to form the hardstanding (including any changes to land levels) have had no effect upon the openness of the Green Belt. Being development within an existing residential curtilage the works do not amount to encroachment. Neither does the hardstanding conflict with any other of the purposes of including land in the Green Belt.
20. There are no reasons that take the hardstanding outside of the policy exception for engineering operations. Thus I conclude on this issue that the hardstanding is not inappropriate development in the Green Belt.

*Effect upon the character and appearance of the area – the hardstanding*

21. Summer Shaw is situated towards the edge of the scattered settlement of Cudham. The boundary of its curtilage fronts Cudham Lane North which is defined by a solid timber fence. Beyond the access to the north the boundary is defined by hedgerow and trees. Cudham Lane North is of quite narrow width. In parts it is lined by greenery and elsewhere, including within the settlement, it is fronted by residences and other properties some of which have brick boundary walls.
22. The opening up of the access together with the hardstanding area beyond has brought about a change to the frontage. However, it does not follow that change is necessarily harmful. To my mind an open access with hardstanding is not an usual feature within the frontage of a residential property. The surfacing of the hardstanding in simple rectangular setts of neutral colour laid in a regular pattern provides a reasonable blend with the village vernacular. Whilst the development is clearly seen from the road I do not consider its effects to be negative upon the character and appearance of the area when compared to the previous situation of solid timber fencing and gates immediately to the site frontage.
23. A further important consideration concerns "permitted development". The appellant argues that there are permitted development rights for the provision of a hard surface in the location of the hardstanding under Class F to Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter "Class F rights"]. The Council on the other hand, whilst not disputing that the land is within the curtilage of the dwellinghouse, says that Class F rights do not apply as the hard surface is not positioned directly between the principal elevation of the dwelling and the highway.
24. I do not agree with the Council's interpretation. The wording of Class F permits hard surfaces incidental to the enjoyment of the dwellinghouse anywhere within its curtilage subject only to conditions concerning water run off where situated on land between the principal elevation and a highway. These conditions are not applicable to the area where the subject hardstanding is positioned.
25. In most cases the "provision" of a hard surface would involve some works to level and prepare the land. Class F rights would, to my mind, cover such

- limited and integral works. It would not, however, cover works that involve significant changes to land levels. The matter is one of fact and degree.
26. As already explained, there is no precise information about the extent to which levels have been changed. There may have been some raising of the land within the north west part of the area although the appellant says that there has been no significant change. In any event I am satisfied that, for its most part (at least), there would be permitted development rights to provide a hard surface on the area that accommodates the subject hardstanding.
27. Permitted development rights derive from Government's intention that householders should have certain freedoms to carry out development at their homes without the need to apply for planning permission. Additionally Class F rights provide a valid fallback position for the appellant. The existence of these permitted development rights, and the extent to which they can be exercised in this general location, is a material consideration to which I attach substantial weight.
28. Even if the subject hardstanding is a little larger at its north west part than could (as a matter of fact and degree) be provided under Part F, no tangible harm arises. The hardstanding is satisfactory in any event on its planning merits.
29. For all these reasons, on this issue, I conclude that the hardstanding is acceptable in terms of its effects upon the character and appearance of the area.

*Whether inappropriate development in the Green Belt – the walls, piers and gates*

30. Policy 49 states that the construction of new "buildings" in the Green Belt is inappropriate development subject to some exceptions. The term "building" is not defined by the Council's policy as far as I am aware. Neither is it defined in the Framework.
31. The definition of "building" at s336<sup>4</sup> of the Act, includes any "structure or erection" and, thus, would cover walls, piers and gates. However, this definition is for the purposes of the interpretation of "building" where it appears in the Act. It is not for the purpose of interpreting policy. Nevertheless, a reasonable approach is to consider the walls, piers and gates (collectively) as a "building" in terms of policy when having regard to this statutory definition.
32. Thus the walls, piers and gates will be inappropriate development unless one of the exceptions of policy 49 applies.
33. Most of the exceptions do not apply to the circumstances of the appeal development. The works could, however, be considered as a replacement of a "building" under the fourth bullet point as they replace the pre-existing wooden gates and (possibly) a small stretch of the previous boundary structure that fronted the highway<sup>5</sup>. This exception is subject to the proviso that the new "building" is not materially larger than the one it replaces.

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<sup>4</sup> S336 of the Act states that the term "building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.

<sup>5</sup> The pre-existing gates and fence are seen in the photograph said to have been taken in 2014.

34. The walls, piers and gates (together) are of discernibly longer length than the former structure as they wrap around the hardstanding. The walls and piers are also of more solid construction, and thus of greater depth, than the previous timber gates and fence.
35. Therefore I find, on this issue, that the walls, piers and gates are materially larger than the structure they replaced and, thus, amount to inappropriate development in the Green Belt.

*Effect upon the openness of the Green Belt – the walls, piers and gates*

36. The assessment of the effect upon openness is not simply a mathematical exercise. Whilst the walls and piers have added a little extra volume they are essentially two dimensional. Openness is still maintained on one side and the other. In fact, the perception of openness in views from Cudham Lane North is marginally positive when comparing the opened up access with set back walls and gates to the pre-existing situation of solid timber gates and a fence directly fronting the highway.
37. The works do not represent an encroachment because they are within an existing residential curtilage. Neither do they conflict with any of the other Green Belt purposes. Thus, on this issue, on balance I find the overall effect upon the openness of the Green Belt to be neutral and that there is no other Green Belt harm.

*Effect upon the character and appearance of the area - the walls, piers and gates*

38. Brick walls and buildings are not uncommon within the local built fabric. The walls and piers, together with the muted and simple style gates, to my mind, generally accord with the character and appearance of the area when bearing in mind that they are positioned within an established residential frontage.
39. A further important matter concerns the permitted development rights that are available for the erection of gates, walls, fences etc under Class A to Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter "Class A Part 2 rights"]. As with the hardstanding, I attach substantial weight to permitted development rights which, under Class A Part 2, would permit the erection of walls, piers and gates up to 2.0m height (1.0m where adjacent to the highway) and which provide a valid fallback position for the appellant.
40. The gates modestly exceed the permitted development height but, bearing in mind they are set back from the highway within a spacious plot, this additional height does not give rise to any tangible harm. Some of the piers were slightly higher<sup>6</sup> when built than the permitted development allowances but, similarly, no discernible harm would have arisen in the context of this development. In a "permitted development" scenario walls piers and gates, substantially the same as the subject structures, could be erected without the need to apply for planning permission.

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<sup>6</sup> The appellant says that some of the piers were "slightly higher" than the permitted development allowances. There is no other evidence as to the measurements exactly. I therefore place weight upon the appellant's description. These piers have now been reduced to the permitted development height.

41. In all these circumstances I conclude on this issue that the walls, piers and gates have no adverse effects upon the character and appearance of the area.

*Whether very special circumstances exist that justify the development - the walls, piers and gates*

42. The lack of harm to openness, to any other Green Belt harm and to the character and appearance of the area together with the fallback position arising from permitted development rights, in my view, clearly outweighs the harm that occurs by reason only of inappropriateness. I consider these circumstances to amount to very special circumstances. Thus the development is justified.

*Conclusions on ground (a) and the deemed application*

43. On ground (a) I conclude that the hardstanding is not inappropriate development in the Green Belt and neither does it result in harm to the character and appearance of the area.

44. Whilst the walls, piers and gates collectively do amount to inappropriate development the harm that arises by reason of inappropriateness is clearly outweighed by the lack of any other harm and the permitted development fallback position. This part of the development is justified by very special circumstances.

45. Overall, I find no conflict with the cited policies of the development plan. I therefore conclude that the appeal on ground (a) should succeed and that the deemed application should be granted. There are no conditions that have been suggested by either party. Neither do I consider any conditions to be necessary.

### **Conclusion**

46. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. Grounds (f) and (g) do not therefore need to be considered.

*Susan Wraith*

Inspector



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## Appeal Decisions

Site visit made on 24 September 2019

**by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 October 2019**

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**Appeal A: APP/G5180/C/18/3216957**

**Appeal B: APP/G5180/C/18/3216958**

**48 Wickham Road, Beckenham BR3 6LT**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr John Evans against an enforcement notice issued by the Council of the London Borough of Bromley. Appeal B is made by Mrs Samantha Evans.
- The enforcement notice was issued on 30 October 2018.
- The breach of planning control as alleged in the notice is without planning permission, the construction of a two storey side extension on the northern elevation of the dwelling which does not accord with the scheme approved, ref 15/01053/FULL6 in that:
  - a) an additional entrance has been inserted in the rear elevation of the extension;
  - b) an additional internal staircase has been constructed between the ground and first floor of the extension; and
  - c) rooflights have been inserted in rear roof slope of the extension.
- The requirements of the notice are:
  - a) demolish the unauthorised two storey side extension described in paragraph 3;
  - b) restore the dwelling to its previous condition prior to the unauthorised works;
  - c) remove from the land any resulting debris.
- The period for compliance with the requirements is 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the 1990 Act as amended. Appeal B is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the 1990 Act as amended. Since the prescribed fees have not been paid within the specified period, Appeal B on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

**Summary of Decision: Appeal A is allowed and the enforcement notice is quashed. Planning permission is granted in the terms set out below in the Formal Decision.**

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### Application for costs

1. An application for costs has been made by Mr and Mrs Evans against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

### The Notice

2. The enforcement notice alleges that an additional entrance has been inserted in the rear elevation of the extension. The Council accepts that this entrance was shown on the plans approved under planning permission reference 15/01053/FULL6. Consequently, this aspect of the scheme should not have been specified in the allegation. As the main parties have provided comments on this matter, I am satisfied that I can correct the notice without prejudice to delete this part of the allegation.

### The appeal on ground (c)

3. In order to succeed on ground (c), the appellants must show on the balance of probability that the matters alleged in the notice do not constitute a breach of planning control. In this type of appeal, the onus of proof is firmly upon the appellant.
4. Planning permission has been granted for a two-storey side extension and roof alterations to the front<sup>1</sup> (the 2015 permission). The appellants claim that the development was commenced but, prior to completion, their family circumstances changed which required alterations to the scheme.
5. The differences between the approved plan and the development include alterations to the fenestration and internal changes, which would enable the extension to function as a separate dwellinghouse although the appellants state that is not their intention. An application for a two-storey side extension, roof alterations to front and elevational alterations (part retrospective) was subsequently refused<sup>2</sup> (the 2017 application).
6. The appellants argue that the extension, as built at the date of the notice, was a two-storey side extension as set out in the description of development in the 2015 permission. It is contended it is lawful as there is no planning condition requiring the development to be built in accordance with the approved plans.
7. When interpreting planning permissions, the principle is that a planning permission should stand by itself, and the meaning be clear from within the four corners of the document. However, in this case, the application was for full planning permission which must be read with the approved plans<sup>3</sup>. The appellants accept that the development is not in accordance with those plans, hence, there is a breach of planning control.
8. Nonetheless, the appellants argue that the only way to impose a limitation or restriction on a planning permission is by imposing a condition; case law is cited<sup>4</sup>. In *I'm Your Man Ltd* a planning application for the permanent use of buildings was made after a 1995 grant of planning permission for a similar use for 'a temporary period of seven years'. No condition was imposed on the 1995 planning permission requiring cessation of the use after that time. It was held that, in the absence of a condition, the 1995 planning permission was not restricted to a temporary use. *R (oao) Altunkaynak* endorsed that principle. I have considered these judgements but the principles at issue differed significantly from the matters before me, which concerns a development not built in accordance with the approved plans as opposed to use restrictions.
9. I am also referred to *Lambeth LBC*<sup>5</sup> in which the Council attempted to restrict a planning permission through the description of development as opposed to imposing a condition. In this case, the Council is not seeking to restrict the permission but to ensure the development is constructed as approved. Again, the circumstances are different.

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<sup>1</sup> Ref 15/01053/FULL6 dated 19 June 2015.

<sup>2</sup> Ref 17/05737/FULL6 dated 27 February 2018.

<sup>3</sup> In *Barnett v SSGLG & East Hants DC* [2008] EWHC 1601 (Admin), [2009] EWCA Civ 476 it was held that a full planning permission must be read with regard to the approved plans.

<sup>4</sup> *I'm Your Man Ltd v SSE & North Somerset DC* [1999] 4 PLR 107 and *R (oao) Altunkaynak v Northamptonshire Magistrates Court & Kettering Borough Council* [2012] EWHC 174 (Admin).

<sup>5</sup> *Lambeth LBC v SSCLG SSCLG & Others* [2018] EWCA Civ 844.

10. The appellants make a second argument that the works only affect the interior of the building, therefore, they are not development within the meaning of section 55(2) of the 1990 Act as amended. This does not, however, mean there has not been a breach of planning control. If the extension had been built as approved, and then altered later, it could be argued that the subsequent alterations did not require permission. As explained above, the extension has not been constructed in accordance with the planning permission. I consider that this argument is better considered as fallback position under the ground (a) appeal.
11. The appellants' final point about the alleged additional entrance door has been dealt with by a correction to the notice as set out above.
12. To conclude on this matter, the appellants have not shown on the balance of probability that the matters alleged in the corrected notice do not constitute a breach of planning control. Therefore, the appeals on ground (c) must fail.

### **Appeal A on ground (a) and the deemed planning application**

#### *Preliminary Matter*

13. Since issuing the notice the Council has adopted the Bromley Local Plan (January 2019). I am directed to Policies 6, 7 and 37 which the Council says are most relevant and consistent with Policies BE1 and H8 of the now superseded Unitary Development Plan. I have considered the appeal against the 2019 policies.

#### *Reasons*

14. The appeal on ground (a) is that planning permission should be granted for the matters alleged in the notice. The terms of the deemed planning application are derived from the allegation. As such, planning permission is sought for a two-storey side extension with rooflights and an internal staircase. For the avoidance of doubt, I have considered the scheme in the first instance on the plans submitted with application reference 17/05737/FULL6, for which permission has been sought previously. The development was not complete at the date of my visit and it is important to be clear on this matter.
15. The appeal property is a two-storey detached house located on a corner plot. A two-storey side extension has been erected on the north elevation projecting towards Brograve Gardens. The Council is concerned that the departures from the approved scheme have created the potential for the two-storey side extension to be used as a separate dwellinghouse. This would be considered unacceptable as it would adversely affect the character and appearance of the area.
16. The Council is not alleging that a material change of use to two separate dwellinghouses has occurred. The concern is focussed on what may happen in the future. This is problematic because, at present, the dwelling remains as a single unit of accommodation. The appellant insists it will stay as such. While two separate dwellings on the site may be unacceptable and contrary to development plan policy, the development before me is an extension. Any subsequent unauthorised change of use would be a matter for enforcement. For this appeal, I must consider the planning issues associated with an extension, the main issue being its effect on the character and appearance of the area.



17. Crucially, the Council accepts there is a valid fallback position in that the 2015 permission is for a very similar extension. The external differences between the schemes are minor and are limited to the fenestration. The Council has not raised any concerns about the rooflights or other differences in the external appearance aside from the rear door, which I have removed from the allegation for the reasons set out above.
18. The Council indicates that a grant of permission for the 2017 scheme would be creating future problems and I am asked to consider amending the notice to ensure the development accords with the 2015 scheme. However, this would serve no useful purpose. If the development were built as per the 2015 scheme, internal alterations could be carried out at some point in the future. Ensuring adherence to the approved plans will not prevent an unauthorised change of use, which the Council would have powers to deal with in any event.
19. Overall, I am unable to find that the extension for which permission is sought has an adverse impact on the character and appearance of the area due to its similarities to the approved scheme. Whether or not the extension may be subject to a change of use in the future is not a relevant to this assessment.

#### *Other Matters*

20. I have had regard to the concerns of local residents, the majority of which concern the potential for two separate dwellings and the potentially adverse effects of that form of development. I am aware that there was a letterbox in the door, a separate rear access and dividing boundary treatment, all of which suggested a change of use was intended. However, this had not occurred at the date of the notice. As set out above, I must consider the development before me, which is an extension of a very similar form to that already approved.

#### *Conclusion*

21. I find that the development does not have an adverse effect on the character and appearance of the area. It accords with Policies 6 and 37 of the Local Plan which seek to promote high quality design and ensure development complements the host building and is compatible with the surrounding area.
22. Policy 7 states that the extension cannot be severed from the main house. I accept that the extension could potentially be severed but, as explained above, this severance has not occurred. The Council intends the policy to relate to future situations as set in the supporting text. However, the wording of the policy itself is clear "the extension cannot be severed". At present, the extension before me has not been severed and hence the development accords with Policy 7.
23. I have not considered the alternative scheme offered by the appellant as part of this appeal, as I have found the development to be acceptable when considered against the plans submitted with 2017 application. For the avoidance of doubt, I have imposed a plans condition.
24. The Council's suggested condition to limit the occupancy of the extension is not necessary. If the extension is severed to form a separate dwelling such that a material change of use occurs, planning permission would be required.

## **Conclusion**

25. For the reasons given above I conclude that the Appeal A should succeed on ground (a) and planning permission will be granted. Appeal A on grounds (f) and (g) does not therefore need to be considered.

## **Formal Decision**

26. It is directed that the enforcement notice is corrected to delete the following statement from paragraph 3 "*a) an additional entrance has been inserted in the rear elevation of the extension*".

27. Subject to this correction, the Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a two storey side extension on land at 48 Wickham Road, Beckenham BR3 6LT referred to in the notice, subject to the following condition:

1) The development hereby permitted shall be carried out in accordance with the plans dated December 2017, as submitted with application reference 17/05737/FULL6 as follows:

- `proposed front elevation' Ref L(-4) 301.3;
- `proposed rear elevation' Ref L(-4) 304.3;
- `proposed right side elevation' Ref L(-4)302.3;
- `proposed left side elevation' Ref L(-4)303.3;
- `proposed ground floor plan' Ref L(-2) 301.3;
- `proposed first floor plan' Ref L(-2) 302.3.

28. Appeal B on grounds (f) and (g) does not fall to be considered.

*Debbie Moore*

Inspector



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## Costs Decision

Site visit made on 24 September 2019

**by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 October 2019**

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### **Costs application in relation to Appeals Ref: APP/G5180/C/18/3216957 and APP/G5180/C/18/3216958**

#### **48 Wickham Road, Beckenham BR3 6LT**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr John Evans and Mrs Samantha Evans for a full award of costs against the Council of the London Borough of Bromley.
  - The appeals were against an enforcement notice alleging the construction of a two storey side extension.
- 

### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicants claim that the Council behaved unreasonably in serving the notice on the basis of an assertion about a possible change of use. The applicants maintain there is no intention to divide the property and, if this were to happen, it would require planning permission. Moreover, the Council accepts that the alleged additional entrance has permission by virtue of planning permission reference 15/01053/FULL6. It is claimed that the applicants had no option other than to appeal against the notice which has caused them to incur unnecessary expense.
4. The Council's reasons for serving the notice are based on the premise that the extension has the potential to be severed to form a separate dwellinghouse. The impact of this form of development is set out in detail. However, the Council accepts that a material change of use has not occurred and, if this were to happen, it would amount to a breach of planning control. The Council has accepted that the extension, as at the date of the notice, would not have an adverse impact on the surrounding area as planning permission was granted in 2015 for a very similar development. The concerns are solely based on future scenarios, which may not occur.
5. Overall, the reasons for serving the notice are based on conjecture. The concerns expressed by the Council may be valid but, should the feared scenario occur, this would be a matter for enforcement action in the future.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

**Costs Order**

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Bromley shall pay to Mr John Evans and Mrs Samantha Evans, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the Council of the London Borough of Bromley, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Debbie Moore*

Inspector

Report No.  
DRR20/006

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** 28 January 2020

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

**Title:** DELEGATED ENFORCEMENT ACTION (OCTOBER 2019 TO DECEMBER 2019)

**Contact Officer:** John Stephenson, Head of Planning and Development Support Team  
Tel: 0208 313 4687 E-mail: John.Stephenson@bromley.gov.uk

**Chief Officer:** Tim Horsman, Assistant Director, Planning

**Ward:** (All Wards);

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1. Reason for report

Enforcement action has been authorised under Delegated Authority for the following alleged breaches of planning control. In accordance with agreed procedures Members are hereby advised of the action taken.

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2. **RECOMMENDATION(S)**

**Members to note 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: Planning – Appeals and Enforcement Section
  4. Total current budget for this head: ££385k
  5. Source of funding: Existing revenue budget
- 

### Staff

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

### Legal

1. Legal Requirement: Town and Country Planning Acts
  2. Call-in: Not Applicable:
- 

### Customer Impact

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

### Ward Councillor Views

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

### 3. COMMENTARY

Enforcement action and prosecutions have been authorised by the Assistant Director Planning under Delegated Authority during the period October 2019 to December 2019, in respect of development undertaken without the benefit of planning permission at the following sites:-

ENF Ref	Complaint	Site	Ward	Recommendation	Decision date
19/00637/CHANGE	Property has been converted into flats	North Drive, Orpington	Chelsfield and Pratts Bottom	PCN	02.10.19
19/00596/BRCOND	Work started without compliance with conditions	Hilda Vale Road, Vale Road, Orpington	Farnborough and Crofton	BCN	13.10.19
18/00581/OPDEV	Construction of a raised patio	Pickhurst Rise, West Wickham, BR4 0AY	West Wickham	OPDEV Enforcement Notice	14.10.19
16/00164/CHANGE	Change of use of the garage block for use as offices	Widmore Road, Bromley, BR1 3AA (aka 2 Park Road)	Plaistow and Sundridge	MCU Enforcement Notice	14.10.19
19/00286/UNAUTH	Construction of a garage to the rear of property	Lower Camden, Chislehurst, BR7 5JA	Chislehurst	OPDEV Enforcement Notice	15.10.19
19/00259/OPDEV	Construction of a shed in front of a block of flats	Charminster Road, Mottingham, London, SE9 4BW	Mottingham and Chislehurst North	Opdev Enforcement Notice	15.10.19
19/00424/BRCOND	Unauthorised use of the flat roof as a balcony roof terrace	Plymouth Road, Bromley, BR1 3JD	Plaistow and Sundridge	BCN	22.10.19
19/00446/BRCOND	Alleged Lorries Entering the site after permitted hours	Sunningvale Avenue, Biggin Hill, TN16 3BX	Biggin Hill	BCN	22.10.19
18/00651/OPDEV	Building works on temporary traveller site	Land at Knockholt Railway Station, North Side, Sevenoaks Road, Halstead	Chelsfield and Pratts Bottom	OPDEV Enforcement Notice	22.10.19
19/00465/UNTIDY	Untidy Site	Georgian Close, Hayes, Bromley	Hayes and Coney Hall	s215 Untidy Site Notice	22.10.19
19/00243/UNTIDY	Untidy site	Jail Lane, Biggin Hill	Darwin	Prosecution	01.11.19
19/00710/OPDEV	Campervan Parked on the drive	Mount pleasant, Biggin Hill	Biggin Hill	MCU Enforcment Notice	04.11.19
19/00249/OPDEV	Construction of a ground floor bay window	Park Road, Chislehurst	Chislehurst	OPDEV Enforcement Notice	04.11.19
19/00477/UNAUTH	Outbuilding	Johnson Road, Bromley, BR2 9SN	Bromley Common and Keston	OPDEV Enforcement Noitce	06.11.19
19/00472OPDEV	Unauthorised double garage and hardstanding	Harvest Bank Road, West Wickham	Hayes and Coney Hall	OPDEV Enforcement Notice	08.11.19
19/00462/OPDEV	Unauthorised wooden structures and horse structures	Skeet Hill Lane, Orpington, BR5 4HB	Cray Valley East	PCN	03.12.19
19/00461/CHANGE	Unauthorised change of use from agricultural to commercial livery business	Skeet Hill Lane, Orpington, BR5 4HB	Cray Valley East	PCN	13.12.19

19/00463/CHANGE	Unauthorised change of use of land for commercial dog walking business	Skeet Hill Lane, Orpington, BR5 4HB	Cray Valley East	PCN	13.12.19
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3.2 For further details of any of the above cases please contact John Stephenson (details as above).

<b>Non-Applicable Sections:</b>	Policy, Financial and Personnel
Background Documents: (Access via Contact Officer)	N/A



Report No.  
DRR20/015

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** DEVELOPMENT CONTROL COMMITTEE

**Date:** Tuesday 28<sup>th</sup> January 2020

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

**Title:** LONDON PLAN UPDATE

**Contact Officer:** Ben Johnson, Head of Planning Policy and Strategy  
Tel: 0208 461 7845    E-mail: ben.johnson@bromley.gov.uk

**Chief Officer:** Assistant Director: Planning

**Ward:** All wards

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1. Reason for report

This report provides an update on the progress of the draft new London Plan following its Examination in Public in 2019.

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2. RECOMMENDATION

- 2.1 Note the 'Intend to Publish' version of the London Plan and the timescales for the next steps in the London Plan process.

## Impact on Vulnerable Adults and Children

1. Summary of Impact:
- 

### Corporate Policy

1. Policy Status: New Policy: The new London Plan, when adopted, will form part of the statutory Development Plan for the Borough, along with the Bromley Local Plan 2019 and the Area Action Plan for Bromley Town Centre.
  2. BBB Priority: Excellent Council Quality Environment Safe Bromley Supporting Independence Vibrant, Thriving Town Centres Healthy Bromley Regeneration
- 

### Financial

1. Cost of proposal: No Cost:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Planning
  4. Total current budget for this head: £1.615m
  5. Source of funding: Existing revenue budget 2019/20
- 

### Personnel

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

### Legal

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

### Procurement

1. Summary of Procurement Implications: None
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All residents in the Borough as well as those making planning applications for development in the Borough.
- 

### Ward Councillor Views

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

### 3. COMMENTARY

- 3.1 The report to Development Control Committee dated 23rd July 2019 outlined the process undertaken by the Mayor, of developing the draft London Plan, and Bromley's involvement in that process through representations both written and oral to the London Plan Examination in Public. The Examination In Public (EIP) hearings commenced in January 2019 and concluded on the 21<sup>st</sup> May 2019 for the panel of inspectors to consider their report.
- 3.2 The report to Development Control Committee dated 3<sup>rd</sup> October 2019 highlighted that the Mayor had published a consolidated changes version of the draft London Plan post-EiP hearings, and set out expected timescales for the next steps in the London Plan process.
- 3.3. Subsequent to the October 2019 meeting, the Panel report setting out the findings and recommendations of the panel of inspectors was published. The draft London Plan was then submitted to the Secretary of State (SoS) on 9 December 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the panel report. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.
- 3.4 Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan. It is expected that the SoS will respond to the Mayor (including proposed directed changes) in February 2020.
- 3.5 The draft London Plan must also be considered by the London Assembly. The Assembly can't amend the draft plan but can veto the draft plan in its entirety, with a two thirds majority vote. No date has yet been set for the Assembly to consider the draft plan.
- 3.6 Mayoral purdah will begin at the end of March 2020 and run for 6 weeks up until 7 May 2020, the date of the London Mayoral Election. The Mayor will be unable to publish the final London Plan during the Purdah period.
- 3.7 A further update will be provided at the Development Control Committee in March 2020.

### 4. POLICY IMPLICATIONS

- 4.1 When adopted, the new Draft London Plan will replace the current London Plan (2016) and will form part of Bromley's Development Plan. It will therefore be used for decision making on planning applications alongside the Local Plan (2019) and the Bromley Town Centre Area Action Plan.
- 4.2 The new London Plan will also influence any new planning policy documents produced by Bromley (such as a reviewed Area Action Plan or a revised Local Plan) as these are required to be "in general conformity" with it.

### 5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications at this stage.
- 5.2 There will be implications upon adoption of the new London Plan (see Policy Implications above)

<b>Non-Applicable Sections:</b>	Impact on Vulnerable Adults and Children; Personnel Implications; Legal Implications; Procurement Implications
Background	[Draft new London Plan updates

<p>Documents: (Access via Contact Officer)</p>	<p>Development Control Committee report 3<sup>rd</sup> October 2019  <a href="https://cds.bromley.gov.uk/documents/s50073162/LONDON%20PLAN%20UP%20DATE%20REPORT.pdf">https://cds.bromley.gov.uk/documents/s50073162/LONDON%20PLAN%20UP%20DATE%20REPORT.pdf</a></p> <p>London Plan Inspectors' report and recommendations  <a href="https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/inspectors-report">https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/inspectors-report</a></p> <p>Mayor's response to the Panel Report  <a href="https://www.london.gov.uk/sites/default/files/mayors_response_to_inspectors_recommendations_md.pdf">https://www.london.gov.uk/sites/default/files/mayors_response_to_inspectors_recommendations_md.pdf</a></p> <p>Mayor's Intend to Publish London Plan  <a href="https://www.london.gov.uk/sites/default/files/intend_to_publish_-_tracked.pdf">https://www.london.gov.uk/sites/default/files/intend_to_publish_-_tracked.pdf</a></p> <p>Mayor's letter to the Secretary of State  <a href="https://www.london.gov.uk/sites/default/files/letter_to_sos_rt_hon_robert_jenrick.pdf">https://www.london.gov.uk/sites/default/files/letter_to_sos_rt_hon_robert_jenrick.pdf</a></p>
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